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The Life and Teachings of al-Maghili
with particular reference to the
Saharan Jewish Community

by

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Thesis submitted for the Degree of Doctor of Philosophy in
Arabic and Islamic Studies, in the University of London.

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September 1972

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ABSTRACT

The importance of Abū ^cAbdullah Muḥammad b. ^cAbdulkarīm b. Muḥammad al-Maghīlī as a Muslim missionary has been recognised in a general fashion by many an eminent scholar but no comprehensive study ^{on him} has yet been undertaken.

This thesis attempts to give an account of the life of al-Maghīlī and his teachings in an effort to understand his personality, his behaviour and the degree of his contribution to the spread of Islam and Islamic culture in the Maghrib, the Sahara and Western Sudan. The primary concern of this study is al-Maghīlī's Islamic teaching in general and, in particular, his teaching concerning the Jews of Tuwāt.

The thesis falls into six parts.

Part one consists of one chapter which gives an introduction and a background. The introduction explains the purpose of the study and the sources upon which it has been based. The background contains an outline history of some of the petty kingdoms of the Maghrib and the situation of the Arabs and the Jews in Fās and Tuwāt during the Marinid period.

Part two attempts, in one chapter to give a comprehensive biography of al-Maghīlī from his birth to his death.

Part three also in one chapter explains briefly the wider context of al-Maghīlī's teachings, which include religious, political and social teachings.

Part four consists of three chapters, a critical edition and a full translation of al-Maghīlī's treatise concerning the Jews and discusses, in the light of generally accepted Islamic views, the teachings contained in it. It also portrays and discusses in a like manner the controversy centred around the Jewish synagogue.

The conclusion seeks to emphasise the personality and behaviour of al-Maghīlī, the significance of his teachings and actions, his successes and failures, and his influences.

Part six is made up of ^{ten} appendices which include new editions of two more of al-Maghīlī's treatises, a list of his works, a tree of his purported pedigree and other items.

ACKNOWLEDGEMENTS

The writer wishes to thank:

The authorities in Ahmadu Bello University for financing a North African research scheme which yielded almost all the material employed in this study and for giving him leave to be able to complete this research. The Vice Chancellor, Dr. Ishaya Audu, deserves mention for his encouragement.

His Excellency the Military Governor of Kano State Government of Nigeria, Alhaji Audu-Bako, ^{whose Government} who authorised the payment of his salary while abroad and awarded him the Kano State Scholarship.

His Highness the Emir of Kano, Alhaji Ado Bayero, for allowing the writer to see his personal collection of manuscripts.

Many people in Nigeria, North Africa, Spain, France and England who helped him in various ways during the course of this study. Mention must be made of Professor Muhammad Ibrahim El-Kattani, the director of Archives in Rabat, who greatly helped the writer in discovering manuscripts in Morocco. Mr. Mahmoud Bu Ayad, head of the National Library of Algiers, who put all the facilities of the National Library at the writer's disposal, Professor Uthman Ka'ak who helped him with many valuable suggestions and gave him some useful information. Alhaji Bello Uthman, Director of National Archives, Kaduna, who has been very co-operative during the writer's research there. Dr. Hiskett, Dr. Fisher and Dr. Arafat who gave the writer good advice in matters relating to their respective fields, Professor Johnstone who helped in a number of ways, Professor Moody and Dr. Whitting who helped in correcting his English, Dr. El-Awa who is one of his colleagues in A.B.U. and S.O.A.S. who helped in discussing his ideas.

The writer wishes to thank in a special way Professor Abdullah El-Tayyib who supervised this study in its initial stage and helped in various other ways, and Dr. H. T. Norris who has been giving him advice for the last two years, without whose careful scrutiny and acute comments this work would not have reached its present stage; thanks are also due to Mr. Cowan who assisted him in the same way.

His family, relatives and friends in Nigeria who relieved him from the worries of his commitments.

And lastly but not the least all Praise belongs to God the Lord of the Universe. Qur'an 1:1.

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CHAPTER IINTRODUCTIONEarlier Studies

Earlier studies on al-Maghīlī can be classified into two main groups - biographical studies and those on his works. French scholars were the pioneers in the first category, often giving incidental biographical information when dealing with some subject of a more general nature. Cherbonneau, for example, when writing about Arabic literature in the Western Sudan, gave a biography of al-Maghīlī among the Arabic authors he treated.¹ Martin, writing about the Saharan oases, gave some interesting details about al-Maghīlī's life in Tuwāt.² Other scholars who dealt with al-Maghīlī were Palmer,³ Rodd⁴, Weir⁵ and Barth⁶. Bovill was probably the first to attempt a biography of al-Maghīlī as a subject in its own right when he wrote a three-page article on 'Moḥammad al-Maghīlī'.⁷

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1. M. A. Cherbonneau, "Littérature Arabe au Soudan", Journal Asiatique, (Paris 1855), pp. 391-398.
 2. A. G. P. Martin, "Les Oasis Sahariennes", (Paris, 1903).
 3. Sir Richmond Palmer, Sudanese Memoirs, ^{vol. II} (Lagos, 1928), pp. 93-94.
 4. R. Rodd, People of the Veil, (London, 1926), pp. 292-293, 213, 215.
 5. H. T. Weir, Shaikhs of Morocco, (Edinburgh, 1904), pp. 6-11.
 6. H. Barth, Travels and Discoveries in North and Central Africa, (London, 1849-1855), Vol. I, pp. 386-387; Vol. II, p. 74; Vol. IV, p. 606.
 7. E. W. Bovill, "Moḥammad El-Maghīlī", J.A.S. 34 (London, 1935), pp. 27-29.

English scholars were the first pioneers in the second category. Palmer translated al-Maghīlī's epistle to Muhammad Rumfa, the Emir of Kano, under the title "An Early Fulani Conception of Islam". Palmer translated the epistle from a work of Shehu Uthmān in which he quoted the whole of it. It is clear from Palmer's translation that he was working from a bad manuscript because there are passages in the translated text which do not convey the meaning of the original at all.⁸

Baldwin translated al-Maghīlī's other treatise for Muhammad Rumfa under the title "The Obligations of Princes".⁹ His translation was based on an edition made by the late Wazir of Katsina, Muhammad Zayyān, which was published in Beirut in 1931. Baldwin's translation is on the whole good, but again the text from which he translated is faulty in several respects. It was based on a single manuscript which has many mistakes and omissions so the translation carries the same faults.¹⁰

Vajda has written an introduction to al-Maghīlī's treatise on the Jews, but tells us nothing about the contents apart from 'Ibn 'Askar's comments, which Rapda' A. Graulle reported in Archives Marocaines. Vajda also makes no attempt to discuss the teachings

8. Sir Richmond Palmer "An Early Fulani Conception of Islam", J.A.S., XIV (London 1914), pp. 185-188. See for example passages on p. 186 compared to the Arabic text in the Appendix II IR 295-296

9. This work will be discussed under The Sources.

10. See the edition of this study in Appendix I. See the footnotes for the many omissions and mistakes.

contained in it, or even to give a translation.¹¹

From the above, it can be seen that no comprehensive account of al-Maghili's life was given by these authors and none of them ever attempted to analyse his teachings and discuss them in the context of traditional Islam. Recently, however, Dr. Hiskett has published several articles dealing with the history of Islam and Islamic culture in West Africa and has treated in them several aspects of al-Maghili's life. The fullest biography on him so far available is found in these articles.¹² Dr. Hiskett also first drew attention to a very important influence of al-Maghili in the Western Sudan - that of introducing the tradition of reform¹³. Other modern scholars who have made interesting references to al-Maghili are Hodgkin¹⁴, Dr. Norris¹⁵, Hunwick¹⁶, Martin¹⁷ and Abubakr Imam¹⁸.

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11. George Vajda, "Recueil de Textes Historiques Judeo-Marocaine", Collection Hesperis, XII, (1951), pp.806.
 12. Bivar and Hiskett, "The Arabic Literature of Nigeria to 1804; A Provisional Account". BSOAS, XXV (London, 1962), pp.106-109. Hiskett, "An Islamic Tradition of Reform in the Western Sudan from the Sixteenth to the Eighteenth Century", BSOAS, XXV, (London, 1962), pp.577-596.
 13. Ibid., p.584.
 14. T. Hodgkin, Nigerian Perspectives, (London 1960). "The Radical Tradition in the Literature of Muslim West Africa". Seminar on Islamic Influences on the Literary Cultures of Africa, SOAS.
 15. H. T. Norris, in an unpublished paper "The Sanhaja Contribution to Mauritanian Islam" given at the Seminar on Islamic Influences on the Literary Cultures of Africa, touches on Maghili's Qadiriyya connection with the Kunta, see p.9-10.
 16. J. Hunwick, "Notes on a late fifteenth century document concerning 'al-Takrur' ... in R. W. Johnson and C. H. Allen, eds African Perspectives (Cambridge, 1970) p.9-10
 17. B. G. Martin, "Unbelief in the Western Sudan"; "Ulthman dan Fodio's 'Ta'lim al-ikhwan'", MES, IV (October, 1967) No.1, p.50-97.
 18. Abubakr Imam in an unpublished paper entitled "The Constitution of Northern Nigeria".

The interest of these scholars is, on the whole, historical and mainly concerned with West Africa. There has never been any attempt to study the life of al-Maghīlī in North Africa or the Sahara, to understand his personality, or to analyse his teachings and see how they stand in the general context of Islamic popular tradition. Thus a study mainly concerned with the Islamic teaching of al-Maghīlī has never before been attempted.

The purpose of this study

The main aims can briefly be stated as follows:-

1. To analyse and discuss the teachings contained in some of al-Maghīlī's works with a view to understanding their position in the context of Islamic teachings in general, and in particular in the context of the Maliki school.
2. To examine the personality of al-Maghīlī in the light of his teachings.
3. To describe the influence of these teachings on some of the places and people with whom he came into contact.
4. To edit or re-edit and translate, where necessary, those of his works which form the basis of this study.
5. To give an account of his life in as comprehensive a way as the available material allows.

The greatest part of the study will be concerned with al-Maghīlī's teachings which emanated from his dealings with the Jews of Tuwat and the resultant controversy between him and other contemporary Muslim scholars. The reason for this is that in the first place space will not allow all

the available teachings of al-Maghīlī to be treated. In the second place, the episode in Tawāt greatly influenced al-Maghīlī's future writings, which became of great importance to the countries of the Sudan visited by him later, and so they are given priority in the following discussion of the sources.

The Sources

The material employed in this study falls into five main classes:-

1. Al-Maghīlī's own works.
2. Works by his contemporaries.
3. Biographical works in Arabic.
4. Secondary sources in European languages.
5. Oral tradition collected in some of the places where al-Maghīlī operated.

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1. Al-Maghīlī's own works

i. Ta'līf fī mā yajib 'alā 'l-muslimīn min ijtināb al-kuffār

This is the controversial treatise which was the cause of polemics between al-Maghīlī and the ʿulama. Al-Maghīlī did not give a particular name to this work because he considered it a circular letter on a specific incident. Later copyists found it necessary to give it a name, and so the work appears even in the same archives with different names.²⁰ It is available in several archives in North

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19. These are manuscripts discovered by the writer during a research tour in France, Spain, Morocco, Algeria, Tunisia, Libya and Egypt which took two years from October 1966 to October 1968. It had the dual purpose: of collecting manuscripts for Ahmadu Bello University and material for my research. Vide my "Seven Letters from the Tripoli Archives", Kano Studies, I.IV (Kano, 1968), p.30, n.1.
 20. Other names are - Taqyīdun nafīsun fī mā yajibu 'alā muslimīna min ijtināb al-Kuffār; Risalat al-Maghīlī.

Africa. In Rabat alone six different copies exist, four of them housed in the Bibliothèque Générale and two in the King's private library.²¹ There are also copies in the Bibliothèque Nationale of Algeria and Tunis. It has sometimes been confused with another work of al-Maghīlī entitled Miṣbāh al-arwāh fī 'uṣūl al-falāh. The confusion is the result of some comments by certain copyists to the effect that its name is Miṣbāh al-arwāh. A certain Makki, al-ḥajj' Ahmad al-'Idrīs b. Mas^cūd b. Zayyān, writes at the end of this work :

najaza al-kitāb al-mubārak al-musammā bi Miṣbāh al-arwāh fī uṣūl al-falāh li shaykh mashāyikhi'l islām ... 'Abī ^cAbdullah Muḥammad b. ^cAbdulkarīm al-Maghīlī al-Tilimsānī (Here) terminates this blessed book entitled Miṣbāh al-arwāh fī uṣūl al-falāh (written) by the leading Professor of Islamic thought ... 'abu ^cAbdullah Muḥammad b. ^cAbdulkarīm al-Maghīlī al-Tilimsānī.²²

Because of this, some of the copies in the Rabat Bibliothèque Générale have been recorded under the name given by Makki, who was deceived by the similarities between the Ta'līf and the Miṣbāh. However, this work is not the Miṣbāh, although the ideas it contains are similar to those in the last section of that work, as will be clear from the following discussion of it.

21. All the different copies have been examined by me and none of them appears to be the original copy by al-Maghīlī himself. They are classified in Rabat Bibliothèque Générale as follows: D2889; D3441; D2550/1; D2223; D2013. See also Allouchet Regragui, Catalogue des Manuscrits Arabes de Rabat Vol I (Paris, 1954) p. 260. Brockelmann also mentions this work, vide (Suppl. 11, 363).

22. M.S. D2013, B.G. Rabat, fol. 195

ii. Miṣbāh al-arwāh fī uṣūl al-falāh

This is one of the works of al-Maghīlī reported by Ahmad Ḃaba but it has not yet been found. Most of its contents are known, however, from the commentaries of Ibrahim b. Hilāl to whom al-Maghīlī sent the original for his comments.²³ As requested, he commented on it item by item. The bulk of it deals with Tawhid (Unitarianism) and Maʿrifa (knowledge), and then it finishes, among other things, with the question of Muslims' relationships with unbelievers. The contents make it clear that it is not the same as the Taʿlīf as supposed by Makkī, but that in both works al-Maghīlī teaches that for Muslims to associate themselves with unbelievers is unbelief in itself. It appears that the Miṣbāh was being written when the troubles associated with the Jewish synagogue started, and al-Maghīlī concluded it with teachings similar to those in the Taʿlīf, which was specially written for the occasion.²⁴

iii. Ajwibat al-Maghīlī

This is the work commonly known as 'ʿAsʿilat Askia'.²⁵ It

23. Ibn Hilāl's commentary on the Miṣbāh is housed in B.G. Rabat, MS D2660. See also Ahmad Ḃaba cop.cit. p. 58 for the commentator's biography.

24. The Miṣbāh was also known and available to Shehu Uthmān b. Fodio and his son MuḂammad Bello, both of whom quoted extensively from it. The wording of their quotation agreed exactly with that on folio 231 of Taʿliqāt by Ibn Hilāl. See for instance Uthmān b. Fodio's Tanbīh al-ikhwan, where in Chapter V he quotes twelve lines from the Miṣbāh and MuḂammad Bello's Infāq al-maysūr, Whitting's edition, op.cit. p. 170-171.

25. This is clearly an incorrect name because the questions put forward by the Askia have never come to light, except in al-Maghīlī's quotations from it in his 'Ajwiba'.

is housed with the Bibliothèque Nationale of Algeria, Paris and Kaduna.²⁶

It deals with specific questions put forward by the Askia Muḥammad al-Ḥajj but notwithstanding that, al-Maghīlī's experiences in Tuwāt and his personality are clearly revealed in it.

iv. Tāj al-dīn fī mā yajib^c alā al-mulūk

This is also known under different names.²⁷ It was written specifically for the Emir of Kano, Muḥammad Rumfa, and deals with matters relating to the administration of an Islamic state. It has been edited by Zayyān and translated by Baldwin.²⁸

v. Waṣīyyat al-Maghīlī 'ilā Muḥammad b. Ya^cqūb

This is known only through quotation in the works of the Fodios. Shehu Uthmān quoted the whole work in Chapter VI of his Tanbīh al-ikhwan and 'Abdullahi in Chapter 1 of his Diyā' al-siyāsāt. Al-Maghīlī addressed it to Muḥammad Rumfa and it deals with matters relating to al-Ta^czir. It is the only work of al-Maghīlī so far known which is dated.²⁹

vi. Kitāb ifḥām al-'anjāl aḥkam al-'ājāl

Although this work was intended by its author to deal with trade and transactions, it also contains information about

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26. Kaduna, National Archives, MSS, OAR 12:1, 985//AR 12:2. Alger, B.N. uncatalogued. Paris, B.N. Fondes Arabes 5259 fol. 48-65.

27. Other names are Risālat al-mulūk, Ta'līf fī 'l-imāra, Ta'līf fī mā yajib^c alā 'l-mulūk and Ta'līf fī 'umūr al-salṭana. Vide Kaduna, N.A. MSS 973/0/AR 11:27, 718/B/AR 16:2 and 660/M/AR:8, Rabat B.G. MSS, D 1816, D 864, D 6169 and K 3325.

28. See Chapter III below.

29. Palmer has translated it in his "An Early Fulani conception of Islam" J.A.S. XIV (1914-15) pp. 185-188. It has never been officially edited, vide Appendix II, p. 290

al-Maghīlī himself, as he introduces it with copies of verses telling us where he was born, where he grew up and where he settled.³⁰

Authenticity of the works

One of the good things about al-Maghīlī's works is that he took great care to mention his name in full in the body of the work. This is true of all the six mentioned above. Further important evidence that they are really his own work is the recurrence of some of his ideas in a number of them. The 'Ajwiba al-Maghīlī', the 'Miṣbāh' and the 'Ta'līf' are closely connected in their treatment of the question of relationship with non-Muslims as al-Maghīlī uses similar evidence to prove his case in all of them. There are some poetic verses which he appears to have been fond of which recur in the 'Ajwiba', the 'Ta'līf' and the 'Tāj'. He simply changes a word or two to suit the occasion:-

idhā qarraba 'l-'insānu akhyāra qawmihī
wa a'raḍa 'an ash-rārihim fa huwa ṣāliḥu
wa 'in qarraba 'l-'insānu ash-rāra qawmihī
wa a'raḍa 'an akhyarihim fa huwa tāliḥu
wa kullu 'mri'in yunbi'ka 'anhu qarīnuhu
wa dhalika 'amrun fi 'l-bqriyyati wādiḥu

If a man draws near to himself the good among his people he will be upright. But if he draws near the wicked among them he will be doomed. Every person's friend will tell you about him. This is a clear phenomenon among human beings. 31

30. This work is found only in the National Library of Madrid.

31. See the Arabic texts in Chapter IV, p. 98 and Appendix I, p. 276., and Ajwibat al-Maghīlī, MS. B.N. Paris, Fondes Arabes, 5259, fol. 40^a.

When he was addressing the general public in Tuwāt the word 'insān (men) occurs in the verses but when he was writing specifically for the rules of Songhay and Kano the word sultan, (king) which rhymes similarly, replaces the word 'insān. Another piece of evidence which should not be ignored is that all these works were recognised by the early biographers as being by al-Maghīlī. All this evidence put together leaves no room for doubting their authenticity.³²

2. Works by his Contemporaries

These are the different fatwas written by the 'ulamā' of Fas, Tilmisān, Tunis and Tamantīt on the episode of the Jewish synagogue. They have been carefully recorded intact in the Mi^cyār of al-Wansharīsī and they tell us not only about al-Maghīlī but also about the intellectual and religious life in the Maghrib in the century in question.³³

3. Biographies in Arabic

- i. Ibn ^cAskar (1575) Dawḥat al-nāshīr limahāsini man kama bi 'l-maghrib min mashāyikh al-qarn al-^cāshir.

This is the earliest known biography of al-Maghīlī and is the only source from which we know that the Ta'lif was purposely

32. Two other works by al-Maghīlī are Manḥul wahhāb fī radd al-fikr 'ilā al-ṣawāb and his criticism against Sanūsī on questions pertaining to the attributes of God. They are not included in the sources because, though available, they have not been used much in this study.

33. Ahmad b. Yahya al-Wansharīsī, al-Mi^cyār al-mughrib (lithographed in Fas. 1314/1896.

written for the affair of the Jews in Tuwāt. It also tells us of the behaviour of the ^culamā' of Fas towards al-Maghīlī. Ahmad Baba did not seem to be aware of this work since he did not mention it among the sources he utilised in compiling his supplement to Dibāj al-mudhahhab.³⁴

II. Ahmad Baba (1556-1627) Nayl al-ibtihāj bi tatrīz al-dibāj.

Ahmad Baba completed his work in 1005 A.H. (1597). Many manuscripts of it are available in the National Libraries of Morocco, Algeria and Tunis and it has been published in Cairo (1351/1932) on the margin of Aldibāj al-mudhahhab fī ma^crifat a^cyān ^culamā' al-madhab by Ibn Farhūn. It is in Nayl that a satisfactory biography of al-Maghīlī in Arabic is given. Most later Arab biographers seem to be repeating Ahmad Baba in full or in an abridged form. The importance of this source lies not only in giving us details about al-Maghīlī but also in giving us the biographies of his contemporaries, who either clashed with him, supported him or were his teachers or students.

III. Shaykh Muḥammad Būrās al-Nāsiri^c Ajā'ib al-asfār wa laṭa'if al-akhbar.

This book was originally in verse, but the author later added a commentary before 1768. This is the only source which tells us of the continuation of al-Maghīlī's work by his talaba (disciples). Two manuscript copies of the work are housed in

34. See Ahmad Baba, Kifāyat al-muhtāj li tatrīz al-dibāj. MS K 2390 B.G. Rabat. This work is still unpublished.

the Bibliothèque Nationale of Paris under this number 4618. It has been published in translation by Arnaud as the "Voyages Extraordinaires et nouvelles agréables".³⁵ It is a valuable source. The accounts it contains agree in some respects with the earlier authorities and it gives additional information. For example, Ahmad Baba tells us in the Nayl that he left out some verses from al-Maghili's dialogue with Suyuti, but Buras records the poem complete. Ibn ^CAskar tells us that he knew of some of al-Maghili's disciples who were following his school and Buras gives us some additional names of people also following the school of al-Maghili.³⁶

IV. Sa^Cdi Tāriḫ al-Sūdān and Ka^Cti Tāriḫ al-Fattāsh.

These two works follow Ahmad Baba closely, but they have some additional information from West African material. Both have been published in text and translation.³⁷

35. In A. Arnaud Récits Historiques sur l'Afrique Septentrionale, (Alger, 1885).

36. For full discussion of this source see C. Faure-Biguet, Les Vêtements de Soie fine, au sujet d'Oran et de la Péninsule Espagnole, poesie du Chiekh Mohammad Abow-Ras En-Nasiri (Alger, 1903). See also A. Arnaud, "Voyages Extraordinaires et nouvelles agréables" in Récits Historiques sur l'Afrique Septentrionale (Alger, 1885).

37. O. Houdas, Tarikh Es-Soudan, (Paris, 1964), and Tarikh El-Fettach, (Paris, 1964).

V. Muhammad al-Kuntī (1826), al-Tarā'if wa 'l talā'id fi akhbār al-shaykhayn al-walidat wa 'l wālid

This work appears to have drawn its information from oral sources and at least one written source dating about 1650. In spite of its inaccuracies in some respects and its legendary nature it contains some important facts. It is only there that evidence is afforded of al-Maghīlī's performing the pilgrimage. A portion of this work has been published in translation by Paul Marty.³⁸

VI. Tārikh al-wanghariyyīn and Tārikh arbāb hādha 'l-balad al-musamma Kano.

Both are by anonymous authors and give us some information about al-Maghīlī's life in Kano. The first had been published by Muḥammad al-Hajj - "A seventeenth century Chronicle on the Origins and Missionary Activities of the Wangarawa", Kano Studies I/IV (Kano, 1968), pp. 7-16 and the second by Palmer, "Kano Chronicle", Sudanese Memoirs II (Lagos, 1928), pp. 92-132.

4. European sources

Reference to the basic European published and unpublished sources has already been made in my account of earlier studies.

5. Oral Tradition.

Oral tradition was collected in two countries - North Africa and Nigeria. The research tour earlier referred to was part of a programme for Ahmadu Bello University. I was sent to North Africa to collect material both for the University and for my doctoral

38. Paul Marty, Etudes sur l'Islam et les tribus du Soudan, vol. I, (Paris, 1920), p. 21.

thesis. I had then a wide subject in mind - that of a study of Islam and Islamic culture in Hausaland. Al-Maghilī was then only part of the programme and I was collecting material both about him and about other aspects of the study of Islam. The research tour, which started in October 1966, came to an end in October 1968, during which time I visited all the major cities in Morocco and some of the major cities in the rest of North Africa, and I also visited Egypt, Spain, France and England. Towards the end of the tour I realised that I had eight works by al-Maghilī, some of which were known before but others came to light only as a result of the tour.³⁹ This encouraged me to concentrate on the life and teachings of al-Maghilī, so I collected oral tradition about him in Rabat, Tilimsān and Alger.

On returning to Nigeria, working part-time, I collected some oral tradition in Kano, Katsina and Sokoto. This was in the periods October 1968-June 1970 and December 1970-February 1971. Altogether some useful information has been collected, which has been utilised in this study.⁴⁰

39. Some material discovered during this tour has already been published, vide my "Seven letters from Tripoli Archives", Kano Studies, Vol.1/4 (Kano, 1968); "The Theory of Chronograms as expounded by the 18th century Katsina astronomer-mathematician Muhammad b. Muhammad al-Katsinawi", Research Bulletin, Centre of Arabic Documentation (Ibadan, 1957) p.1. "Another look at the Girancourt Papers" (jointly with J. Hunwick) Research Bull CAD (Ibadan, 1967), pp. 74 - 99.

40. Further oral tradition has again been collected in yet another tour to Nigeria and Morocco last April, 1972.

Outline of the thesis.

In Chapter I an account of the earlier studies that preceded the present study, the material on which it is based and its purpose are given. A brief note on the political history of Algeria, Morocco and the Saharan fortified villages, from the emergence of the petty kingdoms in the eleventh century until the beginning of the sixteenth century, is also given. This is to serve as a background to the study, as it is the political upheavals that gave the religious leaders such as al-Maghīlī great influence.

In Chapter II an attempt has been made to give a biography of al-Maghīlī. It covers his early life and educational career in Algeria and his activities in Tuwāt, Morocco, Aïr, Kano, Katsina and Gao until his death in Tuwāt in 1504/909.

Chapter III gives a brief account of the wider context of al-Maghīlī's teachings.

In Chapter IV a full text and translation of the Ta'lif are given, with notes, as a prelude to a detailed discussion on the specific teachings of al-Maghīlī on the Jews.

In Chapter V, al-Maghīlī's teachings in the Ta'lif, the Muwala, the Jizya, the Saghar and the Dhimma are discussed with a view to discovering their standing within the context of traditional Muslim teachings, particularly the Māliki School to which al-Maghīlī belonged and which was the only school in his time in the areas where he was born and brought up. This is done with the purpose of understanding whether al-Maghīlī was a Māliki fundamentalist or not.

Chapter VI gives as full an account of the incident of the Tamantijan synagogue, in which al-Maghili was the central figure, as possible. He advocated the destruction of the synagogue and supported this with reasons taken from Islamic teachings. Most of the contemporary Culamā', who took part in the controversy, opposed him and maintained that Islamic teachings showed the unlawfulness of al-Maghili's intentions, but a few of them supported him. The teaching of the two parties has been elucidated for the purpose of comparing their religious and academic attitudes, in order to discover what was his stand in comparison with theirs, what were his relations with them and what was the state of the religious learning at that period. All this analysis is with a view to understanding the personality and behaviour of al-Maghili.

In Chapter VII my conclusions based on this study are presented.

Appendices

- I. New edition of Tāj al-dīn fī mā yajib ^Calā al-mulūk.
- II. New edition of Waṣiyat al-Maghili 'ilā Muḥammad b. Ya'qub.⁴¹
- III. List of al-Maghili's works.
- IV. A tree of al-Maghili's pedigree.
- V. Samples of folios of mss used in the edition of the texts.
- VI. Photographs of the representative of al-Maghili's descendants in Kano, the front of the house in which al-Maghili lived, the school in which he taught, and his sword.
- VII. Maps.
- VIII. A note on transliteration.
List of Abbreviations used in this thesis.
- IX. Glossary.
- X. Sources consulted and cited.

41. See the introduction to the edition of these texts for further details.

II. Background - the Maghrib.

Al-Maghrīb, in the early centuries of Islam's existence, meant all the countries along the Mediterranean coast to the west of the territories of Egypt as far as the Atlantic Ocean. It comprised all the Saharan region and certain of the sub-Saharan kingdoms, which were adjacent to it.⁴² The ^{de} limitation of the four main territories of Morocco, Algeria, Tunisia and Libya dates from the Turkish conquest.⁴³ This resulted in the change of meaning of the term al-Maghrīb which, in order to retain its original meaning, has to be qualified with either al-Kabīr (great) or al-^cArabī ^{of} (the Arab).

Al-Maghrīb without any of the two qualifications means Morocco, that is the old al-Maghrīb al-Aqsa with the exclusion of Tilimsān. The scope of this inquiry will mainly be limited to Algeria and al-Maghrīb in the latter sense, and West Africa.

From the rise of the al-Murabitūn in the eleventh century to that of the Sa'adiyyūn in the beginning of the eighteenth century al-Maghrīb was the scene of many power struggles, from the emergence of the petty kingdoms to the European infiltration. The Murabitūn were followed in the twelfth century by the Muwahhidūn, who just continued to hold their own until the close of the thirteenth century.⁴⁴

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42. Ibn 'Idhāri al-Marrākushī (Editor G.S. Colin and Levi-Provencal), Kitab al-bayān al-maghrīb fī akhbār al-andalus wa 'l maghrīb, Leiden, 1948, pp. 5-6.
43. Nevill Barbour, editor, A Survey of North West Africa (The Maghrīb), London, 1959, p. 1.
44. For a brief survey of these struggles see E 1 (Old edition) pp. 164-5. See also Muḥammad b. ~~Ab~~ Ahmad Shaqrūn, Maḥāhir al-thaqafa al-maghrībiyya, Dar al-Bayḍa 1970, pp. 44-50.

From the 13th century the Muwahhids were in a continuous struggle with another Berber dynasty known as the Mariniyyūn. The Mariniyyūn remained in power until overthrown by another faction, the Wattasiyyūn, in the 15th century. The former had several seats of power in the Maghrib, sharing it with other dynasties. By the time they began to assume power in the 13th century, they were in the Sahara, between Fighigh and Tafilalt. As the Muwahhids began to decline, they managed to take possession of Fas, Mikhās, Rabat and Sala during the reign of Abū Sa^cid. They were at the height of their power during the reign of Abu'l Hassan and his son Abū^c Inan, who assumed the title of Amīr al-Mūminīn.⁴⁵

The Mariniyyūn began to decline from 1348 and this was accelerated at the beginning of the 15th century when European encroachments started on the northern coast of Morocco, but even before that as early as 1314 the sign of decline was clear in their splitting into two. This was the result of a family struggle for power, when the amīr (emir) Abū^c Ali revolted against his father, the Sultan Abū Sa^cid. Defeating his father in a battle outside Fas, Abū^c Ali became the king of Morocco. The father had to retire to Taza to wait for better times. These came when Abū^c Ali fell ill and Sultan Abū Sa^cid was encouraged by the people of Fas to seize the opportunity of defeating Abū^c Ali, though he was kind enough to allow him still to rule over Sijilmasa and its surroundings. There, in the year 715 / 1315) the undutiful

45. Ibid.

son established his empire. He also conquered the Saharan Oases of Tūwāt and Tighurarayn.⁴⁶

As these Saharan fortified villages are important places in this study it is not out of place to give some details about them. Martin has left a detailed description of these Saharan Oases. Travelling south from Sijilmasa - today called Tafilalt in Morocco, one reaches the region of Tūwāt after fifteen days' journey. "There we meet more than two hundred villages running from west to east."⁴⁷ The most easterly of these oases bears the name of Tamantit, which is on the left side of the Wad al-Masuwa'ra between the districts of Timmi and Tiyataf.⁴⁸

This part of the Southern Sahara enjoyed periods of prosperity in the fourteenth century when the Marinid Empire started on its decline. As a result of migration from all the troubled areas of the Maghrib the Tūwātian oases became very populous.⁴⁹ As the population increased, with comparative peace, Tamantit became a very important commercial centre, as the entrepot of caravan traffic with West Africa. European merchandise was first taken to Tilimasān, mostly by Italian merchants who managed to establish a settlement in the Qaysariyya quarter of the city. From there the goods were taken to Sijilmasa. Then, by way of Ghurara and the Tidikelt, they arrived at Tamantit. It was there that

46. R. Basset, "Notes de la Lexicographie Berbere", Journé Asiatique (1883), p. 378.

47. A. G. P. Martin, Les Oasis Sahariennes, (Paris, 1908), pp. 116-117.

48. R. Bassett, op.cit. p. 377.

49; Ibid, p. 379.

all the caravans used to assemble and make preparations for the journey to Walata , the nearest Sudanese town. After selling European goods in the Sudan, the merchants brought back Sudanese goods to the Maghrib, such as ostrich-feathers, ivory, gold dust, hides and skins, kolanuts and slaves.⁵⁰ This trade continued for several centuries and is the main explanation for the cultural exchanges between Morocco, Algeria and West Africa. It was also the reason for the abundant prosperity of Tawāt.

The 15th century, however, witnessed a period of upheaval in Tawāt. In 1435 there occurred a great famine in Tamantit and the surroundings. This was followed by outbreaks of fighting between the Jews of this district and the Arabs of the Awlād c'Ali b. Hariz. The reason was not religious but commercial. A trade credit transaction turned into bloodshed which at the request of Tawātians themselves was resolved by Ziyanid intervention from Tilimsān.⁵¹

Later, troubles started afresh when the Jews killed one of the Muslims. Civil war ensued between the Jews and their allies on the one hand and the 'Awlād c'Amir, the offended tribe and their allies, on the other. The Arabs formed themselves into a strong force and attacked the town of Tamantit, which they besieged for four months. Peace was eventually made, thanks to the mediation of the people in the neighbouring Buda and Timmi.⁵²

50. Ibid. p.380.

51. A. G. P. Martin, op.cit. p.119-20.

52. Ibid.

Outbreaks of civil strife in other Saharan Cases were also reported. About the year 1470 an expedition from Doui-Bela came to al-Malah, a place between Fasābit and Buda. The insurgents made this place their base and from it they started a series of attacks. The Maharza and Khanafsa joined forces to resist them. In this encounter about seven hundred people on both sides lost their lives and about four hundred were wounded. Two years later a second invasion from the same people resulted in nine hundred dead. Attacks and looting became frequent.⁵³

The situation in Fas was not very different. The Mariniyyun authority was dwindling. ^cAbdulhaqq, the caliph who came to power in Fas circa 1430, tried to rule with an iron hand, killing his Wattasi viziers who had become so powerful as to threaten his authority. When he had removed them he tried to rule directly by installing a Jew as Wazir (Minister). This caused great resentment among the Muslims. The situation was made worse by the Jewish Wazir seizing the opportunity to put many of his co-religionists in important positions. He also secured for them extreme religious freedom, honour and respect throughout the kingdom of 'Abdulhaqq. The Muslims were distressed at the state of affairs when a chance to rebel presented itself.⁵⁴

53. Ibid, pp. 123-24.

54. See Abdulbāsīt b. Hilāl, Robert Brunschvig, Deux Récits de Voyage inédits en Afrique du Nord au XV siècle (Paris, 1936), p.51.

'Abdulhaqq left Fas on a duty tour, taking with him the Jewish Wazir, who left another Jew as his deputy. It so happened that this deputy gave harsh treatment to a woman of the Sharifian house. He summoned her, treated her rudely and imprisoned her. At this incident the feelings of the Muslims ran wild. There were cries for Jihad (holy war) in all the streets. People assembled in the house of the Imam Abu^c Abdullah Muhammad, who had been disturbed at the question of the Jewish power for some time. He had frequently hinted at the problem in his Friday sermons but would not come out openly for fear of the despotic rule of Abdulhaqq. Now it was his chance to lead the people in an open revolt, for which they needed religious sanction. A fatwa (legal advice) was demanded from the Mufti (chief justice) to the effect that it was lawful to kill the Jews owing to their gross indecency because they had no right of protection. The required fatwa was given. There was an insurrection. The Jewish quarter was attacked and most of the inmates slaughtered. Only four, according to the account of Abdulbasit^c, escaped. The Jewish deputy of the Wazir was the first to be killed.⁵⁵

The men of Fas then wanted to stage a coup and install Muhammad al-Sharif as caliph. They were advised by the elders not to attempt this, for as long as Abdulhaqq was alive it would not succeed.⁵⁶ So by a trick they tried to induce Abdulhaqq to return. A letter was written describing what was happening and reporting that the

55. Abdulbasit^c, op.cit. p.53.

56. Ibid.

Palace was in danger, and claiming that the elders, who presented themselves as supporters of Abdulhaqq, would like him to return before things got out of hand.⁵⁷

The Caliph, on receiving the letter, became very furious and started abusing his Jewish Wazir Hārūn, who advised the Caliph not to go back to Fas as it was a trick to get hold of him. Hārūn was killed on the spot by the King's guard. The Caliph hurried back to Fas with a handful of soldiers, leaving the bulk of his army behind. On entering the capital city, he was attacked by a mob and killed on the 18th May, 1465 A.D. (22nd Ramadan 869 A.H.). On the same day allegiance was paid to Muhammad ^cImrān al-Sharīf as the Caliph. The whole of Morocco was thrown into turmoil; calamitous battles and insurrections were reported in Fas, and its territories, and there was a great deal of destruction.⁵⁸

The coming of the Wattasids to power

The Wattasiyyun who owing to ^cAbdulhaqq's persecution had established their power in the Rif of Northern Morocco now took the opportunity to come back to Fas to re-establish their authority. It was in this campaign that they annexed almost all the territory outside Fas, leaving Muhammad al-Sharīf b. ^cImrān the control of only the city of Fas. They eventually succeeded in ousting him. Then Abu Abdullah Muhammad b. Abu Zakriyya Yahya b. Zayyan, popularly known as al-Shaykh, one of the Wattasid who escaped the murderous project of ^cAbdulhaqq,

^cAbdulbāsīt, *op. cit.*

57. p.54.

58. Ibid. p.55.

entered the city as a Wattasi Caliph in Shawwāl, 876 (March 1472).⁵⁹

The Wattasiyyun were divided into factions and they fought one another for power. In fact when Muhammad al-Shaykh came to power "the Kingdom of Morocco was in a great turmoil and decline: as a result, ruling it was coveted by whoever fancied to be a ruler."⁶⁰ One of the pretenders was Ibn al-Ahmar, who had conquered all the territory of the Marinids in Spain. Moreover, several European powers were eagerly awaiting an opportunity to conquer Morocco. Muhammad al-Shaykh was in conflict with the Portuguese over their invasion of his territory in the neighbourhood of Tangier and the northern half of the Kingdom. This rendered his authority in the South and West little more than nominal.⁶¹

With the decline of the authority of the political leaders, the influence of the religious leaders increased immensely and "They played a very important part in the life of the nation, which they could not have done under the strong sultans."⁶² Abu ^cAbdullah Muhammad b. Muhammad b. Abdulkarim al-Maghili was one of these leaders. His teachings, influence and activities in the Saharan Oases, his achievements and ^{their} repercussions in other Saharan towns and West Africa, are described in the following chapters.

59. Abu 'l ^cAbbas Ahmad al-Nasiri, Al-istiḡṣā, (Dar al-bayda n.d.), vol. IV, p.120. This is the date of his actual entry into Fas which submitted to his authority a month earlier, that is in the month of Ramadan.

60. Ibid.

61. T. H. Weir, The Shaikhs of Morocco in the XVith century, (Edinburgh), 1904, p.6.

62. Ibid.

CHAPTER II

THE LIFE OF AL-MAGHILĪI. The life of Al-Maghilī in North Africa.

'Abū ʿAbdullah Muhammad b. ʿAbdulkarīm b. Muhammad al-Maghilī,
(circa 828 - 909 1425 - 1504).

'Abū ʿAbdullah Muhammad b. ʿAbdulkarīm al-Maghilī was born about
the year 828 A.H. (1425)¹ and he grew up in the town of Tilimsān.
The name al-Maghilī, by which he became famous, is the name both of
a town and also of a Berber tribe.

Maghila, the town, was visited by Leo Africanus, (1493)², who
gave us an account of its location - "It was a little town founded
of old by the Romans upon the side of the aforesaid hill which
looks towards Fas".³ In the proximity of the Roman Maghila there
sprang up another town, which bore the name Jār Maghila.⁴ It was
It was situated near a place called Wād al-Jadīd on the slope of the
mountain close to the route from Fas to Miknās. Maghila was also
mentioned by al-Bakrī under the name Mrilza.⁵ Thus the ancient

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1. This date has been arrived at by computation.
 2. Leo Africanus is also known by his original name al-Hassan b. Muhammad al-Wassani al-Fasi. For his biography see R. Brown's introduction to Leo's History and Description of Africa, (London, 1896), p. i-xiii).
 3. Leo Africanus, ed. R. Brown, The History and Description of Africa and the Notable things therein contained, (London, 1896), p.491.
 4. Ibid., p.612.
 5. Ibid. Leo's description of the location of Maghila fits exactly to a place, still known by that name, where the traces of the old town can still be seen. His idea of the founder of Maghila, however, does not agree with that of another Moroccan writer, who states that it was built in 98 A.H. (716 A.D.) by an amir (emir) of Maghila called Mughil. Vide 'Abu'l-Qasim b. Aḥmad al-Zayani, editor ʿAbdulkarim al-Filali, al-Turjumanat al-kubra fi akhbar al-ma mur barren wa bahran (Rabat, 1967), p.79.

town of Maghila perished centuries ago but Jār Maghila was in existence in the time of Leo Africanus and later, because it was reported to be a halting place for Yūsuf 'Abu'l-Hassan in 1695 (1107) when he was going to Fas, occupied by his nephew ^cAliy b.'Abū Bakr. It was from there that the former dated his letter to the latter and the dignitaries of Fās.⁶ Most references in the writing of Arab and European scholars to Maghila as a town appear to refer to Jār Maghila and not the original Maghila.

Maghila is also the name of an ancient Berber tribe which descended from the Banī Tamsit and was related to the Matmata, Satfura, Limaya and Madyuna. The descendents of Maghila were to be found all over the Maghrib. A great section of them lived in western Morocco between Fās and Sufrāni.⁷

On first consideration it would appear that the name of al-Maghili with whom we are concerned here, was an ascription (nisbah) to the town of Maghila. This has been the Moroccan fashion from before the time of al-Maghili right up to the present. This habit of naming a person after a town was common among al-Maghili's contemporaries: names like Sanūsi, Tanassi, ^cAsnūni, Wansharisi and a dozen others were all ascriptions to towns rather than to tribes. Surnames like al-Fāsi, al-Miknāsi, Marrakushi, Tāzi, Salawī, Fighighi, and a host of others are common among Moroccans today. This being so, it is tempting to believe that al-Maghili meant "The citizen of

6. Ibid., p.612.

7. Arnaud, op.cit., p.186.

al-Maghīlā⁸." There is some evidence to this effect because a close examination of the original sources reveals interesting facts. In the opening folios of his Kitāb Ifhām al-anjāl ahkām al-'ajāl, al-Maghīlī tells us that he professed the 'Ash^carite doctrine in belief and belonged to the Maliki madhhab (school of law). He also informs us of his regional affiliation. Al-Maghrīb was his region but he originated from Maghīlā, grew in Tilimsān and settled in a place difficult to decipher in the source but which we know to be Tamantit.⁹ Al-Maghīlī wrote that he was "al-ash^cariyyu mu^c taqadan, al-Malikiyyu madhhaban, al-maghrabiyyu iqlīman, al-maghīliyyu nabtatan, al-tilimsāniyyu mansha'an al- ... manzillan."

It is clear from this statement from al-Maghīlī's pen that Maghīlā was to him a place of origin, and Tilimsān a place of growth and development.

This leads us to the conclusion that al-Maghīlī was not born in Tilimsān after all. Earlier Arabic authors did not make a clear-cut statement either he was born in Tilimsān or that he was a Berber.¹⁰ All we read from them is "al-Maghīlī al-Tilimsāni."¹¹

8. The nisba (ascription) would appear to be to Jār Maghīlā, which was the town that sprang up near the site of the old Roman Maghīlā as maintained by Leo Africanus already cited.

9. For the authenticity of this work see Chapter I of this study, p.14. See also appendix V p. 311 for a xerox copy of the relevant page from the Ifhām.

10. Buras al-Nāsiri seems to be the first to make a clear-cut statement to the effect that al-Maghīlī was a Berber by origin; see Arnaud, op.cit., p.185.

11. See for instance Ahmad Baba, op.cit., p.330.

At times the word Tilimsānī is dropped,¹² at others another nisba al-Tuwātī is included.¹³ These ascriptions as they stand in their Arabic form could mean either "born at" or "of the place of" or "of the tribe of", but we have seen now the correct interpretation of the nisba ascription by the explanation of al-Maghīlī himself. According to his own words quoted above he originated from Maghila in the same way as a plant sprouts from the earth so he uses the word nabtatan, but he grew and flourished in Tilimsān (mansha'an); if he had been born in Tilimsān he would never have used mansha'an.¹⁴

The alleged descendents of al-Maghīlī who still survive do not regard themselves as Berbers. Oral traditions I have collected in Tilimsān and Kano emphasise this fact. They claim to be shurufa' by virtue of their descent from al-Maghīlī. To be a sharif one has to be a descendent from the Prophet Muhammad through the line of Fatima, his daughter. Thus in order to be a sharif, al-Maghīlī had to be an Arab, at least in origin. Another thing that should be borne in

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12. Ibn ^cAskar, Dawhat al-nāshir li mahāsin man kāna bi'l-maghrib min mashayikh al-qarn al-ashir, (Fas, lithographed, 1891), p.95.
13. M. al-Hafnawi, Kitāb ta^crīf al-khalaf bi rijāl al-salaf, Vol.I (Algiers, 1906), p.166.
14. He would have used mawlidan which has the same number of syllables as mansha'an.
15. The intention here is to show how al-Maghīlī's descendents in Kano and Tilimsān emphasise their Arab descent which is a necessary prerequisite to being a sharif. As for the validity of their claim to being sharifs, it is difficult to make any definite statement either way because of the absence of clear written evidence. The genealogy produced by the sharifs of Kano for the validity of their claim must be regarded as having the same value of oral tradition because its authenticity has not been established beyond doubt. In any case, the sharifhood is a side issue to the point of the argument, which is mainly concerned with whether or not al-Maghīlī was a Berber.

mind is that among Berbers of North Africa there is a general tendency to claim Berber lineage in preference to a non-Berber one, but this is not always adhered to. It may be possible that if the descendants of al-Maghīlī were Berbers, they might have preferred to be known as such. The fact that they regarded themselves as Arab should be taken into consideration.¹⁶ Although it is an historical fact that Maghila as a tribe existed and probably still exists, oral tradition explains that there were Arab communities who also bore the name.¹⁷ This is also supported by historical fact because it is known that the early Idrisids, a Sharifian family, first lived in Maghila.¹⁸ It is probable that al-Maghīlī was a descendant of one of them. The genealogy supplied by Kano shurafa' alleges that al-Maghīlī descended from the Idrisids.¹⁹ This is an

16. This may not always be the case. The writer has, however, noticed this tendency among several Berbers with whom he came into contact during field work in North Africa. Although they spoke Arabic very fluently they always found a way, in the course of conversation, to tell one that they were Berbers.
17. This idea is derived from the imam of Bumadyan mosque at al-^cubbad in Tilimsan, Shaykh Abubakar Muhammad who was interviewed by me on 7.2.68. These should be those tribes whose ancestors lived at one time in their history of existence around the place Maghila or Jar Maghila.
18. Arnaud, op.cit., p.187.
19. Several interviews with Alhajj ^cIsa, the Sarkin Sharifai (chief of the Shurafa' of Kano yielded valuable information about al-Maghili's life in Kano. He is the custodian of several relics left behind by al-Maghili - his rosary, copy of the Qur'an, a sword and a scale are still preserved. The genealogy, of which he kindly made a copy for me, alleges that al-Maghili descended from al-Kamil, a descendant of al-Idris II.

interesting claim although there is no authentic documentary evidence to confirm or nullify it. Some oral tradition appears to challenge the claim to the Sharifian descent but confirms without any reservation that they are Arabs. In the mass of Hausa oral tradition collected by Rattray we have this statement about the descendants of al-Maghilī:

Sa'annan ya tashi, ya tafi amma da yawa cikin mutanensa ba su bi shi ba sai kadan su ka bi shi cikinsu. Saura su ka zamna su na abin girmamawa cikin Kano. Daninsa sun kashe mabaiyana sanannu cikin Kano har yau har mutane suka ce musu Sharifai, a a ba sharifai ba ne su dai Larabawa ne. Hakikan Abdulkarimu ya sanya alkali cikin Kano, da shugaban sala (sic) da main-yanka da wanda ke Sanada (sic) yara Alkorani, da mai-kiran salla ...

Then he (al-Maghilī) set out and departed. But many among his people did not follow him only a few among them followed him. The rest remained and continued to be regarded with reverence in Kano. Their descendants are found and well-known in Kano until today, till people called them Sharifs, but, ^{They are not sharifs. They are Arabs.} in truth Abdulkarim has appointed a judge in Kano, and one to lead in prayers, and one to slaughter (live stock), and one who was to instruct the youths Alkorani, da mai-kiran salla²⁰

The conception about al-Maghilī belonging to the Berber tribe of Maghila appears to have started with Būras al-Nāsirī, who writes:

"Wa nasabuhu maghili kama marra wa maghila - bi fath al-mim ummatun azimatun min addami 'l-qaba'il 'l-barbar".

His pedigree is maghili as mentioned before and maghila - with a fatha over the mim - is a great community among the most ancient Berber tribes.²¹

20. R. S. Rattray, Hausa Folk-lore, Customs, Proverbs, etc. Vol. I, (Oxford, 1913), pp.14-16.

21. Būras al-Nāsirī, Ajā'ib al-asfār wa lata'ifal-akhbar, MS.4618, (Paris - B.M.), fol.108-109. It has not been published except in Arnaud's translation, Arnaud, op.cit. p.185. Nasiri's description of the Berber tribe is correct. He however assumed that al-Maghili's ascription was to the tribe. Unfortunately he does not state any authority for this assumption.

As to the notion of his being born in Tilimsān, it was Barges who apparently mentioned it.²² Although he did not quote his source, it is obvious from his account that he was translating from the Nayl of Ahmad Baba, who does not in fact mention the birth place of al-Maghīlī, and al-Maghīlī himself, as stated earlier, indicates that he could have been born elsewhere.²³

His early life is shrouded in mystery. All the chroniclers and biographers to my knowledge who wrote about him said nothing about his life in Tilimsān except that he was a Tilimsānian. Even Ibn Maryam, a native of Tilimsān, adds nothing in his Bustān²⁴ to what Ahmad Baba tells us in his Nayl²⁵; in fact he must have got his information from the latter. This is evident in the word-for-word copying of the account given in the Nayl. Other biographers of Tilimsānian origin say nothing about al-Maghīlī. It is more surprising to find that even his contemporaries are silent about him.²⁶ Similarly, we have no reports about him from travellers who passed through Tilimsān at a time when al-Maghīlī must have been there. We have a

22. J. J. L. Barges, Complement d'histoire des Beni Zaiyan, (Paris, 1887), p.389.

23. Vide pp.32-33 of this study.

24. Ibn Maryam, Al-bustān fi dhikr al-awliya'wa'l-^culama' bi tilimsān, 'Algiers, 1908), pp.253-57.

25. Ahmad Baba, Nayl al-ibtihāj bi tatrīz al-dibāj, on the margin of Ibn Farhun, Al-dibāj al-madhahab fi ma rifat a yan ulama' al-madhabab, (Cairo, 1932), pp.330-32.

26. It is astounding to find that even the historian of Tilimsān, al-Tanassī, who wrote a history of the Bani Zayyan, and who, in fact, was one of the very few who supported al-Maghīlī, in the Tamantitian controversy, recorded nothing about the latter.

fairly good account of Tilimsanian scholarship from a fifteenth century traveller, the Mailitian Abdul-basit b. Hilal,²⁷ who visited Tilimsān and met many of the learned jurists. In an account of his travels he tells us that he arrived at Tilimsān on Sunday the 10th of Dhu'l-Hijja 868 A.H. (August 15th, 1464). He was there for several months; in fact he was travelling between Tilimsān and Wahrān for over two years. He tells us of the learned fuqahā' (jurists) of Tilimsān he met, such as the great scholar qadi-al-Jam^c (Chief Justice) 'Abū ^cAbdullah Muhammad al-^cUqbani, 'Abū Salim Ibrāhīm, the Imam of the great mosque, Muhammad b. Zakariyya and others.²⁸ We should note that the last named was one of those who gave a Fatwā on the question of the Synagogue of Tamantit.²⁹ ^cAbdulbasit does not appear to have met al-Maghili at all or even heard of him.

It is disturbing that one can find so little by way of oral tradition about al-Maghili in Tilimsān. Whereas oral tradition about him is very alive in Kano, Katsina, Tamantit and probably Gao, this is not the case in Tilimsān. Although there is a family tracing their descent to him, they appear to know little about his activity in the Sudan.³⁰ All this points to one probability, which is that

27. ^cAbdulbasit b. Hilal, editor and translator R. Brunschvig, "Deux Recits de Voyages inedits en Afrique du North au XV siecle", Publication de L'Institut D'etudes Orientales de la Faculte des lettres D'Alger, vol.VII (Paris, 1936), pp.41-50.

28. Abdulbasit, op.cit., p.44.

29. Ahmad Baba, op.cit., p.331.

30. The writer discovered that al-Maghili's descendants in Tilimsān do not know of the existence of their kinsfolk in Kano and the reverse is also true.

al-Maghilī left Tilimsān in his search for knowledge at an early age and never lived in it for any considerable length of time.³¹

In fact most biographers mention only two teachers for al-Maghilī, °Abdurrahman al-Tha°alibī in Algeria and Yahya b. Yudayyr (Yiddar?) in the Tuwatian desert.

The fact that has repeatedly been emphasised in both written sources and oral tradition is that al-Maghilī studied under the great Algerian scholar and Sufi, °Abdurrahman al-Tha°alibī.³² For how long, and what al-Maghilī actually studied under him are so far unknown. It is known, however, that al-Tha°alibī himself started travelling in quest for knowledge in 1397 A.D. His journeys were at first limited to the Algerian cities like Bijāya but he later went out to Tunis and then to the East (Egypt) and to Cairo in particular. He appears to have stayed for a long time in Tunis, which he visited twice. It is not known how long he stayed but it appears that he studied there for several years. He was there in 1417.³³ Al-Tha°alibī appears to have settled down in Algeria to teach and write from the year 1438 when he was 56 years old. Al-Maghilī, according to his estimated date of birth, would then be about thirteen years old. It is possible that he went to Algiers after he had studied in Bijāya.

31. There is a statement to the effect that al-Maghilī left Tilimsān at an early age to study in Bijāya (Bougie). See I. Hamet, "Litterature Arabe Saharienne", R.M.M. Vol.12, N.10 (Paris, October, 1910), p.210.

32. Ahmad Baba, op.cit., p.109.

33. Ahmad Baba, op.cit., p.173.

So it is likely that al-Maghīlī's main teacher was ^cAbdurrahman al-Tha^oalibī, under whom he apparently studied for a very considerable time. Some indication to that effect is that al-Maghīlī is still remembered in the oral tradition of the keepers of the tomb of al-Tha^oalibī. This points to the probability that al-Maghīlī was among al-Tha^oalibī's last students and had been with him for many years before 1471, when al-Tha^oalibī died.³⁴ This is even more probable when consideration is given to the fact that many students studied under al-Tha^oalibī (oral tradition says over a thousand)³⁵. So at least two hundred students "enrolled" at the Tha^oalibīan school. Since al-Maghīlī is still remembered as a student of al-Tha^oalibī he must have been one of the more permanent and special students. Al-Maghīlī was about 40 years old when al-Tha^oalibī died. This might explain the absence of reference to him in the writings of authors of Tilimsānian origin and accounts of travellers who passed through Tilimsān in those days³⁶, since he appears to have spent most of his youth in Bijāya and Algiers studying under al-Tha^oalibī and others.

Al-Maghīlī returned to Tilimsān after the death of his illustrious master but he does not seem to have stayed for long, because he was soon found in Tamantīṭ, studying under a Sufi, Shaykh Yahya b. Yudayyir (Yiddar) until 29th July 1472, when the latter died.³⁷

34. Ahmad Baba, op.cit., p.174.

35. This information was collected in Alger during field work in March 1968. The tomb of Tha^oalibī was visited on 30th March, 1968, when the keepers of the tomb were interviewed.

36. Tanassi and Abdulbasit, whose works have been referred to in this chapter, are good examples.

37. Ahmad Baba, op.cit., p.359.

It is not clear where he went after that date. He could have returned to Tilimsan.³⁸ He could have travelled about the Saharan Oases preaching³⁹, or it has been suggested that he could have toured the coastal towns⁴⁰. At any rate, we see him again arriving at Tuwat in 1479.⁴¹ He was very probably then coming from Tilimsan because there had been some speculation as to the reason for his emigration from Tilimsan.⁴² This may have been caused by the power of the Jews there, who in the 15th century were enjoying a particularly privileged position under the rule of the Abdul-wadids. Some of them

38. This appears to be the more probable since he must have lived in Tilimsan for some time to acquire the nisba of Tilimsani and to have left offspring behind, descendants of whom are still living.

39. Martin maintains that al-Maghili caused some massacres of the Jews in Sijilmasa and its environs before coming to Tuwat, obviously on his second visit. If this is true then al-Maghili must have been roaming the Saharan villages preaching which is the only way by which he could excite people. A. G. P. Martin, *Op. cit.* pp. 125 - 26

40. This has been suggested by Burās al-Nāsiri (Arnaud's translation) where he says "Le Cheikh Mohammad fit longtemps la gurre aux infidèles dans les villes maritimes du Marreb, ou l'Islamisme se montrait d'une regrettable faiblesse". Arnaud, *op. cit.*, p. 185. A reference to the original Arabic text reveals that this is a mistaken idea emanating from incorrect translation. What Nasiri says is - "Wa kana kathira 'l-jihadi bithughuri 'l-maghrib Lam-mā da ufa'l-islam bisawahilihi." "He waged many holy wars in the frontiers of the Maghrib at a time when Islam became weak in the coastal towns." This clearly shows that al-Maghili did not wage any wars in the coastal towns as Arnaud's translation indicates, but his activities were centred in the Thughur which must mean the Saharan fortified villages, i.e. Tuwat and its environs.

41. A. G. P. Martin, Les Oasis Sahariennes, (Paris, 1908), p. 124.

42. R. Bunar, Misbah al-arwah, (Alger, 1968), p. 24.

were in positions of considerable authority, which gave them the chance to promote the interests of their co-religionists at the expense of the Muslims who were the overwhelming majority, but who were in an oppressed position, and had very little power to amend their situation. Some Muslims chose to leave the city for better places. It is from the words of a poet, probably al-Maghilī himself, who took this alternative, that we understand the prevailing situation in Tilimsān at that time. He said, "Tilimsān is a land which is not suited for our condition. But we pray for mitigation from Allah in His decree. How can a person like (to live in a) land which is being ruled by the Jews, sinners and untrustworthy people?".⁴³

We are told that on leaving Tilimsān al-Maghilī soon discovered that the Jews were dominant not only in Tilimsān but also in Sijilmāsa and the surrounding district.⁴⁴ This no doubt exacerbated the indignation already in the mind of al-Maghilī against the Jews, but even more so against the Muslims who supported and protected them. He must have decided from that moment to wage war against the two. This was exactly

43. R. Bunar, op.cit., p.24. The position of the Jews in cities and suburbs resulting from the support given to them by the Muslim authorities is also referred to by a very eminent Tilimsanian scholar who was a judge and a Mufti. This was the celebrated Abu'l Fadl Qasim b. Sa'id al-Uqbani. He explained that the "Jews had become very conceited and arrogant, wearing gorgeous clothes, and passing beyond the bounds of humility. All this was due to the strong security and esteem they enjoyed from the Arabs, which can be attributed to the divisions in Islam resulting from the indifference of Muslim Kings". Vide Ahmad b. Yahya Al-Wansharisi Al-mi'yar al-mughrib fi fatawi ahl ifriqiyya wa'l andalus wa'l-maghrib, Vol.II. (Fas, lithographed, 1896), pp.198-99.

44. Arnaud, op.cit., p.185.

what he did in Tuwāt, which was the next place of activity. He went to Tamantit, where he had been a student some time previously under the aforementioned Sufi Yahya b. Yudayyir. He arrived there in 1479 and stayed with the family of the Awlād Ya^cqūb in Tamantit. After a short while he founded, at a place called bu^cAlī, a Zawiya (retreat) where he lived and which bore his name.⁴⁵ It was from here that his real story began. According to one account al-Maghīlī was first seen advocating religious intolerance and persecution in Sijilmāsa, where he succeeded in causing some massacres of the Jews.⁴⁶ His activities appear to have been extended to other Saharan territories, Tighurarayn and Dar'a. But it was in Tuwāt that he had his greatest encounter with the Jews. His life in Tuwāt is our next topic of inquiry.

II. Al-Maghīlī in Tuwāt

Al-Tamantitī tells us that when al-Maghīlī arrived at Tuwāt he found the inhabitants sunk in profound ignorance, recognising neither ruler nor law; they had no regard for learning and were in the habit of honouring Jews and submitting to their influence.⁴⁷ This indicated that there were not many ^culamā' around, since the death of Yahya b. Yudayyir, al-Maghīlī's teacher. There appeared to be no ^culamā' other than al-Maghīlī and his students, and ^cAsnūnī and his followers. Thus al-Maghīlī found or considered himself the most learned, and upon him therefore the obligation of al-'amr bi'l ma^crūf wa'l-naby^c a'n al-munkar fell. So he took it upon himself to deal with the situation,

45. A. G. P. Martin, op.cit., p.124.

46. J. J. L. Barges, op.cit., p.204.

47. A. G. P. Martin, op.cit., pp.127-128.

which brought him into a direct clash with the Jews of Tamantit, the local authorities, the traditionists among the 'ulamā' and the rulers in Fās. All this gave rise to religious polemics which resulted in disorder and the loss of lives.⁴⁸ The struggle with the Jews and Jewish sympathisers among Muslims appears to have started soon after al-Maghili arrived at Tamantit which we have seen took place in 1479.⁴⁹

In order to have a reasonable understanding of what really happened when al-Maghili was in Tuwat, it is necessary to throw some light on the situation of both the Jewish and Muslim communities which formed the population of Tuwat.⁵⁰ The Jews appear to have been numerous enough to be considered as constituting a republic.⁵¹

It was Slouschz who made this declaration and he was followed by other writers. For instance Gantier asserted without any qualification that "au gourara et dans l'extrême nord du Touat, entre Tamantit Sba-Gnerrara un petit État juif indépendant c'est conservé jusqu'à la fin du IV^e siècle."⁵²

48. A. G. P. Martin, op.cit., p.129.

49. See p.40 of this study.

50. For a detailed account of the Jews in North Africa reference can be made to the following works: N. Slouschz, Travels in North Africa (Philadelphia, 1927) and Introduction à la Histoire des Juifs et du Judaïsme en Afrique", Archives Marocaines, Vol.XIV, (Paris, 1908). Hirschberg, "The Problem of the Judaized Berbers", J.A.H. Vol.IV; 3 (1963).

51. N. Slouschz, Travels in North Africa, op.cit., p.346.

52. H. Hirschberg, "The Problem of the Judaized Berbers", J.A.H. Vol.IV; 3 (1963), 323, n.18.

Although there may have been some exaggeration in such a statement, it can safely be assumed that they were quite numerous, because we learn elsewhere that they had seven wards in Tamantit alone.⁵³ This large population of Jewish communities continued to exist as late as the fifteenth century. In 1447 when Antonio Malfante visited Tuwāt he wrote, "The Jews are numerous here; they live pleasantly, for they are under the protection of different masters, and every master shields his proteges; their communal life is therefore very satisfactory ..."⁵⁴.

The accounts of the Jewish community of Tuwāt so far at our disposal appear to have been based on scanty information, but scanty as it is, it has not yet been fully utilised. This is because in the writings of Arabs of the fourteenth and fifteenth centuries we find random bits of information. Al-Maghīlī himself although motivated by other intentions furnished us with some details, because we learn that as late as the 1490's there were Jews, in the words of al-Maghīlī, himself - "in Tuwāt, Tighurarayn, Tafilalt, Dar^ca and many countries in Ifriqiyya".⁵⁵ These Jews were very prosperous, enjoying great freedom of both religion and action because they were protected by the Arab overlords.⁵⁶ Uqbānī, writing earlier than al-Maghīlī, gives us the same impression, adding that they were prosperous -

53. C. de la Ronciere, *La Decouverte de l'Afrique au Moyen-Age*, (Cairo, 1922), pp.143-58. The author quotes a letter of Antonio Malfante.

54. Ibid.

55. al-Maghīlī, *Ta'lif*, op.cit. p. 116.

56. C. de la Ronciere, op.cit., i. pp.143-58.

"wearing gorgeous clothes, riding (horses) with saddles and availing themselves of the full attire of the Muslims."⁵⁷ He further tells us that they achieved a strong security and protection from the Muslim Arabs, to the extent that "an Arab might agree to uproot himself and all his family to assist the escape of a Jew under his protection."⁵⁸ This resulted in the Jews living very well and adorning themselves in the most dazzling fashions of the Muslims.⁵⁹ It was this favourable status of the Jews in Tuwāt, according to Hirschberg, that "enraged Muslim fanatics and in the 1490's a Murabit Sheikh Muhammad al-Maghīlī ... arrived at Tuwāt and began to incite people against the Jews on the plea that they practised sorcery and flouted discriminatory regulations."⁶⁰

57. See the fatwa given by Qasim b. Sa'id al-Uqbani in Ahmad b. Yahya al-Wansharisi, op.cit., pp.198-199.

58. Ibid.

59. The account by ^cAbdulbasit of the situation of the Jews in the city of Fas points in this direction. This was true of other places in Morocco, at least in the fifteenth century, the period we are mostly concerned with. It showed that the Jews not only enjoyed religious freedom but were leading very prosperous lives. During the Caliphate of the Marinid Sultan, Abdulhaqq, they were masters in Fas. It was he who managed, by extinction and deportation, to put the Wattasid viziers in a helpless position. When he had succeeded in that he wanted to rule as an absolute monarch, so he appointed a weakling from the Wattasid house as a puppet Wazir, while at the same time appointing a Jew, Harun b. Hatash, a rival Wazir. This Jew became very influential, enjoying the full powers of the Wazir and boasting of his Jewish religion. This encouraged the Jews in Fas and the surroundings to be conceited and to despise the law. They became notables and were regarded with honour. The Jew Harun used to rise in the panoply of a vizier, and he was greeted by this title wherever he went. Many evil things were reported of him, and his co-religionists overawed the Muslims. See ^cAbdulbasit, op.cit., pp.50-51.

60. N. Z. Hirschberg, op.cit., p.325.

This, then was the situation of the Jews when al-Maghīlī reached Tuwāt. What remains to be inquired was the position of the majority Muslim population there. This we gather from the same Tamantitī who furnished us with a picture of twofold importance. He tells us of the state of affairs among the Muslims and also the immediate cause for al-Maghīlī's participation in Tuwatian internal affairs. "I learnt from Shaikh Sidi Muhammad Tayyib b. Musa that his father Talib Musa related to him that when Sidi Muhammad b. Abdulkarim arrived in Tuwāt, the inhabitants of this region were sunk in profound ignorance. They had no interest in learning, but contempt for it; they were in the habit of honouring the Jews and submitting to their influence". Such a situation was enough to urge al-Maghīlī to action. He might have planned to do the remedial work gradually. An incident which occurred, Tamantitī tells us, was the real provocation of his outburst.

Il se trouvait un jour l'hôte de Sidi Mohammed-Abdel-djebbar à Takhfif, lorsque les Juifs de ce village, ou du moins la dizaine d'individus de cette nation qui y demeuraient encore, vinrent à passer devant lui, montés sur des ânes, sans le saluer, ni lui ni l'assemblée assise autour de lui.

Ces Juifs vaquèrent à leurs affaires au-dehors du village, puis rentrant à leurs demeures, ils passèrent de nouveau devant le cheïkh et sa compagnie sans descendre de leurs montures ni salier les notables.

L'un de ceux-ci Mebrouk ben Ahmed, se leva irrité, frappa les Juifs et leur jeta des poignées de terre à la face, en leur reprochant le mépris qu'ils montraient envers le cheïkh et les autres personnages présents; mais le cheïkh Seddik ben Aberrahmane se leva à son tour et, prenant parti pour les Juifs, injuria son parent Mebrouk ben Ahmed.

Cela fut le prélude de discordes et de querelles qui troublèrent tout le village.

Le cheïkh Ben Abdulkarim appela la malédiction divine sur le cheïkh Seddik et ses partisans qui, par l'effet des vertus du cheïkh, périrent tous dans le mois qui suivit.

Dieu étendit aussi sa malédiction sur les Juifs et sur ceux qui tenaient pour eux, et permit qu'ils fussent tous massacrés.

Ecrit, après la sixième nuit de rebia le prophétique de l'an 1003 (1595) par le serviteur de son Dieu - qu'il soit exalté! - Mohammed-Abdelhadi ben Abdullah Es-Sebâi, et copié le 27 choual 1126 (5 novembre 1714), par le serviteur de son Dieu Mobarek ben Ali El-Menaceri.⁶¹

We can see in this passage the immediate causes leading to the disturbance in Tamantit̄.

This incident further emphasises the fact that the Jews of Tamantit̄ were, at least in the period in question, enjoying full freedom and protection from the Muslims. Whenever they were molested by one section of the Muslims of that village another section would defend them, and this was the general situation. It resulted in the Jewish prosperity in trade and culture which 'Uqbānī reported and which was verified by Joseph Malfante as seen above. Hirschberg suggested that it was this status of the Jews which enraged Muslim fanatics.⁶² An examination of the original sources presents to us quite another picture. What al-Maghīlī found in Tamantit̄ was a general decline in the Muslims' observance of their religion and a contempt for learning and learned people. They rebelled against the Islamic law according to his understanding of the Shari'ah and so they did not mind with whom they dealt as long as it served their worldly interests. They regarded Jews as equal partners in citizenship and trade, worthy of any protection that was necessary. So they were found to have entered into partnership with the Jews in business.

61. A. G. P. Martin, op.cit., pp.128-29.

62. N. Z. Hirschberg, op.cit., p.325.

Many wealthy Muslims entrusted their business to Jews⁶³. As it appears to have been a prosperous society which was multi-religious, Muslims, Jews and perhaps nominal Muslims and nominal Jews, all living together in a free society. This situation had the support of the authorities, who must have found that it brought peace and tranquillity to the Sahara in a North Africa which, outside the Saharan regions, was very turbulent.⁶⁴ The 'ulama' also accepted this peaceful atmosphere, probably following the Prophet's saying, "Trouble is always dormant may God curse whoever stirs it up."⁶⁵

On the arrival of al-Maghīlī, with his convictions which we shall see later,⁶⁶ he must have felt it incumbent upon himself to reform the situation. Together with his handful of initial supporters he decided to do something about it. It was certainly a great undertaking under the circumstances prevailing at that time. This was because the majority were in favour of a prosperous life, based on trade and farming, both of which the Jews played a leading role in. They had the authorities on their side since the interest of the administrator is best served by peace and tranquillity. Adding to al-Maghīlī's difficulties was the position of the 'ulama' whose authority was profound. They appeared to have more influence on the public than the rulers. Al-Maghīlī found that they were not ready

63. See Chapter IV, p. 134; 141.

64. R. Basset, "Notes de la lexicographie Berbere", Journal Asiatique, (1883), p.378.

65. This is circulating as a Hadith but is not recorded in any of the major books of Tradition.

66. See p. 242 of this study.

to support him. So his task was to get their support and that of the multitude. He must have realised that if he got the support of both he need not fear the feeble rulers, whom he could even fight as long as he had the support of the two.⁶⁷ He was not so much concerned about the Jews, who although numerous were still a minority. They would be at his mercy as long as he had the support of the public.

He must have realised that the only way to get the multitude behind him was to appeal to their emotions rather than to their reason. To do that he must have something to attack. He found it in the Jewish minority and their synagogues. His main purpose, as will be seen from the sources, was not so much an attack on the Jews with the intention to annihilate them as to wage a war against the 'ulama' al-su (wicked learned men) and corrupt Muslims. He would not wage war against non-Muslims, but that the Jewish non-Muslims were involved and in some cases became victims was a necessary requisite for the achievement of al-Maghili's aims.⁶⁸

His first task was to attract the attention and arouse the emotions of the multitude. This he did by making use of the disturbed situation in the whole of North Africa and Spain which he interpreted as Allah's malediction upon the Muslims for their

67. Al-Maghili's behaviour in Tuwat would appear to resemble that of a politician, in the modern sense of the word, who was very much concerned with public opinion and tried to win it to his side.

68. These aims were, it would seem, reformatory and the focal point was the Muslim population who were considered by him to be corrupt and lax.

error. This error was of course that committed by the ʿulamaʾ al-sū who uplifted the religion of unbelief and "established a room in which the Prophet was abused."⁶⁹ This is a clear reference to the Jews and their synagogues.

When al-Maghīlī had found the front on which he could attack the ʿulamaʾ he started giving public lectures which were attended by huge crowds. We know this from the reports of ʿAbdullah al-ʿAsnūnī in which are revealed the tactics of al-Maghīlī. He laid his emphasis on the Jewish synagogues and as his lectures continued he gathered many supporters around him. This encouraged him and he started calling for what amounted to a Jihad, namely the destruction of the Jewish synagogues and the killing of all Muslims or Jews who tried to prevent it. Whoever might die among al-Maghīlī's supporters would definitely become a martyr; but whoever might be killed among the Muslims supporting the Jews and defending the synagogue would definitely go to Hell.⁷⁰ He succeeded in showing the masses that the issue was that of either loving the Prophet or loving the Jews; Muslims must choose one of the two - they should choose between going to Paradise or going to Hell. The choice of the masses was obvious; they must certainly love the Prophet rather than the Jews; they would certainly prefer Paradise to Hell. His following became great and he succeeded in creating a ferment in the territories.⁷¹

69. Wansharīsī, op.cit., p.172.

70. Wansharīsī, op.cit., p.172.

71. Ibid.

Al-Maghīlī returned to Tamantīt and continued his offensive against the Jewish synagogue, which he later succeeded in demolishing, in spite of serious opposition from the local authorities and the majority of the ʿulama', who gave fatwā on the incident.

The local contemporary sources did not give information as to what happened afterwards but Ahmad Baba reported that there was some killing of the Jews.⁷² Buras also mentioned that al-Maghīlī constructed a large army and waged war against a Moroccan Sultan who was then having the seat of his power in Marrakesh. His name was Ahmad b. Yahyā b. Zayyān al-Wattāsi b. Abi ʿImran al Wattāsi. The forces of al-Maghīlī were defeated.^{72a} After that nothing is known about al-Maghīlī except that he went to the Western Sudan. But before he reached the Sudan he passed through other Saharan towns and it is there that we shall try to see his activities.

III. Al-Maghīlī in other Saharan Towns

Al-Maghīlī's activities in other Saharan towns do not appear to be well documented. There is nothing yet available in his writing nor that of his contemporaries. We have, instead, the accounts of biographers and some oral tradition. The written accounts, as should be expected, do vary in themselves, and they do not always agree with the oral tradition. Ibn ʿAskar, the earliest to tell us about al-Maghīlī's contact with other countries after Tuwāt, gives us the impression that al-Maghīlī, after his episode in Tuwāt, went to Timbuktu. Ahmad Baba, writing some twenty years later, gives us more

72. Ahmad Baba, op.cit., p.330.

72a. Buras al-Nāṣirī, ʿAjā'ib al-asfar wa lata'if al-akhbar, MS.4618, B.N. Paris, Fol.109.

details. He tells us that al-Maghilī went to Air, then to Takedda (Tagedda), where he taught the inhabitants. He then went to Kano, where he also taught and wrote epistles for the ruler of Kano on matters of government and shari^ca. He proceeded to Katsina, where he also did some teaching. His last function in the Sudan was a visit to Gao, the seat of power of the ruler of Songhay, Abu 'Abdullah Askia Alhajj Muhammad Abubakar Ture, and the writing of the famous treatise known as the As^cila for the Askia.⁷³

Later Arabic authors in the Maghrib add little to the information furnished by the writer ^cIbn ^cAskar and Ahmad Baba.⁷⁴ In all these Arabic sources, no dates for al-Maghilī's movement and activities have ever been given. What adds to the difficulty is that al-Maghilī himself does not give dates in those of his works so far available.⁷⁵ This makes it difficult for the earlier writers who attempted a biography of al-Maghilī, to give any coherent picture

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73. Ahmad Baba, op.cit., p.331. For details about the biography of Abu ^cAbdullah Askia Alhajj Muhammad b. Abu Bakr Ture (1493-1529), see Mahmud Ka'ti, editors and translators O. Houdas and M. Delafosse, Tarikh el-Fettach, (Paris, 1964), pp.59-83 of the Arabic text and pp.114-155 of the French translation.
74. The West African authors in Arabic, though also basically following Ahmad Baba, give some additional information. Sa^cid, in several places in his Tarikh al-Sudan, mentions circumstances in which al-Maghilī had some connection with Sudanese personalities. Kaeti also tells us of al-Maghilī's association with the Askia. The Arabic authors who do not seem to be following Ahmad Baba are, in the Maghrib, Muhammad Buras al-Nasiri, and, in the Sudan, Muhammad b. Mukhtar al-Kunti and the anonymous authors of Tarikh al-Wanghariyyin and Tarikh arbab hadha ^cl-balad al-musamma Kano. The writing of the wo^cdios the Jihadists of the early nineteenth century, furnish us with some information, particularly concerning the teachings of al-Maghilī.
75. The only exception is his treatise to Muhammad Rumfa - The Wasiiya - in which the date of composition is given.

of his enterprises in the Sudan. Nor is it any simpler for the modern scholars who find different and often conflicting stories about al-Maghili bequeathed by their forerunners to give any comprehensive account.

In spite of the difficulties involved there are two more sources of information that will help us to construct a better picture. One is the existence of a mass of oral tradition which can be sifted to be of value, and the other, still more important, is a vast variety of enduring traces left behind by al-Maghili in most of the places he visited.

The first task is to explore the date when al-Maghili might have set out on his journeys abroad. A precise date is beyond our reach owing to the nature of our information regarding dates. There are some indications, however, which can give us a rough guide.

As we shall see later in this study, several Islamic scholars took part in the polemic resulting from al-Maghili's intention to remove the Jewish synagogue in Tamantit. Among them were two prominent savants, Muhammad b. Qasim al-Rassa^c the Mufti of Tunis and Muhammad b. Yusuf al-Sanusi in Tilimsan. The first sent a written fatwa to Tamantit. The second endorsed a fatwa given by Muhammad b. ^cAbdul Jalil al-Tanassi also of Tilimsan. It was this last which finally decided the issue, and, as soon as it was received in Tamantit, action was taken. Now Rassa^c died in 1489 and Sanusi died on Saturday, the 19th of May, 1490.⁷⁶ So assuming that Sanusi

⁷⁶. Ahmad Baba, op.cit., pp.324 and 328 respectively.

gave the verdict in the very year he died, the destruction must have taken place, at the very latest, in 1490. The indications are however, that it took place several years before. First, the death of Rassa^c a year earlier points to an early occurrence of the incident. Secondly, al-Wansharisi^c who gave a detailed account of the whole episode, recorded it in volume Two of his twelve volume work - the Mi^cyar, the twelfth volume of which was not completed until the 10th of July, 1496, and it must have taken him many years to compile.⁷⁷ Thirdly, al-Maghili^c, after visiting and living in several countries, including probably a pilgrimage to Mecca, was known to be either in Kano or somewhere in its vicinity in 1492.⁷⁸

All these point to the fact that the destruction of the synagogue which signalled his departure from Tuwat must have taken place years before 1492. Giving consideration to the foregoing, I am inclined to believe that al-Maghili^c set out on his historic journey in the same year he visited Fas, which is to me the date the synagogue was demolished - i.e. 1486.⁷⁹

Having given some idea as to when al-Maghili^c might have left Tuwat, the next task is to follow the course of his journey. It was reported he went to Air⁸⁰. This is the extant oral tradition con-

77. Al-Wansharisi^c, op.cit., vol.12, p.262.

78. The Wasiyya was written in 1492 for Muhammad Rumfa, the ruler of Kano.

79. When al-Maghili^c went to Fas to debate with the learned jurists, the Shaykh al-Jama^c a was Ibn al-Ghazi who did not assume his duty until the year 891 (1486). Vide Abu 'l-^cAbbas Ahmad al-Nasiri, Al-istiqa^sa' li-akhbar duwal al-maghrib al-awsa, vol.IV, (Dar al-bayda, 1955), p.124.

80. Ahmad Baba, op.cit., p.331.

cerning him in Air, and supported by the existence of mosques the founding of which is attributed to him. But oral traditions collected by Barth and later confirmed by Rodd reveal that al-Maghilī was coming to Air from the East.⁸¹ This tradition is also confirmed from another locality, in Kano, where there still exists a similar legend of al-Maghilī's coming from Medina. This is also recorded in the Tārīkh arbāb hādha 'l-balad al-musamma Kano translated by Palmer in his Sudanese Memoirs. The value of oral traditions as historical data is now well established among historians.⁸² It is important, however, to examine for our purpose whether these traditions have any value. Only one source mentions that al-Maghilī had been to Mecca.^{82a} This is in the al-Tārā'if of Muhammad b. Mukhtar al-Kuntī. He drew his information from written sources, oral tradition and legends. Although the book has been found wanting in several places, that does not mean that it is devoid of value. Judging from the Islamic injunction that performing pilgrimage is an obligation on every able Muslim, one is inclined to believe that it is very likely that al-Maghilī did perform the pilgrimage; because if he was able to travel through the Sahara to the Sudan he was likewise able to travel to Mecca through Egypt and he would have performed the obligation of pilgrimage before anything else. The legend of the miracle of causing the window in the tomb of the Prophet to open

81. Heinrich Barth, Travels and Discoveries in North and Central Africa, (London, 1857) Vol.I, p.385-86, Vol.II, p.73-75; Francis Rennel Rodd, People of the Veil, (London, 1928), p.291-293.

82. J. Vansina, Oral Tradition, (London, 1965), pp.114-140.

82a There is a passage in the Tārīkh al-fattash which could be considered as another source. Mahmūd Ka'fī, *op. cit.* p.69.

automatically for al-Maghīlī to enter is hard to believe, but it produced for us a poem which he composed there.⁸³ It is an adequate evidence that al-Maghīlī was at one time in Medina where he was singing it in front of the tomb of the Prophet. The following is a quotation from it:

Congratulations, O my heart, before you is the leader of the communities! This is the presence of the chosen Prophet in the sacred mosque ... O my lord, O the Messenger of Allah; Help me,⁸⁴ the servant is a guest and a guest should not be oppressed.

If he, as reported by the same source, had met al-Suyūṭī, that could only have been possible in Egypt or the Hijāz.⁸⁵

The evidence suggests that al-Maghīlī performed the pilgrimage. If he went to Air coming from Egypt, he must have done so on his return journey from Mecca. The trade routes which were also pilgrimage routes show that al-Maghīlī in all probability would come into Air by way of Aujila, Murzuk and Ghat. His route would have been from Tuwāt to either Ghadames then to Aujila, or to Murzuk which connects to Aujila, then to Siwa and Cairo. Other trade routes show that al-Maghīlī might have approached Air through the mountains of Ahaggar.⁸⁶ But if al-Maghīlī's intention was not to go to Mecca but to the Sudan, then it is not

83. Muhammad al-Kuntī, Al-Taraif wa'l talida fi akhbar al-shaykhayn al-walid wa'l walida, MS. J.12, B.G. Rabat, pp.213-14.

84. Muhammad al-Kuntī, op.cit., p.214.

85. Ahmad Baba reported the dispute between al-Suyūṭī and al-Maghīlī on the question of Mantiq, Ahmad Baba, op.cit., p.332.

86. Rodd, op.cit., p.5.

easy to see why he did not go to Timbuktu along the shortest and most direct way or through Walata which was the main connecting point between the towns on the Niger Bend and Tuwāt, and trade with Tuwāt and the Sudan was at its peak during the time of al-Maghilī. Tamantit was the entrepot of merchants trading between the Maghrib and Mali while at times Buda, which was mentioned as the settlement of al-Maghilī served as the departing point for the merchants going to Mali via Walata.⁸⁷ The reason which made al-Maghilī avoid the more popular and easier route might be his intention to go to Mecca. So the theory of his coming to Air from the East is very plausible.

Information about al-Maghilī in Air is mainly derived from oral tradition. The only written authority we have is the announcement by Ahmad Baba that he visited Air and taught there.⁸⁸ Later accounts which give some details about his activities in this area seem to have relied mainly on oral tradition. Barth, the first among the European travellers to have collected such oral accounts, reports:

Taghist is remarkable as the place of prayer founded by the man who introduced Islam into Central Negroland... This man was the celebrated Mohammad ben "Abd el-Kerim ben Maghili, a native of Buda in Tuwat.⁸⁹

After giving a short biography of al-Maghilī, Barth further writes:

87. A. G. P. Martin, *op.cit.*, p.117.

88. Ahmad Baba, *op.cit.*, p.331.

89. Barth, *op.cit.*, Vol.I, p.385.

Mohammed ben Abdel Karim turned his steps towards Katsena, where we shall find him again but on his way thither, he founded in this spot a place of prayer, to remain a monument to the traveller of the path which the religion of the one God took from the far east to the country of the blacks. The "msid" or "mesalla" at present is only marked by stones ... This is the venerated and far-famed "Makam e Sheikh Abd el Karim", where the traveller coming from the north omits to say his prayers; others call it Msid Sidi Baghdadi, the name Baghdadi being often given by the blacks to the Sheikh, who had been long resident in the east.⁹⁰

R. Rodd, another traveller, who made research in the Air region has also reported interesting information about al-Maghili. He attributed to him the introduction of the Maliki School to the people of Air in the following words:

The people of Air belong to the Maliki persuasion of Islam, as a result of the teaching of a great leader who came amongst them in the early sixteenth century. His name was Muhammad ben Abd el Kerim el Maghili, surnamed El-Baghdadi, and he was the Apostle of Islam in the Central Sudan.⁹¹

Apart from teaching the people of Air al-Maghili also founded several mosques. Rodd reports that al-Maghili

"founded a mosque at Abattul near Amderas, and one of his sons is said to have been buried there; the tomb at least is described as his. A short distance away on the road north from Amderas he knelt to pray in the Erarar n'Dendemu at the point known as Taghist, and the place was marked by a roughly rectangular enclosure of stones with semi-circular bay in the eastern side near a small tree marking the Qibla. Travellers always stay there to make their prayers by the road. The place is remembered and far-famed as the "Makam el-Sheikh ben Abd el Karim", but others call it the "Msid Sidi el-Baghdadi", the name by which he is usually known in Air, where men who lived long in the East often earn this surname. His stay in Air was not entirely

90. Barth, op.cit. Vol.I, p.386.

91. Rodd, People of the Veil, (London, 1926), p.291.

peaceful, for he was eventually driven out by these lax Moslems on account of his uncompromising attitude. It is reported traditionally that he was attacked by a party of Aulimmiden in Western Air, but was not apparently killed, for thereafter he again preached in Katsina."⁹²

It can thus be seen that in Air al-Maghilī acquired another nisba - al-Baghdadi. This however appears to be a common one usually conferred by the people of Air on "clerics" coming from the east. This practice by the people of Air was reported by both Barth and Rodd. We can learn from their reports that al-Maghilī's influence in Air was substantial enough to keep his memory alive to the days of Barth and Rodd and indeed to our day. Other religious divines no doubt visited Air and could have also exerted some influence but it appears from the information so far available to us that al-Maghilī's influence was better felt and observed by the people of Air and by travellers passing through it.

From Air al-Maghilī appears to have gone westwards towards Tagedda.⁹³ It is known that he was at Tagedda for some time. When he was there is not known for certain. Following the theory that he left Tuwat in 1486 and that he performed pilgrimage before coming to Air, he could have arrived in Tagedda in 1488; but this

92. Rodd, op.cit., p.292.

93. R. Mauny suggests that the site of Tagedda might be at a place between Agades and Gao some twenty five kilometres from Teguidda Ntesemt. This place is traditionally known by the name Azelik. He argues that Tagedda is a Berber word meaning a reservoir of mineral water near copper mines. Recent discovery reveals that close by an ancient copper mine at Azelik traces of an old village exist. R. Mauny, Text et document relatifs a l'histoire de l'Afrique, Histoire, n.9. (Dakar, 1966), 73, n.5.

is entirely dependent on how long he might have stayed in the place he visited before Tagedda. The suggestion that he was there in 1492 is also possible, but for it we must postulate a second visit to Tagedda.⁹⁴ The question of dates is always a mystery in the life of al-Maghīlī but it is sufficient for our purpose to know that he certainly was in Tagedda. It appears to have been a very important centre for his activities but unfortunately its exact location has not yet been positively shown for it to yield to us some oral tradition about the efforts of al-Maghīlī there. We know, however, that he instituted a school there in which several of his reported West African students studied. Al-^cAqib b. ^cAbdullahi al-^cAnsamannī was one of them.⁹⁵ Again in Tagedda al-Maghīlī taught another West African scholar called Muhammad b. Ahmad al-Tazakhtī, whom we later find as a judge in Katsina.⁹⁶

Now the meeting of Tazakhtī with al-Maghīlī at Tagedda presents us with a problem. We are told that after Tazakhtī's meeting with and studying under al-Maghīlī the former went to Egypt and Mecca for the pilgrimage. There he met with other Islamic scholars, such as Abdulhaqq b. Muhammad al-Sinbatī, Ibn Abi 'l Sharīf Zakāriyya b. Muhammad, ^cAbdulqādir b. Muhammad al-Nuwayrī Shams al-dīn al-Laḡānī, his brother Nāsir al-dīn al-Laḡānī and several others. We are further told that Tazakhtī travelled in the company of Abu'l Mahasin

94. J. Hunwick, "Notes on a late fifteenth century document on al-Takrār", African Perspectives (London, 1970), p.28.

95. For the biography of al-^cAnsamannī, see Ahmad Baba, op.cit., p.217-18.

96. Ahmad Baba, op.cit., p.335.

Mahmud b. ^cUmar the gadi of Timbuktu who performed his pilgrimage in the year 915 (1510)⁹⁷ We can easily say that this information is a slip of the pen from Ahmad Baba and that Tazakhati did not perform the pilgrimage with gadi Mahmud. This would have closed the matter, but when we trace the biographies of the other people whom Tazakhati met during the course of his journey we realise that the issue is not as simple as that. All of them were alive with the exception of al-Maghili, the person who is the subject of our inquiry, who died in circa 909 (1504).⁹⁸ So it is very likely that he did meet them, some of them performing the pilgrimage about the same time with him. What adds to our difficulty is that the two dates, the death of al-Maghili and the pilgrimage of Tazakhati, were given by Ahmad Baba, so surely there must be some explanation because if al-Maghili did die in 909 (1504) and Tazakhati performed his pilgrimage in 915 (1510) then the obvious conclusion is that he did not meet al-Maghili at Tagedda at that material time. This is because the death of al-Maghili in the year circa 909 is confirmed from another source - the *Dawhat* of Ibn ^cAskar, who tells us that al-Maghili died in the beginning of the second decade of the tenth century "fi awwali al ^cashrat al-thaniya". This simply means 911 (1505) thus adding one or two years on the date of Ahmad Baba. It is nowhere near 915 (1510) so it does not solve our

97. Ahmad Baba, op.cit., p.335 and p.343.

98. For the biographies of these scholars see (1) Sakhawi, al-Daw'u al-lami li-ahl al-qarn al tasi (Cairo, 1934-36), Vol.IV, p.37; Vol.III, p.233; Vol.VII, p.227; Vol.IV, p.291; Vol.I, p.134. (2) al-Suyuti, Nazm al-^ciqyan fi a^cyan al a^cyan (New York, 1927), p.26; and (3) Ahmad Baba, op.cit., pp.337 & 335.

problem. The only possibility left to us is that al-Tazakhtī was in Tagedda for some time since the time of al-Maghīlī and continued after the departure of the latter and then performed the pilgrimage in 1510. This is more likely because the meaning of the conjunction thumma (afterwards) in the sentence "thumma ashraqa subbata sayyidina al-faqih Mahmud" which Ahmad Baba used can allow the following action to happen after several years. This possibility is preferred because it is unlikely that Ahmad Baba would make two mistakes i.e. the mistake of mentioning the meeting of the two in Tagedda and counting al-Tazakhtī among al-Maghīlī's students.⁹⁹ Another possibility is that al-Tazakhtī performed the pilgrimage twice. That al-Maghīlī also stayed for a considerable time is even more likely, if we consider the fact that Tagedda was, at the period in question, not only a centre for Islamic scholarship but also a commercial centre.¹⁰⁰ These were the main attractions of the area which caused Sudanese pilgrims to pass through it, no doubt to have both material and spiritual provision for their important journey to Mecca. So Tagedda must have acted for al-Maghīlī as a centre through which he acquired knowledge of the countries of the interior and from which his fame spread to these states. It is not unlikely that the rulers of Gao, Kano and Katsina were well informed about al-Maghīlī before he even set foot in their territories or even they were in contact. This was evident, at least, in Kano, where he was received outside the walls of the city by some of the learned sages.

99. Ahmad Baba, op.cit., p.332 and 335.

100. Hunwick, op.cit., pp.27-28.

From Taggedda.. al-Maghili made for the Hausa land. The first Hausa town he visited appears to have been Katsina, so we should give an account of his life there.

IV. Al-Maghili in Katsina

Al-Maghili is said to have come to Katsina during the reign of King Ibrahim Maje¹⁰¹. According to tradition, he converted him to Islam¹⁰². That he came when Ibrahim Maje was the ruler of Katsina is well established in oral tradition and supported by external evidence.¹⁰³ But whether Ibrahim Maje ruled from 1494 is open to question. This date was arrived at by Palmer through his method of computation which, although in broad outline on the whole is correct, cannot be taken as precise. I am inclined to believe, basing my belief on earlier hypotheses, that al-Maghili could have arrived at Katsina earlier. This might be around 1488 but, here again, the date cannot be taken as precise.

The idea of al-Maghili converting Ibrahim Maje to Islam should not be taken literally because the latter must have been a Muslim before the former's arrival. The name Ibrahim in itself is a clear indication of Islamic influence and this influence can be observed in all the names of Katsina rulers as far back as the time of Muhammadu Korau (circa 1320) in whose reign Islam was said to have

101. Sir Richmond Palmer, Sudanese Memoirs, Vol.II] (Lagos, 1928), p.78.

102. Alhaji Abubakar Imam, "Private Notes" which he kindly showed me.

103. al-Suyuti's letter to some rulers including Ibrahim of Katsina indicates that Ibrahim was in power when the letter was written. Vide Palmer, op.cit. p.78.

been first introduced. So the conversion must be understood in the sense of the new spirit which al-Maghīlī had instilled into Ibrahim Maje. This can be seen in the Islamic revival during his reign. In the Katsina king list, translated by Palmer, we read:

"Maje Ibrahim ordered the people of Katsina to marry and made them pray. He ordered all the inhabitants to make praying places, and those who did not obey to be imprisoned. In his time there were many learned men.¹⁰⁴"

This description could be due to al-Maghīlī's influence. He himself is credited with the miracle of finding the Qibla of Gobarau mosque the direction of which was a cause of dispute among the ʿulamāʾ. Thereupon al-Maghīlī pointed with his staff to the Kaʿba and when the people looked, the tradition alleges, they saw the actual Kaʿba in Mecca!!! The legend went so far as to relate that people on seeing the Kaʿba, rushed to it and found themselves in Mecca!¹⁰⁵

The simple idea that we can have from this legend is that al-Maghīlī was in Katsina when the mosque of Gobarau was built and that its erection was one of the results of his propaganda. This miracle was also attributed to another Arab saint with the name of Alhaji ʿAliyu Jodama. It relates that it was this Jodama who found the Qibla and that it was seen by all those who were there. He later became so influential that the local ʿulamāʾ became jealous of him and conspired against him; so eventually he had to leave the town. He took his departure through the gate called Kofar Kwaya, against which he invoked divine malediction, whereby all the area around

104. Palmer, *op.cit.*, p.81.

105. Information was received from Alhaji Abubakr Imam on 16.2.1969.

it became barren and the people poor. As for the Kofar Sauri through which he entered the city, he prayed for God's blessing, which caused the area to be fertile and the people of good fortune. Even in this variant form of the legend one can easily "discover" al-Maghilī in it. The personality in the tradition is an Arab and a saint who fell into the disfavour of the 'ulamā'. This provoked him to the invocation of divine curse. The history of al-Maghilī before coming to Katsina instantly reveals to us the occurrence of the same sort of incidents in Tuwāt and in Aīr. It is interesting to observe that the character, although an Arab, acquired the fulfulde nickname of jodama made up of two Fulani words jodā (staying) ma (not) which simply means a person who does not stay long in one place; i.e. a traveller, a description which fits very well with al-Maghilī. That the character of al-Maghilī acquired a Fulani colour can be easily explained. Katsina has been an abode of the Fulani since the 14th century. They were said to be an important element of the state long before the time of the Jihad.¹⁰⁶ With the coming of the Uthmani Jihad their importance became greater, and when the Sullibawa clan ascended to the throne during the reign of Muhammad Dikko their importance became greater still. So it is not surprising if, in a given stage of Fulani supremacy, al-Maghilī acquired a Fulani character. Gobarau mosque was not the only mosque built through al-Maghilī's efforts, but we have learnt

106. Palmer, op.cit., p.79.

already that Ibrahim Maje ordered the building of praying places in all the districts under his authority.¹⁰⁷

Another important thing which al-Maghilī did in Katsina was the establishment of a Shari^c law. My informant, M. Habibu, of the Gambarawa quarter in Katsina, talking to me, said "We do not have much history because of the death of the elders, but we are certain that it was al-Maghilī who introduced the Shari^c in this land."¹⁰⁸ Al-Maghilī taught in Katsina and it was to him that the founding of an Islamic school of learning was credited. Alhaji Abubakr Imam in an article entitled "The Constitution of Northern Nigeria" has this to say:

It cannot be denied, since it was as early as 1493, over 466 years ago, that Shaihu Maghilī founded two Arabic "Universities" in Northern Nigeria, one in Kano and the other in Katsina. The site of the one at Katsina is now the famous Masallacin Gobarau.¹⁰⁹

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107. Building mosques was a major aspect of al-Maghilī's method of propagation for Islam. Wherever he went after winning the confidence and respect of the people he would recommend building a mosque. He did that at Bu'ali in Tuwat and at Abbatul in Air. We shall see similar efforts in Kano.
108. Alhaji Habibu was interviewed by me in Katsina on 14.3.69. His idea has been confirmed by several other informants in Katsina - Alhaji Barmo, Alhaji Muhammad Zayyad and several others. This was also the view of the late Wazir of Katsina, Muhammad Zayyan, who made it clear in his introduction to the edition of al-Maghilī's work Taj-al-din fī ma yijibu 'l-muluk published in Beirut, August 1931, p.5.
109. In an unpublished article, which the author has kindly made available to me. This confirms my earlier suggestion above that it was due to al-Maghilī that the Gobarau mosque was built. Dr. Alhaji Abubakr Imam, the one time editor of the Gaskiya ta fi Kwabo, a Hausa newspaper, and later a director of the Corporation, and author of many books in Hausa - the famous among them being Magana Jarice, Tafiya Mabudin Ilmi and Tarihin Musulunci. He is certainly the best Hausa writer still living.

Thus al-Maghīlī's role in Katsina does not differ from the one he performed in the other places he visited. The founding of the institutions of the Shari'ah which was the prerequisite for the establishment of an Islamic state was accredited to him. The form of law which al-Maghīlī found in use could have been an embryo of the Shari'ah due to the existence of Islam or it could have been the local customary law, but the Shari'ah as an institution dated only from the time of al-Maghīlī. His role in instituting the theory and practice of the Shari'ah is better described in the Kano tradition as we shall see below. But even in Katsina there are indications in the traditions that he could have been responsible for the establishment of the legal theory and the institution of courts. Besides the explicit statement already referred to, that the introduction of the Shari'ah in Katsina was due to him, there is also evidence in the Girgam (Katsina record) that an attempt to make Islam the state religion dates from the visit of al-Maghīlī. Trimmingham has rightly pointed out that Ibrahim Maje's action of ordering his subjects to marry according to the Islamic practice was an attempt to establish an Islamic state.¹¹⁰ It would appear that this attempt was successful because we learn that a student of al-Maghīlī in the person of Muhammad b. Ahmad b. Muhammad al-Tazakhtī came to Katsina and assumed the post of qadi (judge), which he occupied until his death.¹¹¹ It is unlikely that this could be a

110. J. S. Trimmingham, A History of Islam in West Africa (London, 1962), p.133.

111. Ahmad Baba, op.cit., p.335.

mere coincidence. It indicates, along with the evidence cited, that al-Maghilī, when in Katsina, instituted the theory and the practice of the Shari^ca. He was apparently working towards its proper establishment even after he had left it by encouraging, at least, a student of his to continue his efforts.¹¹² A similar endeavour by al-Maghilī can be more clearly seen in Kano, the next Hausa city visited by him.

V. Al-Maghili in Kano

When we come to discuss the life of al-Maghilī and his teachings in Kano, we realise that by way of sources, our fortune is better.

112. This is not an attempt to obviate the possibility of Islamic influences coming to Hausa land from other directions such as relations with Bornu, Songhay, North Africa and the Middle East in general. But the accounts of such influences in the records and traditions only started to become clear from the time of the visits of al-Maghilī and the earliest authenticated written testimony for such influences is in his works. Furthermore influence through personal contact has been greater than otherwise. M. G. Smith has shown that "In Katsina and Kano al-Maghilī made a great impression, and their rulers sought and followed his advice. Leaving disciples in both cities to continue his work, he firmly established Islam within the leading Hausa city-states. In Katsina, the Gobarau mosque, part of which yet stands, was built at this period on models drawn from Gao and Jenne. For the ruler of Kano he wrote a treatise on Muslim government. The rulers of Katsina and Kano sought to impose Islam on their cities and began to adopt Islamic patterns of rule". (M. G. Smith, editor J. Vansina "The beginning of Hausa Society" The Historian in Tropical Africa, (London, 1964), pp.350-351).

An oral tradition which says that al-Maghilī when in Katsina used to roam about at night in disguise to hear what people were saying, points to the assumption of the role of the qadi who was concerned with the administration of justice. This is al-Maghilī's own advice to Muhammad Rumfa. My informant on this is Alhaji Falalu of the Darma quarter, whom I interviewed on 14 March, 1969.

For the first time since he left Tuwāt, it is in Kano that we have found a work of his own composition relating to the place he visited. It is also the first time that we come across a date in any of his extant writings. The two works - Tāj-al-dīn fī mā yajibu ʿalā 'l mulūk and Wasiyyat al-Maghīlī ʿilā Abi ʿAbdullah Muhammad b. Yaʿūb (Muhammad Rumfa) are available to tell us some of his efforts in the reviving of the Islamic faith there. We have also in Kano local written sources which give some details about al-Maghīlī. In addition to the Kano chronicles and the Tarikh al-Wanghariyīn to which reference has already been made, we have two works written by a Kano author M. Adamu Hamaaji - Al- 'iʿlān bi tarīkh kano and Al- 'āthar al-kanawīyya, which add to our number of sources.¹¹³ Furthermore, al-Maghīlī is alleged to have left behind in Kano three of his children, Ahmad, ʿIsa Sidi Fari and Muhammad. He left some relics to them - his copy of the Qurʾān, a rosary, a sword, a walking stick and a pair of scales.¹¹⁴ The mosque he built, the house in which he was living and the school he instituted are still

113. Adamu Hamaaji's sources of information appear to be from both oral and written material. Both works are fairly recent, written in the year 1926. They have never been published but the late Wazir of Kano appears to have made use of them in writing his Kano ta Dabo Chigari.

114. The alleged descendants of al-Maghīlī produced a genealogy which gives this information. See p.310 of this study. Hogben has also mentioned ʿIsa Sidi Fari as one of the children of al-Maghīlī in Kano. It is not clear whether he is using the same source. Vide S. J. Hogben, An Introduction to the History of the Islamic States of Northern Nigeria (Ibadan, 1967), p.101.

available to give us more details about him, apparently, long stay in Kano.¹¹⁵

The time when al-Maghīlī was in Kano coincided with the reign of the Kano ruler Muhammad Rumfa, which according to Palmer's dating was between 1463-1499. We have already seen above that these dates are only a rough guide. Furthermore, Palmer himself draws attention to the fact that "in themselves the lengths of the various reigns as given in the text would not carry much weight perhaps".¹¹⁶ His caution was later found to be justified when Adamu Hamaaji, using five different copies of the Kano chronicle records, in several cases, different lengths of reign.¹¹⁷ A comparison between the Al'i^clan and the Kano chronicle shows a difference of seventeen years.

When al-Maghīlī came to Kano he found that there was in existence some Islamic learning, but Islamic institutions had not been properly developed.¹¹⁸ He also found pagan practices existing side by side with Islamic practices.¹¹⁹ So he set about, evidently, to remove innovations, improve religious practices and establish Islamic institutions. The first two functions which he was reported to perform were the appointments of the Imam for the Friday prayer and the qadi. For these two posts he found

115. See p.317 of this study for the photographs of these places.

116. Sir Richard Palmer, op.cit., p.93.

117. Adamu Hamaaji, op.cit., pp.1-47.

118. Muhammad Al-Hajj, op.cit., p.29.

119. Wasiyat al-Maghīlī, Vide Appendix ii, p.296

that there were two jurists, Ahmad and ^cAbdullah, qualified enough to be appointed, so after testing their piety and, no doubt, their knowledge, he recommended that Ahmad should be appointed the Imam and Abdullah the qadi.¹²⁰

After establishing these two institutions he set out to wipe out pagan practices. The first priority was the idol in the form of a tree worshipped by the pagans. He strove to cut it down and build a mosque in its place. He was assisted by another ShaYkh called ^cAbdurrahman Zaite in this, who was said to have arrived at Kano three days after al-Maghili.¹²¹ They succeeded together in cutting down the tree and building a mosque in its place.

Another major contribution made by al-Maghili in Kano was the provision of a constitution for the institution of the 'imara which he found already in existence. This is embodied in the treatise which he wrote at the request of the reigning ruler, Muhammad Rumfa. This treatise was in truth the ⁺constitution of Kano which made its government a theocracy. It laid down the details of administration, court procedures, defence and foreign policy. The details of this treatise will be discussed in the

120. Muhammad al-Hajj, op.cit., p.11. The author remarks in the footnote that it is not clear from the text who was the Imam and who was the qadi, but it seems to me that this is clear. The two names, Ahmad and ^cAbdullah have been mentioned in the text several times in the same order as they have been mentioned here, so obviously the Imam refers to the first - Ahmad, and the qadi to the second - ^cAbdullah.

121. Ibid., p.26.

chapter dealing with al-Maghīlī's teachings. Thus in Kano not only did al-Maghīlī succeed in drawing up what one can only call a constitution for the government of Muhammad Rumfa, but he had also established shari'a courts the development of at least one of which he personally supervised.¹²² Unlike Katsina, where his constitution in this regard is only understood through oral tradition and inference in the Girgam, in Kano we still have the constitution intact and some of the institutions still functioning more or less in their original form. Broadly speaking, al-Maghīlī's dream to establish an Islamic state had only come true in Kano and to a lesser degree in Katsina. The three fundamental objectives of al-Maghīlī had been accomplished. He certainly did a great deal towards wiping out innovations by causing the idol to be destroyed and by the establishment of a theocracy which has persisted until modern times.

There is no precise indication in the sources of the exact time or manner in which al-Maghīlī left Kano. Oral traditions simply say that he returned to Egypt.¹²³ But al-Maghīlī appears to have been in Tagedda again in 1498 where he probably had his first meeting with Askia Muhammad al-Hajj the ruler of

122. This is the court of the emir, where local tradition says that al-Maghīlī had a place in it where he used to sit. This is why the practice became the monopoly of the alleged descendants of al-Maghīlī to our day. My informant is M. Isa Sarkin Sharifai.

123. Sir Richmond Palmer, op.cit., p.111.

Songhay.¹²⁴ He later visited him in Gao and wrote for him the famous "Ajwiba."¹²⁵ He apparently remained there until 1503, when the news of the murder of his son by the Jews prompted his return to Tuwāt.

On reaching Tuwāt he appears to have regained his old popularity and a large following made him able to avenge the murder of his son. He in fact laid siege to Tamantit and temporarily took it in the year 1503.¹²⁶ He later retired to his old habitat in Bu-^cAli where he died in 1504 (909 A.H.).¹²⁷

Thus the life of al-Maghili came to an end. It was no doubt full of many events during the course of which al-Maghili acted and taught through preaching and through writing. Aspects of both have already been touched upon in the brief account of his life given above, but to understand the real personality of al-Maghili and the extent of his achievements and failures, it is necessary to make a closer examination of his teachings, and this will be the subject of the following chapters.

124. Tagedda lay between Gao and Agadez and through it passed the major trade route in those days which was also the pilgrim route. The apparently long stay in, and several visits to, Tagedda indicate where al-Maghili might have had his contacts with Sudanese students and rulers. Askia's return from Mecca was in 1498 and he passed through Tagedda which was the most direct pilgrim route between Gao and Egypt through Agadez and Murzuk. Al-Maghili's meeting with Askia was probably at that time. Afterwards he was invited to visit Gao which he actually visited circa 1502. Vide M. Kati, translator D. Hordas, Tarikh al-Fattash, (Paris, 1964), p.15, n.2; J. D. Fage, An Atlas of African History, (London, 1966), p.17; and O. El-Nager, West Africa and the Muslim Pilgrimage, (Thesis, unpublished), pp.84-90.

125. Sir Richard Pflamer, op.cit., p.94.

126. A. G. P. Martin, op.cit., p.130.

127. Ibid.

CHAPTER III

THE WIDER CONTEXTS OF AL-MAGHILĪ'S TEACHINGS

We have seen in the preceding chapters how the life of al-Maghilī was full of events and travels. The nature of the life which he led seems to have moulded the scope and manner of his teachings. An attempt will be made in this chapter to give a brief survey of his teachings and to give it some classification. He is reported, in the biographies, to have written no fewer than twenty books and epistles on different subjects.¹ About half of these works are known only by their names, and they themselves have not yet come to light. Their subjects and contents are gleaned only from the titles and from incidental remarks about them by the biographers. The other half, consisting of ten works, are extant and available and they deal with a number of subjects.²

About the first category, it can be understood from the titles that they are works on purely religious studies, commentaries on the Quran and the Hadith and Fiqh books like the Mukhtasar Khalīl. The One title also suggests that he taught some sufism, another that at one stage in his career he concerned himself with Arabic grammar and literature.³ Some opinion can be formed about his teachings

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1. See Ahmad Baba, Nayl al-ibtiḥāj bi tatrīz al-dībāj (Cairo 1351/1932-33) p.331; in the margins of Ibn Farḥun, al-Dībāj al-mudḥahab fi ma'rifat a yan 'ulama' al-madhḥah (same date), p.33. See also Bivar and Hiskett "The Arabic Literature of Nigeria to 1804 : a Provisional Account", BSOAS, Vol.25 (1962), pp.106-109, where a list of al-Maghilī's works is given. I have improved on this, see Appendix III, p.300
 2. I have discussed some of these in Chapter I above, p.10
 3. Titles like Tanbīh al-ghāfilīn can makr al-mulbisīn bi-da'wa maqamat al-'arifin" suggests some teaching in connection with sufis. A work like Al-muqaddimma fi'l-'arabiyya suggests some language and literature teaching.

concerning the Qur'an, the Hadith and the Fiqh through observing the use he made of them in his other teachings in the works which are extant. This will be discussed in the concluding chapter.

The second category consists of the works which are extant. It is interesting to note that all the ten works upon which this study has been based are works written for specific occasions with the exception perhaps of the Misbah, the contents of which are known through the commentary of Ibrahim Ibn Hilal. This appears to be a work of general nature but embracing a number of important topics some of which are dealt with in his other works.⁴ Al-Maghili's teachings in these works can be classified into several topics as follows:

i. Politics: Besides the sporadic political teachings in al-Maghili's writing, there are two treatises which he wrote exclusively on politics. These are the Taj and the Wasiyya written for the Kano ruler Muhammad Rumfa.⁵ In the Taj, al-Maghili drew up what one may call a constitution consisting of eight articles for each of which he made a chapter. These articles grouped together deal with (1) the ruler as the head of the State, and (2) his obligations regarding the administration, of the State.

4. An example is the question of unbelief which al-Maghili treated in both the Misbah and the Ta'lif.

5. See the new editions of the two treatises in appendix I and II.

(1) The Ruler:

Al-Maghīlī makes it very clear from the outset that the ruler as the head of a state - the emir - is a vice-gerent of God on earth by delegation from the Prophet - and as such it is a very heavy and important responsibility. In all his actions a ruler must be guided by, firstly, the fear of God and, secondly, the sole intention of improving the welfare of his subjects.⁵ The ruler should then adopt certain codes of behaviour and action. First he should be particular about his dignity, which he should strive to preserve at all costs. The preservation of this dignity lies in three major things: in the appearance of the ruler, his behaviour, and the kind of people he is dealing with. He should always appear in the best form, adorning himself with the most gorgeous apparel but should never imitate the fashions of women. The ruler should also watch his behaviour, how he sits, talks and acts. If he sits he should sit with his legs crossed and should be as still as possible. He should not make unnecessary movements and every single movement must have a meaning. He should cast his glances only to observe and look down only to think. He

6. Al-Maghīlī attaches great importance to the welfare of the subjects. He draws the attention of the ruler to the realisation that he is but a servant of God elevated above many other servants of God for the sole purpose of safeguarding and improving their religious and secular welfare. He is not elevated to be their lord and master. He should therefore consider himself as a shepherd who is held responsible for anything concerning his flock.

should not yawn when sitting in his palace, but if overcome, he should shut his mouth with the back of his hand. He should never burst into laughter because that is the action of the uncultured. He should always be reticent but when it is necessary to speak then he should talk briefly and wisely, always giving due consideration to a matter before uttering any words about it and his words should always be true.

In the ruler's actions, al-Maghīlī advised him always to stand by his words, to fulfil his promises, and to see to it that his instructions are carried out, and he should never allow his actions to fall short of his pronouncements. He should always associate himself with the best among his people and never have any dealings with the wicked and above all he should never be covetous of worldly vanities.

(2) Ruler's Obligations:

These obligations concern the administration of the state, which broadly speaking, falls into three subsections, namely: civil administration, defence and foreign policy.

1) The civil administration should consist of a council whose members should be wise, learned and trustworthy. The function of the council is to advise the ruler. Then there should be a network of civil service departments:- the treasury and its keepers,

accountants and cashiers⁷, the court with its judges, scribes and a police force. There should be two kinds of courts: the court of the gadi, consisting of the gadi and scribes, and the court of the emir, consisting of the emir and council. The first should concern itself with dealing with all cases initially, and the second should be a kind of court of appeal the president of which must be the emir himself. It also deals with homicidal cases. Other civil servants include doctors, market overseers and court attendants.

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7. There is indication in the account of Muhammad Rumfa recorded by Palmer (vide Sir Richmond Palmer, op.cit., pp.111) that al-Maghili's constitution appears to have been put into practice. The institution of civil service departments can be gleaned from Rumfa's action of giving eunuchs offices of state. Some of them were made chiefs of the treasury, which points to the establishment of a Bayt al-mal with all its officials, some of whose names were mentioned as Turaki, Aljira, al-Soro and Kashekusa. There is something common to two of these names which is interesting and that is their starting with the prefix al- which indicates Arabic origin. One can assume, however, that these were not originally names of persons but the names of their offices because proper nouns in Arabic do not normally start with the particle al-. Other nouns can start with this particle. So it appears that these names refer to the functions of the persons named - Aljira might be the person responsible for the payment of wages - the Arabic word for 'wages' being al'ujra. Al-Soro might be referring to the person who performs the function of cashier - the Arabic word being al-sarraḥ. Two words, however, do not start with the particle al- - Turaki and Kashe Kusa - but they appear also to be referring to functions. The first is probably the person responsible for the custody of property left by deceased persons having no heirs, corresponding to the Arabic word Tarika, and the last name is a Hausa translation of the Arabic al-sarraḥ, the person responsible for spending. Thus we can easily see that they all explain functions in the treasury; so "chiefs of the treasury" simply means officers in the treasury working under the Ma'aji who is the chief treasurer - an office which still survives in Kano Local Administration and which made its first appearance in the reign of Rumfa. That all these come from al-Maghili's constitution is obvious from some of its provisions outlined in this chapter.

Concerning revenue, al-Maghili gives details on how money should be collected and how it should be spent. He writes a long chapter on each of the two. His teachings on these two are similar to what he tried to do himself in Tuwat.

2) For the defence of the state al-Maghili advises the establishment of a strong army consisting of cavalry and infantry at the head of which there should be army commanders. There should also be scouts who should be responsible for an intelligence service. The army should be well provided with arms and all measures for the internal security of the state should be taken. The ruler should be first concerned with his own security, by providing himself with a faithful bodyguard and by taking every precaution. He should always be careful of what he eats and must be satisfied that it is prepared by a trustworthy hand. When he sleeps he should avoid vulnerable and dangerous spots. He should always develop the habit of changing his sleeping places. In time of emergency he should avoid his familiar dress. In short, he should always take great precaution in everything he does and "should be afraid of a rope so that he may not be stung by a snake".

The second thing incumbent upon a ruler is the security of the State. He should always be on the alert and with a ready army. There must be a much fortified wall to guard the city, and he should always

make a display of force so as to frighten the enemy.⁸

3) On foreign policy al-Maghili advises the emir that it is better to be brave and aggressive rather than to be a coward and defensive. For this reason the ruler should not develop the habit of being always present in the city but should go out to war, because "the bird of prey abides in the open and wild places" and "the sojourn^o_A of a prince in the city breeds all manner of trouble and harm ... kingdoms are held by the sword not by nobility".

To know about other places the ruler should always be sending presents to the neighbouring rulers so that those charged with delivering these gifts should act as "eyes" or, one may say in modern language, as "spies".⁹ Whenever the emir sees any danger in any official he should strive to remove him so that his enemies may not seek support from him.

Then al-Maghili considers it a matter of prime importance to give details concerning the administration of justice. He teaches that

8. The defence system advocated can be discovered in the famous innovations of Muhammad Rumfa: the building of a more secure house for the emir, the building and extensions of the Kano walls cannot be explained except in terms of providing a more secure defence for the ruler and the State. The Dawakin Zare "spare led horses", that is horses made ready for riding but held in reserve, were used for the first time only when there was war with Katsina, and they were methods of providing the State with infantry and cavalry (vide Sir Richmond Palmer, op. cit. p.111).

9. He also advises that if such messengers bring gifts from other places, they should be sent off as quickly as possible because keeping them is madness.

justice is one of the two pillars on which every government rests. It is therefore an obligatory duty of a ruler to see that it is done. He should take a keen interest in the welfare of his subjects and satisfy himself that everyone is given his due rights. Now, administering justice requires several things, one of which is the procedure followed in law courts. There must be complete equality in treating two parties in a dispute, no preference being given to either party, neither in the mode of entry or sitting, nor in opportunity given for presenting a case. Anyone charged with making judgment must scrutinise all witnesses because a great deal depends on them. He must also apply only the most accepted shari^c codes in his school.

In dealing with criminal cases, a judge must adopt a different procedure for every type of crime. In theft cases for which there is no witness, the accused person must fall into one of three categories. He or she must either be very unlikely to commit the crime or likely to commit it or neither of the two. If it is the first category the accusation should be ignored and the accuser punished. But if it is the second category, then there must be serious cross-examination. The accused must be subjected to such treatment as will induce him to tell the truth. The nature of such treatment depends upon the nature of the theft. It can be by threatening, beating or even detention, and if the accused has previous convictions he can be compelled to make good the loss if the plaintiff is prepared to swear an oath. But if the accused falls into the third category, his position should be made clear by cross-examination and detention and if it is

determined that he is either in category one or two he should be judged accordingly; otherwise he must be released.

In homicide cases the accused must always be detained and cross-examined. He is then judged according to the law pertaining to his category as outlined above. It is the responsibility of the emir to see that all these procedures are observed. It is for this reason that he has to try to obtain first-hand information concerning all officials in the public service and whenever he suspects corruption in any of them he should warn them seriously and replace them if necessary. For the purpose of obtaining such insight into the affairs of his government, the ruler must make himself accessible to his subjects because "the source of all mischief is the seclusion of a ruler from his subjects". He should therefore, at least once a day, sit where all people, including women and children, can see him and talk to him. He should never content himself with his appointed judges and 'governors' for it is often against these that the people have complaints. He must never hesitate to punish any official found guilty of corruption or oppression; otherwise the ruler will become "like a ladder to a house," or "a holder of the horns of a cow for its milker".

In the second treatise - the Wasiyya, al-Maghili added another clause to his eight-article constitution and that is the method of preventing crimes. He explains that it is necessary to prevent people from committing every sort of crime whether religious or temporal by application of the shari'a deterrents, which range from scolding, detention, deportation and confiscation, to beating, killing and

hanging. He teaches that it is lawful for the ruler to make use of any of these according to the nature of the crime and situations and circumstances, but he must be guided by piety not passion. He should also bear in mind the necessity of applying the simplest deterrent sufficient to prevent crimes and realise that the sole purpose of this 'enactment' is to ward off harm from the public and facilitate advantages for them. But warding off evil should always take precedence over attracting benefits and a religious evil should be removed before a secular one.

The crimes which must be prevented are polytheistic practices, nudity, drinking wine, adultery and the like. Pagans should not be allowed a public display of eating and drinking in the month of Ramadan because this may tempt the weak-minded and the less intelligent among the Muslim masses, most of whom are ignorant and have started as pagans, and the sages have said "returning to one's earlier practice comes about with the slightest encouragement". The use of incorrect measures in the market must be prevented and also the practice by profiteering merchants of intercepting commodities before they reach their destination. All these must be done through shari^c devices, provision being made for any new laws to be formulated to match any new crimes which may be committed by subjects. Al-Maghili even in this clause stresses the importance of giving equal treatment to all people regardless of whether they are learned, slaves, princes or nobles. He also emphasises the administration of justice and advises that only pious learned men should be appointed judges. Oppressors should never be made judges because they will oppress in the name of

the sharī'a and pretend that their action is justified by the sharī'a. Such actions amount to disbelief because the sharī'a of Allah is tampered with, falsehood being put in the place of truth and vice versa. Here al-Maghīlī introduces through his own ijtihād a curious clause, which surely must have been necessitated by the prevailing circumstances in Kano at the time. He permits the appointment of some oppressors as judges, if there is no escaping from so doing; but they should never be called qadis, ^{but hakims} because that is one of the titles of the Prophet and must never be conferred except upon a pious learned man who does not receive bribes and who does not rule according to whim.

Thus al-Maghīlī dealt, in these small treatises, with all that he thought was required for the running of a State. Political teaching in his other writings does not differ in any great measure from what has been outlined above.¹⁰

ii) Social Teachings: Al-Maghīlī writes not only for the ruler but also for the individual. In a work to which he gives the name of Jumlatun mubāraka fī 'amal al-yawm wa'l-layla¹¹ he teaches the individual how he should spend his day. He also gives advice to the individual

10. One meets with the same ideas in the 'Ajwiba, which was also written for a ruler. But al-Maghīlī had no free hand in the 'Ajwiba because he was asked specific questions and his teaching was governed by these questions. The teachings of the 'Ajwiba has not been discussed in this study because the writer is aware of research, mainly concerned with it, being carried out by J. Hunwick at London University.

11. This is a work which the writer has recently seen in the National Library of Paris. So far as can be ascertained, it has never been published. Vide G. Vajda, Index General, p.257 ms.ar.5673, fol.257-259.

regarding his association with his family and his fellow townspeople, whom he classifies into the 'ulama', the rulers and the common men. Above all he teaches the individual what should be his attitude towards Allah, his Creator. This last should reign supreme in any action an individual takes. On first awakening, while still in bed, he must testify that Allah is the one and only God to whom belongs all power and praise. He alone is responsible for giving and taking away life, and so the individual should thank Him for giving him back his life after, as it were, taking it away in sleep. Awakening should remind the individual of the resurrection of the dead. After this, the day of the individual starts by his getting out of bed, putting on his clothes, going to the toilet, performing his ablutions (wudu') and then going to the mosque. There is a prayer formula for every single action. After dawn prayers, which should be said in the mosque, the individual should remain there until sunrise. Then he should offer Nafl (additional) prayers, after which he should make his plan for the day, giving priority to matters according to their importance. Affairs pertaining to the Hereafter should be given first place in his consideration, and then worldly matters should follow.¹²

The individual should then come back home to his family, whom he should treat with kindness. He should then teach them what they need concerning their religion and worldly affairs. When the

12. Apparently all this thinking should be done in the mosque before returning home.

individual is ready to go out either to earn a living or to study or to do some other thing, his intention should be that everything that he does he does for the sake of God. This is necessary because God accepts only what is done exclusively for His sake. The believer should also make a pledge to God that he will enjoin good and prevent evil, help the oppressed against the oppressor, remove harmful objects from the roads and preserve the rights of God in everything. The rights of God include guarding himself against gazing at women who are not related to him through marriage or by blood. He should also avoid profane discourse.

The individual, in his dealings with people, should be kind and sociable to all men except those who are religious innovators, sinners or oppressors. It is a grave sin, al-Maghīlī teaches, for anyone to greet any of these three because this amounts to a breach of his pledge to God, except when he is compelled by reasons of fear or of safeguarding the welfare of the Muslim community.

Al-Maghīlī then explains who are the oppressors. At the top of his list are the ʿulamā' al-sū' (venal ʿulamā') who give fatwas based on doubtful reasoning, stir up trouble amongst the believers, and turn them from the way of God. He calls them ru'asā'u l-rālimīn (chief oppressors). Other oppressors are tax-collectors, tithe-collectors and sultans who receive bribery.

When a day's business comes to an end and the individual returns home and retires to his bed, he should review all that he has done on that day and subject it to a rigorous reckoning. The way to go about it is for him to recall what he has done and see whether it has been

according to the injunctions of the Qur'an and the Sunna. He should consider and make a reckoning of the actions performed by each part of his body. The tongue should be examined first to decide whether or not it carried out the injunctions of God such as enjoining good and preventing evil and whether or not it committed any of the prohibited things like telling a lie or backbiting. Then the other parts - ears, eyes, hands, stomach, etc. - should undergo the same test. If the individual finds himself wanting in anything he should repent and try to amend his ways. If he oppresses anyone he should make recompense.

When the individual, after this examination and reckoning, finds himself to be upright, he should not be deceived by that but should look again and see whether all his good deeds have been done for the sake of God. If he is also faultless in this, then he should think and see whether he considers himself superior to others because of his good deeds. Should he be guiltless of this also, then he should find out whether he attributes his uprightness to his own determination or to the bounty of God. If he is free from any shortcoming in all these, then he should give thought to the crimes of the mind, considering whether he commits any of them. Things like jealousy, high ambition and pleasure in the misery of others are all regarded by al-Maghilī as grave crimes of the heart.

Whoever carries out this kind of reckoning will find out more often than not that throughout his day he has been running away from God but thinking that he has been going near to Him, depending on

Him and submitting to His will. He should therefore repent and make a pledge to God that he will not disobey Him in the future. He should also frequently praise the Prophet, because that will draw him nearer to God.

When all this is done and the individual intends to sleep, then he should endeavour to imagine the pangs of death because sleeping is the 'brother' of death. He should then utter the prayer for going to bed. This concludes his day's activities. Whoever continues in this fashion, the devil will be jealous of him and try to mislead him; so he should keep watch.

Thus in this brief summary of al-Maghīlī's teaching for the individual it can be understood that he does not separate the affairs of this world from the affairs of the Hereafter. In fact it is clear from what he requires of an individual that everything he does should be geared towards the life to come. It is also clear that al-Maghīlī addresses the male. The only place where the female comes into his consideration is where he enjoins the husband to treat his wife with kindness and give her what knowledge she requires concerning her religion and worldly affairs. Al-Maghīlī must have assumed that his teachings would reach the female through her husband or her parents, and so addressed himself exclusively to the male individual.

iii) Al-Maghīlī's teachings concerning beliefs - Tawhīd: It is not reported that al-Maghīlī wrote any work specifically on tawhīd, ('unitarianism') but his ideas about it are known in a correspondence between him and Sanūsī.¹³

13. For a biography of Sanūsī, see Ahmad Baba, op.cit. pp.325-29.

He establishes that the most esteemed knowledge is knowledge about the Lord of the universe. Knowing God is a kind of light which comes from Him to the human mind by intuition. It absolves God of any defect and establishes His perfection. The orthodox way of acquiring this kind of knowledge is by observing the universe and understanding the revelation. Observing the universe is by intellect (ma^cqūl) while understanding the revelation is by tradition (manqūl). Each of the two is a fundamental reliable source of evidence. But intellect and tradition sometimes appear at first sight and on first consideration to be in conflict. In such a case an effort must be made to reconcile the two. This is because the intellect provides evidence for the validity of the shari^c tradition which in turn is based on the intellect, and each of the two is in fact a reality. Therefore, when properly understood, they should never be in conflict. Whoever attempts to falsify any one of them will automatically be falsifying the other. So the most reliable method is to reconcile the two and this is possible in most cases.

But there are certain cases where one might find oneself resorting to far-fetched allegorical interpretation for the sake of reconciliation. There are also others where even after such an attempt one cannot find a way to reconcile the two. In both instances, it is not fitting to expose this difficulty even to the intellectually mature let alone to the immature. Whoever strives to reconcile a conflict of this nature is in danger of either contradicting an aspect of reason which does not become clear to him, or contradicting a tradition of

the sharī'a, i.e. revelation all the implications of which he is unable to know. This is because it is not possible to know all the intentions of the Law-giver in all revelations. The assumption of such omniscience is the reflection of a man's dullness rather than of the soundness of his intelligence or the vastness of his knowledge.

How could anyone claim to know all the implications of revelation while God has already said, "You are only endowed with a small portion of knowledge".¹⁴

So whenever an issue is susceptible of different interpretations it is better to avoid assigning to it a specific meaning. This is the method adopted by earlier well-established 'ulamā' (learned men). To make a clear-cut decision on what might be God's intention through supposition and conjecture is, indeed, to follow the footsteps of the accursed devil. When he was commanded by God to prostrate himself before Adam, he refused, saying "I am better than he because you created me of fire and created him of clay".¹⁵

It is important that you should not follow the footsteps of the devil because he is a manifest enemy to you and he only commands you to do evil and mischief and to tell concerning God that which you know not:¹⁶ "Hath Allah permitted you, or do you invent a lie concerning Allah?".¹⁷

14. Qur'an, 17:55.

15. Qur'an, 38:76.

16. Qur'an, 2:169.

17. Qur'an, 10:60.

Al-Maghīlī points out to Sanūsī after this exposition, that the exercise of supposition (al-zan) is permissible only in making deductions from fundamental principles where one can freely exercise one's independent method of reasoning. In such a case reality can differ according to the different methods employed by the independent thinker. But when it comes to the matters of belief there can be only one reality and no independent thinker can be totally right. Whoever dares to apply supposition cannot be free in most cases from inventing a lie concerning Allah. Then he will be one of those about whom God says: "And on the Day of Resurrection thou seest those who lied concerning Allah with their faces blackened. Is not the home of the scorners in hell?".¹⁸

It can be seen that the philosophy of al-Maghīlī concerning belief is that of fundamentalism. He does not allow the application of reason at all, because such an exercise will only confuse the layman, but reliance in this case must be solely on tradition (revelation). When this appears to be susceptible to different interpretations, no attempt should be made to pin down any particular meaning because that is dangerous. This appears to be an early development in the thinking of al-Maghīlī, because he is known to be a champion of logic and reason and wrote several works on logic (mantiq).¹⁹ He teaches concerning logic that it is either the expression of reality or a method of establishing it when it is

18. Qur'ān, 39: 60.

19. See Appendix III

obscure.²⁰

Other spheres in which al-Maghilī taught are the basic traditional Islamic sciences like Qur'anic and Hadith studies and Jurisprudence - fiqh. None of his works on the Qur'an or the Hadith has come to light but regarding Fiqh he wrote a work on credit trade transactions. His views on this are those of the traditional Maliki jurists. This work is probably among his early writings because as will be seen in his teachings concerning the Jews, he later became non-fundamentalist and assumed a different character, altogether. So it is in such teachings, and to a great measure in his political and social teachings discussed above, that al-Maghilī can be considered different from the learned people of his time. This will, however, be better understood when his teachings concerning the Jews are fully explained and discussed. These teachings will be the subject of the following chapters. As a prelude to that it is necessary to edit the text of the Ta'lif and give a full translation of it and this will be the subject of the following chapter.

20. Ahmad Baba, op.cit., p.332.

CHAPTER IV

i) Al-Maghili's Treatise - the Ta'lif fi mā yajib 'alā 'l-muslimīna min ijtināb al-kuffar

Reference to this treatise has already been made in my description of the sources in Chapter I¹ where I discuss its authenticity. What I hope to achieve in this chapter is to edit the Arabic text and give a full translation of it. A faulty edition of the same work has been published² by Rabih Bunar. A new edited text is herewith given to accompany my study.

The treatise has been published as Misbah al-arwah fi usul al-falah, which, as I have shown in Chapter I of this thesis, is an incorrect name.³ The Misbah is another work by al-Maghili which has often been confused with the Ta'lif. The origin of the confusion has already been stated.⁴ Because of the wrong name given to the Ta'lif some writers have been misled to believing that the Misbah has come to light.⁵

One serious defect of Bunar's edition are the omissions which occur in it. Words, phrases and even complete sentences have been left out. In some places several lines have been omitted.⁶

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1. See Chapter I p.10 and n.21 and 22 on the same page.
 2. Vide R. Bunar, Misbah al-arwah fi usul al-falah, (Alger, 1968).
 3. Ibid.
 4. See Chapter I, p.11 of this thesis.
 5. R. G. Martin, 'Unbelief in the Western Sudan', p.51, p.87 and 96. n.45. The writer was also at one time a victim to this incorrect information. Vide Bunar, op.cit., p.26, n.1.
 6. Pages 36 and 37 of Bunar's edition are good examples. See also p.38 where a complete anecdote has been omitted. See also the footnotes for a better appreciation of the amount of text left out.

Besides omissions there are also many mistakes all of which have been carefully pointed out in the footnotes.

The paragraphing in the first edition is also at fault because of its arbitrary nature. Two co-ordinating sentences are sometimes broken between two paragraphs. The first^{appears} in one paragraph and the second in another.⁷

Another important failing in the first edition is the lack of attention paid to al-Maghilī's fondness of borrowing, mainly from the Qur'an in particular. There are many instances of this throughout the Ta'lif. Al-Maghilī is assumed to be quoting when, in fact, he is borrowing.⁸ He sometimes corrects him when the wording of his borrowing is not identical with that of the original source.⁹ But al-Maghilī's quotations are very distinct from his borrowings. He always introduces the quotations with the usual qāla 'l lah ta'āla (God the Most High says) or liqawlihi ta'āla (because of God's statement). But he never does so when he is borrowing.

The literary value of the Ta'lif is totally overlooked in the first edition. There is a great deal of saja^c (rhyming prose) in it but this has often been hidden through faulty full-stops and commas.¹⁰

7. See page 48 for example.

8. There are many examples of this. See Bunar's edition pp.31, 35 and 50 for example. See also the footnotes to the translation of the text where all the borrowings have been pointed out.

9. See for instance where Bunar corrects al-Maghilī when he departed from the exact wording of the Qur'an. Bunar, op.cit., p.50, n.2. Compare with mine on p. 114, line 11.

10. See p.58 of Bunar's edition compared to mine on p.120 of this thesis.

In order to have a fuller knowledge of the content and quality, this new edition of the Ta'lif has been compiled from three MSS, RA, RB and J. RA is housed in the Bibliotheque Generale of Rabat from where a microfilm copy was obtained. It is not mentioned in the published catalogue because it is one of the later acquisitions.¹¹ Its accession number is D 2530 which is the number of a volume consisting of several other MSS. It is the first MS in the volume, from fol.1a-8b, viz. eight folios in sixteen pages. It is written in the thin legible Maghribi hand on sheets of paper, which measure 15 x 11 cm. On the average there are twenty four lines per page. The date of the copy is 21st Rajab 1209 / 11th February 1795. By comparison I found it to be the best of the available MSS so I made it the basis for this edition.

RB is also housed in the Bibliotheque Generale of Rabat. Its accession number is D 2013. It is also among the later acquisitions and so it does not appear in the published catalogues. It is one of several MSS bound in one volume. It has eight folios, folio 365a-380b. It is written on sheets of paper measuring 5.5 x 10.5 cm. On the average there are twenty five lines per page. The handwriting is the Maghribi type, slightly bigger than that of RA. It is entirely independent. The date of the copy is 18th Safar, 1287/ 20th May, 1870. It has, at the end, a biography of al-Maghili apparently derived from Dawhat al-mashir of Ibn ^cAskar. It has also al-Makki's commentary on the Ta'lif which he wrongly named as Misbah al-arwah fi usu' al-falah.

11. For an account of the published material concerning Rabat collections see Allouche et Regragne, *Catalogue des Manuscrits Arabes de Rabat*, Vol.I (Paris, 1954), pp.I-III.

J is housed in the Bibliotheque Nationale of Alger under the accession number 1508. It is one of the two MSS used by R. Bunar in his edition. It is number I in a collection of MSS in one volume. It has 19 folios, 19 lines per page and is rubricated. It is in very good Maghribi hand, written on parchment. The pages measure 26 x 19 cm. The date of the copy is 1191/1777 and the name of the copyist is Muhammad b. Muhammad b. Abdul^cazīz al-Hassani. A microfilm copy of this MS was obtained from the Bibliotheque Nationale on 20th January 1968.

For the purpose of pointing out omissions and mistakes, reference has also been made to Bunar's edition which is named B.

124 // RB1a بسم الله الرحمن الرحيم و صلى الله على سيدنا و مولانا محمد وآله
وصحبه و سلم تسليمًا .

(الحمد لله الذي أنزل الكتاب تبيانًا لكل شيء و هدى و رحمة و بشرى

للمسلمين ، و نصر الحق على الباطل و أظهر دين الاسلام على كل دين ، ذى²

العظمة و الجلال ، و العزة و الكمال ، عالم الغيب و الشهادة الكبير المتعال . له

الرقاب خاضعة ، و الابصار خاشعة ، و كل أمر بيده ، و لا حول و لا قوة الا به .

125 // RA1a أحمدته و أوحدته و أعظمه و أمجده ، و أعوذ³ بالله من شرور أنفسنا و من

سيئات أعمالنا ، من يهدى الله فهو المهتدى و من يضل الله فما له من هاد⁴ .

(و أشهد أن لا اله الا الله وحده لا شريك له خالق كل شيء و هو بكل شيء عليم⁵)

و أشهد أن سيدنا و مولانا محمدًا عبده و رسوله و حبيبه و خليته (ذ و الخلق العظيم

و الخلق الكريم القويم) ، صلى الله و سلم عليه و على آله و أصحابه أفضل الصلاة⁶

و أتم التسليم . و رضي الله عن الخلفاء الراشدين و الائمة المهتدين و عن اصحاب

رسول الله أجمعين ، و عن التابعين و تابع التابعين لهم باحسان الى يوم الدين .

هذا كتاب من عبد الله تعالى محمد بن عبد الكريم بن محمد المغيلي

التمساني ، لطف الله به و بجميع أحبابه بجاه سيدنا محمد صلى الله عليه و على آله

و أصحابه الى كل مسلم و مسلمة . (سلام عليكم و رحمة الله و بركاته و رضوانه و تحياته)⁸

1. Inserted from RB, الحمد لله رب العالمين والصلاة والسلام
RA has instead:

على سيدنا محمد خاتم النبيين و على آله و صحبه أجمعين و تابعيهم الى يوم الدين .

2J و 3J which is grammatically wrong. 4 J فلا هادى له

5 J and B omit, which is clearly incorrect.

6. RB inserts

7. RB inserts. 8J Omits.

(أما بعد⁹) فقد سألتني بعض الأختيار عما (يجب على المسلمين من اجتناب

الكفار ، و عما يلزم أهل الذمة¹⁰) من الجزية والذلة والصغار ، و عما عليه أكثر

126 // اليهود في هذا الزمان من التعدي والطغيان والتمرد على الاحكام الشرعية

والاركان¹¹ بتولية أرباب الشوكة أو خدمة السلطان .

فأقول والله المستعان¹³ (وعليه التكلان¹⁴) :

الفصل الاول

فيما يجب على المسلمين من اجتناب الكفار ، قال الله تعالى " الخبيثات

للخبيثين والخبيثون للخبيثات والطيبات للطيبين والطيبون للطيبات" وكل

جنس الى جنسه آلف من جميع الحيوانات . فال مؤمنون بعضهم أولياء بعض، والكافرون

بعضهم أولياء بعض ، وقال تعالى " يا أيها الذين آمنوا لا تتخذوا اليهود والنصارى

أولياء بعضهم أولياء¹⁵ بعض و من يتولهم منكم فانه منهم .) وفي ذلك قلمت (هذه ما لا ييات¹⁶

إذا قرب الانسان أختيار قومه

و أعرض عن أشرارهم فهو صالح .

(وان قرب الانسان أشرار قومه

¹⁷ و أعرض عن أختيارهم فهو طالح)

وكل امرئ ينبئك عنه قرينه

وذلك أمر في البرية وأصح

9B. Omits which is incorrect. 10B Omits which is a serious omission

11 J والاركان الشرعية which is clearly incorrect. 12B Omits

13 J inserts هو 14 J and B Omit. 15 J and B Omits

16 RB Omits B في هذه الايات which is incorrect.

17 J Omits

127 // والحاصل أنه لا يقرب كافرا من نفسه أو عياله أو يستعمله في أعماله أو يجعل

بيده شيئا من ماله (وأحواله) ¹⁸ إلا من لا دين له ولا عقل له ¹⁹ ولا مروءة له ²⁰ .

²¹ أما بيان كونه لا دين له فبأدلة عقلية ونصوص شرعية ، وذلك أن الله سبحانه
وتعالى ركب في طبع كل انسان أنه لا يرض لأحد من عبده أن يقرب عدوا من أعدائه
ولا ان يقاطع حبيبا من أحبائه كائنا من كان ، وجعل ذلك عاما في كل مكان ،
ومستمرا في كل زمان ، حتى لا يشك عاقل في أنه تعالى لا يرضى لأحد من عباده
ان يقرب عدوا من أعدائه ، ولا أن يقاطع حبيبا / من أحبائه لان كل
ما تراه حقا لك على عبدك ، من مقاطعة أعدائك ، ومواصلة أحبائك ، وغير ذلك ،
فلمه تعالى عليك أعظم من ذلك ، لانه جلّ وعلا هو الذي خلقك ، ورزقك ، ويده
كل ما ينفعك ويضرك .

فكيف يرضى لك أن تقرب عدوا من أعدائه ، أو تقاطع حبيبا من أحبائه ، لأجل
شهوة من شهواتك ، (و انت لا ترضى به لعبد من عبيدك ، وهم بنو آدم مثلك ؟
بل ولا ترضى ذلك لأحد ²²) ممن ينسب لجنايبك ، حتى انك لو اطلعت على حبيب
من أحبائك ، قد قرب عدوا من أعدائك ، لكرهت ذلك منه ونفر قلبك عنه ، ولا تقبل
منه عذرا حتى يبعد عنه أعدائك .

كذلك يضرب الله لكم أمثالكم ²³ من أنفسكم ¹²⁸ وما يعقلها الا

العالمون .

18 RB Omits. 19 inserted from RB. 20 inserted from RB.

21 RB, J and B omit.

22 B Omits, which is an obvious mistake, J has it.

23 B inserts ^{الامثال} which is correct in the Qur'anic verse but not here.

فاسئلوا اهل الذكر ان كنتم لا تعلمون • وفي ذلك قلت :

حبيبي من يعادى من أعادى²⁴

ويشفي ما بقلبي في الأعادى²⁵ •

ويعلي رايتي بين البرايا

ويفنى عن هواه في مرادى •

26

فكل مؤ من حقيقي لا بد ان يكون شديدا على الكفار رحيمًا بالمؤمنين ورهانا

ذلك ان كل مؤ من لا بد أن يحب النبي صلى الله عليه وسلم لقوله صلى الله عليه²⁷

وسلم : " لا يؤمن أحدكم حتى اكون أحب اليه من ولده ووالده والناس أجمعين " •²⁸

وكل من يحب النبي صلى الله عليه وسلم لا بد ان يكون معه لقوله صلى الله عليه وسلم :²⁹

" المرء مع من أحب • " وكل من كان معه صلى الله عليه وسلم لا بد أن يكون³⁰

شديدا على الكفار رحيمًا بالمؤمنين لقوله تعالى : " محمد رسول الله والذين معه¹²⁹

أشداء على الكفار رحماء بينهم " فذكر تعالى الذين يحبون نبيه صلى الله عليه وسلم

بلفظ الذين معه تنبيها على عظيم ثوابهم ووصفهم بكونهم أشداء على الكفار رحماء³¹

بينهم تنبيها على ان ذلك من لازم محبتهم ، ومن فسّر الذين معه بالصحابة³²

لم يرد الحصر فيهم ، والتخصيص بهم ، وانما ذكرهم ، دون غيرهم ، على³³

وجه تعظيمهم ، والمبالغة في مدحهم ، لأنهم أئمة الأئمة وجميع الاحباب على³⁴

24 B نعادى which is incorrect.

25 B من which is incorrect because the metre is broken.

26 B وكل . 27 B Omits. 28 RB والديه which is incorrect.

29 B Omits. 30 B Omits.

31 B عظمة which appear to be his own effort because J has it as above.

32 B Omits. 33 B بينهم 34 B التعظيم

آثارهم³⁵ . فالمعنى محمد رسول الله والذين معه اليوم في سنته ، ويوم القيامة

في زمرة ، وهم المؤمنون به ، الموصوفون بمحبته ، اشداء³⁶ على أعدائه ، رحماء

بأمتهم . ولذلك قال القاضي أبو الفضل عياض رضي الله عنه في علامات حب النبي³⁷

صلى الله عليه وسلم : " منها محبته لمن أحب النبي صلى الله عليه وسلم

ومن هو³⁸ / يسببه من أهل بيته وأصحابه من المهاجرين¹³⁰ والانصار وعداوة^{2a}

من عاداهم وبغض من أبغضهم . . . فالحقيقة فمن أحب³⁹ شيئا أحب كل شيء

يحببه وهذه سيرة السلف حتى في المباحات وشهوات النفس . فقد قال أنس⁴⁰

بن مالك رضي الله عنه حين رأى النبي صلى الله عليه وسلم يتتبع الدباء من حوالي

القصعة : " فما زلت أحب الدباء من يومئذ . " ومنها شفقتة على أمة النبي صلى

الله عليه وسلم ونصحه لهم وسعيه⁴² في مصالحهم ورفع المضار عنهم كما كان

النبي صلى الله عليه وسلم بالمؤمنين رؤوفاً رحيماً . ومنها بغض من أبغض الله

ورسوله ومعاداة من عاداه⁴³ ومجانسة من خالف السنة⁴⁴ وابتدع في دينه ،

واستثقال كل ما يخالف شريعته . قال الله تعالى : " لا تجد قوما يؤمنون بالله⁴⁵

واليوم الآخر يوادون من حاد الله ورسوله (ولو كانوا آباءهم أو اخوانهم أو

عشيرتهم . " فهؤلاء⁴⁶ أصحاب النبي صلى الله عليه وسلم قد قتلوا أحبهم ،⁴⁷

35 J and RE آثارهم ; B ايثارهم which is incorrect.

36 J and RB بصحبته 37 J علامة 38 B هو

39 all others من which is a better rendering.

40 RB inserts والتسبب 42 J, RB والشهوات 41 J الصالح

43 RA عاداهما which is a better rendering.

44 J and others سنته

45 J and others من which could be correct but not a good rendering.

46 J and B Omit. 47 J and B احباؤهم

وقاتلوا آباءهم ، في مرضاته صلى الله عليه وسلم . وقد قال له ولد عبد الله بن أبي :⁴⁹

” لو شئت أتيتك برأسه ” يعني أباه . انتهى ما نقلته عنه رضي الله عنه .

ولقد أخبرني بسنده بعض (اخواني في الله)⁵⁰ عن سيدى ابراهيم المصمودى

قطب تلمسان في ذلك الزمان أنه كان يجلس عند رجل من العطارين في حانوته ،

فقصده يوما على عادته ، واذا به قد رأى يهوديا واقفا عليه ، فولى الشيخ السى

بيته . فبلغ الرجل ذلك فجاء اليه ، وطلب أن يدخل عليه ، فغلق في وجهه ،⁵¹

ولم يفتح له ، وقال له : ” وجه أقبلت به على عدو الله ورسوله ، لا تقبل به

على حبيب الله ورسوله . ” أو نحو هذا .

وكذلك أخبرني أيضا بعض الاخوان عن الاستاذ سيدى هبة الله وكان عالماتقيا

أنه لما مرّ بوادى درعة ، وأقام به مدة ، لم يقرب قط قصر بني صبيح لأجل⁵²

أولياء اليهود ، و كان اذا مرّ لبعض شأنه⁵³ ، مشى حتى اذا حاذى قصرهم شمر

عن ساقه ، وقال لأصحابه : ” اجروا لئلا ينزل على أولياء اليهود غضب فيصيبكم

منه ، فلا يزال يجرى مع أصحابه ، حتى يبعد عن مقابله⁵⁵ . ”

فهاكذا كانت صفة أحبب النبي صلى الله عليه وسلم و فعلهم في اعدائه وكل

من كان في جهتهم ، ولو كانوا من آباءهم و ابناءهم و اخوانهم أو عشيرتهم . فما⁵⁷

أكذب قوم يزعمون أنهم يؤمنون بالنبي صلى الله عليه وسلم و يحبونه ، وهم مع ذلك⁵⁸

48 B Omits.

49 B omits, in spite of reference to it in the foot note. This makes the sentence obscure.

50 J and others الاخوان

51 RA inserts الباب

52 J and B which is better rendering RA شبيح

53 J and B شؤنه 54 RA يسير ; J and B Omit.

55 J and others قصرهم which is not

56 فعله which is incorrect. 57 J and B omit

58 J and B قوما which is grammatically incorrect.

2b يقرّبون من أنفسهم وأهلّهم⁵⁹ اعداءه / بل يتولّون اشد الناس عداوة له ،⁶⁰
ويقاطعون لأجلهم أحبابه⁶¹ ، حتى أنهم يأوون اليهود اليهم ، ويحاربون العلماء
عليهم ، أولئك الذين كفروا برّبهم ، وأولئك الاغلال في أعناقهم ، وأولئك أصحاب
النار فيها خالدون // 133 قال تعالى : " يا أيها الذين آمنوا لا تتخذوا اليهود
والتصارى أولياء بعضهم أولياء بعض (ومن يتولّهم منكم فانه منهم ان الله لا يهدى
القوم الظالمين) " وقال تعالى : " بشر المنافقين بأن لهم عذابا أليما . الذين
يتخذون الكافرين أولياء من دون المؤمنين أيبغون⁶⁴ عندهم العزة فان العزة لله
جميعا " . وقال تعالى : " ترى كثيرا منهم يتولّون الذين كفروا لبئس ما قدمت لهم
أنفسهم أن سخط الله عليهم وفي العذاب هم خالدون . ولو كانوا يؤمنون بالله
والنبي وما أنزل اليه ما اتخذوهم أولياء ولكن كثيرا منهم فاسقون " . وقال تعالى :
لا تجد قوما يؤمنون بالله واليوم الآخر يوادّون من حادّ الله ورسوله ولو كانوا
آباءهم أو أبناءهم أو اخوانهم أو عشيرتهم⁶⁵ " . وقال تعالى : " يا أيها الذين
آمنوا لا تتخذوا آباءكم و اخوانكم أولياء ان استحبوا الكفر على الايمان ومن يتولّهم
منكم فأولئك هم الظالمون " . وقال تعالى : " يا أيها الذين آمنوا لا تتخذوا
الكافرين أولياء من دون المؤمنين أتريدون ان تجعلوا لله عليكم سلطانا مبينا " .

59.B وأهلّهم B is unique in this. 60.B alone omits.

61.RB أحبابه which is also another correct rendering.

62.RB يأتون which is incorrect; B يؤوون which is incorrect.

63 B omits. 64.B drops أ 65 J غيشرتهم which is incorrect.

وقال تعالى: ⁶⁶ " لا يتخذ المؤمنون الكافرين أولياء من دون المؤمنين ومن يفعل ذلك فليس من الله في شيء إلا أن تتقوا منهم تقاة ، ويحدّ ركم الله نفسه وإلى الله المصير . " . إلى غير ذلك من الآيات . وعليه ⁶⁷ قلت هذه الآيات : —

|| حب النبي يقتض بغض اليهود ¹³⁴

⁶⁸ فاندّم على ما قد مضى ⁶⁹ ولا تعود

كيف بمن قرّب اعداء النبي ⁷⁰

في القبر والحشر إلى النار الوقود

(من ذا الذي يشفع فيه ان دنت ⁷¹

من وجهه الذي به أرضى اليهود) ⁷² ⁷³

وأما بيان كونه لا عقل له فبأدلة ⁷⁴ عقلية ونصوص شرعية أيضا .

وذلك أن أول عقل المرء أن يقرب من أبواب منافعه ، (ويبعد عن ابواب

مضاره ، وقد ركّب الله تعالى هذا المعنى حتى في البهائم فما من حمار يرى

منفعته في شيء إلا ويقرب منه ، وما من حمار يرى مضرته في شيء إلا ويبعد عنه ،

3a وقد علم كل ذى عقل أن من اعظم ابواب منفعته أحبابه ⁷⁵ / وأن من أعظم

أبواب مضرته اعداؤه . فعلى كل عاقل ان يقرب أحبابه ، وان يبعد عن اعدائه ،

بقدر طاقته ، وذلك بين لا يخفى على أحد ومن خفى هذا عنه ، فالحمار

أعقل منه .

66 B omits. 67 RB وفي ذلك قلت 68.RB فابك

69.B omits. 70.B من يا which is incorrect. 71.B اذا

72.B أرضى which is incorrect. 73.J omits the whole.

74. inserted from J which is a better rendering than قطعية which RA has.

75.B omits the whole.

وإذا علمت ذلك فمن لا يبعد نفسه وأهله وماله وجميع أحواله و أعماله⁷⁶ عن الكفار ، فهو أجهل من الحمار ، لانه لا عد ولنا في الحقيقة مثل أعداء نبينا وسيدنا ومولانا و شفيعنا محمد صلى الله عليه وسلم لا سيما اخوان القردة فانهم أشد عداوة لنا . قال تعالى : " ما يود الذين كفروا من أهل الكتاب¹³⁵ الا لو المشركين أن ينزل عليكم من خير من ريم⁷⁷ " . وقال تعالى : " ودا لو تكفرون كما كفروا فتكونون سوءا " . وقال تعالى : " لتجدن أشد الناس عداوة للذين آمنوا اليهود والذين أشركوا " . وقال تعالى : " ودا كثير من أهل الكتاب لو يردونكم من بعد ايمانكم كفارا حسدا من عند أنفسهم من بعد ما تبين لهم الحق " . وقال تعالى : " يا أيها الذين آمنوا ان تطيعوا فريقا من الذين أوتوا الكتاب يردوكم بعد ايمانكم كافرين " . الى غير ذلك من الآيات .

وقد أخبرني بعض الاخوان ، وكان قاضيا في هذه الاوطان ، أنه لما قدم عليها ، وولى القضاء فيها ، استعمل يهوديا في اشغاله ، قال : " وكانت مني زلة في استعماله ، حين ظننت ان تخديمه من اذلاله ؟ " قال : " فكان يتصرف في اشغالي ، ويظهر النصيحة لي ، فأعطيته يوما ثيابي ، ليغسلها ولم آمنه أن يغيب عليها فكان بين يدي يغسل وأنا أنظر اليه حتى عرضت لي حاجة ، فدخلت ليها ورجعت بسرعة ، فوجدته فوق ثيابي وهو يبول عليها فربطته وكرهته ما شاء الله (على فعله)⁸¹ وتبت عن قرب جميع أعداء الله " .⁸² 136

والله يختص برحمته من يشاء 77 B and J insert
 76 B. Omits. 79 B أشغالها which is incorrect.
 78 B. اليها
 80 B. استخدام which is incorrect
 81 B. omits. 82 B. تقريب which is incorrect.

وأخبرني أيضا بعض الناس أنه رأى يهودية تعجن خبز مسلم (وهي تمخيط

بيدها وتعجن قبل أن تغسلها .

وأخبرني آخر أنه رأى يهودية أخرى تعجن خبز مسلم⁸³ وتأخذ القمل من

رأسها وتقتله بين أظفارها وتعجن من غير أن تغسل يدها . والأخبار في ذلك

كثيرة ، ولا يستبعد هذا (أو أعظم منه إلا ما عمى البصيرة .) ألم تر إلى قوليه⁸⁴

3b تعالى : " يا أيها الذين آمنوا لا تتخذوا بطانة من دونهم / لا يألونكم خبالا

وإذا ما عنتم قد بدت البغضاء من أفواههم وما تخفي صدورهم أكبر قد بينا الآيات

ان كنتم تعقلون " .

وأما بيان كونه لا مروءة له ، فبأدلة عقلية ، ونصوص شرعية أيضا وذلك أن كل

ذى هممة عليية ، ونفس مرضية⁸⁵ ، (وحال زكية⁸⁷) لا بد ان ينفر بطبعه⁸⁸

وجوارحه وقلبه ، عن كل من يعتقد نقصه⁸⁹ ، ويشير بسبه ، ولو كان

من أقرب قومه ، كأبيه وأمه ، وبذلك تكثر⁹⁰ وتعظم العداوة والبغضاء بين

أكثر الأقرين ، لا سيما ان كان كل منهما يضلل الآخر في مذهبه ويطعن

عليه في الدين . ولذلك قيل :

"كل العداوة قد ترجى مودتها

إلا عداوة من عاداك في الدين "

وقد علمت طعن الكفار علينا⁹¹ ، وتقولهم في ديننا ، لا سيما اخوان القردة فانهم

83 B. omits.

84 J الا ضعيف البصيرة

85 J omits; B عالية

86 J and B أنفاس which is incorrect.

87 J and B omit.

88 B بقلبه but J agrees with the rest.

89 J عن كل ذي نقيصة

90 B تعظم which is also a possible rendering.

91 B and J insert في الدين

أشد الناس عداوة لنا ، ولنبينا وحبينا وسيدنا وشفيعنا ، ومولانا محمد صلى الله عليه وسلم . فما أقل همة من لا ينفّر عنهم بطبعه وجوارحه وقلبه ، وما أخس وأخزى من يسمع لهم بقره ، لأنه ما من أحد منهم ينظر إلينا ، إلا ولسان حاله ناطق ببغضا وسبنا ، والطعن علينا في ديننا ، حتى أنهم لعنهم الله تعالى⁹² حرّما على أنفسهم ذبائحنا وأطعمتنا ، والطبخ في قدورنا والاكل في آنيتنا ، وأعظم من ذلك كله طعنهم في ديننا⁹³ ، واستهزاءهم بصلاتنا ، وما يتعرضون به لسيدنا ومولانا محمد صلى الله عليه وسلم ولذلك قال تعالى : " يا أيها الذين آمنوا لا تتخذوا عدوى وعدوكم أولياء تلقون اليهم بالمودة وقد كفروا بما جاءكم من الحق " . وقال تعالى : " يا أيها الذين آمنوا لا تتخذوا (الذين اتخذوا)⁹⁴ دينكم هزوا ولعبا من الذين أتوا الكتاب من قبلكم والكفار أولياء واتقوا الله ان كنتم مؤمنين " .

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حكى القرافي وغيره⁹⁵ ، أن الخليفة غضب على الشيخ أبي الوليد الطرطوشي فأمر بأحضاره ، عازما على اذابته ، فلما دخل عليه الشيخ رأى وزيرا من الرهبان جالسا بازائه ، فقال رحمه الله هذين البيتين :⁹⁶

يا أيها الملك الذي جوده

يطلبه القاصد والراغبه

سيدا طاعته عصمة .

99

وحبه معترض واجب

92 J and R لأن 93 J and B omit . 94 B. نبينا

95 B omits which is terrible omission

96 RB which is a better rendering. وحكى الشهاب القرامى رحمه الله تعالى في كتاب الفرق

97.RB inse_r مقريا اليه فانشد الشيخ في الحال بلسان المقال

99 see foot note 100

ان الذى شرفت من أجله

يزعم هذا أنه كاذبه

قال فاشتد غضب الخليفة على الراهب عند سماع البيتين¹⁰⁰ فأمر بالراهب

4a فسحب /¹⁰¹ وضرب وقتل وأقبل على الشيخ أبي الوليد (يحدثه)¹⁰² وأكرمه

وعظمه بعد أن كان عزم على اذايته .

وهذا الخير العظيم انما حصل للشيخ والحليفة بسبب استحضارهما بغض

الراهب للنبي صلى الله عليه وسلم فلم يبالي الشيخ رضي الله عنه ، بما كان يخشى

من غضب الخليفة وأذاه¹⁰³ ، فوقاه الله وكفاه ، وقلب لأكرامه قلب الخليفة وأرضاه ،¹³⁹

ولم يبالي الخليفة رحمه الله ، بما في قلبه على الشيخ من هواه ، فقواه الله على¹⁰⁴

نفسه وهداه ، وطهره من قرب عدو الله ورسوله ، فغزى فيه بعد أن تولاه¹⁰⁵ .

فكذلك يجب على كل مؤمن أن يستحضر بغض كل كافر لنبينا و سيدنا

و مولانا و شفيعنا محمد صلى الله عليه وسلم ، ويستحضر عداوتهم لنا¹⁰⁷ ،

و طعنهم علينا في ديننا ، وأن كل كافر منهم ولى للشيطان اللعين العدو و

المبين . قد استحوذ عليه وأخذ بعقله ، ومجامع قلبه ، وقاده من ناصيته ،

حتى لا يتحرك بحركة ولا يتكلم بكلمة الا عن رأيه ، فيرى كل مؤمن حينئذ¹⁴⁰ //

بنور ايمانه ، أن كل يهودى انما هو ابليس بعينه ، فيفر عنه بدينه ، لئلا¹⁰⁸

يغتاله بقره ، من حيث لا يشعر به ، وأقرب ذلك أن يتحبب له بشيء من ماله ،

99 and 100 This couplet has been omitted by all except Rb but they all agree in الآيات to refer to them which will be wrong unless the verses are more than two. RA has البيتين.

101 J and RB فسجن which is not correct.

102 B inserts يحدثه 103 B واذايته which cannot be right.

104 B فوقاه الله على نفسه وهواه 105 J فقذاه ; RB فهداه ; فعزى

106 B وحبينا 107 B ودعواتهم which cannot be right.

108 B حتى 109 RB طريقة ; B طرية

أو أدبه ، حتى يوقع في قلبه ، شيئاً من حبه ، فيستوجب بذلك سخط ربه ، أو يطعنه من طريقة أو خمراً أو جيفة أو يدخل عليه ربي في كسبه .

تنبيهه :

ما يصنعه الكتابي من الطعام على ثلاثة أقسام : طعام غمر¹¹⁰ وطعام كفر¹¹¹ وطعام مكر ، طعام الغمر ما صنعه لأكلهم وهذا هو طعامهم ، وهو حلال لنا بكراهة ، لأن مالكا رضي الله عنه كره للمسلمين أكله ، كانوا أهل ذمة أو أهل حرب . قال سحنون : " ولا يؤكل في آنيتهم حتى تغسل"¹⁴¹ . وطعام الكفر ما صنعه لكنايتهم ، وأعيادهم ، ونحوه ذلك من ضلالهم ، وهذا ليس من طعامهم ، إنما هو من طعام كفرهم ، فلا يحل لمسلم أكله¹¹³ ، لأنه مما أهل به لغير الله ، وقصد به تعظيم الكفر برسول الله صلى الله عليه وسلم . وطعام المكر ما صنعه لمسلم¹¹⁴ (وهذا ليس من طعامهم^{114a} ، إنما هو من طعام مكرهم ، فلا يحل لمسلم أكله لاسيما إن كان بلحم) ، لأنهم أهل الغش والخديعة ، والعداوة البليغة ، فكيف^{4b} نؤمّنهم على أطعمتنا ، أم كيف نصدقهم في أنهم / أتمروا الذبح وكل ما يلزمنا ، ولاجل ذلك لا يحل لمسلم أن يوكل كافراً على سمسة أو بيع أو شراء أو صرف لأن لله تعالى في ذلك حقوقاً¹¹⁶ أوجب القيام بها ، وحقوق الله تعالى لا يؤمن كافراً عليها . فكل ما زعموا أنهم ذبحوه لنا ، فهو جيفة ، وكل ما

109 RB طريقة ; B طرية 110 RB عمى ; B عمر

111 RB and B حلّ which is a better rendering.

112 RB and B للمسلم 113 B omits.

114 B inserts ان كان بينهم 114a B omits

115 B نأمنهم 116 B طلب

زعموا أنهم صرفوه لنا ، فهو ربي . ولأجل ذلك أمر عمر بن الخطاب رضي
الله عنه أن لا يكونوا جزّارين و لا صيارفة ، وأن يقاموا من اسواقنا كلمها .
وقال رضي الله عنه : ” ان الله تعالى أغنى المسلمين بالمسلمين فلا تستعظوا
الكفار في شيء من أعمالكم ” ¹¹⁷ // وفي بعض هذا القدر كفاية ، لمن سبقت له
من الله تعالى هداية ، وما يذكرا لا أولوالالباب ، ويتوب الله على من
¹¹⁸
بب ، والله الموفق لصواب الصواب .

الفصل الثاني

فيما يلزم أهل الذمة ¹¹⁹ من الجزية والصغار

قال الله تعالى: "قاتلوا الذين لا يؤمنون بالله ولا باليوم الآخر ولا يحرمون ما حرم الله ورسوله ولا يدينون دين الحق من الذين أوتوا الكتاب حتى يعطوا الجزية عن يد وهم صاغرون".

فهذا أمر وجوب من الله تعالى لقتال اليهود والنصارى وقتلهم ، ولم يرفع السيف عن رقابهم ، الا بشرط اعطائهم الجزية وصغارهم . وكيف ينبغي أن يترك عدوا من أعداء سيد الأولين والآخرين بين المسلمين ^{120a} (في أرض المسلمين) حتى يزعم لما هو أشد من الحرق بالنار ، من الجزية والصغار ، وحينئذ ينبغي أن يترك بماله وأهله ، لأن اذلاله بذلك أشفى لقلوبنا من قتله ونهب ذلك كله ، فلا يحل أن يترك عدوا من أعداء النبي المختار ، في شيء من القرى والامصار ، وسائر الاقاليم والاقطار ، الا على الجزية والصغار . || 143

أما الجزية فهي مال يعطيه منهم كل ذكر بالغ حر قادر مخالط عند تمام كل سنة بصفة شرعية . ¹²¹ فقد ر ما على هؤلاء اليهود ونحوهم بحسب فرص عمر بن الخطاب رضي الله عنه نحو ثمانية مثاقيل ، أربعة منها أصل الجزية ، وأربعة فيما يتبعها من الارزاق ونحوها ، فمن كان لا يلحقه جور عليها ، ان يعطيها ان ¹²² قدر عليها ، و من كان يلحقه جور يعطي أصل الجزية ويحط عنه ما يتبعها ، وذلك أنه اذ كان لم يتعد شيئا من الحدود ¹²³ التي على أهل الذمة والآ فلا يحط عنه 5a حتى يوفى بما عليه من شروط الذمة كلها . ويخفف عن الضعيف / بحسب ضعفه فلا حد لأقلها وتسقط عن أسلم أو عجز عن بعضها .

119 RB: inserts والكفار

120 RB and B المؤمنين which appears to be a better rendering.

120a inserted from RB.

121 RB and B فقد رتب

122 RB and B insert كلها which is a better rendering .

123 RB الحد الذي

وصفة أخذها أن يجمعوا يوم إعطائها ، ¹²⁴ بمكان مشتهر كالسوق ونحوها ،
ويحضروا بأخسه ، وأسفله ، قائمين على أقدامهم ، وأعوان الشريعة قائمين
فوق رؤسهم ، بما يخوفهم على أنفسهم ، حتى يظهر لهم ¹⁴⁴ والغيرهم ، أن
مقصدنا اذ لالهم ، لا أخذ أموالهم ، ويرون أن الفضل لنا بقبول الجزية ¹²⁵
منهم ، وارسالهم ، ثم يجتذ منهم ، فرد بعد فرد لقبضها ، ويصفو ¹²⁶
على عنقه بعد أخذها ، ويدفع دفعة يرى أنه خرج من تحت السيف بها .
هكذا يفعل أحباب سيد الاولين والآخرين باعدائه الكافرين . فأن العزة
لله ولرسوله وللمؤمنين .

ولا يتولى أخذ الجزية ¹²⁷ الاولي الامر ، أو رجل من أهل الخير ، بحيث
يكون أخذها وصرفها عن يد واحدة ، لا عن أيد متعددة ، فكل ما يأخذ
الخليفت من يهودهم بأيديهم ليس بجزية ، وانما هو رشوة على توليتهم ،
وتصرف لهم .

¹²⁹ وتصرف الجزية مصرف الفئ وسيره ائمة العدل في صرفه ، ان (بيدأ) ^{130a}
بسد ما لا بد من سده ، من حصن وسلام وغيره ، ثم باعطاء أكي النبي
صلى الله عليه وسلم ، ويفضلون على غيرهم ثم بأرزاق العلماء والمؤذنين ،
وكل من بيده شيء من أمور الدين ومصالح المسلمين ، بحسب اجتهاد

124 B أخذها 125 RB and B في قبول

126 B يجذب RB which is clearly incorrect.

127 B أولوا أهل القلائد والوظائف

129 B وتصرف الجزية مطرد الفئ ¹²⁸ وتصرف الجزية تصرف النبي

RB وتصرف الجزية مصرف النبي صلى الله عليه وسلم

130 J and B أهل العدل B omits. 130a

الناظرين . ثم بالفقراء الاحوج فالاحوج حتى يعصمهم بأجمعهم ، ان اتسع المال
 لكلهم ، ثم ¹³¹بما بقي لجميع الناس بالسوية غنيهم واغناهم ، عرييهم ومولاهم ،
 الا أن يرى الامام أو من يقوم مقامه في عدمه ، حبس هذه الفضلة أو بعضها للنواب ،
 بنيه صادقة ونظر صائب . فان قلّ المال وكثر الضلال وقويت الأهوال كما في
 هذا الزمان فاجتهدوا في صرفها بحسب الامكان اذ لا بد من أخذ الجزية من أهل
 الذمة وتصغيرهم في كل مكان ، ولو كانوا يظلمون ، واختص باكل الجزية
 الظالمون . قال تعالى : " لا تكلف نفسا الا وسعها " . وقال النبي صلى
 الله عليه وسلم : " اذا أمرتكم بشيء فافعلوا منه ما استطعتم " . ولذلك لم يشترط
 الله تعالى في أخذ الجزية الا عن يد وهم صاغرون .

50 وأما الصغار فحاصله أن يلزم / الذلة والمسكنة في أقوالهم وأفعالهم ،
 وجميع احوالهم ، حتى يكونوا بذلك تحت قدم ¹⁴⁶كل مسلم ومسلمة ، من حر و
 حرة ، وعبد وأمة . وأول ما يحتفظ به عليهم صغارهم في دينهم بان يدسوا
 جميع ما خالف الشريعة المحمدية ، ولو كان من الشريعة الموسوية ، حتى لا
 يظهر لأحد من المسلمين شيء من صلاتهم ، ولا قراءتهم ، وكتبهم ، ولا
 يمدحون بحضرة مسلم أحدا من علمائهم ، لان الرسالة بالدين والجهاد على
 الدين بالمغالبة بيننا وبينهم في الدين لقوله تعالى : " هو الذي أرسل رسوله
 بالهدى ودين الحق ليظهره على الدين كله " . فان نحن غلبناهم في دينهم
 (بحماهم على اخفائه ، ودس معالمه ، فهم صاغرون) . (وان ملكوا

فأتوا 133 all others عد يمهم 132 J and B ب 131 B drops

134 B which is incorrect; J يذموا which is incorrect; B ينبذوا

134a distorted in B with this comment in the footnote - there is some obscurity in this sentence and something is missing. The sentence is however clear in J which in one of the MSS on which B is based.

القناطير المقتطرة من الذهب والفضة ، لأننا اذا غلبناهم على ذلك غلبناهم على الصغار في الدين ونحوه¹³⁵ ، وان نحن لم نغلبهم على ذلك وكانت شعائر كفرهم قائمة ، اختل من صغارهم ، بقدر ما أقاموه من دينهم ، وان اعطوا عليه القناطير المقتطرة من الذهب والفضة ، بل قبول ذلك منهم ، يعكس الصغار عنهم ،

147 // ولأجل ذلك لا يمكنون من احداث كنيسة في شيء من بلاد المسلمين وان اعطوا على ذلك ملء الارض ذهباً • وكيف يبيح الله مؤمن شيئاً من عز الاسلام لاعداء النبي عليه الصلاة والسلام بشيء من هذا الحطام ؟ ولله خزائن السموات والارض ولكن المنافقين لا يفقهون • بشر المنافقين بأن لهم عذاباً أليماً الذين يتخذون الكافرين اولياء من دون المؤمنين أيتنون عندهم العزة ؟ كلا والله لا تكون لهم بهم عزة ، (فان العزة لله جميعاً •) ولذلك قال رسول الله صلى الله عليه وسلم : " لا ترفع فيكم يهودية و لا نصرانية • يعني البيع و الكنائس • وقال رسول الله صلى الله عليه وسلم : " اهدموا الصوامع و اهدموا البيع " • وقال صلى الله عليه وسلم : " لا تكون قبلتان في بلدة واحدة " • و الاحاديث والآثار في ذلك كثيرة • قال عمر بن الخطاب رضي الله عنه : " لا كنيسة في دار الاسلام " • وأمر أن تهدم كل كنيسة لم تكن قبل الاسلام ، ومنع أن تحدث كنيسة في شيء من بلاد الاسلام ، وقد انعقد على ذلك الاجماع بلا خلاف بين علماء الأئمة أجمعين انه لا يحل احداث كنيسة في شيء من بلاد الاسلام

واقامة بيت لصلاة من صلاتهم ، او شيء من ضلالهم ، ولو اعطوا على ذلك ملء
 الارض ذهباً وكانت الارض التي ارادوا ان يفعلوا / ذلك فيها ملكا لهم
 بشراء أو هبة أو غير ذلك فان أذن لهم في ذلك سلطان أو قاض أو غيره ¹³⁷ ، وجب
 نقض اذنه ، وهدم ما بنوه به ، ان لا يكون اذن أحد ولا حكم أحد مانعا من
 اقامة الحق وتغيير المنكر كائنا من كان ، وان طال الزمان ، أفحكم الجاهلية
 يبخون ؟ ومن أحسن من الله حكما ليقوم يوقنون •

ولا يستدل في هذا الزمان الكبير الشر ، بعمل الاهصار ، وسكوت العلماء
 الاختيار ، ¹³⁹ لأن الأمر اليوم وما قبله بكثير ، بيد أرباب العسوى ، لا بيد ارباب
 التقى ، أفغير دين الله تبخون ؟ ولله أسلم من في السموات والارض طوعا
 وكرها واليه ترجعون •

ألم تر ان الشيخ أبا الحسن الأشعري امام أهل السنة ؟ قد افنى بأن
 بناء المسلم الكنيسة كفر ، قال ويكون ردة في حقه لاستنزامه ارادة الكفر ،
 نقله عنه القرافي في كتاب الجمع والفروق وذلك واضح •

137 all others أو غيرهما which is a better rendering.

138 all others الكثير

139 all others omit 9

الفصل الثالث

فيما عليه يهود هذا الزمان في اكثر

الاطنان من الجرأة والطغيان والتمرد على

150

الاحكام الشرعية بتولية ارباب الشوكة وخدمة السلطان

140

فاقول والله المستعان ، (وعليه الاعتماد والتكلان) ، لا شك ان اليهود

141

المذكورين كيهود توات وتخرارين ، ودرعة وتافلالت وكثير من الاطنان بافريقية

وتلمسان ، قد حلت دماؤهم واموالهم (وأولادهم ¹⁴²) ونسائهم ولا ذمة

143

لهم لأن الذمة التي ترفع السيف عنهم هي الذمة الشرعية لا الذمة الجاهلية ، وانما

تكون لهم الذمة الشرعية ، باعطاء الجزية عن يد وهم صاغرون .

ويبين لك معنى ذلك ما رواه ابن حبان وغيره عن عبد الرحمن بن غنم أنه

144

(قال) كتب الى عمر بن الخطاب رضي الله عنه حين صالح نصارى الشام :

” بسم الله الرحمن الرحيم .

هذا كتاب لعبد الله أمير المؤمنين من نصارى الشام أنكم لما قد تمم علينا

سألناكم الامان لانفسنا وذرارينا واموالنا واهل ملتنا و شرطنا لكم على انفسنا

ان لا نحدث في مدائننا ولا فيما حولها ديرا ولا كنيسة ولا بيعة ولا صومعة

راهب ولا نجد ما خرب منها ، وان لا نمنع كنائسنا ان يبزلها أحد من المسلمين

145

في ليل أو نهار ، وان نوسع ابوابها للمارة وابن السبيل وان ينزل بها

140 all others omit. 142 B omits. 143 RA التوبة which is
incorrect.
141 تيجوارين all others 144 all others omit.
145 B ترك which is another good rendering; J and RB omit.

6b من مَرَّبها من المسلمين ثلاث ليال / نطعمهم ولا نئوى في كنائسنا ولا

منازلنا جاسوسا ولا نكتم غشا للمسلمين¹⁵¹ ولا نعلم أولادنا القرآن ولا نظهر شرعا

ولا ندعو إليه أحدا ولا نمنع أحدا من ذوى قرابتنا الدخول في الاسلام ان

اراده ، وان نوقر المسلمين ونقوم لهم من مجالسنا ان ارادوا والجلوس ولا

نتشبهه في شيء من ملابسهم¹⁴⁶ - في قلنسوة ولا عمامة ولا نعلين ولا فرى شعر¹⁴⁷

ولا نتكلم بكلامهم ونتكلم بكناهم ولا نركب السروج ولا نتقلد السيوف ولا نتخذ

شيئا من السلاح ولا نحمله معنا ولا ننقش خواتمنا بالعربية ولا نبيع الخمر وان

نجز مقادير رؤسنا ونلزم زيننا حيثما كنا وان نشد الزناير على أساطنا وان لا

نظهر صلباننا وكتبتنا في شيء من طرق المسلمين واسواقهم وان لا نضرب

بنواقسنا في كنائسنا الا ضرا خفيفا ولا نرفع اصواتنا (بالقراءة في كنائسنا)^{147a}

في شيء من حضرة المسلمين ولا نخرج شعائنا ولا يغوشنا ولا نرفع اصواتنا¹⁴⁸

مع موتانا ولا نظهر النيران معهم في شيء من طرق المسلمين واسواقهم^{148a}) ولا

نجاورهم بموتانا ولا نتخذ من الرقيق ما جرت عليه سهام المسلمين (ولا نطلع¹⁴⁹

على منازل المسلمين ” .

فلما بلغ الكتاب عمر بن الخطاب رضي الله عنه زاد فيه ولا نضرب بأحد

من المسلمين شرطنا لكم على انفسنا واهل ملتنا وقبلنا عليه الايمان فان نحن

خالفنا في شيء مما شرطنا لكم فلا ذمة لنا وقد حل لكم منا ما يحل من اهل

المعاذة والشقاق .

146 B لباسهم 147B ولا فرق which is another good rendering;

147a B omits. J and RB omit.

148 B ياسوعلتنا 148a RB and J omit. 148b B نجاورهم

149 B من which is an unnecessary correction.

فكتب اليه عمر رضي الله عنه : " امض ما سألوه والحق فيه حرفين اشترطهما

عليهم مع ما اشترطوا على انفسهم ان لا يشتروا شيئا من سبايا المسلمين و من

ضرب مسلما عمدا فقد خلع عهده . اهـ . || 152

فعلى هذا اعتمد علماء كل مذهب في الاحكام المتعلقة بأهل الذمة الا

أنهم اختلفوا فيما ينتقض به العهد من ذلك . ففي الذخيرة قال ابن حزم في

مراتب الاجماع : " اختلف العلماء في نقض عهد الذمي وقتله ونهب ماله وسبي

7a اهله اذا أخل بواحد مما ذكره / وهو اعطاء اربعة مثاقيل ذهبا في

كل عام قمرى صرف كل دينار اثني عشر درهما وان لا يحدثوا كنيسة ولا بيعة

ولا ديورا ولا صومعة ولا يجددوا ما خرب منها ولا يمنعوا المسلمين من

النزول في كنائسهم وبيعتهم ليلا أو نهارا ويوسعوا ابوابها للنازلين ليضيفوا

من مرتبهم من المسلمين ثلاثا وان لا يأووا جاسوسا ولا يكتفوا غشا

للمسلمين ولا يعلموا اولادهم القرآن ولا يمنعوهم الدخول في الاسلام

153 // ويوقروا المسلمين ويقوموا لهم من المجالس ولا يتشبهوا بهم في شيء من

ملابسهم ولا فرق شعورهم ولا يتكلموا بكلامهم ولا يتكنوا بكنائهم ولا

يركبوا (على) السروج ولا يتقلدوا شيئا من السلاح ولا يحملوه مع

153 أنفسهم ولا يتخذوه ولا ينقشوا في خواتمهم بالعربية ولا يبيعوا الخمر 154 155

بواحدة ج 151 أن أقضي ج ; ان 150 B insert

152 all others omit. 153 RB انفسهم ; B omits انفسهم and

154 RB inserts أسماءهم على انفسهم ج معهم inserts الى مسلم قط

155 B inserts

157 ويجزوا مقدار رؤسهم ويشدوا الزنانير على أوساطهم ولا يظهرها الصليب
 158 (ولا يجاوروا) المسلمين بموتاهم ولا يظهرها في طرق المسلمين نجاسة ويخفوا
 النواقر واصواتهم ولا يظهرها شيئا من شعائرهم ولا يتخذوا من الرقيق
 159 ما جرت عليه سهام المسلمين ولا يطلعوا عليهم عدا ولا يضربوا مسلما ولا يسبوه
 ولا يستخذموه ولا يسمعون مسلما شيئا من كفرهم ولا يسبوا أحدا من الانبياء
 عليهم السلام ولا يظهرها خمرًا ولا نكاح (امرأة) ذات محرم وان يسكنوا
 160 المسلمين بينهم . فمتى أخلوا بواحدة من هذه الشروط اختلف في نقض عهدهم
 وقتلهم وسبيهم " . اهـ . || 154

(فأنت ترى كيف اختلف العلماء في نقض عهدهم وقتلهم وسبيهم اذا اخلوا
 161 بواحدة) ، وكيف يبيد 161a لم يأتوا (ولا) بواحدة ، بل تهردها على
 الاحكام الشرعية ، بسكنى البلاد السائبة ، والتعلق بارياب الشوكة ، والتعصب
 باموالهم ، على من يتسبب من العلماء في اذلالهم ، فهؤلاء ونحوهم ، لاخلاف
 في نقض عهدهم ، وقتلهم وسبيهم ، لأن الخلاف المذكور انما هو في ذمي
 163 أخل بشيء من ذلك من غير استمرار و (لا) تصميم ، وأما من ترك شيئا
 من ذلك واستمر على تركه وصمم عليه فلا خلاف في نقض عهده ، و وجوب
 7b قتله وسببه ، لان ذلك من التمرد على الاحكام / الشرعية ؛ فكل
 165 يهودى تعلق بخدمة سلطان أو وزير أو قاض أو كبير فقد انتقض عهده ، وحل
 166

157 B الطيب which is incorrect.

158 inserted from the original in

Qarafi's Furuq vol.iii, P.11.all
 MSS have يجاوروا which is incorrect

161 B omits.

161a RA inserts

162 inserts from RB.

163 B بعض

159 B شرائعها which is incorrect.

164 all others omit.

160 J and RB يطيعوا

165 J and B هو

160a B omits.

166 B omits.

[فيما اشترط
 عليهم]

ماله ودمه ، لأن خدمة أرباب الشوكة ، مناقض لشروط الذمة ، من الصغار
والذلة ، واعظم ما يكون من التمرد على الاحكام الشرعية ، لا سيما في هذا الزمان .
ولقد أخبرني بعض الاخوان ، بسنده عن الامام القيسي ان يهوديا كان يخدم
السلطان أبا عنان ، المريني فبلغ بذلك من الطغيان ، ان غير لبعض الصبيان ،
شيئا من القرآن ، وذلك أنه مرّ بصبي يستفتي¹⁵⁵ في قوله تعالى ومن يبتغي غير
الاسلام ديننا فلن يقبل منه فقال اليهودي : " قل ومن يبتغي الاسلام ديننا
فس يقبل منه " فاسقط الصبي لفظة غير واستفتى ما ذكر المعلم وقال له من
قال لك هذا فقال رجل مرّ بنا الآن فقال له أرني اياه فلم يزل معه ،
حتى لقيه فذهب المعلم من حينه لاستاذ كان السلطان يجود عليه السبع
فأخبره بالخبر وكان السلطان يرسل للاستاذ فرسا يأتيه عليه¹⁶⁷ (فلما جاءته¹⁶⁸
ركب وجاهه) ، ولم يذكر له شيئا حتى أخذ في تجويد لوحه فاتفق ان كان فيه
" يأيها الذين آمنوا لا تتخذوا اليهود والنصارى أولياء بعضهم أولياء بعض
ومن يتولهم منكم فانه منهم " . فلما قرأها قال له الاستاذ " أعد " فأعادها ،
فقال له : " أعد " . فأعادها فقال له : " أعد " . فأعادها ، فلم يزل يعيد وهو
يقول له : " أعد " ، حتى وضع السلطان اللوح من يده وقام لصاحب السيف
وقال له : " ان خرجت ولم أجد¹⁵⁶ رأس اليهودي عن يمين الطريق وجسده عن
شماله جعلتك في مكانه . " ثم رجع لموضعه وأخذ في لوحه حتى فرغ .

167 J and B عليها which is another possible rendering;
عليه which this copy has is another possible rendering.

168 inserted from J and RB.

وقام الاستاذ وتبعه السلطان يشيعه على العادة فاذا باليهودى كما أمر به . فقال
 له الاستاذ : " ما هذا ؟ " . فقال له : " على أمرك بتكرار الآية " . فقال :

" فاخبره حينئذ الخبر " . اه .

ولا يتردد في ضرب رقاب هؤلاء اليهود المذكورين الادجال من الدجاللة
 الغالين الضالين المضلين الذين اشتروا الحياة الدنيا بالآخرة فما رحت

تجارتهم وما كانوا مهتدين فوالذى نفسي بيده لقتل يهودى واحد

منهم / اعظم أجرا من غزوة في ارض المشركين . فخذوهم واقتلوهم حيث
 وجدتموهم وانهبوا أموالهم وأسبوا أولادهم ونساءهم في كل مكان ،

حتى يذغوا للاحكام الشرعية أتم اذعان ، انما الجزية والصغار مقمعة

لشر هؤلاء الاشرار ، وسلاسل واغلال يطوفون بها في سائر الاقطار ، على

مرور الدهور والاعصار ، اظهارا (لحرمة الشريعة و) شرف النبي المختار

فمن حاول فك شيء من تلك السلاسل والاغلال عن رقبة احد الكفار ، فقد حاد

الله ورسوله وتنقلب في عنقه ويكب معهم في النار ، ألم تر الى قوله تعالى ؟

" الذين يحادون الله ورسوله أولئك في الاذلين فلا تتبعوا خطوات الشيطان

انه لكم عدو مبين انما يأمركم بالسوء والفحشاء وأن تقولوا على الله ما لا تفعلون

فويل " . لأولياء اليهود وهم الذين ينصرونهم في تعدى الحدود أولئك الذين

كفروا برسولهم وأولئك الاغلال في أعناقهم وأولئك أصحاب النار هم فيها خالدون .

من الدجالين 171 B and J على تكبيرك 170 B and J 169 B and J omits.

فاخذ روهم 173 B 172 all others omit . الظالمين 172a B

174 J: اظهار 175 B, J and RB omit.

وفي ذلك قلت :

من قرب انصار اليهود
 177 وخبث أصل طينهم
 ورفعوا دين اليهود
 178 واسترجعوا واستعبروا
 من نصرهم رهط اليهود
 رب الورى فيما مضى
 من رضيت عنه اليهود
 179 في كل سوق لا يبور
 على النصارى واليهود
 المصطفى الهادى التقى
 شمت بانصار اليهود
 وامحق بقايا رزقهم
 بابا الى النار الوقود
 وجبروا ما كسر وا
 حتى استقامت الحدود

برئت للرب الودود
 يكفي الفتى من شينهم
 أن قطعوا من دينهم
 158 يا ليتهم لود بئروا
 وستروا ما أظهروا
 ألم تسروا كيف قضى
 أنى يفوز بالرضى
 لا شك ان الحق نور
 180 ينصره الرب الصبور
 فى الاهى بالنسبى
 وكل قطب و ولى
 صب البلا من فوقهم
 وافتح لهم من محقهم
 الا الذين استغفروا
 وبينوا ما ستروا

8b فأغفر لهم ما قد مضى / وأكتب لهم منك الرضى
 159 منهم لجنات الخلود

177 B and others اصل صنعهم 178 B استغفروا

179 B لا يجوز

180 Thus is all others but this has بنصره which does not seem to be a good rendering.

فتوبوا الى الله جميعا أيها المؤمنون لعلكم تفلحون ، واطيعوا الله
والرسول لعلكم ترحمون ولتكن منكم أمة يدعون الى الخير ويأمرون بالمعروف
وينهون عن المنكر وأولئك هم المفلحون • ولا تكونوا كالذين تفرقوا من بعد ما
جاءهم البينات وأولئك لهم عذاب عظيم يوم تبيض وجوه وتسود وجوه فأما الذين
اسودت وجوههم أكفرتم بعد إيمانكم فذوقوا العذاب بما كنتم تكفرون • وأما
الذين ابيضت وجوههم ففي رحمة الله هم فيها خالدون •

نفعني الله وإياكم بالقرآن العظيم ، وبارك لي ولكم فيما فيه من الآيات
والذكر الحكيم ، واستغفر الله لي ولكم ولسائر المسلمين • فاستغفروه انه هو
الغفور الرحيم • وسيد الاستغفار اللهم أنت ربي لا اله الا انت ، خلقتني
وأنا على عهدك ، و وعدك ما استطعت ، اعوذ بك من شر ما صنعت ، وابوء لك
بنحمتك عليّ وأبوء بذنبي فاغفر لي فإنه لا يغفر الذنوب الا أنت • والحمد لله
رب العالمين •

18 a اللهم صل على سيدنا محمد النبي الأمي وعلى أزواجه أمهات المؤمنين
وآله وذريته وأهل بيته كما صليت على إبراهيم وعلى آل إبراهيم في
العالمين انك حميد مجيد وسلم تسليما كثيرا طيبا مباركا فيه و سلام
على المرسلين والحمد لله رب العالمين •

iii) Translation

97 // I begin in the name of Allah the Merciful, the Compassionate.¹
 May Allah bless our Master, Muhammad.²

Praise be to God, who revealed the Qur'an to explain everything and as a guidance and good tidings to the Muslims³, who also helped truth against falsehood and made the religion of Islam triumphant over all religions. Allah has Greatness, Exaltation, Power and Completeness. He is the Knower of the seen and the unseen. He is Great and Exalted. It is to Him that all necks stoop and from Him all eyes are averted in fear. Everything is in His hand. There is no power or might except with Him.

1. Opening any composition with mentioning God is a popular tradition in all Islamic writing. In addition to the fact that these words precede every chapter of the Qur'an, with but one exception, there is a very strong recommendation that anything of importance should be preceded by them. The Prophet is reported to have said: "Anything of importance which is not started with an invocation of God is incomplete." Ahmad b. Hanbal, Al-musnad, Vol.III, (Cairo, 1965), p.359; A. J. Wensinck, Concordance et Indices de la Tradition Musulmane, Vol.I (Leiden, 1936), p.142.
2. Al-Maghili is here fulfilling a religious obligation on all Muslims to bless the Prophet Muhammad. The injunction for this is clearly stated in the Qur'an - "God and His angels bless the Prophet. O believers, do you also bless him and pray him peace." Qur'an 33:56. A. J. Arberry, The Koran Interpreted, Vol.II (London, 1955), p.128.
3. Praising Allah is also recommended to be included in the opening of a composition and al-Maghili is here complying to that precept. The Prophetic tradition prescribing this is reported by M. Y. Ibn Maja, Sunan, Vol.I (Cairo, 1954), p.610; A. J. Wensinck, op.cit., p.149.

I praise Him that I believe in His unity. I exalt Him and dignify Him. I seek refuge in Him against the evil of ourselves and the mischiefs of our actions. Whoever Allah guides is the rightly guided one, and whoever He does not guide there is none who can guide him. I testify that there is no God but Allah, the Only One. He has no partner. He is the Creator of everything and Knower of everything, and I testify that our leader and master, Muhammad, is His servant, messenger, beloved and friend. He has dignity of bearing and great virtues. May Allah give the best blessing and the most complete peace to him, his household and companions. May Allah be pleased with the orthodox caliphs, the rightly guided leaders, and with the entirety of the companions of the Messenger of Allah, their followers and those who followed them in goodness and are yet to follow them to the Day of Recompense.

This is a circular letter from the servant of God, the Most High - Muhammad b. Abdulkarim b. Muhammad al-Maghili of Tilimsan. May Allah be kind to him and to all his beloved ones by the honour of our leader Muhammad, may Allah bless him and give him peace. May He bless his household and companions. I direct my circular to every Muslim, male and female. May peace, compassion, blessing, pleasure and greetings from God be upon you all.

98 // Following the above, some good people have requested me (to explain) the obligation of the Muslims concerning avoiding unbelievers on the one hand, and the obligation of the protected people concerning the payment of poll-tax and being subjected to humiliation on the other. (They have also requested me to reveal) the state of transgression, tyranny and rebellion against law and the principles of the shari^c in which most

of the Jews of this age are. This is due to the appointment (they get from) the people of authority and the service they render to the Sultan.

In reply (to the request) I seek the help of Allah and I depend on Him and I say:-

Chapter I.

Concerning the obligation of Muslims of being away from the unbelievers, Allah the Most High says: "The wicked women⁴ incline to the wicked men and the wicked men incline to the wicked women." *The good women incline to the good men* Every animal is more at home with members of its own species than with those of others. The believers are friends among themselves, and the unbelievers are friends among themselves. Allah says: "O believers, take not Jews and Christians as friends; they are friends of each other. Whoso of you makes them his friends is one of them."⁵ In accordance with this idea I compose these couplets:

If a man associates with the good ones among his people, he will be upright. But if he associates with the bad ones among his people, he will be doomed.

A man's friends are a guide to his character. This is an obvious fact amongst all people.⁶

4. Qur'an 24:26. Arberry's translation of this verse is - Corrupt women for corrupt men, and corrupt men for corrupt women; good women for good men, and good men for good women. A. J. Arberry, op.cit. Vol.II, p.49.

5. Qur'an 5:51. A. J. Arberry, op.cit., Vol.I, p.136.

6. The original Arabic text of these verses is in the Tawil metre. For the tawil metre vide W. Wright, A Grammar of the Arabic Language. (London, 1933), p.359.

99

The truth is that it is only a person who has no religion, sense and integrity that will bring an unbeliever near to himself or his family or put some of his wealth in his hands.

As for explaining the fact that he has no religion (this I will do both by) rational argument and (with support from) Shari^ca sources. God, Glorified and Exalted be He, has created (an instinct) in the nature of a human being that he will not accept that any of His servants should befriend his enemy or be hostile to His intimate, whoever he is. God has made this general in all places and continuous at all times, so that even the absent-minded cannot doubt that. He will not be pleased if any of His creatures goes near (befriends) His enemy or shuns the man who loves Him. This is because whatever right you think you have to insist that your servant should boycott your enemies and associate with your friends, God the Most High has a more valid demand upon you, because God, Allah the Most High is your Creator and your Sustainer. Whatever may benefit you or harm you is in His hands.

How can He be pleased with you that you associate with an enemy of His and shun someone who loves Him because of an interest of your own, while you are not willing to tolerate *that even though they are human beings like you.* from anyone among your slaves. In fact you are not willing to accept that from any one who is related to you in any way. And if you perceive a friend of yours being intimate with your enemy you will not like that and your mind will abhor it and you will not accept anything short of his dissociating himself from him.

This is how Allah propounds parables for you from among yourselves

or your slaves but only the learned can appreciate them.^{7 // 100} Question the People of the Remembrance (those who are knowledgeable about the Scriptures), if it should be that you do not know. It is in this context, that I composed these two couplets:

My friend is the one who shows hostility to my enemy and cures what (rancour) I have in my mind concerning (my) enemies.

He raises my standard among the people (champions my cause), and abandons his wishes to my desire.⁸

Every true believer must be severe against the unbelievers and gentle with the believers and the testimony for that is that every true believer must love the Prophet, peace and blessing of Allah be upon him. The Prophet, peace and blessing of Allah be upon him, says: "None is a true believer until I become better beloved in his eyes than his son, his father and the entire people."⁹ Whoever loves the Prophet, peace and blessing of Allah be upon him, must be with him and for him. The Prophet, peace and blessing of Allah be upon him, says: "A person is always together with his beloved."¹⁰ And whoever is with him, peace and blessing of Allah be upon him, he must be hard against the unbelievers and merciful to the believers.

7. A borrowing from Qur'an 47:3; A. J. Arberry, op.cit. Vol.II, p.220.

8. The metre of the Arabic text of these verses is Wafir, vide W. Wright, op.cit. Vol.II, p.359.

9. Muhammad b. Isma'īl al-Bukhārī, Sahih al-bukhārī, Vol.VII, (Bulak, 1897), p.9; A. J. Wensinck, op.cit., Vol.I, p.406.

10. Muhammad b. Isma'īl al-Bukhārī, op.cit., Vol.VII, p.104; A. J. Wensinck, op.cit., Vol.I, p.108.

God, the Most High, says: "Muhammad is the Messenger of God, and those who are with him are hard against the unbelievers, merciful one to another."¹¹ God, Exalted be He, refers to those who love His Prophet, peace and blessing of Allah be upon him, with the words "Those who are with him" as a notification of the immense reward which is in store for them. He then describes them as being hard against the unbelievers, merciful one to another, to serve as a reminder (to them) that this (attitude) is a prerequisite for their love for the Prophet, peace and blessing of Allah be upon him. Those who interpreted the phrase 'those who are with him' to mean the companions of the Prophet did not intend to limit the phrase to refer to them exclusively, but the latter were mentioned and not the totality of Muslims out of respect for them and exaggeration in praising them, because they were the foremost leaders of the community and all other lovers of the Prophet were following their footsteps. The meaning is that Muhammad is the messenger of God and those who are with him in the sense that they follow his way (Sunna) in this world (on the day of Resurrection) will be in his company. They are those who believe in him, who are described as his lovers and fierce against his enemies and compassionate to his community. Qadi Abu 'l-Fadl 'Iyād says, may God be pleased with him,

"One of the signs of love for the Prophet, peace and blessing of Allah be upon him, is to love those who love him, peace and blessing of Allah be upon him, and those who are related to him like the members of his household, the companions - the Mahājirān

11. Qur'an 48:29, A. J. Arberry, op.cit., Vol.II, p.229.

and the 'Amsar. Another is to be hostile to those who are hostile to them, and to hate those who hate them."¹² In fact if you love something you should love anything that loves it. This was the practice among the pious predecessors even in the pleasures of the flesh, allowed by the law. Malik b. Anas indeed said, when he noticed the Prophet, peace and blessing of Allah be upon him, following with his hands the gourd in the wooden bowl, 'From that day I became fond of it.'¹³ Out of love for the Prophet one should have sympathy towards one's community; one should give them good counsel and should strive to safeguard their welfare and repel any harm from them, just as the Prophet, peace and blessing of Allah be upon him, used to be compassionate and merciful towards the believers. It is one of the signs of love for the Prophet, peace and blessing of Allah be upon him, that we should hate those who are hated by God or the Prophet, peace and blessing of Allah be upon him, and become hostile to those who are enemies of God and the Prophet. We should be aloof from those who contradict the tradition of the Prophet, peace and blessing of Allah be upon him, and make evil innovation in his religion, and be annoyed with all those who violate the shari^ca law.¹⁴ God the Most High says, 'Thou shalt not find a people who believe in Allah and the Last Day who are loving anyone who opposes God and His Messenger, not though

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12. Al-Maghilī is quoting from the Shifa' of Qadi Iyād (476-544/ 1083-1149), vide Ahmad Shihab al-Din al-Khafajī, Nasim al-riyad fi sharh shifa' al-qadi iyad, Vol.III, (Cairo, 1898), pp.406-407. For the biography of Qadi Iyād vide M. Talbi, Biographies Aghlabides, (Tunis, 1968), pp.5-22.
13. Muhammad b. Isma'īl al-Bukhārī, op.cit., Vol.VI, p.196; A. J. Weinsinck, op.cit., Vol.II, (1938), p.107.
14. Vide Ahmad Shihab al-Din al-Khafajī, op.cit., Vol.III, p.411.

they were their fathers, or their sons, or their brothers, or their clan.¹⁵ We should consider how the companions of the Prophet, peace and blessing of Allah be upon him, killed their beloved ones,¹⁰² and fought their parents and children in seeking the pleasure of the Prophet, peace and blessing of Allah be upon him. One day the son of Abdullah Ubay said to the Prophet, 'If you wish I shall bring you his head,' meaning the head of his father." This is the end of what I quote from Qadi Iyad.¹⁶

A brother informed me that Sayyid Ibrahim Masmudi,¹⁷ the pivot of Tilimsan in those days, used to sit with one of the perfume sellers in his shop. One day he went to him as he was accustomed to do, but alas! he saw a Jew standing by him so the Shaykh Ibrahim returned to his

15. Qur'an 58:22; A. J. Arberry, op.cit., Vol.II, p.266.

16. Ahmad Shihab al-Din al-Khafaji, op.cit., Vol.III, p.411.

17. It is not clear which Ibrahim al-Masmudi al-Maghili is referring to here because there were at least two with that surname:-

(i) Ibrahim al-Masmudi was a contemporary of al-Maghili. He died in 912/1506. Vide Ahmad Baba, Nayl al-ibtihaj bitatriz al-dibaj, in the margin of al-Dibaj al mudhahhab fi ma rifat a yan 'ulama' al-madhhab, (Cairo, 1932), p.58.

(ii) Ibrahim al-Masmudi, a Tilimsanian, who died in 803/1400. Vide Ahmad b. Muhammad Ibn al-Qadi, editor, Muhammad Abu'l Nur Durrat al hijal fi asma' i 'l-rijal, (Cairo, 1970), p.184. It is very probable that al-Maghili's reference was to this al-Masmudi for two reasons: This was a Tilimsanian who died long before the time of al-Maghili. In his reference to him he used the phrase "the pivot of Tilimsan in those days" which indicates a time other than that of al-Maghili.

house. When the perfume seller knew what had happened he went to the house of the Shaykh and sought audience with him, but the latter slammed the door in his face and refused to open it, saying, You should not receive a lover of God and His Messenger with the face with which you received an enemy of God and His Messenger. In addition, another brother gave me information concerning Hibatullah, who was a pious learned man. At one time he was passing through the wadi Dar^Cah, where he stayed for some time without ever approaching the castle of the Banī Sabih because of the allies of the Jews. One day, however, he was going out on some matters when he came in line with their castle. He lifted his clothes off his legs and said to his disciples "Run fast so that if divine malediction should descend on the allies of the Jews you will not also be affected." He continued running with his disciples until they were out of line of the castle.

This is the true description of the lovers of the Prophet and their attitude towards his enemies and those who associate with them, even if they happen to be their parents, children, brothers or relatives. How false is the claim of some people that they believe in the Prophet and love him and who at the same time¹⁰³ bring near to themselves and their families the enemies of the Prophet. Furthermore, they befriend his most bitter enemies. They go to the extent of boycotting his lovers and drawing unto themselves the Jews and fighting the ulama'. "Those are they that disbelieve in their Lord; those - on their necks are fetters; those shall be the inhabitants of the Fire therein dwelling forever."¹⁸

18. This is a borrowing from Qur'an 13:5; A. J. Arberry, op.cit. Vol.I, p.268.

God, Exalted be He, says:

"O believers, take not Jews and Christians as friends; they are friends of each other. Whoso of you makes them his friends, is one of them. God guides not the people of evildoers.¹⁹

Give thou good tidings to the hypocrites that for them awaits a painful chastisement. Those who take unbelievers for their friends instead of believers - do they seek glory in them? But glory altogether belongs to God.²⁰

Thou seest many of them making unbelievers their friends. Evil is that they have forwarded to their account, that God is angered against them, and the chastisement they shall dwell forever. Yet had they believed in God and the Prophet and what has been sent down to him they would not have taken them as friends, but many of them are ungodly.²¹

Thou shalt not find any people who believe in God and the Last Day who are loving to anyone who opposes God and his Messenger not though they were their fathers, or their sons, or their brothers, or their clan.²²

O believers, take not your fathers and brothers to be your friends, if they prefer unbelief to belief; whosoever of you takes them for friends, those - they are the evildoers.²³

O believers, take not the unbelievers as friends instead of the believers; or do you desire to give God over you a clear authority?²⁴

104 // Let not the believers take the unbelievers for friends, rather than the believers - for whoso does that belongs not to God in anything - unless you have a fear of them. God warns you that you beware of Him, and unto God is the homecoming."²⁵

and so forth. There are other verses (dealing with the subject). It was in this connection I composed these verses ...

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19. Qur'an 5:56; A. J. Arberry, op.cit., Vol. I, p.136.
 20. Qur'an 4:138; A. J. Arberry, op.cit., Vol.I, p.121.
 21. Qur'an 5:83-84; A. J. Arberry, op.cit., Vol.I, p.141.
 22. Qur'an 58:22; A. J. Arberry, op.cit., Vol.II, p.266.
 23. Qur'an 9:23; A. J. Arberry, op.cit., Vol.I, p.209.
 24. Qur'an 4:144; A. J. Arberry, op.cit., Vol.I, p.121.
 25. Qur'an 3:27; A. J. Arberry, op.cit., Vol.I, p.76.

The love of the Prophet necessitates hating the Jews. Regret what has passed and do not do it again.

the enemies of the Prophet

The one who is intimate with [the Jews] when he goes to the grave and on the day of Resurrection will be directed to the burning fire. Who will there be to rescue him when the Fire approaches the face with which he pleased the Jews.²⁶

As for showing that such a man has no sense, (this I will do, both by rational argument and by reference to the text of the shari^ca.)

The beginning of wisdom in a man is to keep open those doors through which benefit may come and to close those which may admit harm. This is an instinct with which God has imbued even animals. No donkey would see advantages for himself without going near to them, and no donkey would observe the possibility of being harmed by anything without going away from it. Every intelligent person knows that the greatest source of benefit is his friends and the greatest source of harm is his enemies. Consequently every sensible man should be near to his friends and be away from his enemies, as far as he can. This is very obvious and cannot be hidden from anyone. Whoever this is hidden from, he is less intelligent than a donkey.

105 // If you understand that, you realise that whoever does not take himself, his family, his property, his affairs and anything belonging to him from the unbelievers is more stupid than a donkey. In reality we have no enemy like the enemies of our Prophet, our master and saviour, Muhammad, may God bless him and give him peace, especially the brothers of the monkey - they are our most bitter enemies. God the Most High says, "Those unbelievers of the People of the Book and

26. The metre of the Arabic text of the verses is Rajaz. Vide W. Wright, op.cit., Vol.II, p.360.

idolaters wish not that any good should be sent down upon you from your Lord!"²⁷ He, Exalted be He, also says, "They wish that you should disbelieve as they disbelieve, and then you will be equal."²⁸ He, the Most High, also says, "Thou wilt surely find the most hostile of men to the believers are the Jews and idolaters!"²⁹

Many of the People of the Book wish they might restore you as unbelievers, after you have believed, in the jealousy of their souls, after the truth has become clear to them.³⁰

O believers, if you obey a sect of those who have been given the Book, they will turn you, after you have believed, into unbelievers;³¹ etc.

A friend of mine, who was a judge in one of these territories told me that, when he came to it as a judge he took to his service a Jew. He said, "I made a blunder in appointing him as I thought that making him serve me was a kind of degradation to him. He used to manage my affairs and pretended that he was serving my interests (lit. he was giving good counsel), but one day I gave him my clothes to wash for me, and because I did not trust him to go away with them I made him wash them before me. He was washing them before me when a desire to do something occurred to me; so I went inside to do it but when I came back in haste I found him urinating over my clothes. I tied him up and gave him a good beating. I repented and henceforth dissociated myself from all the enemies of God.

27. Qur'an 2:105; A. J. Arberry, op.cit., Vol. I, p.41.

28. Qur'an 4:89; A. J. Arberry, op.cit., Vol.I, p.113.

29. Qur'an 5:82; A. J. Arberry, op.cit., Vol.I, p.141.

30. Qur'an 2:109; A. J. Arberry, op.cit., Vol.I, p.41.

31. Qur'an 3:100; A. J. Arberry, op.cit., Vol.I, p.86.

A person told me also that he saw a Jewess mixing bread flour for a Muslim. He observed that she was picking her nose with her hand and continuing to mix the flour without washing her hand.

A second person also told me that he saw another Jewess mixing bread flour for a Muslim. He saw her picking lice from her head and killing them with her nails and continuing mixing the flour without washing her hands. There are many stories of this nature. None can suspect the credibility of these and greater than these except one who is blind of perception. Do you not see that Allah the Most High has said?

"O believers, take not for your intimates outside yourselves; such men spare nothing to ruin you; they yearn for you to suffer. Hatred has already shown itself out of their mouths, and what their breasts conceal is yet greater. Now we have made clear to you the signs, if you understand."³²

As for demonstration that such a man has no integrity, this also I will do by evidence of reason and by reference to the shari^ca sources. Everyone having zeal and determination and having clear conscience should avoid with heart and limb anyone who considers him to be inferior, or who attempts to abuse him, even if he happens to be the nearest person among his people - such as his father or mother. This is why you often find disunity between relations especially if some of them ridicule the school of thought of others or if they denounce their religion. This is why the saying goes:-

In every hostility there is hope for friendship, except in the hostility of one who becomes enemy because of religion.³³

32. Qur'an 3:118; A. J. Arberry, op.cit., Vol.I, p.88.

33. The metre of the Arabic text is Basit. Vide W. Wright, op.cit., Vol.II, p.359.

And we know very well how the unbelievers criticise us and invent lies about our religion especially the monkey-like people - the Jews. They are, indeed, ¹⁰⁷ the most hostile people against us and against our beloved Prophet, peace and blessing of Allah be upon him, our master and saviour. How inadequate is the zeal of those who do not run away from them in character, person and mind! How mean are those who allow them to come near them! Whenever one of them considers us his whole attitude reveals the hatred, abuse, slander, criticism of us and our religion which is typical of them. It is because of this that they go to the extent of prohibiting themselves from eating what we have slaughtered and the food which we have prepared. Similarly, they will not cook in our pots or eat from our dishes. The worst of all is that they criticise our religion, mock our prayers and insult our master and saviour Muhammad, peace and blessing of Allah be upon him. That is why God says:

O believers, take not My enemy and your enemy for friends offering them love, though ³⁴ they have disbelieved in the truth that has come to you.

O believers, take not as friends those of them who were given the Book before you, and the unbelievers, who take your religion in mockery and as a sport - and fear God if you are believers. ³⁵

³⁶
Al-Qarāfi and others related that the Caliph became angry with

34. Qur'an 60:1; A. J. Arberry, op.cit., Vol.II, p.271.

35. Qur'an 5:58; A. J. Arberry, op.cit., Vol.I, p.137.

36. Abu'l Abbas Ahmad b. Idris b. Abdurrahman al-Qarafi, a famous Maliki jurist, is the author of many books. He lived in Egypt and died in the year 684/1285. Vide Ibrahim b. Farhun, op.cit. pp.62-67. Al-Maghili was quoting from one of al-Qarafi's works entitled al-Furuq, Vol.III, (Cairo, 1927), pp.14-16.

Shaykh Abu al-walīd³⁷ al-Tūrtūshī and gave instruction for him to be brought (arrested), intending to harm him. When the Shaykh entered into his audience he saw a representative of the Jewish monks sitting by his side. The Shaykh, may God have mercy on him and be pleased with him, said (in verse):

"O king whose generosity is sought by the traveller and interested person,

108 // The person through whom you become noble is alleged by this (person sitting by your side) to be a liar.^{37a}

The Caliph became enraged with anger against the hermit when he heard the verses and ordered him to be dragged down, beaten and killed. The Caliph turned to the Shaykh Abu al-walīd and respected him and honoured him whereas he had previously resolved to harm him.

This great blessing came to the Shaykh and the Caliph because of their recalling the hatred of the hermit against the Prophet, peace and blessing of Allah be upon him. The Shaykh, may Allah be pleased with him, took no notice of his fear of the anger of the Caliph and his intention to injure him and so God protected him and brought goodness to him. God changed the mind of the Caliph so that

37. The correct by-name of al-Tūrtūshī is Abu Bakr and not Abu 'l-Walīd. His name is Muḥammād b. al-Walīd b. Muḥammad Abu Bakr al-Tūrtūshī. Al-Maghīlī's quotation is, however, correct; vide al-Qarafi, op.cit., p.16. Al-Tūrtūshī was born in Spain and he travelled to several Muslim countries and finally settled in Alexandria where he died 520/1126. For his full biography see Ibrahim Ibn Farhun, op.cit., pp.276-278.

37a. The metre of the Arabic text of this poem is Rajaz. Vide W. Wright, op.cit., p.360.

he honoured him and was pleased with him.³⁸

The Caliph, may God have mercy on him, on his side did not take any more notice of the evil intention in his mind against the Shaykh, so God helped him against the evil of his soul and purified him from the intimacy of the enemy of God and His Messenger. He directed him to (a sound action) and invested him with dignity. This is what every believer must do to postulate the hatred of every unbeliever against our Prophet, peace and blessing of Allah be upon him, our beloved master and saviour, Muhammad, peace and blessing of Allah be upon him, and to give thought in his mind to their great hostility against us and their criticism of ourselves, and our religion and to remember also that every unbeliever is a friend and supporter of the accursed devil, our manifest enemy. Satan overcame him (unbeliever) and controlled his senses and the whole of his mind and dragged him by his forelock

38. A variant version of this anecdote was given by a certain copyist, who did not give his name, on the folio of MS.R.A. In it, "a wise and well-mannered man entered into the presence of a certain Caliph and found a dhimmi sitting before him. He chanted the following two poetic verses:-

'O King whose obedience is a bounty,
And whose friendship is an obligation.
The person through whom you become noble,
is alleged by this person to be a liar.'

He then pointed to the dhimmi and demanded that the Caliph should ask the dhimmi about his belief. When he was asked he found no alternative but to say that the Prophet was truthful. He then accepted Islam and protected himself from any harm." The copyist then wondered whether the story told by al-Maghili was the same as this one or another similar incident had taken place.

until he could not make any movement, nor utter a word except in accordance with him (satan's) opinion. Every believer should, therefore, realise, by the light of his belief, that every Jew is but a devil. He should run away from him with his religion so that he (the Jew) may not deceive him unawares. One of the latter's most likely devices is to entice the believer with offers of some of his money, ¹⁰⁹ or by politeness, until he instills in the believer's mind some love for him. Such a thing will inevitably bring forth punishment from the Lord. Another device may be to feed to the believer something of his rotten food or wine, or some ~~Carrion~~, or he may include some interest in his earning.

A Warning

What a Person of the Book makes of food is of three kinds; (a) Food of hatred; (b) Food of unbelief; and (c) Food of deceit. The food of hatred is what they cook for their consumption. This is that part of their food which it is lawful for us to eat with some dismay;³⁹ because Malik, may Allah be pleased with him, discouraged eating it by a Muslim, whether the Jews were under protection or in enemy territory. Sahnūn⁴⁰ says: "Food should not be eaten from

39. Al-Maghīlī is here making a limitation to the extent to which Muslims are allowed to eat the food of the People of the Book. So he found it necessary to reinterpret the Qur'anic verse which simply says ... "and the food of those who were given the Book is permitted to you", ... vide Qur'an 5:5; A. J. Arberry, op.cit., Vol.I, pp.128.

40. For a brief biography of Sahnun see fn.48 of the following chapter in this thesis.

their containers except after being washed. The food of unbelief is what they cook for their churches and their festivals and such like heresies. This is not their food but the food of their unbelief. It is not lawful for a Muslim because it is part of what is slaughtered for belief in a god other than Allah, and was intended to venerate disbelief in the Messenger of Allah. It is but the food of their trickery. It is not lawful for a Muslim to eat it, especially if it is made out of meat because they are known to be a people of deceit, fraud and extreme hostility. How can we trust them to prepare our food or how can we be sure that they have perfected the slaughtering and all that is necessary for us. For this reason it is not lawful for a Muslim to delegate an unbeliever over any of his brokerage, nor buying, nor exchange, because God, Exalted be He, has rights which the Muslims are obliged to preserve and an unbeliever should not be trusted (to safeguard these rights). Whatever they allege that they have slaughtered for us, then it is (definitely) a corpse and whatever¹¹⁰ they allege that they have exchanged for us then it is with interest. It was for this reason that Umar b. al-Khattab decreed that they should never be butchers nor money-changers and that they should be evacuated from all our markets. He said, may Allah be pleased with him,, "Indeed God the Most High gives Muslims a sufficiency of fellow-Muslims; so do not employ an unbeliever in any of your services."⁴¹

41. This was a very favourable evidence for al-Maghili because it was precisely what he wanted to see in Tuwat.

Even, some of what I have said will be enough for those *who* have had previous guidance but only the sensible will take warning. *He* will forgive those who repent and He is the Director to the right path.

10 // Chapter II

Concerning what is obligatory upon the people under protection of paying poll-tax and accepting humiliation. Allah, Exalted be He, says,

"Fight those who believe not in God and the Last Day and who do not forbid what God and His Messenger have forbidden - such men as practise not the religion of truth, being of those who have been given the Book - until they pay the tribute out of hand and have been humbled."⁴²

This is a command of obligation from God the Most High to fight the Jews and the Christians and kill them. Their necks should not be free from the sword except on condition that they pay tribute and are humbled. How could it be appropriate to allow an enemy of the master of the ancients and the moderns amidst the believers in the land of Muslims unless he submit to that which is more painful than burning with fire - i.e. the giving of poll-tax and the humiliation. (It is only) then that he will be left alone with his property (unmolested) because humiliating him with that is more satisfying (healing) to our hearts than killing him and confiscating his property. It is not lawful to allow any of the enemies of the chosen Prophet, peace and blessing of Allah be upon him, in any of the districts, the cities and the rest of the territories except on condition of giving poll-tax and accepting humiliation.

dhimmis The Jizya (poll-tax) is the sum given by any person among the dhimmis who is male, adult, sane, able and cohabiting with the Muslims. (It is due) at the close of every year in the way prescribed by the shari'a. The amount of (Jizya) to be paid by those Jews and their like should be in accordance with the prescription of Umar b. Khattab, may Allah be pleased with him, that is about eight Mithqals. Four mithqals out of eight constitute the basic poll-tax. The additional four mithqals are for allowances for soldiers. These should be paid if the individual unbeliever can afford to pay without difficulty. But if this becomes too difficult only the basic four should be paid. The remaining four should be waived. All this is conditional upon the individual dhimmi not transgressing any of the boundaries set for the protected people. But if there is a violation of any of the stipulations, then nothing should be waived until all the stipulations of the Protected People are honoured. The amount can be reduced in the case of a financially weak person according to his weakness and there is no limit to the smallest amount of poll-tax he can be allowed to pay. It is not paid by one who becomes a Muslim nor by a person unable to pay even a portion of it.

112 // The manner of receiving the poll-tax is this.⁴³ On the day of paying it, they will all gather together in a conspicuous place. They will be on their feet and the guardians of the shari'a will be standing on higher ground holding over their heads that which will make them fear for the safety of their lives; until it is very clear to them and

43. For a discussion on this see next chapter.

others that our intention is to humiliate them not just to receive their property. They will then realise that it is a favour on our part that we receive the poll-tax from them and let them go free. Then they will be summoned one by one for payment. Each individual will receive a tap on his neck after paying the poll-tax. He will then be pushed violently, which will make him realise that he is escaping the sword by paying the poll-tax. This is how the lovers of the master of the ancients and the moderns should deal with his enemies - the unbelievers. Verily, glory is to God, His Messenger and the believers.

It is only the person in authority or a man of good standing that can receive the poll-tax, so that receiving it and spending it is done by the same hand, not by many hands. As for all that which is received by the tribal chiefs from their Jews directly (lit. with their hands), that is not poll-tax at all but bribery for getting appointments, and managing their affairs for them.

Poll-tax is treated in the same way and manner as booty. The way the leaders of justice spend it is by starting with what has to be supplied, for instance, for mending fortresses, supplying (buying) arms and the like. Then the allowances of the family of the Prophet, peace and blessing of Allah be upon him, will be paid, their share being more than anybody else's. Then the salaries of the 'ulamā' and the muzzeins, and anybody who is handling a matter concerning religion and the welfare of the Muslims will be paid according to the discretion of those in charge. The poor people will get their share, the more needy first, then the needy in order of priority until all of them get something if the revenue is enough to cover them all. Then all

people will get their shares, the rich and the richest getting equal shares; the Arab and the non-Arab also getting equal shares.⁴⁴ Should the leader or his deputy, in the absence of the leader, consider keeping the excess of the property or a portion of it to meet incidental circumstances with sincere intention and wise judgement, he may do so. But if the revenue is little, corruption great, and fears become intense, as is the case in this era, then exercise your discretion in expending it according to what circumstances permit. Indeed there is no escaping from receiving the poll-tax from the protected people and humbling them at all times even if they are oppressed and some oppressors are devouring the poll-tax. God Most High says: "God charges no soul save to its capacity."⁴⁵ The Prophet, peace and blessing of Allah be upon him, also says, "If I command you to do a thing, do only what you can." That is why God has not stipulated concerning receiving poll-tax except that it should be hand to hand with humiliation.

As for the (provision) of humiliation, it is intended to enforce degradation and humility upon them in their manner of speech and action and their entire condition until they come under the tramp of

44. Al-Maghili's teachings on the Jizya and how it should be spent look like a kind of political manifesto in which the electors are told what benefits they will get if the new Government comes into being. I am not aware of any jurist who included even the rich as the recipients of allowances from revenue collected through Jizya.

45. Qur'an 2:286; A. J. Arberry, op.cit., Vol.I, p.71.

the foot of every Muslim man and Muslim woman, free-born or slave (male and female). The foremost way in which we can safeguard ourselves against them is to humiliate them in their religion by denouncing everything that contradicts the shari^c of Muhammad, peace and blessing of Allah be upon him, even if it exists in the law of Moses so that nothing should appear before the Muslims of their prayer, recital, and Books. And they should not praise, in the presence of a Muslim, any of their learned men. This is because the Risalah (God's message) concerns religion, and religious confrontation involves religious domination and defeat between them and them; because God Most High says:

"It is He who has sent His Messenger with the guidance and the religion of truth, that He may uplift it above every religion."⁴⁶

If we defeat them in their religion, by forcing them to ¹¹⁴conceal it and bury its teachings (signs), then they are humbled. ^{silver.} So if we have defeated them on that we have certainly saved ourselves from humiliation in religion and the like. But if we have not succeeded in that and their rituals persist, their humiliation is diminished in proportion to what they are able to practise of their religion even if they were to give in return tons and tons of gold and silver and indeed the mere acceptance of such money contradicts the principle of humiliating them.

It is for this that they should not be allowed to initiate a synagogue in any of the Muslim territories, even if they were

to give gold to the weight of the whole earth. How can a believer sell something of the honour of Islam to the enemies of God and His Messenger in return for these worldly vanities? ... "yet unto God belong the treasures of heaven and earth, but the hypocrites do not understand."⁴⁷ Give though good tidings to the hypocrites that for them awaits a painful chastisement. Those who take unbelievers for their friends instead of believers - do they seek glory in them? Nay, they will not get any glory from them because glory altogether belongs to God.⁴⁸ It is for this reason that the Prophet, peace and blessing of Allah be upon him, says: "Neither a Jewess or a Christian should be erected among you."⁴⁹ - meaning synagogues and churches. The Messenger of God, peace and blessing of Allah be upon him, says, "Demolish synagogues and churches." He, peace and blessing of Allah be upon him, also says, "There should not be two directions of prayer in a single town."⁵⁰ Prophetic sayings and traditions on this subject are numerous. ⁴⁹⁶³ Umar b. al-Khattāb, may God be pleased with

47. Al-Maghīlī is here borrowing from Qur'an 63:7. He is not quoting from the Qur'an because he does not start with the usual "God Most High says". He is only using the wording of the Qur'an which gives him exactly what he wants to say. This method of al-Maghīlī of borrowing from the Qur'an sometimes confuses his readers to suppose him to be quoting something when he is actually putting forward something as his own. Vide A. J. Arberry, op.cit., Vol.I, p.280.

48. Qur'an 4:138; A. J. Arberry, op.cit., Vol.I, p.121. This is also one of his borrowings.

49. This Hadith is not to be found in all the standard works of Hadith catalogued by Wensinck.

50. This Hadith is recorded in the Sunan of Abu Dawūd. Vide Dawūd Sulayman b. Al-Ashath, Sunan, Vol.II (Cairo, 1863), p.29.

him, said: "There should never be a church in a Muslim territory."

He gave orders that any church that had not been [in existence]

before Islam should be demolished. He then forbade any new church

to be built.⁵¹ There is a consensus of opinion on this - there is

no difference of opinion among the learned Muslim leaders - that it

is not lawful to initiate a church in any place in the Muslim terri-

tory nor for them¹¹⁵ to set up a room for their prayers nor anything of

their heresies even if they were to give for that an earthfull of gold.

The same rule applies even if the piece of land on which they intend

to do that (to erect a synagogue) is their own possession by purchase

or any other method of possession. If a sultan or a judge gave them

permission to do that, it would be obligatory upon Muslims to nullify

their permission and to demolish what the dhimmis built (might have

built); because no-one's permission nor decision could prevent the

upholding of the truth nor the changing of that which is disapproved

of, whoever that person might be, even if a long time had elapsed.

Is it the judgement of pagandom then that they are seeking? Yet who

is fairer in judgement than God, for a people having sure faith?⁵²

In this time of great evil the practice in cities and the silence of learned men and virtuous people should not be taken as evidence

51. Al-Maghili is here quoting from Abu Bakr b. Walid al-Turtushi, Sirajal-muluk, on the margin of Al-muqaddima, of Ibn Khaldun, (Cairo, 1893), pp.286-87.

52. This is a borrowing from Qur'an 5:55; A. J. Arberry, op.cit., Vol.I, p.136.

because affairs nowadays are in the hands of the lords of caprice, not in the lands of the lords of piety. What do they desire, another religion than God's? To Him belongs whoso is in the heavens and the earth, and to Him shall all be returned?⁵³

Do you not see that the Shaykh Abu 'l-Hassan al-'Ash^cari,⁵⁴ the leader of the followers of the Sunna (way of the Prophet) has given a fatwa (decision): "If a Muslim builds a church he becomes an unbeliever." He says: "It will be an apostasy in his own case because this will inevitably signify his intention of unbelief." Qarāfi quoted this from him in his book entitled Kitab al-Jam^c' wa 'l-furuq and this is obvious.⁵⁵

116 // Chapter 3

Concerning the insolence, tyranny and rebellion against the provisions of the shari^ca law of the Jews of this age of most countries, because of the support they receive from the people of authority

53. This is yet another borrowing from Qur'an 3:83; A. J. Arberry op.cit., Vol.I, p.85.

54. Ali Ibn b. Ismail Abu Musa al-Ash^cari, a descendant of al-Ash^cari, the famous companion of the Prophet. The founder of the school of theology which tried to strike a compromise between the extremism of the rationalists and the rigidity of the conformists. He was born at al-Basra in 260/873 and died in 334/945. Vide Ibrahim Ibn Farhun, op.cit., pp.193-96; Hammuda Ghuraba, Al-ash^cari, (Cairo, 1953), the whole book; D. Macdonald, Development of Muslim Theology, Jurisprudence and Constitutional Theory, (London, 1903), pp.187-192.

55. Vide Ahmad b. Idris al-Qarāfi, Al-Furuq, Vol.IV (Cairo, 1927), p.118.

and from their service to the Sultan. While dependent on God and seeking His help, I say, "There is no doubt that the Jews mentioned - such as the Jews of Tuwat, Tighurarayn, Tafilalt, Darah and many countries in Ifriqiyya,⁵⁶ and Tilimsan, their lives, property, women and children are lawful (i.e. for the Muslim to kill or possess). The Jews have no right to protection, for the right of protection which can save them from the sword is the one prescribed by the Shari^ca, not the one ordained by ignorance (paganism). Valid protection by the shari^ca is conditional upon paying poll-tax in a humiliating manner. A precedent, reported by Ibn Habban and others on the authority of Abdurrahman b. Ghanam will explain to you the validity of the stand I take. He reported that ^{a letter was written} to ^{re} Umar b. Al-Khattab, may God be pleased with him, when he concluded a peace treaty (truce) with the Christians of Syria. He ^{re} is the letter:

"In the name of God the Merciful, the Compassionate. This is a letter to the servant of God, [Umar b. al-Khattab,] commander of the faithful, from the Christians of Syria, 'When you came to us (conquered us), we asked from you security for our lives, our families, our property and for all the followers of our religion. We took upon ourselves (an undertaking) that we shall not initiate in our cities and surroundings neither a convent, nor a church, nor a synagogue, nor a monk's cell. Nor shall we renovate that which becomes old and delapidated. Nor shall we debar any Muslim from our churches by might or by day. We shall open its doors to passers-by and travellers. We shall also accommodate those Muslims who pass by our place for three nights during which we shall feed them. We shall not shelter (allow to be sheltered) either in our houses or churches any spy and we shall not conceal a plot against Muslims. 117

of some

56. See Map on p. 318 for the position of these places.

We shall not teach our children the Qur'an. We shall neither display nor propagate our religion - shari'a - nor shall we call anyone to it. We shall not prevent anyone among our relations from accepting Islam if he so wishes. We shall respect Muslims and rise for them from our sitting places if they wish to sit. We shall not imitate the Muslims in their dress, nor in their caps, turbans nor shoes, nor imitate their parting of the hair. We shall not speak with their speech nor use their nicknames. We shall not ride on saddles nor gird on swords. We shall not keep with us any weapon nor carry it with us. We shall not engrave our rings with Arabic. We shall not sell wine. We shall also cut our forelocks. We shall perpetuate our dress wherever we are. We shall gird belts on our waists. We shall not display our crosses nor our scriptures anywhere in the streets of Muslims nor in their markets. We shall not ring our bells in our churches except lightly. We shall not raise our voices when reading in our churches in the presence of Muslims. We shall not take out Easter Sunday nor Palm Sunday processions. Nor shall we raise our voices when carrying our dead. We shall not display our fires in their streets nor markets. We shall not go past them with our dead. We shall not seek to possess slaves if they have fallen to the lot of Muslims.'

When this letter reached Umar, may God be pleased with him, he added these words: "we shall not harm any Muslim". We made this stipulation to you upon ourselves and the followers of our religion and it is according to it that we accept security and protection and if we dishonour any of the stipulations we lose the right of protection. It is lawful for you to do to us what is lawful for you to do against rebels and enemies.

118 // Umar, may God be pleased with him, wrote to him, "You should sign this treaty but you should add these two clauses which I stipulate for them in addition to what they stipulated for themselves: They shall never buy any Muslim captives. Whoever wilfully beats a Muslim has made a breach of the contract. 57

57. For a full critical analysis of this Covenant see A. S. Tritton, The Caliphs and their non-Muslim Subjects, (London, 1930), pp.5-17.

It is on this document that the learned people of all the schools depend for regulations regarding the People of Protection (Dhimmi), except that they differ among themselves as to what constitutes a breach of contract. An opinion is expressed in the Dhakhira where Ibn Hazm⁵⁸ says: "One of the categories of Ijma^c (consensus of opinion) is where the ^culama' differ concerning the breach of contract by a dhimmi with its subsequent legal sanction of killing him and seizing his property and family if he does not honour any of what we shall mention below:-

They shall give four mithqals of gold at the end of every lunar year. The change for a gold dinar is twelve dirhams. They shall not initiate a church, a synagogue, a convent or a monk's cell. They shall not renovate what becomes dilapidated. They shall not prevent Muslims from putting up in their churches and synagogues by night or by day, and they shall leave their (synagogue) doors open for lodgers for the purpose of giving hospitality to those Muslims who pass by them for three nights. They shall not receive in their houses any spy. They shall not conceal a deception against the Muslims. They shall respect them. They shall not teach them the Qur'an. They shall not prevent them from embracing Islam.

58. Ali b. Ahmad popularly known as Ibn Hazm was the expounder of the Zahirite School of thought. An Andalusian who broke away from Taqlid and championed the cause of deductions direct from the Qur'an and the Hadith. He died in 456/1063. Vide D. Macdonald, op.cit. pp.209-12.

They shall respect Muslims and shall rise for them from their sitting places. They shall not imitate the Muslims in anything of their clothing nor in the parting of their hair. They shall not speak with their speech (in their language) nor adopt their nicknames. They shall neither ride on saddles nor gird on any weapon nor carry it on themselves nor possess it. They shall not inscribe on their rings any Arabic. They shall never sell wine. // ¹¹⁹ They shall cut their forelocks and tie girdles round their waists. They shall not display the cross nor pass by Muslims with their dead. They shall not display filth in the path of Muslims. They shall lower the sound of their church bells and of their own voices. They shall not display anything of their rituals. They shall not seek to possess slaves if they have fallen to the lot of Muslims. They shall not expose the Muslims before their enemies. They shall not beat a Muslim nor abuse him nor make him serve them. They shall not cause any Muslim to hear anything of their unbelief.⁵⁹ They shall not abuse any of the Prophets of God, may the peace and blessing of Allah be upon them. They shall not display wine, nor marry a cognate relative. They shall lodge Muslims among them. Whenever they violate any one of these stipulations, the 'ulamā' are not unanimous as to their breach of contract (which would justify) killing them and seizing them as slaves."

59. This is part of the Covenant of Umar repeated. Al-Maghīlī is here quoting from Ibn Hazm whose statement was apparently quoted by Ali b. Bassam in his Al-dhakhira fi mahasin ahl al-jazira.

You can see how the ulama' differ on the question of their breach of contract, killing them, when the violation of only one stipulation is involved. What will you say about Jews who uphold not even one of the stipulations. They have in fact rebelled against the injunctions of the shari'a by living in the neglected areas and by clinging to the authorities and using their own wealth to discriminate against those ulama' who cause them to be humiliated. There is no difference of opinion concerning their breach of contract or about the obligation to kill them and confiscate their property. The difference of opinion is only when the Jews break one of the stipulations but do not persist in and perpetuate it. If anyone breaks any of the stipulations and persists in so doing, there is no disagreement (among the jurists) concerning his breach of contract, and killing him and confiscating his property then becomes an obligation because his action is really a rebellion against the shari'a law. Any Jew who attaches himself to the service of a king or a vizier or a judge or any important person has made a breach of contract and it is lawful (for Muslims to do what they like with) his life and property. This is because the mere clinging to the people of authority nullifies the stipulations of protection, which include humiliation. The greatest crime is rebellion against the shari'a law, especially as it happens nowadays. the imām,

120 // I was informed by a friend in the authority of al-Qaysi that a Jew who was under the service of Sultan Abu Inan (Uthman) became so conceited that he altered for a child something of the Qur'an and that was when he was passing by a boy who was asking how to read

these words of God ... "He who seeks a religion other than Islam that will not be accepted [by God] of him." The Jew said to him, say, "He who takes Islam as a religion that will not be accepted [by God] of him."⁶⁰ Thus the Jew dropped the words "other than". When the boy read that before his teacher, the teacher disapproved of it, and said to him, "who taught you this?" The boy said "A man who has just passed by." He (the mu^callim) said "You must show him to me." The boy kept lying in wait until he met the Jew, and he showed him to his teacher. The teacher immediately went to a shaykh with whom the Sultan used to revise his reading of the Qur'ān weekly, and informed him. The Sultan used to send a horse to the shaykh so that he could ride and go to him. When the horse reached him he mounted it and went to the Sultan. He did not mention anything to him (about the incident). He started revising his piece of the Qur'ān from a tablet and by coincidence there was written on the tablet: "O believers, take not Jews and Christians as friends, they are friends of each other. Whoso of you makes them his friends is one of them."⁶¹ When the Sultan read this portion the master said to him, "Repeat", and he repeated. He said to him again, "Repeat" and he repeated. He kept repeating and the shaykh asking him again and again to repeat until the Sultan put down his tablet and went out to the swordsman and said to him, "If I come out and I do not find the

60. Qur'ān 3:85; A. J. Arberry, op.cit., Vol.I, p.85.

61. Qur'ān 5:56; A. J. Arberry, op.cit., Vol.I, p.136.

head of that Jew on the right side of the road and his body on the left, I shall put you in his place." The Sultan returned to his place. He continued to improve the reading of the piece of the Qur'an on his tablet until he had finished. ¹²¹ The master rose and the Sultan followed him, escorting him as usual. Behold, they saw the Jew lying dead according to the instruction of the Sultan. The Shaykh then remarked, "Whatever is this?" The Sultan said, "This is due to your making me repeat that verse." The shaykh then told him the whole story about what the Jew had done. No one will hesitate to strike off the necks of the afore-mentioned Jews except one of those impostors, misguided themselves and misleading others, who have bought the life of this world with that of the next. Their bargaining brings no profit and they are not in the right path.⁶² I swear by Him in Whose hands is my life, that to kill a single Jew is more rewarding than waging a war in the land of polytheists. Seize them and kill them wherever you find them, confiscate their property, capture their children and women in every place until they submit completely to the prescription of the shari^c law. They must submit to the giving of poll-tax and to humiliation. Those captured must be put in chains and shackles and they must be toured in all districts at all times. This is to celebrate the sanctity of the shari^c and the nobility of the Prophet, peace and blessing of Allah be upon him.

62. This is an iqtibas from two different verses. Qur'an 1:86 and Qur'an 2:16. A. J. Arberry, op.cit., Vol.I, pp.39 and 31 respectively.

He who tries to undo any of those chains and shackles from the neck of any of the unbelievers has really turned away from God and His Messenger and he will be thrown together with them into Hellfire. Behold the saying of God the Most High: "Verily, those who turn away from God and His Messenger, those are among the most abject⁶³ and follow not the steps of Satan, he is a manifest foe to you. He only commands you to evil and indecency, and that you should speak against God such things as you know not."⁶⁴ Woe to the supporters of these Jews. It is they who help them to transgress the bounds of the law. They are those who disbelieve in their Lord and there shall be put on their necks shackles, and they are the dwellers in Hell-fire and therein they will be for ever.⁶⁵

122 / Concerning such people I compose the following verses:

I disassociate myself from the party of the helpers of the Jews and return to the loving Lord.⁶⁶

I mean those people who despise their own religion and respect that of the Jews.

It is sufficient for a youth (to know) their disgrace and the vile-ness of the source of their clay (from which they were made),

That they curtail the honour of their religion and exalt the religion of the Jews.

63. Qur'an 58:20. A. J. Arberry, op.cit., Vol.II, p.266.

64. Al-Maghili is here borrowing from the Qur'an not quoting. Vide Qur'an 2:168. A. J. Arberry, op.cit., Vol.I, p.49.

65. This is an igtibas from Qur'an 13:5. A. J. Arberry, op.cit. Vol.I, p.268.

66. The metre of the Arabic text of this poem is Rajaz. Vide W. Wright, op.cit., Vol.II, p.360.

Would that they might reflect, reconsider their affairs and appreciate their position,

And conceal what they have revealed of their support of the community of the Jews.

Do you not see how the Lord of Creation decreed in the past?

How can he achieve God's pleasure, he with whom the Jews are pleased?

There is no doubt that truth is like a light which does not become unsalable in any market.

The patient Lord will support it against the Christians and the Jews.

O my Lord, (I pray you) through your Prophet, the chosen, the guiding, the pure,

And through every Pole (i.e. a great saint) and Saint, that you disappoint the supporters of the Jews.

Pour calamity on top of them and annihilate the remains of their riches.

And open for them after their annihilation a door to the burning Hell-fire.

Except those who repent and mend what they have broken (damaged),
And reveal what they concealed, so that penalties can be inflicted.
Forgive them for what has passed and record on their behalf your pleasure,

And hasten with those among them who die to the Gardens of Perpetuation (Paradise).

O believers, come back all of you, to God that you may escape (punishment). Obey God and the Messenger so that you may prosper.⁶⁷

Let there be one nation of you, calling to good, and bidding to honour, and forbidding dishonour; those are the prosperers.

Be not as those who scattered and fell into variance after the clear signs came to them; for those there awaits a might chastisement, the day when some faces are blackened and some faces whitened. As for those whose faces are blackened - "Did you disbelieve after you had believed?" But as for those whose faces are whitened, they shall be in God's mercy, therein dwelling forever.⁶⁸ May God benefit me along with you with the great Qur'an. May He bless me along with you wish what it contains of signs and wise discourse. I ask God's forgiveness for me and you and the rest of the Muslims. Ask His forgiveness because He is forgiving and merciful. The best formula for asking forgiveness is this: "You are my Lord, there is no God but You, You created me and I am Your slave (servant). I have given an undertaking and a promise to serve You according to my ability. I seek refuge with you against the evil of what I did. I acknowledge your bounty to me and make a confession of my sins. Forgive me. It is only You who forgive sins. O, God, bless the Prophet, who does not read, bless his wives - the mothers of the believers - bless his offspring and the people of his house, as you blessed Abraham and his family in the universe. Verily you are greatly

67. An iqtibas from the last portion of the Qur'an 24:31. A. J. Arberry, op.cit., Vol.II, p.50.

68. Qur'an 3:100-2; A. J. Arberry, op.cit., Vol.I, p.87.

thanked and respected. Give him abundant peace, good and blessed.
Peace be unto the Apostles. Grace be to God, the Lord of the
Universe.

AL-MAGHILĪ'S RULINGS IN THE TA'LIF1. The Muwālāt

The previous chapter gives a direct translation of the entire teachings of al-Maghilī in the Ta'lif. I shall try in the following chapters to discuss the important conclusions drawn in the treatise in order to see their position in the general context of Islamic teachings.

One of the problems treated by al-Maghilī is the kind of association that can occur between Muslims and non-Muslims. By non-Muslims he means the Ahl al-Kitāb (the People of the Book), namely Christians and Jews. His general rulings have wider implications, but his immediate concern is the relationship with the Jews of Tuwāt. He teaches that the Muslims are not to have any dealings with the Jews, whether in commerce or service. They are also not to eat the food of the unbelievers.¹ Al-Maghilī quotes several verses of the Qur'an as evidence for his views. The verses which relate to the question of friendly relations are the following:-

Give thou good tidings to the hypocrites that for them awaits a painful chastisement. Those who take unbelievers for their friends instead of believers - do they seek glory in them? But glory altogether belongs to God.²

Thou seest many of them making unbelievers their friends. Evils that they have forwarded to their account that God is angered against them, and in the chastisement they shall dwell forever. Yet had they believed in God and the Prophet and what has been sent down, they would not have taken them as friends; but many of them are ungodly.³

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1. Al-Maghilī, Ta'lif fi mā yajib^c alā'l-muslimīna min ijtināb al-kuffar, see Chapter IV, pp. 108 - 110.
 2. Qur'an, 4:138, A. J. Arberry, The Koran interpreted, Vol. I, (London, 1955), p.121.
 3. Qur'an 5:80; Ibid., p.141.

Let not the believers take the unbelievers for friends, rather than the believers for whoso does that belongs not to God in anything - unless you have a fear of them. God warns you that you beware of Him, and unto God is the homecoming.

O believers, take not Jews and Christians as friends, they are friends of each other. Whoso of you makes them his friend is one of them. God guides not the people of evildoers.

Thou shall not find any people who believe in God and the Last Day who are loving to anyone who opposes God and His Messenger, not though they are their fathers, or their sons, or their brothers or their clan.

What al-Maghilī is trying to establish by quoting these verses is that Muslims are not allowed to have any feelings of friendship nor any dealings of any kind with the unbelievers. - in this case the Jews. Should they become guilty of such relationships then they become unbelievers themselves. Because of the great importance of these two major rulings, during his time and several centuries later, it is very necessary that an examination is made of these verdicts in the general context of Islamic teachings. The first step is to discover whether the interpretation given by al-Maghilī to these verses is the one generally accepted by earlier scholars, by his contemporaries and by scholars of later periods.

The key word in four out of the five verses is wala' or muwalat, which is commonly rendered in English as 'friendship' but which has, in fact, several other denotations, among which are 'alliance', 'following',

4. Qur'an 3:28, A. J. Arberry, op.cit., Vol.I, p.76.

5. Qur'an 5:51, Ibid., p.136.

6. Qur'an 58:22, Ibid., Vol.II, p.266.

'responsibility', 'helping', etc.⁷ Al-Maghīlī has taken the word with all its shades of meaning and has taught, as we have already seen, that all acts of alliance, helping, befriending, loving, etc., are prohibited. In other words, Muslims are not allowed to be in any alliance with the People of the Book, nor to befriend them, nor to love them, nor to have any dealings with them in any way. Judging from the circumstances under which these verses were revealed and from what the Qur'an commentators of old and the present have said about them, it is abundantly clear that the meaning of wala' is entering into alliance with unbelievers to fight the religion of Islam. To see the full significance of this we must have a closer look at the verses. Qur'an 4:138 was revealed in Medina between the years 6 - 8 A.H.⁸ (628-630) and it was directed to Medinan hypocrites who were not Muslims at heart and who were in the habit of entering into alliance with the Jews in order to destroy Islam and Muslims.⁹ So it was when the security of Muslims was at stake that this verse was revealed; the intention appears to have been to draw attention to the underlying danger and to frighten the hypocrites so that they would desist from their action and become good Muslims.

7. J. G. Hava, Arabic English Dictionary, (Beirut, 1964), pp.894-95.

8. See S. Qutb, Fi zilāl al-qur'an, Vol.II, pt.4. (Beirut, n.d.), p.189. He mentions that some sections of the Sura were revealed in the sixth year of the Hijra and some were revealed in the eighth year, i.e. between 628-630 A.D.

9. Ibid., pt.5, p.238.

The second verse¹⁰ was also revealed in Medina. It was, in the opinion of the majority of the Qur'an commentators¹¹, a reference not to Muslims or to the hypocrites but to the Jews. The verse alluded to the occasion when the Jews in Medina were entering into alliance with the polytheists against Islam and Muslims. So here again it was the fate of religion which was in danger. It was in fact calling upon the Jews to believe in their own Book and their own Prophet, because if they did that they would also eventually believe in the Prophet Muhammad - the Islamic view is that the People of the Book are commanded in their own Book to believe in Islam and the Prophet Muhammad.¹²

Thus we can see that these two verses were treating a particular situation and were directed not to Muslims but in fact to non-Muslims, hypocrites and Jews. So the ruling which can be deduced from them when a similar situation arises is a prohibition of alliance with non-Muslims by non-Muslims, or by Muslims to fight the religion of Islam.

The other two verses¹³ in which the word wala' is used are clearly addressed to the Muslims, but here again the meaning of alliance is obvious in the two verses, because in the first place it has been mentioned by other commentators¹⁴; in the second, the circumstances

10. Qur'an 5:83, A. J. Arberry, op.cit., Vol.I, p.141.

11. A. A. Ibn al Jawzi, editor, M.Z. Shawish, Zad al-masir fi 'ulum al-tafsir, Vol.II (Beirut, 1965), p.407.

12. Ibn Taymiyya, Al-jawab al-sahih li man baddal la din al-masih, (Cairo, 1905), Vol.III, pp.282, 309-310 and Vol.IV, p.14.

13. Qur'an 3:27 and Qur'an 5:51.

14. S. Qutb, op.cit., Vol.III pt6, p.174.

under which they were revealed point to the prohibition of an alliance. It was related that one day ^cUbāda b. Ṣamit of Medina said to the Prophet, "O Messenger of Allah, indeed I had Jewish allies but I have disassociated myself from an alliance with the Jews and pledged myself to God." But ^cAbdullah b. 'Ubay said, "Indeed I am a man fearing vicissitudes, I cannot disassociate myself from the alliance with the Jews."¹⁵

The other verse¹⁶ is also attributed to an incident during al-Ahzab (the Battle of the Confederates) when ^cUbāda b. Ṣamit intended to make use of his five hundred Jewish allies to fight the Meccan unbelievers. The verse warned against such action because of its danger.¹⁷ So on the one hand, even in these two verses the prohibition was clearly against entering into alliance with non-Muslims, whether people of the Book or polytheists or unbelievers of any sort, "because they are a united front to oppose you in religion."¹⁸ On the other hand, it is unlawful "to enter into alliance or to befriend because of blood relationship, the kind of friendship of the time of the Jahiliyya. Any love should be in the way of Allah. They would not also seek their alliance in matters of war and other worldly affairs," since this is dangerous for the religion of Islam."¹⁹

15. Ibn al-Jawzī, op.cit., vol.II, p.377.

16. Qur'an, 3:27, A. J. Arberry, op.cit., Vol.I, p.76.

17. Ibn al-Jawzī, op.cit., Vol.I, p.371.

18. Ibid.

19. Abdullah b. Umar al-Baydawi, "Anwar al-tanzil, pt.I (Cairo, 1902), p.111.

We can also see here that the prohibition that can be deduced from these verses is that of Muslims allying themselves to non-Muslims, People of the Book and polytheists alike when the security of the Islamic state and Islamic faith is in jeopardy.

But the fifth verse²⁰ has got, not the word wala' but wud, which has nothing to do with alliance but clearly means 'love', 'befriending' etc. It would appear from the obvious meaning of the verse that Muslims are forbidden to be friendly to unbelievers. This will make al-Maghīlī's opinion conform with the established tradition in Islam. However, if we examine the related causes of the revelation we shall arrive at a different point of view. Several causes have been attributed for the revelation of the verse, one of which was the killing during the battle of Uhud by Abu ^CUbayda b. al-Jarrah of his own father. Another was that during the battle of Badr ^CAmr killed his uncle al-^CAs b. Hishām. A third was when Hātib b. Abī Balta'a wrote (in secret) to the unbelievers of Mecca informing them about the Prophet's decision to wage war on them.²¹

It can be seen that in all three cases, war was involved between Muslims and non-Muslims. So here again the security of the Islamic state and Islamic religion was indeed in danger - the prohibition here is also for the same reason as in the other verses. No friendly relations, no alliance should be allowed between Muslims and non-Muslims when such non-Muslims are in the act of warfare against the Muslims and the religion of Islam. So al-Maghīlī's ruling could only be valid if a similar

20. Qur'an 58:22, A. J. Arberry, op.cit., Vol.II, p.266.

21. Ibn al-Jawzī, op.cit., Vol.VIII, pp.198-199.

situation existed in Tuwāt. Otherwise we shall regard his ruling as an independent judgement of his own which is not supported by the traditional Islamic majority decision on this question.²² This will be discussed when the popular teaching of Islam is considered further.

Our first reference will, as a matter of necessity, be to the Qur'an. There are many verses that touch on the question of what kind of relation should exist between Muslims and unbelievers on the one hand and Muslims and people of the Book on the other. The Qur'anic ruling is that providing there is no war, and providing that the Islamic faith is not being threatened, then there is no harm in having friendly relations with the people of other faiths.

Allah forbiddeth you not that ye should deal benevolently and equitably with those who fought not against you on account of religion nor drove you out of your homes; verily Allah loveth the equitable.²³

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22. Other jurists regarded al-Maghili's teaching as an evil innovation in religion but al-Maghili had attempted to show that the Jews in Tuwāt were, in fact, in a state of rebellion, and therefore acts of persecution against them were lawful. This had been denied by Asnuni, the judge of Tuwāt. See Chapter VI of this thesis.
23. Qur'an 60:8. One of the related causes for the revelation of this verse is an incident which occurred between 'Asma', the daughter of 'Abu Bakr, the first orthodox caliph, and her mother, Qatila Abdul 'uzza. Qatila, when still an unbeliever, visited 'Asma' in Medina but 'Asma' refused to receive her and to accept her gift. This was reported to the Prophet who, after receiving the revelation, directed that 'Asma' should receive her mother, accept her gifts, respect her and be very kind to her. Ibn al-Jawzi, op.cit. Vol. VIII, p.236.
- Other Qur'anic commentators who recorded the same incident are: al-Suyuti in his Durr, Bukhari and Muslim in the Sahihayn, al-Hafiz Ibn Hajar in the Tagrib, al-Wahidi in his Asbab al-nuzul, Ahmad in the Musnad, al-Tabari and al-Hakim in the Mustadrak and several others, Ibid.

The !umum (generality) of this verse covers all non-Muslims, but when the people of the Book are involved the Islamic attitude is even milder. Friendship with a Jew or Christian as a person, which does not at the same time endorse the person's faith, is certainly not only permissible, but indeed regarded as a meritorious deed. This can easily be proved by the fact that Muslims are allowed to marry Jewish or Christian women and to eat in each other's homes.²⁴

It would be absurd to assume that one is allowed to marry a woman but not be allowed to love her or be friendly to her as a person. Similarly, it would be even more absurd in the event of issue in such a marriage to preclude a child of a Christian or Jewish woman from loving his mother or being friendly to her. What is prohibited is friendship which means supporting the belief of the People of the Book at the expense of the Islamic belief. The salient point in the rulings in these verses is to ensure the security of the religion of Islam and the Islamic state.

But not only did al-Maghili regard any form of relationship as unlawful but he also declared any Muslim who dared to have any relation with non-Muslims to be an unbeliever himself. Thus he took the view that any such action was a sign of unbelief. To support his case, he

24. This fact is made abundantly clear in the wording of the Qur'an where it says, "This day all good things are made lawful to you. The food of those who have received the Scripture is lawful for you, and your food is lawful for them. And so are the virtuous women of the believers and the virtuous women of those who received the Scripture before you (lawful for you) when you give them their marriage portions and live with them in honour, not in fornication, nor living with them in sin. Whoso denies the faith, his work is vain and he will be among the losers in the Hereafter." Qur'an 5:5.

made use of the same verses which he had already used to prove the prohibition of the wala' (friendship). Although al-Maghili was associating loss of faith with those who befriend unbelievers, it is not very clear from the wording of the Ta'lif that he was clearly condemning as unbelievers those Muslims who befriend or support Jews or Christians. But the Ta'lif appears to have been extracted from his other work, the Misbah,²⁵ in which he made the issue very clear. He says, "One of the things that points to a lack of faith according to the words of the Qur'an is befriending unbelievers. This is because of His (God's) statement":

'Thou seest many of them making unbelievers their friends. Evil is that they have forwarded to their account that God is angered against them, and in the chastisement they shall dwell forever. Yet had they believed in God and the Prophet and what has been sent down, they would not have taken them as friends but many of them are ungodly.'²⁶

It is obligatory, by the testimony of the Lord of Greatness, to declare as an unbeliever anyone who befriends or allies himself to any one of the unbelievers, whoever he happens to be, in every place and at any time. Befriending him amounts to supporting him because a friend is a real supporter. So whoever protects a Jew or a Christian or defends him in anything enabling him (Jew or Christian) to transgress the boundaries of the shari'a, as did the defenders of the Jews in the Saharan territories, then he will be declared unbeliever because of the friendship towards them which he displays .

After this frank and clear statement we should not entertain any doubt in our mind as to the intention of al-Maghili. But his contemporary

25. Vide my discussion of the Sources in Chapter I.

26. Qur'an 5:83. A. J. Arberry, op.cit., Vol.I, p.141.

and colleagues, Ibrahim b. Hilal,²⁷ who was asked to comment on the Misbah, disagree violently with al-Maghili. Referring to this severe ruling of his, he says:

This statement²⁸ is not right because our learned 'ulama' (jurists) Ibn al-Qasim,²⁸ Ibn al-Majishun²⁹, and Asbagh³⁰, may God be pleased with them, said, in the book of Malik b. Habib, 'if a Muslim wanton because of his wantonness went to the territory of the enemy (i.e. unbelievers) and fought us, (Muslims), being on the side of the unbelievers, and killed some of us, he would be judged as a highway robber not as an apostate unless he expressly professed apostasy.'³¹

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27. Abu Salim Ibrahim b. Hilal al-Sijilmāsi was considered by Ibn Askar to be unique in his time, a jurist of the first calibre. He died 903/1497. Vide Ibn Askar, Dawhat al-nashir li mahasin man kana bi'l maghrib min mashayikh al-qarn al-Ashir, (Fas, 1891), p.67; Ahmad Baba, Nayl al-ibtihaj bi tatriz al-dihaj, (Cairo, 1351/1932), p.58.
28. This refers to 'Ahdurrahman Ibn al-Qasim, the famous companion of Malik b. 'Anas. It was mainly through him that the Maliki school was introduced into North Africa. He died in Egypt in the year 191/806. See Muhammad al-Talibi, Tarajim aghlabiyya, (Tunis 1968), p.499; Brocklemann, GAL, S.1, 299.
29. Abdulmalik b. Abdulaziz b. al-Majishun is also among the famous companions of Malik. He died in the year 212/827. Vide M. Talibi, op.cit., p.503; Ibn Farhun, Al-dibaj al-mudhahhab fi ma rifat a yan 'ulama' 'l-madhab, (Cairo, 1932), pp.153-54.
30. This can refer to any of two Maliki jurists. One is an Andalusian called Abu'l-Qasim Asbagh b. Khalil (d.274/887). The other, 'Abu 'Abdullah Asbagh al-Faraj, who died between 220/835 and 226/840, is accounted among the famous Egyptian Maliki jurists. Vide M. Talibi, op.cit., p.434.
31. Ibrahim Ibn Hilal, Ta'liqat, B. G. Rabat, M.S. D2660, fol.232.

Ibn Hilal, after quoting Malik b. Jabib, follows with his own opinion:

There is no greater support to the unbelievers to be offered than fighting against fellow-Muslims in the army of the unbelievers. Why did they (the three Ḥulamā) not declare him unbeliever and not decide apostasy for him? Do you suppose that they are ignorant of the evidence you brought? Not at all, in fact they are more learned, more understanding and more brilliant of mind than you.³² This is a reply to the statement which emanates from you without any consideration or reflection ... As for the verses of the Qur'an which you quoted as evidence for what you uphold of the unbelief of anyone who defends a person under protection or a treaty, you are far away from the truth. This is because the saying of God : 'Thou seest many of them ...' was revealed in respect of the Jews 'i.e. the address was to them). This is what the commentators say. An absolute proof of this meaning, i.e. its reference to the Jews and not to Muslims, is the use of the third person pronoun in Allah's statement : 'you see many of them', which refers to a previous verse - 'Curse be upon those who disbelieve among the children of Israel.'³³ But some of them (commentators) say that it is a new statement and refers to the munāfiqūn (hypocrites).³⁴ Thus in either case the verse refers to unbelievers, so there is no evidence whatsoever for your point of view.

As for the statement (in the Qur'an) 'whoso of you makes them his friend is one of them,'³⁵ The Imam al-Qadi 'Abu Muhammad 'Abdulhaqq 'Atiyya, may Allah be pleased with him, has said, 'The meaning is that whoso befriends them or allies himself to them in his belief and religion he is the same with them in the unbelief, which warrants the curse of God and perpetuation in Hell. But as for the one who becomes an ally to them in action by way of supporting them and the like without having any belief in what they believe and whose faith is not affected in any way, he is one of them in the hatred and blame, that is all.'³⁶

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32. Ibid., Ibn Hilal is a good example for the fundamentalistic tendencies of North African jurists in the time of al-Maghili.
33. Qur'an 5:78, A. J. Arberry, op.cit., Vol.I, p.140.
34. Ibn Hilal, op.cit., fol.232. He does not specify the commentators who hold this view, but it appears to be the popular tradition among them. Ibn al-Jawzi who expresses the same opinion is an example. Vide Ibn al-Jawzi, op.cit., Vol. II, p.408.
35. Qur'an. 5:51, A. J. Arberry, op.cit., Vol.I, p.76.
36. Ibn Hilal, op.cit., fol.233.

Ibn Hilal supports Atiyya's opinion in these glowing terms:

This is an excellent discourse following the principles and fundamentals of the shari^c. No-one should seek any decision beyond it, but everyone should acknowledge it and submit to it, because it is clear evidence in the case in question.³⁷

As for the verse 'Thou shalt not find any people who believe in God and the Last Day who are loving to anyone who opposes God and His Messenger ...³⁸', Ibn al-^cAtiyya comments as follows: 'The distinction of this community (of Islam) is to believe in God the Most High and to follow the way to perfection and not to love an unbeliever or hypocrite'.³⁹ He then quotes the verse and continues, 'It may be that the verse is intended to mean - No-one who believes in God and the Resurrection will be found to be loving (a person) who opposes God, since in such a case he will be the lover⁴⁰ of opposition to God. This will prove his not being a believer'.

Ibn Hilal explains Ibn Atiyya's interpretation as follows:

I say there is no complication in this because his love for an unbeliever will be because of his unbelief, so he is (virtually) the lover of unbelief, and a lover of unbelief is an unbeliever (himself).

Ibn Hilal then cites Ibn al-^cArabi who says,

'It is not fitting for anyone to befriend a person because of his unbelief.'⁴¹

Ibn Hilal then follows up his point:

He considers that as unbelief because befriending does not come about except out of love. As a general rule, being merciful to a protected person is permissible, that is, the act of (showing) compassion and kindness to him while⁴² at the same time preserving the loftiness and esteem of Islam.

37. Ibid.

38. Qur'an 58:22, A. J. Arberry, op.cit., Vol.II, p.266.

39. Ibn Hilal, op.cit., fols. 233 and 234.

40. Ibid., fol.234.

41. Ibid.

42. Ibid.

As for your statement of declaring the common people among Muslims unbelievers and driving them out from the religion of Islam for the sole reason of their defending the Jews who took refuge with them, that is insolence and haughtiness, (and you have said it) for the purpose of serving a blame-worthy interest. (This statement) is a great boldness and (you are) surging forward to a very serious thing. May God reveal to us guidance out of His grace. I have already given evidence (showing) the baselessness of your statement and its falling off from the leaders in religion and the learned people of the community.⁴³ This is an advice to you, out of pity for you, for your guidance and cure, if God wills, and God is the Guide to the straight path."

After those rather harsh words, Ibn Hilal tried to make al-Maghilī see reason by explaining to him that the practice among the majority of learned ʿulama and the leaders of thought among the Muslims was to declare any innovators or sybarites unbelievers only when they uttered a blasphemous statement concerning the attributes of God in a way that clearly indicated unbelief or heterodoxy. But even concerning such people some Muslim thinkers abstained from discussing their status, whether of belief or unbelief because of the gravity of a verdict either way. He cited an example of a brilliant leader of thought in the person of 'Abu al-Ma^cālī, Shaykh 'Abu Muhammad ^cAbdulhaqq, who used to avoid indulging in such deliberation because of his conviction that an error in including or excluding a person from a religion would be deplorable. Ibn Hilal pursued his point further by showing that since great men among Muslim thinkers would not declare a verdict of unbelief even in the cases of innovators and sybarites, al-Maghilī had no authority to pronounce such a verdict concerning the people of Tamantit, who were

43. Ibid. ;

of sound belief and adhered to the principles laid down by the Sunna of the Prophet. He challenged him in these words:

How could you give a verdict of unbelief concerning Muslims of sound belief who obey the established principles of the Sunna? The seriousness of what you have done is beyond estimation You have really wasted your life very much in declaring people unbelievers when they do things that (generally) indicate unbelief: may God guard us against it (unbelief) out of His mercy and grace and for the sake of Muhammad the Last of the Prophets and the leader of the Messengers. Most of what you have said is written in the Shifa' of Abu 'al-Fadl Iyad, may God have mercy on him, and also is found⁴⁴ in the works of our leaders of thought and their fatwa. May God guard us against unbelief, hypocrisy, innovation and heterodoxy: may He preserve for us our faith, Islam and Sunna until he makes us pass away still believing in the same, out of His great Bounty and extreme kindness, Amin, Amin.

It is obvious from Ibrahim b. Hilal's comments on the decision of al-Maghili that he does not in the least endorse his opinion. He disagrees with him violently and considers him by implication to be an innovator, so much so that he prays for the mercy and guidance of God towards such thoughts. We also know from this comment that al-Maghili's opinion falls short of the ruling of the leaders of religion and the learned people of the Islamic community - they do not consider that the policy of the Muslims of Tuwāt in supporting and befriending Jews amounts to unbelief. On the contrary, we have already seen that the generally accepted view was that mercy to the Protected People, and compassion and kindness, provided that the prestige of Islam was safeguarded, was not only permissible but was recommended.

44. Ibn Hilal, op.cit., fol.235. He explains that although al-Maghili appears to have drawn his information from the Shifa' of Qadi Iyad, yet he introduces rulings which are of his own making.

As we shall see in other matters, al-Maghīlī in his opinion of the illegality of befriending non-Muslims and forbidding any relationship with them, and the unbelief it implied, is, in fact, making a new regulation in the teachings of Islam. In other words, he appears to have broken away from the tradition of taqlīd⁴⁵ and opened up the door of ijtihād,⁴⁶ which had hitherto been closed for a long time. All this adds to our belief that al-Maghīlī was in fact behaving like a "mujaddid"⁴⁷, whose duty is to make ijtihād. It can easily be seen from the way al-Maghīlī was tackling his problems that he really considered himself a mujaddid. Whatever qualifications other scholars of his time might suggest to his doctrine, we can be in no doubt that motivated his views.

To understand the difference between him and the other scholars of his time we can compare him with Ibrahim b. Hilal. Al-Maghīlī's evidence in support of his views is mainly Qur'anic verses which he has interpreted to suit his theory. It is curious that in an atmosphere like that in North Africa in the fifteenth century, where the

45. The doctrine of taqlīd or imitation is the obligatory acceptance of the decisions of the early jurists. This is a development in Muslim jurisprudence which dates from the early tenth century. Vide N. J. Coulson, A History of Islamic Law, (Edinburgh, 1971), p.80.

46. This is "The use of human reason for the elaboration of the law". Ibid.

47. A Mujaddid in the Muslim tradition is a person or group of persons sent by God in every century to revive Islam. See Chapter VI, p. 227 of this thesis, n.80.

sayings of Sahnūn,⁴⁸ Ibn al-Qāsim, Ibn al-Mājishūn Asbagh and the like carried great weight in all Islamic legal theory, we find no trace of their sayings in al-Maghīlī's evidence.⁴⁹ Not only does al-Maghīlī hardly mention them in his writings but he considers that any teachings of theirs which do not conform to his view of the true Islamic precepts should be altered as a mark of virtue.⁵⁰ As for Ibrahim b. Hilal, although it is quite clear that he disagrees with al-Maghīlī, he did not directly make use of the Qur'anic verses or tradition. All he did was to rely solely on what his predecessors had

48. ^CAbdussalam b. Sa^Cid Sahnūn b. Sa^Cid b. Habib al-Tanūkhī, is popularly known by the name Sahnun. He was a Syrian by origin. He migrated to Tunis and settled there in the year 191/806 at the age of thirty. This indicates that he was born in the year 161/777. He died in the year 240/854. He was a companion of Malik and author of the Mudawwana, the compendium of the Maliki Madhhab. For a full biography see M. Talibi, *op.cit.*, pp.86-136; Ibn Farhun, *op.cit.*, pp.160-166.
49. Al-Maghīlī appears to have had this tendency when he was writing concerning a controversial issue, in which case his address was directed to the learned elite. His attitude was different when his writing was for normal teaching intended for ordinary readers or for answering specific questions. In such a case he took great care in citing decisions of the traditional ulama. Examples of this category are his writings for the rulers of Kano and Songhay. The same tendency is also observed in his very early writings. But in such writings one finds instances here and there where al-Maghīlī has exercised his independent reasoning regardless of the traditional opinion about a particular point.
50. This is because he has taken the view that such leaders of Islamic thought could go wrong so the criterion for decision should not be their sayings and actions, but should be the truth. This attitude of al-Maghīlī is clear in his controversy with al-Suyūtī on the question of logic. See next chapter.

said on the question. Scholars like Sahnun Ibn al-Qāsim Mājishūn figured heavily in his argument. He quoted from them because he had full confidence in their grasp of the original sources. So even when he uses a Qur'anic verse he does so because Ibn al-^cAttiyya has explained it in a particular way. He does not care to challenge statements which have been made by respected authorities.⁵¹ Ibn Hilal was, of course, not the only one with this sort of attitude. Most of al-Maghilī's contemporaries who wrote on the question of the Jews had the same way of thinking.⁵²

Thus we can see that al-Maghilī was unique in his time on this ruling on Muslim/non-Muslim relationship and the unbelief Muslims who had any such relations. The effect of these two main dogmas of al-Maghilī in North and West Africa during his time and for centuries after his death will be fully discussed in the concluding chapter. These dogmas, however, are not the only ones he formulated. It is important, first, to consider some of the others.

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51. Throughout his argument with al-Maghilī on the question of the religious position of Jewish protectors in Tawat, Ibn Hilal was making his deductions from the sayings of earlier jurists and not direct from the Qur'an nor the Hadith. Ibn Hilal, op.cit., fols. 231-34.
52. This will become clearer in the next chapter, where reference is made to the legal fatwas of several of the 'ulama' on the question of the Tamantitlan Synagogue.

2. The Jizya⁵³

His teachings on the jizya clearly show al-Maghilī's dissatisfaction with the system of administration in the Tuwatian region. Affairs seem to have been left in the hands of the tribal chiefs, who were taking many liberties with the Jews. They received from them money purported to be jizya which was in fact, according to al-Maghilī, a kind of bribery used to pay for getting jobs and friendship from the Muslims.⁵⁴ He listed several things which were wrong in the system of administration: public treasury, official jizya collectors and Caliph were all missing, the result being chaos.⁵⁵ The correct amount of jizya was not collected. When collected it was not preserved or spent in the correct way. Nor was the jizya received from the Jews in the manner prescribed in the shari'a.⁵⁶

What al-Maghilī would have liked to see, it seems, was first and foremost an Islamic state at the head of which would be a caliph or his deputy, whose responsibilities would include control over revenue collection, public expenditure according to the shari'a, and the preservation of the law. The Caliph should have assistants who would help him in the administration of the state, and who would collect the right amount of jizya at the right time, and in the correct manner.⁵⁷

53. The jizya is usually rendered in English as the poll-tax or the capitation tax. This meaning is valid when the payer is a non-Muslim, generally Christian or Jew, living in an Islamic territory. It mainly differs from other taxes in that the authority for receiving it comes from the Qur'an. Vide Muhammad b. al-Husayn al-Hanbalī, Al'ahkam al-Sultaniyya, (Cairo 1938), p.137.

54. Al-Maghilī, Ta'lif.

55. Ibid.

56. Ibid.

When the revenue had been collected, the Caliph should be scrupulous in spending it so that the correct priorities were given. The defence of the state should receive first attention, then the allowance of the ahl-al-bayt (Prophet's descendents), then the salaries of the 'ulamā' and the muezzin and finally the rest of the civil servants. After all this the public should receive some assistance according to their need, the more needy among them being given precedence. If there should be something left, even the rich should get a share. If there was still a surplus, then the Caliph or his deputy should use his discretion in applying it to meet incidental expenses.⁵⁸

It can be seen that al-Maghilī was not making any innovation or ijtihād concerning the amount of the jizya to be paid; all that he wanted to see was the implementation in Tuwat of what had been laid down in the sharī'a.⁵⁹ Thus he wanted a return to the proper Islam, the Islam of the time of the Prophet and the Companions.

3. The Saghar⁶⁰

Al-Maghilī's teaching concerning the manner in which jizya should be received from the Jews shows clearly that he wanted them to be humiliated, and this is what he understood from the term Saghar. He

58. Ibid.

59. In this, al-Maghilī has accepted the amount laid down by the Maliki School. The rates, however, differ from School to School. For a discussion on the Jizya see A. S. Tritton, "Islam and the Protected Religions", JRAS, (July, 1928), pp.500-501; T. W. Arnold, The Preaching of Islam, (Lahore, 1968) pp.60-61; Muhammad b. al-Husayn al-Hanbali, op.cit., pp.137-146.

60. The literal translation of the word is "littleness." For its meaning in connection with jizya see below.

teaches that they should be assembled in the market place. They should then be made to come out one at a time in a very low manner, on foot, and the collectors would raise their swords over their heads to frighten them. When they had paid the jizya, they would receive a tap with the sword on the neck and a violent push. Al-Maghilī explained that this kind of humiliation was very necessary to show the purpose of the jizya, which was not that their money was needed but their being humiliated, so that they would be under the heel of every Muslim of whatever status. The purpose of humiliating them, al-Maghilī maintained, was to safeguard the religion of Islam by defeating theirs and forcing them to conceal it and bury its teachings.⁶¹ In this teaching of al-Maghilī two issues were involved: one was making humiliation a necessary feature of the paying of the jizya, and the other was forcing the Jews to conceal their religion and bury its teachings. Al-Maghilī derived the requirement of humiliation from Qur'an 29:9, where the phrase wa hum sāghirūn occurs, which he took to mean humiliation in the manner explained. Al-Suyūṭī interpreted the Sāghār as their submission to the rule of Islam.⁶² The author of Zād al-masīr listed five different meanings given by the mufasssirin (Qur'an commentators).

1. that they should walk.
2. that they should not be praised for giving it,
3. that they should stand.
4. that consent to giving it is the real sāghār.
5. that governing them according to the sharī'a is the sāghār.⁶³

61. Vide Chapter IV of this thesis, p. 113.

62. J. Mahallī and al-Suyūṭī Tafsīr al-ialālayn (in the margin of), Abdullah b. Umar al-Baydawi, op.cit., pt.I, p.289.

63. Ibn al-Jawzī, op.cit., vol. III, p. 421.

Qutb in his Zilal has chosen the fourth and fifth meanings, explaining that the humbleness referred to was their willingness to pay the jizya, a practical sign of their submission to the rule of Islam and a token of loyalty to the Islamic state. By their submission, the religion of Islam would be free from any attack by them.⁶⁴ None of these meanings agrees with the interpretation given to the word by al-Maghili. Even earlier scholars who were puritanical and strict, such as Ibn Taymiyya⁶⁵, did not give al-Maghili's interpretation of saghar. Ibn Taymiyya discussed the meaning of the word thus:

There is a difference of opinion in the explanation of the word saghar which is connected with the payment of jizya.
 C. Iqrima says that the protected person should give it while standing and the collector sitting; another group (of commentators) said that the Dhimmi or protected person should bring the jizya on foot, not riding; and then he should be left standing for a long time; then he should be dragged with harshness to the place of payment, his hand should then be pulled and treated roughly.

But Ibn Taymiyya proceeds to tell us that there is no evidence whatsoever for such a meaning. It was never reported or related that the Prophet or his companions ever did that; and such a meaning was not the injunction contained in the verse; its right meaning is that humbleness is brought about by the undertaking to be ruled according to the prescription of Islam and their consent to pay the jizya. Taking that upon themselves is the humility.⁶⁶

64. S. Qutb, op.cit., Vol.IV, pt.10, (Beirut n.d.), pp.167-68.

65. Ahmad b. ^CAbdulhalim Ibn Taymiyya is regarded as one of the Mujaddidun in Islam. He was born in the year 661/1262 in the town of Harran in Syria. He died 728/1327. For a detailed biography of Ibn Taymiyya see Muhammad Yusuf Musa, Ibn Taymiyya, (Cairo, n.d.), the whole book.

66. Ibn al-Qayyim al-Jawziyya, Ahkam ahl al-dhimma, editor Subhi al-Salih, Vol.I, (Damascus, 1961), pp.23-24.

We can see thus that the humiliation to be inflicted on the Jews according to the interpretation of al-Maghīlī was intended neither by the word sāghirun in the Qur'an, nor by the action of the Prophet, nor by the action of his Companions.

The explanation of his behaviour in this and similar cases that we have met so far, and those that we shall meet later is that he had definite objectives which he was planning to achieve. His method of reaching his goal was that when he wanted to give a ruling he would invent it or search in the teachings of his predecessors and pick up anything that would support his case, even if it was refuted by many eminent scholars, as he did in this instance.^{66a} In both of these methods al-Maghīlī was making ijtihād - one of the necessary functions of a mujaddid. As an example of al-Maghīlī's invention we should consider the purpose which he attaches to humiliation, which according to him was to force the Jews to abandon their religion. But he always supports his stand by evidence, in this case in the Qur'an, as he interprets verse 9:33 to convey that idea. This, if upheld, would clash with the very provision of the jizya, which was intended to safeguard their lives, property and the practice of their religion. Before we can decide that al-Maghīlī is also making an ijtihād here we must know the general meaning of the verse. Ibn al-Jawzī in his Zād al-masīr fī 'ulūm al-tafsīr explained that the pronoun in Li yuzhirahu which follows din al-haqq could refer to the Prophet, in which case it means:

66a. Al-Maghīlī was acting in accordance with the saying of 'Umar b. 'Abdullaziz who directed that new laws could be invented according to people's new crimes. tuhdathu li'l-nasi aqdiyat bi qadii ma ahdathu min al-fujur. New regulations should be invented according to what new crimes people were committing. Al-Maghīlī has quoted this saying in both the Wasiyya and the Ajwiba.

"so that He (God) teaches him all the injunctions in the religion of Islam in such a way that nothing could be hidden." It could also refer to the phrase dīn al-haqq. Its meaning would then be: "Allah will make the religion of Islam prevail in its clear testimonies and proofs even if people do not embrace it."⁶⁷

We can see that none of the meanings indicates that the Dhimmis should be compelled to conceal their religion and bury its teachings; in fact this would clash with a clear precept of the Qur'an which directed that there should not be any compulsion in religion.⁶⁸ We should try to understand why al-Maghīlī believed that the honour of Islam and Muslims depended on humiliating Jews and their religion.

We have seen that al-Maghīlī had virtually said that compulsion in religion is justified; in his view the honour of Islam and Muslims should lie in humiliating Jews and their religion. In his endeavour at ijtihād al-Maghīlī certainly erred. But why should he have tried to make such an ijtihād? It is necessary for our purpose to understand the factors behind his actions.

Our understanding of his attitude should be guided by the situation in which al-Maghīlī found himself, which made him lay emphasis on a possible meaning of this Qur'anic verse, in spite of his knowledge that the majority were of the contrary opinion.⁶⁹ All this might be understood as al-Maghīlī's intention to intimidate the Jews, but it would seem that his alarm was not at the Jews themselves, but at what he considered to be dangers to the Muslims, an excessive,

67. Ibn al-Jawzī, op.cit., vol.III, pp.427-28.

68. Qur'an 2:256. Ibn Hazm voiced an opinion that this verse had been abrogated. It is not, however, in the list of the abrogated verses. Vide: Muhalla, Vol.XI, p.195; al-Suyūṭī, Al-itqān fī 'ulūm al-qur'an, Vol.II, (Cairo, 1951), pp.22-24; Muhammad El-Awa, The Theory of Punishment in Islamic Law, (thesis, unpublished), pp.113-14.

69. Ibid.

partiality to the Jews and allowing them too much power, which would be detrimental to the Muslims.

Three factors might have caused al-Maghilī to act in the way he did: his knowledge of what was happening elsewhere in North Africa,⁷⁰ the catastrophe in Spain, and what al-Maghilī himself saw in Tamantit, i.e. Muslims fighting Muslims on account of the Jews.⁷¹ He must have felt that he should show Muslims who were prepared to die on account of the Jews that they were making a serious blunder. The only way he could make them understand was to prove it to them by means of religion; hence his searching in the Qur'an to find evidence, as well as his exposure of all the ills he could find in the Jews.

4. The Dhimma⁷²

In his effort to prove that the Jews had lost their right of protection, the dhimma, al-Maghilī relied heavily on the covenant of Umar.⁷³ This covenant has been the subject of discussion among orientalist; great doubts as to its authenticity have been raised by scholars like Caitani and Subhī al-Sālih.⁷⁴ Our concern, however,

70. He must have been aware of what happened in Fās during the Caliphate of Abdulhaqq as reported by Abdulbasit. Vide Chapter II.

71. Vide Chapter II of this thesis.

72. The provision of obligatory protection given by Muslims to the non-Muslims living amongst them on payment of the jizya and abiding by the laws. Vide Ibn al-Qayyim, op.cit., Vol.II, p.475.

73. The full text of this covenant is reproduced in the Ta'lif, see Chapter IV.

74. Arnold, op.cit., pp.58-59; Subhī al-Sālih, Ahkām ahl al-dhimma, (introduction), pp.41-46.

should be how the Muslim lawyers had viewed it. It is certain that the Islamic legal theory, on the drawing up of contracts between Muslims and non-Muslims, has largely been influenced by the covenant of Umar. Followers of the different schools recognised it as a model for the drawing up of contracts, although with various interpretations.⁷⁵ Our early learned jurists influenced by the Islamic teaching of Hushn al-zan on the one hand, and the fear of going astray and getting out of the circle of the Jama^c on the other, had accepted the document as authentic without bothering themselves about its isnad, or chain of narrators, nor about the matn (contents).⁷⁶ It is necessary, however, for our purpose to take another glance at its authenticity. Judging from other covenants drawn up by the same Caliph, and looking at it within the general framework of Islamic teaching and the practice of the majority of the later Islamic leaders, one is inclined to doubt its authenticity. But whether the document is authentic or not is of little significance; what is important is the fact that it has been accepted as authentic by at least a large number of Muslim jurists who have acted on it since it first appeared on the pages of Ibn Hazm in the fifth century of the Hijra.⁷⁷

75. Ibn al-Qayyim al-Jawziyya, op.cit. Vol.II, pp.663-64.

76. It is a popular saying in the traditions that to think well of others is excellent worship. The Prophet is reported as saying, "I warn you against having suspicions about your fellow men, because they are most likely to be false, i.e. unfounded."

77. E. W. Arnold, op.cit.;, p.59.

Al-Maghilī was not therefore the first to depend on the document to justify his point of view. The question we may ask, however, is whether a document drawn up by the Christians of Syria, at a period different from the fifteenth century and under circumstances certainly different from those in Tamantit, could also be applied to that place. So even if we accept the authenticity of the document, it would be viewed as that of a protected people prescribing for themselves certain rights and obligations. The part of the Caliph ^CUmar was merely to endorse what they had agreed among themselves, adding two items only. Even if the covenant is regarded as a contract between two parties, it could only be binding to the Christians of Syria at that particular time. That this was in fact the case is proved by the fact that the Caliph ^CUmar himself drew up different contracts for the People of the Book in other places. We know that a very mild covenant was drawn up for the people of Aelia when Jerusalem submitted to the Muslims.⁷⁸ 'Abu Yūsuf also reported in his Kitāb al-kharāj that he was told on the authority of ^CAbdullah b. Sa'id b. 'Abu Sa'id on the authority of his grandfather that ^CUmar, whenever he made a treaty with a

78. T. W. Arnold translated the covenant from Tabari as follows: In the name of God, the Merciful, the Compassionate. This is the security which Umar, the servant of God, the commander of the faithful, grants to the people of Aelia. He grants to all, whether sick or sound, security for their lives, their possessions, their churches and their crosses, and for all that concerns their religion. Their churches shall not be changed into dwelling places, nor destroyed, neither shall they, nor their appurtenances be in any way diminished, nor the crosses of the inhabitants nor aught of their possessions, nor shall any constraint be put upon them in the matter of their faith, nor shall any one of them be harmed. Arnold, *op.cit.*, pp.56-57.

people, used to prescribe for them such Kharāj (tax) as: "they should give three days' hospitality, they should clean the roads, they should not incite our enemies against us and should not befriend a heretic. If they agreed to that, they have security for their lives, their women, children and property; they have the protection of God and the Messenger of God. We wash our hands of the pitfalls of the army."⁷⁹ Thus we can see that the popular covenant was not binding to all the protected people in the time of ^CUmar; how could it be binding to a totally different people in a different country eight centuries later?⁸⁰

Al-Maghilī was of course acting with precision and was well aware of what he was doing so he heavily relied on the provisions of the covenant and made it a basis for his argument, showing that the Jews of Tuwāt had not merely violated one provision of the covenant but had not upheld a single one. This no doubt necessitated their loss of the right to protection, and their lives and property were in danger. Al-Maghilī showed that they had not only violated the provisions of the contract but had also rebelled. We have seen how he tried to establish the rebellion of the Jews by relating an incident of a Jew who altered the reading of a Qur'ānic verse, when a pupil, not knowing him to be a Jew, asked him to help him in reading it.⁸¹

79. S.O.A.S. M.S. 221882, fol.5.

80. That it could not be binding is obvious regardless of the fact that some Islamic jurists made it the sole basis on which regulations regarding the dhimmis were formulated. A good example is Ibn al-Qayyim, who made many chapters out of it. Ibn al-Qayyim, op.cit., pp.657-795.

81. Vide Chapter IV of this thesis.

An examination of this incident will reveal that there are several unusual features. It was a strange coincidence for the boy to ask a Jew to help him read a verse of the Qur'an instead of a Muslim, in a town in which the vast majority of the population were Muslims; also that this Jew should be well versed in the Qur'an when it was prohibited for the Jews to learn it. Another thing was that the very verse about which the pupil was asking for help happened to be so unfavourable to the Jews that it recognised Islam as the only true religion. This Jew also happened to be in the service of Sultan 'Abu 'Inan, whose teacher was known to the Qur'anic teacher under whom the boy was learning. Another interesting thing was that on the very day the incident was reported to the teacher of the Sultan by the teacher, the Qur'anic portion for that day's lesson contained: "O believers, take not Jews and Christians as friends", and it was strange that that very Jew was sitting outside the palace when the Shaykh came to give his lesson. Then the Shaykh said nothing to the Sultan about the offence but simply requested him several times to repeat the verse. The Sultan then, by unusual acumen, understood what was required of him and immediately went out and gave orders for the Jew to be beheaded, and his orders were carried out. When the Shaykh came out and found the Jew dead he inquired in surprise what was the matter. The Sultan told him that he had killed the Jew because the Shaykh requested him to repeat Qur'an 5:51. It was only

then that the Shaykh told the Sultan what the Jew had done.⁸²

We have to consider the very nature of this anecdote, which is full of many dramatic coincidences. Al-Maghili should have questioned the authenticity of the story before taking it as a precedent which could be used against the Jews. That he did not bother to verify the truth of the story will not be a problem to us because anything to discredit the Jews in the eyes of the Muslims who had given them freedom and protection would certainly have been welcomed by al-Maghili. But giving this story the benefit of the doubt and accepting it as true would only confuse us more, because the verse, the repetition of which resulted in the killing of the Jew, contains nothing that warrants the action taken by the Sultan. It is true that the verse prohibits alliances or friendship with Christians and Jews when these are detrimental to the Islamic state as has been explained in this chapter. This was of course, not the meaning assigned by al-Maghili to the verse, which was the total prohibition of any kind of friendship. Assuming that this was the generally accepted meaning, there is nothing in it which justified killing the Jew because he had not committed any crime by accepting friendship offered to him by the Sultan. It was in fact the Sultan who was guilty of a crime and the punishment should have been given to the Sultan and not the Jew. My contention is that it was not for the alleged crime that the Jew was killed, because this was never reported to the Sultan until

82. Ibid.

after the execution had already taken place. So it would appear that the Sultan acted on impulse only, giving no consideration to the prescription of the Islamic Shari'a. It is common knowledge that the Shari'a would not justify the killing of a Jew without trial, even if the crime had been reported to the Sultan beforehand. This is because Dhimmis in an Islamic state should be judged in the same manner as Muslims. The Qur'anic injunction is "And when judging between people you should judge in justice." There is no trial in this, let alone any just judgment.

The fact that al-Maghili cited this incident is proof that he approved of it and also regarded such individual crimes as a reason to invalidate the contract of protection of the Dhimmi. Not only was there no case against the Jew in the anecdote under discussion, but even if there had been, it could not have caused other Jews to lose their right of protection. This is obvious since no individual should be made to bear the burden of someone else's crimes. But proving that the Jews had lost their right of protection was very important for al-Maghili so that he could expose the folly of those Muslims, led by the Élite, called by him the ulama' al-sū, who defended the Jews so vehemently. It was equally important for the opposing side to prove that the Jews had not committed any serious crime that could justify their forfeiture of the right of protection. This explains why Asnūnī, the chief defender of the Jews among the ulama' strongly refuted this notion and invited people to go to Tuwāt and see for themselves

the humble situation of the Jews, which would make it impossible to stage a rebellion or do anything of the nature al-Maghili and his followers were suggesting.⁸³

This brings home the fact that the Tamantitian struggle was basically between Muslims themselves with the Jews in between as the hone of contention. It also gives an indication of the different attitudes of the two factions among the Muslims, while on the part of al-Maghili it was all along a new ijtihād in almost every aspect of his teachings. On the part of ^aAsnuni and his group it was a blind adherence to established tradition and the decisions of the early ancestors, whose rulings could not be questioned by their successors, no matter what changing circumstances might bring. These were the real issues involved in the Tūwātian controversy. They will be examined further when the case of the Synagogue is discussed in the following pages, where we shall see the same two Muslim factions emerging, those for al-Maghili and those against him.

83. ^cAsnuni, in Wansharisi, op.cit., p.173.

CHAPTER VI

THE INCIDENT OF THE TAMANTITIAN SYNAGOGUE

This episode aroused the greatest controversy of al-Maghilī's life. I have already made reference to the existence of a prosperous Jewish community in Tamantit. The Jews in this Saharan Oasis had been enjoying religious freedom, with full liberty to practise their religion in their synagogue. This freedom continued until the last quarter of the 15th century, when al-Maghilī arrived in Tuwāt.¹

1. Al-Maghilī Justifies the destruction of the Synagogue

He convinced himself that the religious freedom of the Dhimmis was unjustified on account of their transgression of the Sharī'a. He also considered that they should not have been allowed a synagogue there, for Tamantit was a town founded by Muslims and as such, Muslim territory. Since the synagogue's existence was unlawful in the first instance, according to him, its removal was an obligation upon Muslims.

1. See Chapter II of this thesis where reference to Antonia Malfante's glowing account of the prosperity of the Jews of Tamantit is made. All al-Maghilī's references to the Jews in his time point to the fact that the prosperity spoken of by Malfante continued until his time. This fact was, however, disputed by Asnūnī who attempted to depict quite a different picture. He showed that they were but poor, harmed by want. It was apparently necessary for Asnūnī to show that they were poor and harmless and not arrogant and conceited as was claimed by al-Maghilī.

As the ḥulama' in Tamantit had failed to carry out this obligation he took it upon himself to carry it out. We have already seen why al-Maghili found it necessary to fulfil such a drastic role.²

We shall see the same motives behind his action in this chapter.

First, however, we must see how al-Maghili carried out his obligation. His first step was to justify his intention of demolishing the synagogue, which he must do theologically and this he did in the Ta'lif.³

The first basis of his case was that Tamantit was, by foundation, an Islamic territory. There were no Jews there when it was founded, but they came later, settled there and built a synagogue for the practice of their ritual.⁴ This was at an undetermined time and it was not known whether they had permission or not. The synagogue continued to exist throughout the years until the time of al-Maghili, who found no justification for its existence in what was an Islamic territory. He thought that since its existence was unlawful, it was an obligation upon the Muslims to remove it. He supported his point of view with several prophetic traditions, the sayings of the Sahāba, the covenant of Ḥ Umar and the 'Ijma' (concensus of opinion).⁵ It is important to examine each of these evidences and see how they stand in the general context of Islamic principles. The ^{last} two traditions

2. See Chapter V of this thesis.

3. See Chapter IV of this thesis.

4. Ibid.

5. Ibid.

attributed to the Prophet should receive our first consideration. Neither of the two appeared in the Sahihayn; ⁶ While the Second is to be found in the Sunan of Abu Dawūd, al-Tirmidhī and the Musnad of Ahmad b. Hanbal, ⁷

6. The Sahih al-bukhari and the Sahih muslim are the most comprehensive single collections of sound traditions. There are, however, sound traditions in the other Hadith collections which can rank with those of the Sahihayn in authority but no single collection has the quantity and the quality of either of them.

i) The author of the first Sahih - Abu Abdullah Muhammad b. Isma'il al-Bukhari, was born in Bukhara in the year 194/810. It was related that he became interested in the study of traditions at an early age and undertook many journeys for the purpose of collecting the Hadith. During his years of collection he collected six hundred thousand which he sifted to produce his Sahih. He died in 256/870. Vide C. C. Torrey, Selections from the Sahih of Al-Bukhari, (Leiden, 1906), P.V-VI. Ibn Khallikan, translator, B. M. G. de Slane, Wafiyat al-ayan, Vol.II (Paris, 1843), pp.594-597.

ii) Muslim b. al-Hajjaj the author of the second Sahih was born in Khurasan in 202/817. Like al-Bukhari he became interested in the study and collection of Hadith and travelled widely for that purpose. He compiled his Jami which is also termed as the Sahih. He died in 261/874. Vide Fazlul Karim, translator, Mishkat-al-masabih, Vol.I, (Dacca, 1960), p.39. D. Macdonald, Development of Muslim Theology, Jurisprudence and Constitutional Theory, (London, 1903), pp.79-81; Ibn Khallikan, translator B. M. G. de Slane, op.cit., pp.348-350.

7. i) The Sunan of Abu Dawūd and that of al-Tirmidhī are among the six standard works on Hadith coming next to the Sahihs in authority. Abu Dawūd was born in the year of the Hijra 202/5 = 818 and died in 275/888. Vide Fazlul Karim, op.cit., pp.39-40; Ibn Khallikan, translator B. M.G. Slane, op.cit., vol.I, p.589-591.

ii) al-Tirmidhī was born in 209 and died in 279/892. Vide Fazlul Karim, op.cit. pp.39-40; Ibn Khallikan, translator B. M. G. de Slane, op.cit., Vol.II, p.679.

iii) The musnad of Ahmad b. Hanbal is not regarded as one of the first six standard works on Hadith, but comes within the first nine. It is, however, regarded as the best musnad i.e. the collection which is not according to the subject matter but according to the isnad (chain of narrators). Ibn Hanbal was born in Baghdad in 164/780 and died there in 241/855. Vide Ibn Khallikan, translator B. G. M. de Slane, op.cit., Vol.I, p.44.

the first does not appear in any of the six standard works of tradition; in fact it is nowhere to be found in all the standard works of Hadith treated by Wensinck.⁸ The available Hadith is reported in the books of traditions with several variations; one is la-takunu (there could not be), two directions of prayer in a single town; the other la-tasluhu (it is not fitting, not sound) to have two directions of prayer in a single town. Sometimes the word balad (town) is mentioned, but the words misr (city) and ard (country) are also variant readings. This Hadith, taken at its face value, can have several meanings; we must decide, first of all, whether it is an 'amr (command), or whether it is 'ikhbar (giving information). It cannot be a command because if it is so then the verb must be in the jussive mood. Since the fi^cl al mudari^c (imperfect indicative) in its two variant forms is in the nominative case, the question of command is ruled out. We are therefore left with the 'ikhbar form of the verb, which can mean one of three things:- Tahrīm (prohibition), Karaha (disliked), or istihbab (recommendation). Since we have several possibilities there is nothing to guide us except the general context of Islamic teachings and also the context of the actions of the Prophet. It is clear even from the text of the Qur'an that, provided that the People of the Book agreed to the payment of the jizya, they were left unmolested and free

8. A. J. Wensinck and others in the Concordance et Indies de la Tradition Musulmane, prepared a very useful alphabetical indices for all the Hadiths in the major collections which include the Sahihayn, the Sunan and the Musnads.

to exercise their religion. This fact is further explained by the actions of the prophet and khulafā al-rāshidūn (the rightly-guided Caliphs). The Jews in Medina were left to practise their religion. When Khaybar was taken, the Prophet found some copies of the Torah in the booty and directed that these should be returned to their owners.⁹ Throughout the early period of Islam, from the time of the Prophet and Khulafa al-rashidun, there existed no doubt more than one direction of prayer in Muslim territories, towns and cities.¹⁰

Thus we can see that, even if we take the authenticity of this Hadith for granted, it could not mean a total ban on the existence of two directions of prayer in Muslim territories, because such a ban would have made it impossible for the protected people to practise their religion, and this would have made a mockery of the provision of the jizya.¹¹ Mubarakfūri, after judging that there was some weakness in

9. Subhī Salih in Ibn al-Qayyim al Jawzīya, Ahkamahl al-dhimmu, Vol.II, (Dāmascus, 1961), pp.22-23.

10. The prohibition of the existence of two directions of prayer in a Muslim territory was limited to the Arabian Peninsula where the dhimmis were not allowed to live. So the question of building churches or synagogues did not arise. Vide Abu Bakr b. Walid al-Turtushi, Siraj al-mulūk, (Cairo, 1893), p.285.

11. Subhi Salih has asserted that safeguarding the religious freedom of the dhimmis is an established fact and this is supported by many traditional sources and practical happenings. The contract of dhimma will have been meaningless if religious freedom cannot be afforded to the dhimmis. Vide Subhi Salih in Ibn al-Qayyim al-Jawziya, op.cit., Vol.II, pp.20-21.

the Hadith, explained it as meaning that two religions should not stand side by side in an Islamic country on an equal footing and in a competitive atmosphere.¹² This clearly shows that a total ban was not upheld by him. The strictest meaning we can attach to this Hadith is that two directions of prayer should not exist in what was purely a Muslim town if there was no benefit for the Muslims in its existence.

This leaves us with the other Hadith, the literal meaning of which forbids the erection of a new church or synagogue in the midst of Muslims.¹³ We should examine also this Hadith with regard to its authenticity. It is important, however, to know exactly what we are treating. Is it a Hadith or an Athar? ^CUmar had a saying with exactly the same meaning although the words differ. This makes us hesitate to accept it as a Hadith. We are more inclined to treat it as an Athar. Our main reason, besides its absence from the books of tradition,¹⁴ is the fact that the problem of building new churches or synagogues did not arise during the time of the Prophet but rather during the years of conquest when Muslims conquered and founded cities and territories.

12. Muhammad b. ^CAbdurrahman al-Mubarakfuri, Tuhfat al-ahwazi, Vol.III, (Cairo, 1963), p.276.

13. Vide Chapter IV of this thesis, p.114.

14. It is also recorded by Ibn al-Qayyim, but that is only when he discusses the point of view of the Maliki jurists. It appears that the saying made its appearance among the Maghribi Maliki jurists and it was among them that it gained popularity. Vide Ibn al-Qayyim al-Jawziya, op.cit., Vol.II, p.701.

The problem arose when, starting from the year 632, the Muslims conquered Persia, Syria, Egypt and North Africa.¹⁵ We have seen, as pointed out above, that there is a tradition which is similar in its teachings attributed to ^cUmar. In it he directed that there should never be a church in a Muslim country. The tradition shows that ^cUmar gave orders that any church or synagogue that had not been in existence before Islam, should be demolished. He also prohibited the building of a new church or synagogue.¹⁶ Some of ^cUmar's sayings and actions agree with the meaning of the Hadith attributed to the Prophet. It is known that the pious Caliph would never express an opinion on any legal point when there was a Hadith to solve the problem. The fact that he did not quote it but put it forward as a saying of his own indicates that there was no Hadith to cover the case in question, at least to ^cUmar's knowledge. A Hadith of the same meaning was purported to be the saying of the Prophet : "There should never be gelding nor church in Islam." This same Hadith was also related with a different chain of narrators as a saying of ^cUmar.¹⁷ Another saying of ^cUmar with the same meaning was also attributed to the Prophet. Ibn al-Qayyim, commenting on the Hadith said, "This Hadith, should it be sound, would have been good evidence for the case; but this chain is not established though the saying is recorded

15. ^c For an account of Muslim conquests see P. K. Hitti, History of the Arabs, (London, 1958), pp.139-168.

16. Abu Bakr Muhammad b. al-Walid al-Turtushi, op.cit., pp.286-87.

17. Ibn al-Qayyim al-Jawziya, op.cit., Vol.II, p.673.

in the covenant of ^cUmar."¹⁸ This shows that on the question of building churches there is a muddle by the narrators of Hadith between the sayings of the Prophet and those of ^cUmar. That these sayings should belong to ^cUmar, rather than to the Prophet himself, is historically more probable. It was legitimate for the Muslims, after expanding their empire and building new cities, to limit the freedom of new settlers of other religions to build places of worship in what were exclusively Muslim states. This applies, at least in theory¹⁹, to cities founded in the period of Islam, but, as to countries conquered by the Muslims, Christians and Jews were freely allowed to retain and build churches in what were Muslim territories by conquest. It was firmly laid down in the Islamic law that it was lawful for a ruler in such territories to allow the erection of new places of worship for the People of the Book, if such action served a maslaha or welfare of the Islamic community. That all the traditions used by al-Maghili should refer to this period is obvious from what we explained above. As such they were in all probability sayings of the second Caliph Umar b. al-Khattab, or even of the Umayyad Caliph, Umar b. ^cAbdul ^caziz.²⁰ Whether the rulings made by these Caliphs could apply to Tamantit should be our next concern, but before we enter into that, there is al-Maghili's third evidence for the prohibition of building churches

18. Ibid., p.701.

19. Arnold, has shown that even in the cities of Muslim foundation the People of the Book were allowed to erect churches and synagogues. This happened at Fustat and other cities. Vide W. Arnold, op.cit. p.66.

20. Subhi Salih in his introduction to Ibn al-Qayyim al-Jawziya's Ahkam ahl al dhimma explains that it was ^cUmar b. ^cAbdul ^caziz the Umayyad Caliph who made stringent rules concerning the dhimmis and several actions against them attributed to ^cUmar b. al-Khattab might be actions of his namesake ^cUmar b. ^cAbdul ^caziz. Vide Ibn al-Qayyim al-Jawziya, op.cit., Vol.I, p.29.

and synagogues in Muslim towns, with which we shall have to deal. He claims consensus of the 'ulama' on the prohibition of building new churches or synagogues in Muslim towns.²¹

21. This question of 'ijma' is really very important for a deliberation of the controversy between al-Maghili and the 'ulama' of North Africa. This is because in an age of taqlid and the North African atmosphere of the 15th century, the 'ijma' were virtually more important as legal evidence than either the Qur'an or the Hadith. This need not, and should not, be taken as a suggestion that the North African Muslim should venerate the 'ijma' more than the Holy Qur'an and the Hadith. This was not the case at all; but the essence of the consideration is that according to their own way of thinking they must have thought then that a Muqallid was not qualified enough to handle the Qur'an or the Hadith and extract laws from it because that was the work of a Mujtahid, who must have certain qualifications of a very high standard, the reaching of which was a very difficult task. Reaching such a standard was indeed out of the question since according to their way of thinking the door of ijtihad had been closed for a very long time. This necessitated what amounted to an entire reliance on the exposition of the original sources - the Qur'an and the Sunna by the earlier Mujtahids who were the only individuals qualified to handle them. So it was of immense significance whether or not the mujtahids agreed on a particular or similar problem, or whether there were differences of opinion among them. Among the jurists of North Africa the Mudawwana of Sahnun was regarded as the consensus of the Maliki Mujtahids. Many commentaries have been written on it. The word 'ijma' appeared to be understood differently by the North African sages. Asnuni and Ibn Zakri appear to have considered it the unanimous agreement of all 'ulama' without the voicing of any dissident opinion. A-Maghili and al-Tanassi appear to have given the word the meaning of the majority decision without consideration of the minority opinion. This difference also occurred between the early jurists, who gave it the meaning of total agreement between all the Mujtahids of Islamic communities in all the Islamic states of a given age. Al-Shafi'i showed that he did not accept the possibility of this happening by saying: "Whoever claims a consensus is a liar, because it is possible for people to differ." The more practical meaning is, of course, the majority opinion among the Mujtahids. The consensus of the Sahaba was a matter of the majority but not of unanimity. Furthermore, even if there existed an 'ijma' with whatever connotation, it should be weighed against the general welfare in a given situation; whenever it does not conform to the general welfare then it should be dispensed with. This is because the so-called consensus of the mujtahids was certainly the result of their consideration of maslaha. This can be proved by examples of their departing from 'ijma' if it clashed with maslaha. Vide Muhammad M. Shalabi, Ta'lim al-ahkam, (Cairo, 1943), pp. 146-148 and 323-325; N. J. Coulson, A History of Islamic Law, (Edinburgh, 1971), pp. 77-79 and 144.

Nor would it be lawful in al-Maghīlī's opinion, for the dhimmis to put up the smallest room for their prayers even if they were to give a worldful of gold. Their possession of a piece of land acquired through a lease or any other method of possession does not change the situation at all. Should any ruler - Sultan, Caliph or judge - give them permission to erect a place of worship, it is a matter of obligation for the Muslims to nullify such permission and demolish whatever might be built as a result of the ruler's permit. Al-Maghīlī argued that this was necessary because no ruler's permission or decision could hinder the upholding of the truth and the removal of abomination whoever that ruler might have been, even if a long time had elapsed since the permission and the building of the synagogue. The judgement and decision to be taken by all the faithful is that of Allah, the Exalted, who is most fair in Judgement. Any judgement of pagandom must be cast away.²² The fact that churches and synagogues existed in Muslim cities and that learned men were silent about them, al-Maghīlī retorted, should not be taken as evidence for the justification of their existence, because affairs had not been in the hands of pious people but of greedy rulers.

22. Vide Chapter IV of this thesis.

2. Al-Maghīlī's Opponents

The insinuation above must refer to 'al-Maghīlī's opponents whose leader was Abu Muhammad ^CAbdullah b. Abu Bakr al-'Asnūnī.²³ He was the champion of the synagogue and it was he who was primarily responsible for administration and the maintenance of law and order in Tamantit.²⁴

Now when al-Maghīlī started his corrective operation, it was ^CAsnūnī who came out in opposition to him. He found it necessary to write to the learned jurists of Fās and Tilimsān to solicit their help in quelling the commotion created by the writings and activities of al-Maghīlī. For those living in the same town with al-Maghīlī, personal contact and discussion must have taken place in forums and epistles before the contending parties took the matter beyond the confines of Tuwat. Unfortunately, these epistles have not come to light; our only evidence that they were indeed written is references in the circular or istiftā' or (legal inquiry) sent out by ^CAsnūnī to the ^Culamā' outside asking for their opinions, and a similar circular sent out by al-Maghīlī who, in addition to that wrote his famous treatise on the Jews.

^CAsnūnī, in his circular letter, tells us of the dispute between him and al-Maghīlī's faction. He outlines the points of difference between them and his own stand and gives the evidence for all who were to judge. He first took up the question of the consensus of the ^Culamā'

23. It is strange that, in spite of the leading role which ^CAsnūnī played in this controversy, neither Ahmad Baba nor Ibn Askar recorded a biography for him. None of the biographers for the personalities of the ninth and the tenth centuries of the Hijra considered him important enough to warrant including him in his work.

24. A. G. P. Martin, Les Oasis Sahariennes, (Paris, 1908), p.1

claimed by al-Maghilī on the unlawfulness of building new churches in Muslim territories and the obligation to demolish them. ^cAsnūnī denied that there was such a consensus and maintained that there was a difference of opinion among them. His major source was the Mudawwana and he relied on the exposition of three of its interpreters, Ibn 'Arafa, Ibn Yunus and al-Burzulī.²⁵ Each of them classified Muslim countries into three categories - those founded by Muslims, those conquered by force of arms and those acquired by peace treaties. In each category they recorded differences of opinion among the earlier scholars on the question of building and demolishing churches. ^cAsnūnī agreed with all others that Tuwāt was a Muslim foundation by laying out in the first instance. Basing his consideration on this principle, he proceeded to put his cards on the table. He explained that his understanding of Ibn ^cArafa's commentary on the Mudawwana was that there was a difference of opinion among the 'ulama' about the building of churches in conquered towns and in foundation towns. Ibn ^cArafa, following al-Lakhmī in the Mudawwana, showed that there was certainly no unanimity concerning the building of churches in the two. Since this was the case, ^cAsnūnī proceeded to base his decision on two standard rulings in Islam. It is a rule in Islam that a thing cannot be commanded or pro-

25. Ibn Yunus probably refers to Abu'l-Hassan ^cAli b. ^cAbdurrahman b. Ahmad al-Sadafi. He died in Cairo in the year 347/958. Vide Encyclopaedia of Islam (old edition) p.428.

Ibn ^cArafa was a famous jurist in Tunis. His full name is Abu ^cAbdullah Muhammad b. ^cArafa al-Wirghammi. He was at one time the imam of Tunis. He was born in the year 716/1316 and died in 803/1400. He wrote several books such as al-mukhtasar al-kabir fi'l-fiqh al-maliki and Al-turuq al-wadiha fi 'amal al-munashaha. Vide Da'irat al-ma'arif, Vol.III (Beirut, 1960), p.370. al-Burzuli's full name is Abu'l-Qasim b. Ahmad b. Muhammad b. al-Mu'tall al-Qayrawani. He died in the year 841/1438. A jurist of repute, he is the author of several works of fiqh the famous among them being Jami' masa'il al-ahkam mimma nazala min al-qadaya li'muftina wa'l-hukkam.

hibited unless it attains the status of consensus either way. So ^cAsnūnī tried to show that there were in fact several opinions. There was the opinion derived from a fatwa given by Ibn al-Hajib that Dhimmi who migrated from one place to another within the Muslim territory could be allowed to build a church in their new abode, if they had one in the previous one. Another opinion was that they could be allowed to build a church in a Muslim town if they had a covenant for it. This was deduced from a case which happened in Tunis when some Dhimmis were accused of building a church without permission but, when they produced their covenant, they were left alone. ^cAsnūnī further argued that Ibn al-Qasim recorded in the Mudawwana that Dhimmis could not build a church in a Muslim town if they had no covenant for it. This implied that they could if they had a covenant. Thus ^cAsnūnī, basing his decision on these statements and the possibility that the Tamantitian Jews might have had a covenant, decided, in the first instance, that there was no consensus in the ruling as claimed by al-Maghīlī and his supporters. He decided in the second instance that the synagogue should be preserved and could not be demolished.²⁶

^cAsnūnī, believing that he had done away with al-Maghīlī's claim of consensus, started to tackle another problem and that was al-Maghīlī's categorical statement that it was not lawful for a ruler to grant permission to the Dhimmis to build a church in a Muslim town and that there was an obligation on Muslims to nullify such permission if given.

^cAsnūnī made it quite clear that it was within the competence of a Muslim ruler to give permission to Dhimmi immigrants to build a church in

26. Ahmad b. Yahya al-Wansharīsi, Al-mi^cyar al-mughrib^c an fatawi^c ulama'^c ifriqiyya wa'l-andalus wa'l-maghrib, Vol.II, (Fas, Lith.). pp.170-173.

a Muslim town to which they came to settle. There was a precedent in the Muslim city of Tunis. The implication of the statement in the Mudawwana which permitted the building of a new church in a Muslim town if it resulted from a covenant, was that a ruler could give such permission.²⁷

The next problem ^ʿAsnūnī had to deal with was the question of possession of the piece of land on which the Jews built the synagogue. Al-Maghīlī claimed that it was unlawful for the Muslims to sell or give them the piece of land in the first place; their possession could not therefore be a reason against demolishing the synagogue. On this ^ʿAsnūnī explained that what al-Maghīlī claimed could only be so if the selling or granting of the piece of land was specifically for the building of the synagogue; otherwise it was quite legitimate for the Muslims to sell or grant a piece of land to the Jews.²⁸

Among other things which ^ʿAsnūnī tried to rebut in support of the preservation of the synagogue was the allegation launched by al-Maghīlī and his supporters of the misbehaviour of the Jews, which according to the law derived from the covenant of ^ʿUmar, rendered their contract of Dhimma (protection) null and void; if they had been guilty of a breach of contract, this put their lives and property at the disposal of the Muslims. ^ʿAsnūnī, accepting the law on this point, denied the bad behaviour which the Jews were accused of. He said they were well conducted except for some minor offences which, after due warning, they had completely abandoned; thereafter they had become docile.

27. Ibid., p.172.

28. Ibid., p.173.

Thus it can be seen that ^cAsnūnī disagreed with, and opposed, al-Maghīlī on almost every item and tried to defend his point of view by the application of Fiqh.²⁹

^cAsnūnī's opposition to al-Maghīlī appears to have given rise to two camps among the learned jurists of the Maghrib. This was the result of the appeal of both al-Maghīlī and ^cAsnūnī to the 'ulama' outside Tawat.³⁰ These 'ulama' responded mostly in favour of ^cAsnūnī, though there were some in support of al-Maghīlī. Replies were received from Fas, Tilimsan and Tunis. The material yielded by these replies is reviewed in the following pages.

One of the jurists who expressed an opinion about the problem was Abu 'l-^cAbbās Ahmad b. Muhammad b. Zakarī, the Mufti of Tilimsan.³¹ He received an inquiry from both al-Maghīlī and ^cAsnūnī about the case under dispute. He dealt with the issues raised by the two contestants and added his own. He dealt with the question of 'ijma' on which the

29. It is noteworthy that ^cAsnūnī kept silent about the Prophetic and other traditions used by al-Maghīlī to support his case. This, however, should not worry us: the explanation might be that ^cAsnūnī regarded himself as a muqallid and so he was content to limit himself and his sphere of operation to the mudawwana and its commentaries where the earlier mujtahids had already made use of the Qur'an and the traditions and had arrived at the conclusions on which he based his case.
30. See Wangharīsī, op.cit., p.170 and p.182 where Ibn Zakarī mentioned that he received inquiries from both al-Maghīlī and ^cAsnūnī.
31. He was considered to be a jurist of repute and was one of the teachers of the famous Sanusi of Tilimsan. He died in 899/1493. Vide Ahmad Baba, Nayl al-ibtihaj bi tatriz al-dibaj on the margin of Ibn Farhun, al-Dibaj al-mudhahhab fi ma rifat a yan 'ulama' al-madhab, (Cairo, 1932), p.84.

two disagreed and favoured the opinion of ^cAsnūnī that there was no consensus on the prohibition of church building in Muslim territories. He explained that there was a consensus among scholars on the lawfulness of originating churches in treaty lands. There was also a consensus on the unlawfulness of establishing churches in conquered lands, in Muslim foundation land if the Dhimmis had no covenant and in treaty lands if they lived amidst Muslims. But if they lived away from the Muslim quarter in treaty land, or if they had a covenant in foundation land, they could build synagogues. He further asserted that if they had a covenant in one Muslim territory they could move to other Muslim territories and the original covenant would apply wherever they settled. He based his ruling on the actual precedent of some Christians who were evacuated from coastal towns and allowed churches in their new places of migration.³² He also cited the Mudawwana which recorded a ruling of permission to the Dhimmis to build new churches if they had a promise. Thus as maintained by ^cAsnūnī, there was not the consensus al-Maghilī claimed in prohibiting the building of churches in Muslim territories and there were circumstances under which it could be allowed.³³

This brings us to another subject of dispute, since it was the ruler whether an Imam, Caliph or anybody in authority who was to give the permission. Such a permission by the ruler according to Ibn Zakārī,

32. al-Wansharisī, op.cit., p.174.

33. Ibid.

is valid because some jurists interpreted the term 'covenant' or 'promise' as the permission of the Imam Al-Lakhmi³⁴, reporting from earlier jurists in the Mudawwana, asserted that the permission of the Caliph is valid if the advantages of so doing outbalance the disadvantages. Here again, Ibn Zakari agreed with ^cAsnuni. In fact he went further and held the opinion that a Muslim community, in the absence of an Imam is competent to give the Dhimmis permission to build a church if they consider it advantageous.³⁵ Thus al-Maghili's categorical statement to the contrary was to both ^cAsnuni and Ibn Zakari baseless. Ibn Zakari showed that there were several ways in which they could have the permission. Since it could not be proved that they did not have it, it should be taken for granted that they did have it; for in legal consideration it is always assumed that the occurrence of one of several possibilities is more likely than the occurrence of a single possibility. The same consideration should be given to the origin of their possession of the land on which they built the synagogue.³⁶

34. The full name of al-Lakhmi is 'Ali Abu 'l-Hassan b. Muhammad al-Rib'i al-Lakhmi. He is a Tunisian from Safaqis. He has a commentary on the Mudawwana entitled al-Tabsira. He died in the year of the Hijra 498/1104. Ibn Zakari was most probably quoting from al-Tabsira. Vide Ibn Farhun, op.cit., p.203.

There lived also another al-Lakhmi, also a Tunisian from Qafsa. He wrote an abridgement of the Mudawwana. He died in the year 279/892. Vide Muhammad al-Talibi, Tarajum aghlabiyya, (Tunis, 1968), p.294.

35. Al-Wansharisi, op.cit., p.174.

36. Ibid., p.178.

The mere length of time that they had owned the piece of land was enough to justify their possession; because Maliki jurists laid down that ten years' occupation of a piece of land is enough to establish ownership of land among non-relatives, and fifty years among relatives, and cases had been decided on that basis. An example was the bleachers in Tilimsan where a verdict in their favour was given because they had occupied the disputed land for a long time.³⁷

This brings us to another sphere of conflict. As we have already seen,³⁸ in the view of al-Maghīlī, the fact that Jews owned the land on which they built their synagogue would not safeguard it from being demolished; because to him their ownership was invalid in the first instance. Ibn Zakarī was explicit in this and outlined several possibilities by which the Dhimmis could have acquired ownership of the land; they might have been given the land for the purpose of living on it and then they built churches; they might have been permitted to own land by the community, which could act as the Imam in his absence if the community found the advantage outbalancing the harm; the Dhimmis could also have developed the land, because that was lawful outside the Arabian peninsula.³⁹ Ownership resulting from any of these possibilities, according to Ibn Zakarī, was valid, thus falsifying al-Maghīlī's contention and sustaining ^cAsnūnī's decision. Since ownership was

37. Ibid., p.175.

38. See above Chapter IV, p. 115

39. al-Wanṣharīsī, op.cit., pp.177-178.

valid, the existence of the synagogue was also valid. Ibn Zakarī argued that ownership was important in the case under dispute because it was the sole criterion upon which Ibn al-Qāsim and Ibn al-Mājishun⁴⁰ in the Mudawwana based their decision to permit church building in treaty lands. Since ownership had been established, it was necessary for any judge before whom this case might be taken to give a verdict of the validity of the existence of the synagogue.⁴¹ Here again we find Ibn Zakarī siding with ^cAsnūnī. According to him, the existence of the synagogue was not only justified, but its demolishing would be unlawful. This was because such an action would be an oppression of the people under protection and oppression is Haram (unlawful) according to the Shari^c law, and there are many prophetic traditions prohibiting oppression of the Dhimmis. A Hadith relevant to this point is where the Prophet said "Do not enter the house of the mu^cahidun (those under protection) unless they give you permission."⁴² Since oppressing them is prohibited and demolishing their synagogue is a manifest oppression, Ibn Zakarī concluded that under no circumstances could the synagogue be demolished.⁴³ The allegation that the Dhimmis exceeded their bounds could justify demolition of the synagogue but that might only be done if there was enough to constitute a breach of

40. For a brief note on Ibn al-Qāsim and Ibn al-Mājishun see Chapter V of this thesis, .n. 28 and 29 respectively.

41. al-Wansharīsi, op.cit., p.178.

42. Ibid.

43. Ibid.

contract, for instance if they rebelled and refused to pay jizya, or if they waged war against the Muslims. Individual breach of contract could affect only the individuals concerned and not the whole community.

One of the additional points raised by Ibn Zakarī was the question of the unanimity of the 'ulama' on the provision of levying poll-tax and the giving of protection. He implied that since this was an established law in the religion of the Muslim community, it would be a great sin for anyone to deny it.⁴⁴ Giving the People of the Book protection was an obligation upon Muslims as long as they paid the jizya, and protection included their places of worship. Ibn Zakarī, building on this, concluded that whether a town was Muslim by foundation or development was really not very important because the Maliki jurists laid down that it was lawful for a Dhimmi to transfer his jizya to another Muslim territory; it follows, therefore, that he could also transfer his contract of protection since the obligation of protecting the Dhimmis was common to all Muslims.⁴⁵ A person's becoming a Dhimmi was itself enough to give him all the protection necessitated by the provision of the Dhimma (protection). So the Dhimmis could not be prevented from building a church whenever they moved with the Islamic territory.⁴⁶

44. Ibid., p.183.

45. Ibid., p.175.

46. Ibid.

Another point raised by Ibn Zakarī was the question of preventing evil. Even on the assumption that the existence of the synagogue in Tuwāt was an evil, there were conditions to be fulfilled before it could be removed. Whoever took it upon himself must have, in the first instance, sufficient knowledge to distinguish between virtue and vice. He must also be sure that he would not be doing a greater harm in preventing the evil. Absence of either condition rendered the prevention of evil unlawful. Even if both conditions were fulfilled, it would not be obligatory upon an individual to remove the vice unless he was confident of his ability to do so. When all conditions were fulfilled, then there were ample evidences in the Qur'an and Hadith to command virtue and prevent vice. But for action either way, the object must attain the status of consensus. Otherwise it would not be lawful to command or prevent. Similarly, if there was danger of greater harm such as murder or causing fighting among Muslims or fighting Dhimmis, who had committed no breach of contract, then it would be unlawful by consensus. Whoever indulged in fighting them would be considered as committing hirāba (highway robbery), the penalty for which was death by crucifixion.

Thus, not only did Ibn Zakari consider the preservation of the Tuwatian Synagogue justified, but he also saw its demolition and conflict with the Jews as a very grave crime.⁴⁷

47. Ibid. p.179.

Another jurist who gave a legal decision on the same problem was Abu Zakariyā Yahyā b. Abu 'l-Barakāt,⁴⁸ whose views were similar to those of Ibn Zakarī, but he dealt with the problem from a different angle. Instead of entering into details and analysis of jurisprudence, he based his arguments on two main edifices, that of taqlīd (confirmation) and maslaha (welfare). To him the greatest evidence of the justification for the existence of the synagogue was the silence of the ancient sages about it and similar institutions in other Muslim countries. They found them existing but ignored them and left them undisturbed. Later 'ulama' must imitate their example, and to contravene their actions would be to commit a grave abomination, since one would be ascribing to them an abomination by implication. Their action, if considered wrong, must be either because of their shortcomings, ignorance, innovation or condonement of an abomination for the sake of making concessions. This would necessitate their doom. Whoever claims others are doomed is really the more doomed.⁴⁹ In fact, according to Abu 'l-Barakāt, condemning righteous leaders either in clear terms or by insinuation is the real peril.⁵⁰ No-one could indulge in such action, except one in whom the devil had put conceit, causing him to mistrust the learned people and ascribing to them action contrary to the Sharī'ca. Such a thing would

48. Yahyā b. Abu 'l-Barakāt al-Ghimārī died in the year 910/1504. He was a chief justice or qādi jamaa^c in Tilimsān. Vide Ahmad Baba, op.cit., p.359.

49. al-Wansharīsī, op.cit., p.184.

50. Ibid.

result in everlasting doom.⁵¹

Thus, according to Abu 'l-Barakāt, what the earlier scholars had left unharmed must be right because their decision must be the correct one. The fact that one generation in a given time had overlooked something is evidence in itself, especially if many generations in succession had kept silent. It is in compliance with this principle that the Jewish synagogue must be preserved. But even if it were to be taken for granted that the decision of the earlier jurists was wrong, the synagogue could not be demolished, because the security and welfare of the people was involved. In demolishing the synagogue, a greater harm could be caused and it might lead to strife in other places.⁵² It was unthinkable, Abu 'l-Barakāt asserted, for anyone to make a statement implying destruction of the synagogue, because preventing evil was better than attracting benefits (radd al-mafāsīd aḥsan min jalb al-masālih). And in the case in question there were already signs that evil would occur and this might result in greater atrocity. It had already been established in the regulations governing the removing of abomination that if action would result in greater atrocity, then it would be unlawful to attempt to remove it; even if its unlawfulness attained the status of consensus. In his view, there was no greater atrocity than disturbance and chaos leading to the loss

51. Ibid. This is a truly good example of rigid conformist. His conformity was not so much to the basic sources of the Shari'ah but mainly to the decisions of the earlier jurists whom he held in great reverence.

52. Ibid., p.185.

of lives and destruction of property. It might also kindle the fire of war in other territories. For these considerations the demolition of the synagogue could not be allowed under any circumstances, because such an action was contrary to the law. Whoever set himself to do that was a sinner.⁵³ It is obligatory upon those in whose custody Allah has put His Shari'a and the welfare of His subjects, to strike the hand of the agitator intending to demolish the synagogue.

Abu 'l Barakat had also been supported in the stand he took by his contemporary Abdurrahman b. Sa'id⁵⁴, who agreed entirely with him. He saw in the attempt to demolish the synagogue innovation and deviation from established practice. This was because the learned people had found churches and synagogues in Muslim cities and they had tolerated them without any protest. People had followed their example year after year and that was the correct thing to do. He saw no justification for anyone "to indulge in too much scrutiny, extremism, pressure and agitation over what has already been established and practised by the ancestors."⁵⁵

53. Ibid. This is clearly an insinuation to al-Maghili. What Abu 'l Barakat was advocating was that the political authority should do something about al-Maghili's intentions. They should stop him even by force of arms. His appeal clearly came too late because al-Maghili did, in fact, demolish the synagogue in the face of all opposition. His action was a clear demonstration of power. He became more powerful than the political authority at least in the Tuwatian region.

54. Abdurrahman b. Sa'id appears not to be one of the prominent jurists. None of the biographers whose works are available to me recorded any note about him.

55. Ibid.

Now let us consider another jurist from Fās, al-Mawāsī.⁵⁶ That the synagogue in dispute had been established by ancestors was also evidence for its justification to him. He did not, however, take it as evidence in itself but as an indication that a deed must have existed. So unless it could be testified that the Jews had violated the law in building it, then it could not be demolished. The synagogue could be demolished only if the Jews were in breach of contract, but even in such a situation the effect of the breach of contract could apply only to the particular Jews involved and not to all Jews.⁵⁷ He agreed with the ruling that it was not permissible for the protected people to build a synagogue in a Muslim town unless they had a deed, but he observed that permission could be given to them to establish a synagogue if that was advantageous to the Muslims.⁵⁸ He explained that the evidences cited from the Mudawwana were to prevent the building of new churches in Muslim territories but the problem in question was demolishing a synagogue which had existed for a long time. There was no justification for demolishing it because it must be assumed that the Jews had a covenant. The only situation that could permit the destruction of their synagogues was when they became guilty of transgression. Since this had not been proved, their synagogue must remain.

56. 'Isā b. Ahmad al-Mawāsī was a leading jurist and a muftī of Fās. He died in the year 896/1490. Vide Ahmad Baba, *op.cit.*, p.194.

57. al-Wansharīsī, *op.cit.*, p.180.

58. Ibid., p.182. Al-Mawāsī's views are similar to those already expressed by Ibn Zakarī.

This stand which al-Māwasi took was in a way supported by the Tunisian jurist and legal adviser, al-Rassa'.⁵⁹ He issued a fatwā that the Ahl al dhimma had the right to buy a piece of land provided they did not stipulate the building of places of worship and once the land became theirs they could build on it whatever they liked. Thus the permission or covenant assumed by al-Māwasi was deemed certain by al-Rassa' because it was known that the piece of land was theirs and the implication of al-Rassa's decision was that they could even build churches as long as they had not stipulated it before buying the piece of land.⁶⁰

3. Al-Maghili's Supporters.

After discussion of the legal theories of al-Maghili's opponents, it is necessary to see what his supporters had to say in confutation.
⁶¹
 Al-Wansharisi, to whom we are indebted for the record of the controversy, expressed a contrary opinion. He asserted like all the others that Tuwat was a Muslim foundation and on the basis of that fact he started off by declaring that the synagogue should certainly be demolished. He claimed that it had been approved by the consensus of Ibn al-Qasim and others because all were agreed that permission or agreement must exist

59. Muhammad b. al-Qasim al-Rassa' was at one time the qadi jamāa^c or chief justice in Tunis. He died in the year of Hijra 894/1488. Vide Ahmad Baba, op.cit., pp.323-324.

60. al-Wansharisi, op.cit., p.183. It is interesting to see that al-Rassa' gave his decision outright without supporting it with any evidence.

61. Ahmad b. Yahya al-Wansharisi is the author of Al-mi'ar^c and it is to him that we are indebted for the record of the Tamantitian Synagogue controversy. He died in the year of the Hijra 914/1508. Vide Ahmad Baba, op.cit., pp.87-88.

before allowing Dhimmis to build a church in a Muslim territory, since existence of permission could neither be proved nor disproved; the situation indicated that there was a doubt. He argued that any doubt in a stipulation prevents the execution of the object of stipulation. Thus the possession of the land by the Jews as claimed by other jurists could not be a justification for their building the synagogue, for the simple reason that it was not established without any shadow of doubt. So their possession of the land in question was invalidated by the doubt, and it followed therefore that the building on the land must be removed. He thought that all those who gave a fatwa for the preservation of a synagogue using the statement of Ibn al-Qasim as their evidence had really misunderstood him. This resulted in their making a terrible blunder.⁶²

After giving his verdict, al-Wansharisi proceeded to support his his view with evidence. He started by citing Qurtubi,⁶³ who commented

62. al-Wansharisi, op.cit., p.188.

63. There were several learned men known with the name of al-Qurtubi but al-Wansharisi was here quoting from Al-jami li ahkam al-qur'an so his reference to al-Qurtubi must have been to Abu Abdullah Muhammad b. Ahmad al b. Abi Bakr b. Farh al-Ansari al-Khazraji al-Andalusi al-Qurtubi, the famous Qur'an commentator of the thirteenth century. He died in the year of the Hijra 671/1272. His commentary on the Qur'an has been published in Cairo in twenty volumes. Vide Al-jami li ahkam al-qur'an, Vol.I, (Cairo, 1933), p.1.

on verse 22.40⁶⁴, and claimed it to be evidence for demolishing churches and synagogues. As for the prohibition of building a synagogue in Muslim territory, he relied on Ibn al-Mājishūn's commentary on one of the Hadiths which prevents that, and on al-Ghazālī's statement in the Wajiz.⁶⁵ He also quoted Ibn al-Qasim in the Mudawwana as evidence for the same argument.⁶⁶ Wansharīsī put in evidence also of precedents of a similar nature. He quoted a tradition that ʿUmar gave orders that all churches and synagogues existing before Islam should be demolished and no new ones should be built. ʿUrwa b. Muhammad, too used to demolish them at Sanaʿ. ʿUmar b. ʿAbdulāziz also gave orders for the destruction of all churches. Wansharīsī remarked that this was

64. Qurtubī's comments on this verse show the prohibition of destroying the churches and synagogues belonging to the People of the Book living in Muslim territory and that they should not be allowed to initiate new buildings of their worshipping places, and whenever they violated this condition, then their churches and synagogues must be removed. Vide Qurtubī, op.cit., Vol.XII, (Cairo, 1942), p.70.

It is curious to see that al-Wansharīsī is making evidence with this verse for demolishing churches and synagogues while Ibn al-Qayyim al-Jawziyya is making evidence with the same verse for preserving them. Among several interpretations Ibn al-Qayyim selects the one which says, "Worshipping places belonging to the ahl al-dhimma are being protected by the believers." Vide Ibn al-Qayyim al-Jawziyya, op.cit., Vol.II, pp.66-67.

65. This is al-Ghazālī Abu Hamid Muhammad b. Muhammad al-Tusi (1058-1111). Several authors have recorded a biography for this famous Muslim thinker and reformer. Vide the Encyclopaedia of Islam, (new edition), pp.1038-1042; My "The Life and Teachings of al-Ghazālī", Kano Studies, Vol.I, No.1 (1965), p.

al-Wansharīsī's quotation from the Wajiz is correct. Vide Muhammad b. Muhammad al-Ghazālī, Kitāb al-wajiz fi madhhab fiqh al-imam al-shafiʿ, Vol.II (Cairo, 1899), pp.200, 201 and 202.

66. al-Wansharīsī, op.cit., p.187.

the policy of the majority of Muslim learned men including Hassan al-Basri, who was of the opinion that all churches old or new in the Muslim town should be demolished, which would comply with the Sunna of the Prophet.

When Wansharīsī had convinced himself that he had justified his point of view, he found it expedient to wind up the controversy by recording, at full length, a very comprehensive reply written by al-Tanassī.⁶⁷ Not only did this reply agree with the conclusions of Wansharīsī, but it also reinforced them with more ideas and evidence. Al-Tanassī displayed his mastery of the traditional sources and his conformity to the tradition of taclīd. He made it clear from the outset that he intended to conform and not to be an innovator. He wanted to follow closely the Sunna of the Prophet, the companions and their followers, as expounded by the chief learned men who undertook to preserve the sharīʿa through the passage of time. He explained that his duty was to repeat their statements, after which there would be no confusion or any need of other legal advice.⁶⁸ His basis for consideration was, in the first instance, the fact that Tuwāt was a Muslim territory by foundation. This fact had been recognised by al-Maghilī and his supporters and opposers.⁶⁹ Al-Tanassī

67. Muhammad b. ʿAbduljalīl al-Tanassī, the historian of the Bani Abdal-Wads was the strongest supporter of al-Maghilī. He died in 899/1493. Vide Ahmad Baba, op.cit., p.331.

68. Wansharīsī, op.cit., p.189.

69. Ibid., p.188. This was the basis on which the inquiry had been founded.

appears to have had the advantage of knowing what others had said on the problem - if not all, at least some of them. When reading through his fatwa one has the feeling that he was replying to some of the opposers, ^cAsnūnī in particular. ^cAsnūnī clung to a statement reported by al-Lakḥmī in the Mudawwana that a difference of opinion existed among the Maliki scholars on the question of churches in a Muslim country. Al-Tanassī quoted this same argument word for word and tried to show that there was no difference of opinion. All the statements pointed to the prohibition of building new churches in a Muslim territory. He explained that the imagined difference of opinion arose from an abridgement by Ibn ʿArafa of Lakḥmī's statement but a close examination revealed, according to him, a consensus of opinion on the problem. To prove that, he took pains to illustrate and analyse al-Lakḥmī's statement in detail.⁷⁰ In doing away with the difference of opinion which was the basis of the argument of many of al-Maghīlī's opposers, he proceeded to show that there was in fact a consensus of opinion among the Maliki jurists on the prohibition of building churches in Muslim territories and on demolishing them, if they had been built. To support his view, he cited a similar incident in Cordova, where a newly established church was demolished following the decision of the Cordovian council of advisers. He maintained that this council concluded that there was nothing in

70. Ibid., p.196.

the schools of law which allowed it. He argued that since their main source of information was the Mudawwana and Wadiha this showed that their understanding of these sources was that the matter was one of consensus. Since these were also the sources of al-Lakhmī he could not see whence came their understanding a difference of opinion.⁷¹

Al-Tanassi then found it necessary to substantiate their argument with more evidence. He saw that he should reveal the opinion of the four founders of the schools of Islamic law. He naturally started with Malik and asserted that when Malik was asked about the churches built in Fustāt, a Muslim city like Tuwāt, he expressed the opinion that they should be demolished. Al-Shafi'i was reported by Ibn al-Manāsif and Ibn al-Mundhir as saying that the Dhimmis should not build a church or place for congregation for their prayers. Ahmad b. Hanbal, according to Ibn al-Mundhir's report, also saw no right for the Dhimmis to display anything concerning their religion which was not contained in the terms of their truce.⁷² The same Ibn al-Mundhir reported a similar opinion from the Hanafites. Ibn Hazm, expounder of the Zahirite school,⁷³ made a statement which al-Tanassi

71. Ibid., pp.196-197.

72. Ibid., p.200.

73. Abu Muhammad ^CAli b. Ahmad b. Said Ibn Hazm was born at Cordova in the year 384/994 and died in 456/1064. He was a theologian of repute and was best known as a great opponent of taqlid and as an advocate and expounder of the Zahirite school. He wrote several works on subjects of Islamic sciences, i.e. tradition, theology, Qur'anic studies, logic and literature. Vide C. Van Avendouk, "Ibn Hazm", The Encyclopaedia of Islam, Vol.II (old edition), pp.384-386.

interpreted as agreeing with all the others on this issue. Thus Al-Tanassī showed in a very comprehensive manner that, to his understanding, all exponents of Islamic law of all schools were unanimous on a decision which al-Tanassi took to apply equally to the Tīwatian synagogue.

Others had, however, brought evidence to prove a contrary opinion, so he found it necessary to deal with some of them. One of the bases of argument for the contending party was the fact that the Jews possessed the land on which they had built the synagogue, but al-Tanassī maintained that possession of the piece of land could not legalise their building the synagogue, because the selling or guaranteeing them the piece of land was valid only if no intention of building a church was assumed. He explained that the intention for this ruling was to safeguard the religion of Islam in a territory which solely belonged to Muslims, and the ruling was based on the Prophet's saying, "Do not allow a church, or a synagogue to be elevated among you."⁷⁴ Other evidence for those advocating the preservation of the synagogue was the provision that a ruler or political head could give permission for its being built. While al-Tanassī agreed that this provision was valid, he explained that the political head was permitted to grant such a licence only if there was advantage for the Muslims. This advantage must outbalance the

74. Wansharīsī, op.cit., p.194. This same Hadith has been put forward as evidence by al-Maghilī. Vide Chapters IV and V of this thesis.

harm of their presence among Muslims. He argued that even if it was taken for granted that the Jews of Tuwāt secured such permission from a certain ruler, it could not be valid, because there was no advantage which could outweigh the harm of the display of their rituals.⁷⁵

One of the major pieces of evidence brought forward by al-Tanassī was a legal decision given by Abul-Qāsim °Abdūsī of Tunis concerning a case which was very similar to the Tuwatian problem. It concerned a church built by the Jews in a Muslim town which a certain Muslim puritan had demolished. They later wanted to rebuild it, and a fatwa was put to °Abdūsī, who ruled that they should not be allowed to rebuild the church. °Abdūsī supported this in the usual way with statements from the Mudawwana. He also gave a warning in his reply that whoever helped the Jews to rebuild the synagogue would be either an unbeliever or a libertine and there was a danger that he would die an unbeliever. Al-Tanassī points out that this incident agrees exactly with the case of the Jewish synagogue in question, and his reply should suffice even if it was the only evidence for the case in all the Maliki school.⁷⁶ Al-Tanassī, because of this reply from °Abdūsī, found himself well equipped to address all those who were helping towards the preservation of the synagogue in Tuwāt and outside. He hinted to them that they ran the risk of either being unbelievers

75. Ibid., p.193.

76. Ibid., pp.199-200.

or libertines because ^cAbdūsī had given this warning in his reply. Tanassī remarked that it was a miracle that ^cAbdūsī had given this warning because nowhere in the question directed to him, had there been any reference to the fact that some Muslims were helping the Dhimmis, though it was obvious that such a thing could not have happened without the help of some Muslims.⁷⁷

Thus, al-Tanassī's decision on this problem is quite clear. He saw no justification for the existence of the synagogue, and so all right-thinking and guided Muslims must strive towards its demolition; for, he claimed, that was an obligation on anyone who had the power. They should exert the utmost power to see that it was removed. This was the decision promulgated by al-Tanassī after a very long and comprehensive discussion of the problem. It was so extensive that when Sanūsī⁷⁸ received the same inquiry, he discovered that he had nothing to add to it and so he supported it wholeheartedly. He advised the people of Tamantit to abide by it because it was the best of all the replies given. All other decisions contrary to this emanated from people of passion and divergence from the right course.

77. Ibid., p.200.

78. Abu ^cAbdullah Muhammad b. Yusuf b. Umar Shu^cayb al-Sanūsī was the great theologian of Tilimsan who was highly venerated in the Maghrib for his works on Tawhid and for being a great Sufi. He died in the year 875/1490. His date of birth has been calculated as 832/1428. Vide Moh. Ben Cheneb, "al-Sanūsī", El, Vol. IV, (old edition), p.154, Ahmad Baba, op.cit., pp.325-329.

We can thus see that three prominent learned men of the Maghrib were on the side of al-Maghīlī in his effort to demolish the synagogue, which as we have seen, he actually did. It is now appropriate to discover the significance of the whole episode, its relevance in the century in question, to the Tuwatian situation and that of the Maghrib.

4. The outcome of the Controversy

An examination of the controversy will reveal several interesting points. It can be seen, not primarily as a struggle between al-Maghīlī and the Jews, but, in effect, as a struggle between several parties all professing the same Islamic faith, but differing in their interpretation and understanding of Islamic teaching.⁷⁹ It was, in fact, a struggle on the one hand between al-Maghīlī and the 'ulama', and on the other between him and the civil authority. All the three parties involved were Muslims and all believed themselves to be good Muslims; and all were trying to establish what they really thought to be Islamic and do away with what was unIslamic. No doubt the Jews were the focus of the controversy, but they were not really the main concern of al-Maghīlī. A close examination of the text will reveal this. Al-Maghīlī's

79. Al-Maghīlī has been described as a great admirer of following the tradition of the Prophet and a great abhorer of the enemies of religion. This was the underlying reason behind his struggle with the jurists of his time and the controversy resulting from his attack on the Jews of Tuwat. (Ahmad Baba, op.cit., p.330). Al-Maghīlī has taken the view that the 'ulama', the political authority, the Jews and their Muslim sympathisers were all enemies of religion and it was the task of the ahl al-dhikr which according to his interpretation simply meant reformers, to wage a holy war against them, because that was better than waging war in the land of infidels.

real concern was that of the Muslim population and their religious political leaders. These were the ones, according to him, who became the people of error, the venal ʿulamāʾ. These were the ones whom he had come to correct and put on the right path from which they had gone astray. I have in different parts of this study made the suggestion that al-Maghīlī's actions were mainly motivated by the belief that he was a mujaddid.⁸⁰ It is important to look at the significance of this.

80. The concept of revivalism or tajdid in Islam has been derived from the following tradition of the Prophet Muhammad reported by Abu Hurayrah and recorded in the Sunan of Abu Dawūd:-

Allah will raise at the head of each century such people for this Umma (Muslim peoples) as will revive their religion for them. 'Inna'l-Laha Yabʿathu li hadhihi'l-umma ʿala ra'si kulli mi'ati sanatin man yujaddidu laha dinaha. (Abu Dawūd, Sunan, 'Awn al-maʿud's Commentary, vol.IV, Beirut, n.d. p.178).

This tradition has been interpreted by the Hadith commentators in several ways. If we examine it we see that there is involved the element of time. Now in this they differ in two aspects. First, the beginning of time. Does the century date from the birth of the Prophet, or from his Prophethood, or from his migration to Medina? The majority opinion favours the last. Secondly, they differ in the meaning of the term "ra'si". Is it the beginning, the end, or any time of the century? Here the majority opinion accepts the second in spite of the clear meaning of "beginning" in the word "head". They argue that the need for revival should arise when there is a decay and lapse in the practice of Islam, which should come after a long period from the last time when there was a mujaddid. Others argue that beginning and end in this case almost mean the same thing, because the end of a previous century signifies the approach of the following and each of the two meanings could be supported linguistically. The last meaning has been strongly defended especially by modern commentators like Maududi. (Abu 'l-ʿAla al-Maududi, A short history of the Revivalist Movement in Islam, (Lahore, 1963, p.32-33). Judging from the names of people given as mujaddids throughout Islamic history, it is clear that there existed a mujaddid or mujaddids in either the beginning or the end of a given century. (For a list of the mujaddids until the ninth century, see al-Suyuti, Tuhfat al muhtadin bi akhbar al-mujaddidin, quoted in 'Awn al ma bud, op.cit., p.181). Another point of variance is the number of mujaddids in a century. The word man in the Hadith could mean one or more persons and this has been regarded as such by most commentators and a reference to the list of the mujaddids also

There are several clues in other writings of al-Maghilī, and his actions outside the context of the Jewish problem point in the same direction. In his advise to Askia⁸¹ we can see him writing:

It is the wisdom of God the Most High that He never punishes a people until he explains to them what they should avoid.⁸²

80 (cont'd.)

supports the concept of one or more persons. The idea of more than one person appears to be a later development among the traditionalists but to the earlier ones only one person is intended in the Hadith. This is very clear in a variant version of the Hadith reported by Ahmad b. Hanbal:-

It is related on the authority of the Prophet that "Allah will bring bounty upon the followers of His religion by sending, at the head of every century, a man, from amongst my family, who will explain for them the affairs of their religion." inna'l Laha yamunnu 'ala ahli dinihi fi ra'ad kulli mi'ati sanatin bi rajulin min ahli bayti yubayyinuu ishūm 'amra dinihim.

Ibn Hanbal commented : "and when I contemplate I find that in the first century there was Umar b. Abdul aziz, who was a member of the family of the Prophet, and in the second century there was another member of the family of the Prophet in the person of Muhammad b. Idris al-Shafi'i". (Awn al-sabud, op.cit., p.179). An idea on which the commentators generally agree, with differences in elaboration, is the function and method of the mujaddid, and that is to revive the religion of Islam by making muslims conform to the teachings of the Qur'an and the Sunna, by diffusing learning and the shari'a among people and by removing evil innovations and destroying innovators. The mujaddid performs his duty through preaching, teaching and authorship and by making jihad and ijtihad. It is therefore necessary for such a person to be well versed in all the Islamic sciences. (Awn al-mabud, op.cit., p.180).

81. Abu Abdullah Askia Muhammad b. Abu Bakr, the ruler of Songhay (1493-1529). For details about his biography see Mahmud Ka'ti, editors and translators O. Houdas and M. Delafosse, Tarikh el-Fettack, (Paris, 1964), pp.59-83, pp.114-155 and the English translation.
82. M. al-Maghilī, Ajwibat al-Maghili, Paris, B.N., MS Fondes Arabes 5259, fol.50.

That has been the way of Allah in the first generation and in the last, so that they do not say on the Day of Resurrection that they did not know about this. It is also the wisdom of Allah that He places the responsibility of guiding people in the hands of human beings among the prophets of the first generations, and in the hands of people of remembrance in the latter generations ... He (Allah) at the same time allows the emergence of mischievous opponents of every guide. Such enemies are to be found among the Satans, the jinns and the people.⁸³

Al-Maghilī continues to follow up his point:

So there must be a clear light by which the truth of the guide can be discerned from the falsehood of Satan. That light was made available to the prophets through 'ayat (extraordinary miracles), and to the people of remembrance through their good deeds. No prophet will be sent by God to His servants except He put that clear light to all the people so that they may know that he is the obvious emblem of truth. Whoever becomes at variance with him or becomes hostile to him can only be among those who go astray and cause others to go astray.

The same with the ahl al-dhikr (people of remembrance) among the present nation until the Day of Resurrection because He has appointed them for guidance and establishing proof in this nation in the same way He appointed prophets in the bygone nations. This is why it was

83. Ibid. This is of course an allusion to the Qur'anic verse, in Quran 6:112: "So we have appointed to every Prophet an enemy - Satans of men and jinn, revealing tawdry speech to each other, all as a delusion.

related that at the head of every century Allah sends to the people a learned man to revive their religion.⁸⁴ Such a servant, in every century, will, no doubt, have his way of commanding what is right and forbidding what is wrong, in amending or safeguarding the affairs of mankind, in doing justice among them, in supporting truth against evil (flasehood) and in defending the oppressed against the oppressor. These ways must be different from the ways of the learned people of his time and he will thus be a stranger among them, because of the purity of his manners and the paucity of his like. It will then be certain that he is among the upright ones and whoever opposes him or becomes hostile to him is among the mischief-makers. This is supported by the saying of the Prophet - peace and blessing of Allah be upon him - 'Islam started as a stranger and it will become a stranger as it started and congratulations to the strangers'. It was said to the Prophet, 'and who are the strangers, O Messenger of God?' He said 'Those who become upright when the age is corrupt.' That is one of the most evident signs of the people of remembrance by whom Allah revives for mankind their religion.⁸⁵

84. This statement led Dr. Hiskett to have propounded rightly the theory that al-Maghili was the first to introduce the revivalist idea - the principle of the mujadlid - into the Western Sudan. He was followed by other modern scholars in this. It is clear from the comments of these eminent scholars that this had been accepted as a valid hypothesis. They were ofcourse concerned with explaining the West African situation so they did not recognise the relevance of the statement to al-Maghili himself, although they recognised the principle of tajdid which he introduced to the Western Sudan. (Hiskett, "An Islamic Tradition of Reform in the Western Sudan." BSOAS, XXIV, 1962, pp.583-584.)

85. M. al-Maghili, Ajwibat al-maghili, op.cit., fol.51.

There can be no doubt as to the intention of al-Maghīlī in this lengthy description of the people of righteousness. Although he was addressing Muḥamad Ture, the Askia, on his West African problems, his description passes beyond the Songhay's ruler's problem. Al-Maghīlī was in truth portraying what had happened between him and the ʿulamā' of North Africa. This is obvious now that we have read of the controversy which took place between him and the ʿulamā' of Tamantīt, Fās, Tīlīmān and Tunis, and the amount of literature which resulted from the polemics on the question of the Tamantitian synagogue.⁸⁶ The reason why this theory is being put forward is that the information from his account of the ʿulamā' al-sū' (sages of vice) was not furnished by the question addressed to him by the Askia but was in fact furnished by happenings in Tamantīt and their repercussions elsewhere.⁸⁷ We have seen his elaboration of the qualities of a mujaddīd, all of which he claimed by implication. Having established that, he went on to contrast it with the vices of the ʿulamā' al-sū' and their signs. "One of the obvious signs of the ʿulamā' al-sū' is that they do not put right what is wrong and they do not allow those who will to put it right. They may be likened to a rock in the gate (drinking place) of a river; it does not drink the water and it does not allow others to drink.

86. See above in this chapter.

87. The ʿulamā' about whom Askia complained were ʿajam (non-Arabs) who knew very little Arabic and they could not grasp the reasons behind resolutions contained in the writings of earlier learned men. The ʿulamā' al-Maghīlī was portraying were men who read the Qur'an and the Hadīth and could make a great use of the texts of the Qur'an in evidencing. In other words they were well-versed in Islamic sciences but what they lacked was what al-Maghīlī termed as piety (al-taqwa).

Every one of them is more harmful than a thousand Satans, but of course to be told (about something) counts less as evidence than the actual seeing."⁸⁸

This harsh judgement on the evil sages cannot refer to anyone in the Sudan but clearly to people like ^CAsnūnī, the judge of Tamantīt, Ibn Zakarī, al-Māwassi, al-Rassā'a, Abu'l-Barakāt, etc., who were the learned people of Fās, Tilimsān and Tunis, who opposed him. This we know, because he said almost the same thing to them in his famous circular.⁸⁹ Thus we can clearly see what al-Maghīlī's concern was and what he was out to do in Tuwāt. His concern was, of course, about these ^Culamā' and the people they represented. He singled out the one of them who appeared to be the leader of opposition, Abdullah ^CAsnūnī, and described him as an Antichrist, because of his decision to preserve the Jewish synagogues. Al-Maghīlī declared that no-one would approve its establishment, except an Antichrist. He prescribed Hell for those who prevented the destruction of the synagogue, because he considered them to have "elevated the religion of unbelief and established a room in which the Messenger of Allah, peace and blessing of Allah be upon him, was abused."⁹⁰ A more concrete proof that al-Maghīlī regarded the ^Culamā' of Tuwāt, if not of North Africa, at least all those who opposed him in the Tamantitian affair, as ^Culamā' al-sū', is the unqualified curse and malediction of God which he invoked upon them in the verses with which he concluded his work:

O my Lord, through your Prophet, the chosen, the guiding, the pure,
And through every Pīle and Saint, I pray that you disappoint the
supporters of the Jews.

Pour calamity on top of them and annihilate their riches,

88. M. al-Maghīlī, Ajwibat al-maghīlī, op.cit., fol, 51.

89. Vide Chapter IV of this thesis.

90. Vide Chapter IV of this thesis.

And open to them for their destruction a door to the burning Hell-fire,

Except those who repent and amend what they have corrupted ...⁹¹

It is now very clear to my mind that it was to these and not the 'ulama' of the Sudan he referred when he likened them to Satans and Jinns among human beings, every one of them being more harmful than a thousand devils. Waging holy wars against them and their supporters was the best of jiḥād.⁹² As to waging holy war against them, we know that he actually did it in Tuwat. He ordered his supporters to demolish the synagogue and to kill anyone who should intercept them, and he promised that whoever died among those wishing to demolish it would be one of the people of Paradise and any of the others (those preventing its destruction) would be of the people of Hell. These are the two camps into which he classified all the people of Tamantit. He challenged the people to choose between two things, love for the Messenger of God and love for the Jews. He was hinting, according to the interpretation of al-Asnūnī, that preserving the synagogue constituted love for the Jews and their belief.⁹³ All those instances convince me that, although al-Maghīlī was replying to Askia on problems that might be considered in a way similar to those prevailing in the Sahara in the fifteenth century, his illustration of the problems of

91. Vide Chapter IV of this thesis.

92. M. Maghīlī, Ajwibat al-maghīlī, op.cit., fol.69.

93. Ahmad b. Yahya al-Wansharīsi, op.cit., p.172.

the ʿulama' al-sū' and the people of remembrance ahl al-dhikr was squarely based on his own struggle with the ʿulama' in North Africa. About himself, he tells us, by inference, that he stood alone trying to command good and remove evil, but then he had all round him the ʿulama' al-sū' trying to prevent him in his efforts at reform. This fits in very well with the prophecy of the Prophet, whose tradition al-Maghīlī related concerning the mujaddid, who could be none other than himself. Al-Maghīlī was making an indirect claim to the office of a mujaddid and the questions put forward by the Askia served, among other things, as an opportunity for him to put forward his claim in such a disguised way that it can only be realised in the light of his activities, and in the light of the facts known about the tradition of tajdid. The first qualification, as we have learned from the commentators of the Hadith upon which the principle of mujaddid was based, is to be well-versed in the Islamic sciences. This is because one of the functions of a mujaddid is to make ijthad, which necessitates an all-round knowledge of Islamic sciences which they list as the knowledge of Tafsir, Hadith, Fiqh, Nahw, al-ma'āni, al-Bayan, al-Badī', and Mantiq. These tools as al-Suyutī calls them in his book are essential for any mujtahid.⁹⁴ A reference to the works written by al-Maghīlī will clearly show that he had endeavoured to meet the requirements for the office of mujaddid,⁹⁵ and the so-called tools of ijtihād were

94. Al-Suyutī, Sawn al-mantiq wa'l kalām 'an fan al-mantiq wa'l-halam (Cairo, 1946), p.1.

95. See the list of extant works in Appendix 4 and Ahmad Baba, op.cit., who gave a list of all his writings, most of which are still to be discovered. Hiskett has carefully arranged these works in a joint art with Bivar "The Arab literature of Nigeria to 1804: a Provisional Account" BSCAS (25, 1962), pp.109-110.

available to him. This is why we see that in his report of the tradition, which he chose to paraphrase, he lays emphasis on the idea of the mujaddid being one person and being an ḥalim.⁹⁶ We have seen the characteristics of such an ḥalim (learned man) in the explanation of al-Maghīlī which squarely fits his own person.⁹⁷

It must be because of this belief in him as a Mujaddid that he stood quite differently among the ḥulama' of North Africa in this question of the synagogue. We have seen that the majority of the ḥulama' wrote defending the synagogue and some of their strong arguments had been that these synagogues had been there for a long time and many earlier learned ḥulama' in North Africa had seen them and did not object to their existence. It was also the practice in all the cities of the Maghrib and other Muslim cities elsewhere. To al-Maghīlī that was not enough to justify their existence; for in his day, as he puts it, things were in the hands of masters of greed and passion and not of pious people. Al-Maghīlī felt no obligation to stick to a decision of any ḥalim as long as it did not appear to him to be according to the law of God - any decision or judgement other than God's was that of ignorance and unbelief which should not be followed at all.⁹⁸ This must be the reason why al-Maghīlī's evidences

96. He must have derived his version of the Hadith already referred to from a variant version reported by Ahmad b. Hanbal in 'Awn al-ma'bud, op.cit., p.179.

97. M. al-Maghīlī, Ajwibat al-maghīlī, op.cit. fol.51.

98. Vide Chapter IV of this thesis.

were not of the type of : "Suhnun, Ibn ^cArafa Ibn Majishun said so and so", but most of them were quotations direct from the Qur'ān or Hadith, or the sayings of the Sahaba or even references to the actions of some pious men.⁹⁹ The difference between him and the rest is very striking if a careful examination of the Tamantitian polemics is carried out. It can be seen from an analysis of the above controversy that al-Maghilī's opponents hardly used a Qur'ānic verse or Hadith to support their case,¹⁰⁰ but depended all along on what the earlier jurists had decided. The principle of taqlid¹⁰¹ had been strongly upheld by them and they saw, in not complying with that, a real error. This was because : "in disagreeing with the upright learned men one commits a grave abomination because it implies ascribing abomination to them. Whoever blames them in clear terms or by insinuation because of their being silent in any way, he it is who is really doomed."¹⁰²

99. This was al-Maghilī's attitude in controversial questions about which the learned elite were expected to give an opinion. Examples of such controversial issues, to all of which reference has been made, are: his dispute with al-Suyuti on the question of mantiq, his controversy with the ʿulama' on the question of the synagogue and his discussion with Sanusi on the question of Tawhid. When he wrote for ordinary people he quoted mostly the traditional sources. This was the case when he wrote for Askia, Muhammad Rumfa and students.
100. This is very true of them as it can be seen from the account of the controversy above.
101. The mucallid is the one who takes the saying of another without knowledge of its basis. The degree of taqlid differs but most canon lawyers for centuries have admittedly been mucallid of one degree or another. Vide H. A. R. Gibb and J. H. Kramers, Shorter Encyclopaedia of Islam, (London, 1953), p.158 under ijtihād.
102. See p.213 above.

Some of the ʿulamā' went to the extreme in their support and practice of the principle of taqlid and considered that what the virtuous ʿulamā' agreed upon should be upheld even if it clashed with some traditions of the Prophet.¹⁰³

Al-Maghīlī for his part considered himself on the same footing with the virtuous ʿulamā', whoever these might be. He was therefore capable of deducing the sharī'a from original sources using his own methods; so he could differ from them whenever he found their decisions wanting. This al-Maghīlī really did, and in fact he went further than that and put himself on the same footing as the founders of the Madhahib. This we know from another controversy in which he was involved.

One of the subjects on which al-Maghīlī wrote was the science of Mantiq (logic). He wrote his Manhu'l-walḥab Kitāb al-ḥab as a reply to ʿAbdurrahman al-Suyūṭī, his contemporary and rival on the question of Ijtihad.¹⁰⁴ Al-Maghīlī was the promoter of this science and a strong advocate, while al-Suyūṭī found fault with it on the ground that it originated with unbelievers. . Al-Suyūṭī went to the extent of declaring the study of Mantiq as haram (unlawful). This no doubt brought him into an open clash with al-Maghīlī and controversy ensued between them which gave rise to an exchange of correspondence in prose and verse.¹⁰⁵ The two polemical poems

103. Ahmad b. Yahya, al-Wansharīsī, op.cit. p.184.

104. See p.239 below.

105. Ahmad b. Idris al-Makki writing about al-Maghīlī at the end of a manuscript copy of the Ta'lif. See B. G. Rataf, MS.D2013.

written by the two scholars and preserved for us by Ahmad Baba in the *Nayl*¹⁰⁶, teach us quite a lot about their personalities. Al-Maghīlī challenged the authority of al-Suyūṭī for declaring Mantiq unlawful and advised him to accept truth even if it happened to come from unbelievers. He also made statements which the writer considers as challenging the authority of the Madhahibs and putting himself on an equality with the founders of the madhahibs :

I have heard of an affair, of which I have never heard the like before. Every discourse is to be evaluated according to the origin from which it emanates. Is it possible that a man who is an authority in science should prohibit the Furqān ^{Here it means the} [science of logic?] "Logic" is what is meant by the word ["Furqān"] and is nothing but the expression of truth or the establishing of it when it is not comprehended... You should ignore the fact that it was first revealed by an infidel,¹⁰⁷ and that some scholars have criticised it, even if its authenticity has been established. Accept truth even from an infidel and do not establish evidence against a person with the ideology of someone of like standing. We know the founders of the schools as people of truth, not otherwise; you should therefore base your explanation on the foundation of truth, not on the founders of the schools, because they were leaders on the path of righteousness only because of

106. Ahmad Baba, op.cit., p.332.

107. Ibid.

truth. The fact that what you related from them is authentic should not worry you because they were of different opinions, and how many a savant was there in the shari'a whom the shari'a admitted as having gone astray? ¹⁰⁸ If you do not wish to accept the fact that some of them were wrong, you have to find proofs by which you can shield them. But let this be in a manner that you do not have to fear the "poison" which may come from the "arrow" of such action. ^{108a}

To understand what al-Maghili was really saying in these verses we should have an idea about the ulama' whose statements al-Suyuti was using as evidence against the application of mantiq. Al-Suyuti was careful in stating clearly his sources. In a section of his Sawn al-mantiq which was based on his earlier work Al-qawl al-mushriq, he outlines those leaders of Muslim thought who made clear statements condemning the science of logic or declaring it outright as unlawful. He introduces the section in these words:

"There is no doubt that it is not lawful for a mujtahid to invent a statement the like of which has never been said by anyone before him nor to innovate an unprecedented theory. This is why it has been one of the conditions of ijtihad that a mujtahid must know all the decisions and statements of the ulama' before him from the time of the Companions to the present. A mujtahid must know cases about which they were unanimous and those about which they had differences of opinion. This is necessary", al-Suyuti explains, "so that a mujtahid when he comes to select a decision of theirs, does not violate the one which attains the status of consensus.

108. Ahmad Baba, *op. cit.* p. 332.

108a Būras, *op. cit.*, fol. 108

Outlining the statements of earlier scholars in my case is an obligation before propounding proofs because I am writing this book in the manner of ijtihād so I should start with the statements of the Companions of the Prophet."¹⁰⁹

Al-Suyūṭī then admitted that there were no statements on the question of mantiq by the Companions nor by the 'followers' for the simple reason that the science of logic was not existent in their time. It only emerged towards the end of the second century A.H. when the Imam al-Shāfi'ī was alive and he issued a statement about it. He was the earliest Muslim leader to write something about logic.¹¹⁰

Al-Suyūṭī then proceeds to outline the statement of al-Shāfi'ī:

A Statement of the source which originates from the
Imam al-Shāfi'ī

Abu'l Hassan b. Mahdī says, It was related on the authority of Muhammad b. Harun, on the authority of Hamīm b. Humam on the authority of Harmalah that he heard al-Shāfi'ī saying: People became unable to understand sciences and became at variance among themselves because they neglected the language of Aristotle - al-Shāfi'ī was referring to what had happened during the reign of al-Ma'mun of statements about the creation of the Qur'an and the denial of the vision of God and other evil innovations. The reason for those events was the ignorance of the people of Arabic and rhetoric which includes al-ma'ani and al-badi'. Arabic language contains all these and it is the medium of expressing the texts of the Qur'an and the Sunna. They attempted to interpret what was in the Qur'an and the Sunna by the application of Greek language and the philosophy of Aristotle which had no connection whatsoever with the Arab language. The Qur'an was revealed only in Arabic and the Sunna was only handed down to us only in Arabic and their style and terminology was that of the Arabic language. The manner and method of dialectical argument of the Greeks and their way of discourse and making evidence was very different from that of the Muslim Arabic sources. Every nation had its language and terminology.¹¹¹

109. Al-Suyūṭī, Sawn al-mantiq, op.cit., p.14.

110. Ibid.

111. Ibid., p.15.

We can thus see that al-Shafi'i was one of the leaders of the madhahibs mentioned in the controversy. Other Islamic leaders of thought whose sources al-Suyuti reproduces were Ibn Taymiyya, Bukhari, Abu Jarir al-Tabari and others.¹¹²

The philosophy of al-Maghili is very clear in the verses quoted above. Truth, in its essence, should be the criterion of any decision, regardless of its origin. The statements of earlier scholars, founders of schools, should be weighed against truth, and accepted or rejected according to their agreeing or disagreeing with truth. And when an issue arises between two leaders of equal rank, the statement of one should not be considered as evidence against or in favour of the other. This is because consideration must be given

112. The citation is from al-Suyuti's Sawn al-mantiq which was written later than Al-qawl al-mushriq but the authorities were the same. This we know because he said it in his poem to al-Maghili:
faa jaba minni hina allaftu mubdi'an
Kitaban jamu'an fihi jammun binaqlihi
Wa ma qalahu 'l -a lamu min dhammi shaklihi

He wonders when I composed for the first time, a book, full of citations in which I established the science of mantiq and what the leaders (of thought) have said condemning it.

He further established the fact that he used the same authority in both the Sawn al-mantiq and Al-qawl al-mushriq in his introduction of the former. "I composed a book which I called Al-qawl al-mushriq, prohibiting the science of mantiq. I included in it the sayings of the leaders of Islam who condemn and prohibit it. I mentioned that Shaykh al-Islam and one of the mujtahids, Taqiyy al-din Ibn Taymiyya had written a book in which he refuted all the principles of al-mantiq.

Al-Suyuti, Sawn al-mantiq, op.cit., p.1.

to the fact that there were scholars who went astray, and there were those who were on the right path. This is what made it necessary for truth to be the only criterion, and not personalities or their statements. Here again we find an echo of al-Maghilī's classification of the ʿulamā' into the venal ones and the people of reminder (ahl al-dhikr). Here once again we glean from the lines what al-Maghilī must have thought himself to be. He regarded himself superior, no doubt, to al-Suyūṭī and did not regard himself bound by the earlier decisions of the founders of the schools, because they were of different opinions in their criteria. It is made even more necessary to find another criterion by the fact that some of the ʿulamā' were declared even by the sharīʿa itself to have gone astray. His criterion is the truth.¹¹³ What is truth in the mind of al-Maghilī is discussed ^{above} below.¹¹⁴

The important thing for our present discussion is his conviction of being a mujaddid, which comes to light now and again in his writings and attitudes. It is extremely important for the purpose of this study to try to discover from when al-Maghilī developed the idea of being a mujaddid. It must have been early in his career as we have a clear indication of that from the sources. We have seen above the controversy which arose between him and al-Suyūṭī on the question of the science of mantiq. It is in this controversy that al-Maghilī made his first pronouncement of his being a mujaddid of the first rank on the same

113. Ahmad Baba, op.cit., p.332.

114. See Chapter III of this thesis.

footing with Shāfi^ī and the rest, hence, obviously, a mujaddid. Now, al-Maghīlī does not tell us, in his passage in the controversy, when it took place, but al-Suyūṭī makes some indication. He tells us that al-Maghīlī's poem criticising him for declaring mantiq as haram came after the latter had written, for the first time, a book in which he established the prohibition of the science of mantiq and the sayings of the great savants of Islam against it:-

'Ajibtu linazmin ma sami'tu bi mithlihi ataniya^c an habrin
ucirru bi nublihi, ta^c ajjaba minni hina allaftu mubdi^c an
kitabān jamū^c an fihi jammun bi naqlihi, 'uqarriru fihi al-
nahya 'an 'ilmi mantiqin wa ma calahu'l 'allamu min dhammi
dhsklihi

I am astounded about a poem the like of which I have never heard. It came to me from a doctor whose nobility I acknowledge. He wonders when I composed, for the first time, a book, full of quotations, in which I established the prohibition against the science of mantiq and what the leaders (of thought) have said condemning it.¹¹⁵

In Sawn al-mantiq al-Suyūṭī tell us the name and the date of the book which caused the controversy:

faqad kuntu qadiman fi sanati sab'in aw thamanin wa sittina wa
thamani mi'a allaftu Kitaban fi tahrīm al-ishtighal fi fanni'l
mantiq sammaytuhu al-cawl al-mushriq fi tahrīm al-ishtighal bi'l
mantiq dammantuhu nuquāa 'a'immati 'l-islam fi dhammaihi wa
tahrimihi.

115. Ahmad Baba, op.cit., p.332.

I had written, long ago, in the year eight hundred and sixty seven/sixty eight, a book prohibiting working on the science of mantiq which I called Al-qawl al-mushriq fi tahrir al-ishtiq'at al-bi'l-mantiq. In fact I included quotations prohibiting it, from the Muslim, leaders of thought. ¹¹⁶

Thus, al-Suyūṭī gives us the date 1464 as the time when the controversy must have started; al-Maghīlī must have written his poem in the same year, because his action took place immediately after al-Suyūṭī's composition of the Al-qawl al-mushriq. In fact al-Maghīlī pursued his attack in prose in a book which he calls Kitāb al-lubāb fi rad'al fikr ila'l-sawab. Since al-Suyūṭī did not make reference to this book in the above poem it shows that it was not written by the time he received al-Maghīlī's poem of criticism. But we know from Būras al-Nāsirī that this also was written immediately after al-Suyūṭī had written his Al-qawl al-mushriq. He ... refers to it thus:

wa lamma allafa al-Suyuti kitabān fi tahrimihi wa sammahu
Al-qawl al-mushriq fi tahrir ^cilm al-mantiq allafa al-shaykh
Muhammad fi mu^caradatihi kitabān sammahu kitab al-albab fi
radd al-fikr ila al-sawab wa ma yata dhakkaru illa ulu'l-
albab, jama^cah fihi bayn tasmiya wa ta^crid.

When al-Suyuti composed a book on the prohibition of mantiq to which he gave the name of Al-qawl al-mushriq fi tahrir al-^cilm al-mantiq, Shaykh Muhammad composed, in opposition, a book entitled kitab al-albab fi radd al-fikr ila al-sawab wa ma yatadhakkaru illa ulu'l-albab. Al-Maghīlī including even in the title of the book an insinuation to al-Suyūṭī.

116. Al-Suyūṭī, Sawn al-mantiq, op.cit., p.1.

This is why we conclude that the poem which preceded the book must have been written in the same year. It can be seen that since this year at least al-Maghīlī had believed himself to be a mujaddid and had behaved as such until his death. The year 1464 seems to be appropriate for al-Maghīlī to have this conviction because, according to our hypothesis on the date of his birth, he would have been about forty years old. This age according to Islamic thinking, is normally the one when Allah favours his servants with important missions, like Prophethood, Sainthood, etc. Some Prophets used to be chosen at this age and there is indication of this even in the Qur'an. We first find the indication that the term ashuddahu in some cases means forty years:

..... till, when he attaineth full strength and reacheth forty years, he saith, My Lord! Arouse me that I may give thanks for the favour wherewith Thou has favoured me and my parents, and that I may do right acceptable unto Thee.¹¹⁷

Then we find that Joseph was made a Prophet at this age:

And when he reached his prime (ashuddahu) we gave him wisdom and knowledge. Thus we reward the good.¹¹⁸

It would appear that from the age of forty, al-Maghīlī's actions were determined by his conviction of being a reformer.

117. Qur'an, 46:15.

118. There are several interpretations by Qur'an commentators of the term ashuddahu here; two of them are that it means 40 and 38 years respectively. See Muhammad al-Jawzi al-Qurashiy al-Baghdadi, Zad al-masir fi 'ulum al-tafsir, (Damascus, 1965), Vol.IV.p.200. 'Aishat, the wife of the Prophet, is also reported as having interpreted it to mean forty years. See Al-Baghdadi, op.cit., Vol.3, p.149.

This reforming attitude of al-Maghīlī was given different interpretations by contemporary ʿulama'. The extreme adherents of the doctrine of taglid considered him an agitator on whom the authorities should put a check by striking off his hands. Others considered him to be a deviator and an innovator. Mild adversaries considered him as a man who was coveting the Caliphate; this last group ranged from those who considered themselves as friends and wished to advise al-Maghīlī to desist from coveting the caliphate, to envious ones who thought the rightful Caliph should do something about al-Maghīlī's ambitions.¹¹⁹ All these are not mere hypotheses but the facts revealed by the sources.

The first to raise this suspicion against al-Maghīlī was Ibrahim b. Hilal, whom we have met above.¹²⁰ He made an allusion which can be gleaned from his commentary on the Misbah al-Arwah of al-Maghīlī.¹²¹ Ibn Hilal, who appears to have been a friend and colleague of al-Maghīlī, received from him a copy of the Misbah "in order that he should comment on it using his own research and findings, and supplement it whenever it falls short (of the standard required).¹²²

119. Ibn Askar mentioned when al-Maghīlī visited Fas for debating with the ʿulama' on the controversial Jewish synagogue, he treated the ʿulama' in a manner which offended them and so they conspired against him before the Sultan and alleged that he was trying to usurp the throne. Ibn Askar, Dawhat al-nashir li-mahasin man kana bi'l maghrib min mashayikh al-qarn al-ʿashir, (Fas, 1891), p.96.

120. See Chapter V of this thesis, . . n.27.

121. See Chapter I, p.12.

122. Ibrahim b. Hilal, Ta'aliqat, B.G. Rabat, M.S. D2660, fol.179.

Ibn Hilal complied with the wish of al-Maghīlī and undertook to go through it sincerely, adding what would remove ambiguity and prevent controversy.¹²³ In keeping with his undertaking, he read through the whole work, commenting on it item by item. Where he agrees with al-Maghīlī he says so; and reinforces his arguments with more evidence from the established sources of the Shari'a. Similarly, where he does not agree with him, he says so; and refutes his arguments by bringing evidence from the works of learned authors.

One of the many things dealt with by al-Maghīlī in the Misbah is the question of the caliphate. He apparently wrote much about this subject. It is evident that Ibn Hilal heard about suspicions levied against al-Maghīlī, so he wished to give him friendly advice: "You have really done well in your treatment of the question of the imamate (caliphate); however, the injunctions, conditions and advantages regarding the caliph have been covered adequately in the books of the learned jurists. The Imam (meaning al-Maghīlī) will not gain anything from this subject and discussing it is a waste of words."¹²⁴ This, in itself, is not sufficient evidence to show that Ibn Hilal suspected al-Maghīlī of coveting the caliphate, but later, however, in his commentary, he made more specific statements.

In the course of his perusal of the Misbah, Ibn Hilal again came across the question of the caliphate. He found al-Maghīlī putting

123. Ibid.

124. Ibn Hilal, op.cit. fol.227.

forward the possibility of appointing a second imam after forbidding it in an earlier passage.¹²⁵ So he apparently became more suspicious and found it necessary to advise him in a more direct and open manner:

As for your statement, "If that proves difficult because of distance and remoteness, then the best of them in that region should deputise for the Imam of the nation," it appears to be contradictory to your earlier statement, "it is not lawful to appoint another (caliph) while the Caliph reigns, even if he is remote from him. It is appropriate to abandon this chapter completely so that an evil suspicious person may not say, Yuraqqiq 'an sabuhin "He is alluding to a morning drink (he desires to be a ruler)."¹²⁶ God forbid that such a desire could emanate from a person of your age, who is aware of the Prophet's saying, peace and blessing of Allah be upon him, "Indeed you will covet 'imara (leadership) but

125. Ibid. fol.229.

126. Ibid. This is a parable used when a disguised allusion to something is intended. Ibn al-Manzur al-Ifriqi explains it as follows:-

As a parable "A^can sabuhin turagqiq" is used to describe a man who speaks in a confused way and he does not articulate. It is also used to describe a man who camouflages a very grave or important affair by using a by-name for it ... The origin of the parable is related thus: An Arab became a guest of another Arab at night. The host served plenty of milk to his guest when he was "drunk" he started talking to the wife of the host in a tender manner and in the course of his chat he said "Tomorrow we shall do such and such." The host understood what the guest was hinting at and he said to him, "A^can sabuhin turagqiq." Muhammad b. Mukrim h. al-Mandhur al-Ifriqi Lisan al-arab, Vol.III, (Bulaq, 1882), p.335.

it will be a regret and a grief on the Day of Resurrection," and his saying, "Verily it is a trust (in this world) but disgrace on the Day of Resurrection, except for him who got it through right claim and eligibility." The Prophet also makes this statement, "Its (imara's) first phase is blame, the second is regret and the third is torture except for him who is just ... Do not beg for 'imara, because if you get it through begging for it you become addicted to it, but if you get it not by begging for it, you get the better for it." It is not sound on your part to entertain such a discussion, it is better to remove it completely from your work to avoid suspicions.¹²⁷

After this lengthy exhortation of al-Maghilī in a polite and friendly manner by Ibn Hilal, we should have no doubt as to what the jurist is saying. If we reproduce it in simple and plain language it will virtually mean this - by indulging too much on the question of imama al-Maghilī was advocating the appointment of a second imam in Tuwat and he would like to have himself appointed. A person of his age and knowledge of the evil consequences of such an action should not do that at all; he should therefore desist from it forthwith, and remove it from his book so that people may not say anything about it.

We can be more sure of this interpretation if we refer to other instances, for Ibrahim b. Hilal is not the only 'alim who suspected

127. Ibn Hilal, op.cit. fol.229.

al-Maghīlī of coveting the caliphate. The learned people of Fas had the same impression. This was when al-Maghīlī went to Fas to debate with the 'ulamā' on the question of the Jewish synagogue of Tuwat. They all came outside the city to receive the learned Imam but when they sat for the debate, al-Maghīlī, to their surprise, asked his black slave called Maymūn to debate with them. They became angry and sent a deputation to the Caliph of Morocco to inform him that al-Maghīlī was not interested in discussing the question of the Jews, but was only interested in usurping the throne of the caliphate.¹²⁸

When al-Maghīlī went to have an audience with the Sultan, he informed al-Maghīlī that he was aware of his interests and ambitions, namely the caliphate. This made al-Maghīlī very angry and he replied to the Sultan in a very rude tone, telling him that the caliphate was so contemptible in his eyes that it was no more than a dung-pit.¹²⁹

Thus the suspicion of Ibn Hilal was not without foundation. It was natural for the jurists to have this suspicion in an age in which usurpation was frequent. Muhammad al-Shaykh, the caliph of Fas at the time this episode occurred, was himself a usurper. He seized the caliphate from Muhammad al-Sharif, the last of the Marinids. Usurpation was so frequent in those days that a writer says: "Morocco was in a great turmoil and decadence, to such an extent that kingship over it was coveted by anyone who fancied it." Ibn al-Ahmar was one of such pretenders.¹³⁰ If indeed al-Maghīlī coveted the caliphate,

128. Ibn 'Askar, op.cit., p.96.

129. Ibid.

130. Abu 'l-^cAbbas al-Nāsirī, Al-istiḡsa' Vol.IV. (Dar al-Bayda, 1954) p.120.

it only adds to our belief of his conviction of Mujaddid, because the holder of this office "has his ways of commanding virtue and preventing evil."¹³¹ Al-Maghīlī's ways might have been an attempt to obtain authority as a means to an end and not as an end in itself, the sole intention being to be in a better position to undertake the task of tajdid.

It is with the same opinion that we view the suggestion by the ʿulamā' of Fas that al-Maghīlī coveted the caliphate. His treatment of the ʿulamā' in asking the freed slave Maymun to discuss with them the case of the Jews might have had a purpose, which was understood rightly or wrongly to be that of humiliating the ʿulamā'.

We can attempt to discover his motive for that action by considering his classification of the ʿulamā' into those of remembrance (ahl al-dhikr) and the venal ones (ʿulamā' al-su'). The ahl al-dhikr are those who are God-fearing, the arbāb al-taqwa; and the ahl al-su' are those who do not fear God and are not upright in themselves and do not allow others to be upright arbāb al-hawā. With this belief in the mind of al-Maghīlī, and of course with the conviction that he was a Mujaddid, he apparently made it a policy when dealing with the ʿulamā' to discover which type he was dealing with, so that he had a method of testing their piety or their knowledge. He was probably copying ʿAlī b. Abi Talib, when the latter went to Basrah and found preachers in the mosque. He

131. M. al-Maghili, Aḡwabat al-maghili, op.cit., fol.51.

prevented some of them from preaching but allowed al Hassan al-Basri to continue after testing him.¹³² He knew very well that if the 'ulama' of Fas were really concerned with establishing truth, they should not have minded whoever they held the discussion with as long as he had the knowledge. So his purpose in asking Maymun to discuss with the jurists of Fas was not necessarily because he wanted power but it might have been because he wanted to test their reaction. If it was the reaction of the ahl al-dhikr, then he would agree to have dealings with them, but if they turned out to answer the description of the 'ulama' al-su', then he would have nothing to do with them. A slave and a free-born man should be considered by them of equal merit as far as matters of learning and religion were concerned because of the Prophet's saying, "there is no excellence of an Arab over an 'Ajam, nor of an 'Ajam over an Arab, nor of the Red over the Black, nor of the Black over the Red except through piety."¹³³ That this was probably what was going on in the mind of al-Maghili we know from another incident, in which he used another method to test the 'ulama' of Kano.¹³⁴

When al-Maghili arrived at Kano he found two jurists, Ahmad and Abdullah. They were well established as the indisputable

132. Ibid., fol.50.

133. Ahmad b. Muhammad b. Hanbal, Al-musnad, vol.V, p.411; A. J. Wensinck et J. P. Mensing, Concordance et Indices de la Tradition Musulmane, vol.V, (Leiden, 1965), p.162.

134. Muhammad al-Hajj, "A Seventeenth Century Chronicle on the Origins and Missionary Activities of the Wangarawa", Kano Studies, Vol.1 (No.4, 1968), p.11.

scholars of this land ... In the morning of the following day he sent a messenger to each of those two jurists. His intention was to test them. He ordered each messenger to tell the man to whom he was sent that the Shaykh (al-Maghīlī) had died the night before. When the messenger to Shaykh Ahmad delivered his message, the latter said no more than "that is the will of God." When the message was delivered to Shaykh Abdullah, he said, "Last night we left the Shaykh in good health, but this is the will of God." When the messengers returned and told al-Maghīlī the replies, he became satisfied with their piety and recommended them to Sultan Rumfa of Kano for the posts of Imam and Qadi respectively. Thus we see another occasion in which al-Maghīlī tested the piety of the 'ulamā'.¹³⁵ To understand why he was doing that we must return once more to our assertion that al-Maghīlī considered himself the Mujaddid of his time, at least in the Sahara and the Sudan. The idea of Mujaddid or tajdid was certainly a very important factor in all the actions of al-Maghīlī, especially from Tuwāt onwards.

His belief in his being a mujtahid and a mudaddid cannot be doubted from the implications in the poem to which reference has already been made that he sent to al-Suyūtī. Although al-Suyūtī made similar claims to those of al-Maghīlī, and in more clear terms, he was unable to do that except after twenty years.¹³⁶ The importance

135. Ibid.

136. al-Suyūtī, Sawn al-mantiq, op.cit., p.1.

of establishing this fact in that it will help us to understand the actions of al-Maghilī from the time he set out from Tilimsān and made for Tuwāt. We have already seen in the preceding chapters what al-Maghilī did, where he went and what people he met, but it is important to emphasize the salient aspects of his life and the significance of his work of reform.

CHAPTER VIICONCLUSION

I have attempted to show in the preceding chapters that al-Maghili, through his teachings and actions, was certainly behaving as an Islamic reformer or mujaddid. These actions and teachings when compared with those of other important Islamic figures who were considered or recognised as mujaddids at one time or other, will be found to have the same air of reform as theirs. Reformers like al-Chazali, Ibn Taymiyyn or Ibn Tumart had certain characteristics which were common to all in spite of the differences in time and place. They all emerged as a result of the prevailing circumstances of their age. Al-Ghazali, was for instance, the 'son' of philosophical confusion giving rise to many sects and moral degeneration. Ibn Tumart emerged to reform the beliefs of his people and to destroy the tenacious adherence to taqlid. He later developed into a Mahdi. During the Almohad regime which he instituted, Mālikism suffered a great set back in the Maghrib. With the collapse of the Almohad empire and the ascendance of the Marinids, Mālikism regained ascendancy and asserted itself once more and this time in a more established fashion. This was due to the deliberate policy of the Marinids of encouraging the adherence to taqlid and championing the cause of the Māliki Jurists and that of the ʿulamā' in general. As time went on the ʿulamā' became powerful and the political authority weak.

Another outcome of the Marinid policy was the supremacy of the Jews.

Al-Maghīlī was born in the crumbling Marinid Empire. From the time of his birth until his manhood and beyond, the thorny problems in the Maghrib were mainly three:-

Firstly there was the Jewish supremacy in commerce and politics which was enhanced by several factors - the Marinid policy as I have indicated above, the full co-operation of the Muslim masses and the learned elite especially in commerce and the enterprising nature of the Jews coupled with their skill in many trades.

Secondly, there was the collapse of the political authority brought about by, among other things, dynastic warfare and European encroachment. The religious leaders on the other hand, became powerful and had tremendous influence on the masses.

Thirdly, there was the tenacious adherence to the MĀliki School after it had recovered from the blows of the Muwahhids. This rigid conformism or taqlīd as we have seen exemplified by the learned jurists of the Maghrib in their polemics with al-Maghīlī was the order of the day in the whole of the Maghrib. It seriously affected the state of learning which was merely limited to making commentaries or abridgements of works composed by earlier ʿulamā'. It was only concerned with the quantity but as for the quality, the decisions of the earlier jurists were regarded as rulings par excellence which no one could dream to improve or, in fact, no one could dare to violate because such action could lead to heresy or even expulsion

from the arena of Islam. The application of reason in religious matters had no place at all in the circles of the learned elite of the Maghrib in the time of al-Maghīlī. This was the atmosphere in which he was born and bred.

After al-Maghīlī's educational career, which took him to Algiers, Bijāya, Tuwāt and several other cities, very probably abroad, he went to Tilimsān. All the three 'ills' described above were at their peak in Tilimsān. He might have been a victim to one or other of them. He might have attempted some reform there, but he found the forces against him too great and so he decided to migrate to a less central place, where he could do something more effective. Tuwāt must have come first to his mind because of his experience there as a student. In Tuwāt the burning problem was that of the supremacy of the Jews. They dominated the economy and the Muslims were sympathetic and protective towards them. The Jews occupied such a high position among them that the latter could even fight among themselves to defend a Jew. After he had diagnosed the problem, he realised that the first object of attack must be the relations between the Jews and the Muslims. We have seen what prompted him to this decision and we have also seen that his method of attack at first was that of teaching, delivering public lectures and writing. He did his best to denigrate the Jews and those Muslims who supported them and he made the Jewish synagogue the object of dispute. This gave rise to the controversy described in Chapter VI.

It is clear from that episode what al-Maghīlī was trying to do. Without saying in clear terms what he was doing, he assumed the

function of a mujaddid, and this can clearly be seen from his actions. In his attempt to demolish the Jewish synagogue he was trying to remove what he considered to be evil. This is the first function of a mujaddid because, in the words of al-Maghīlī, "repelling mischief takes precedence over attracting benefits". In order to prepare the ground for this, al-Maghīlī exercised another prerogative of a mujaddid, which was that of making ijtihād, through which he produced a number of new dogmas.

Through allegorical interpretation of some Qur'ānic verses and the application of logic he arrived at a new Islamic dogma which prohibited any form of relationship between Muslims and Jews. This is what he termed muwālat al-kuffar (friendly relations with non-Muslims) and it was directed towards stopping commercial enterprises which were jointly carried out by Jews and Muslims. Many Arab Muslims were putting Jews in charge of their trade locally and in the Western Sudan. The less prosperous Muslims benefited from some of the wealthy Jews, and for this, among other things, they used to protect them with all their might. This necessarily meant that the Jews were exercising their religion freely and tenaciously, while on the side of the Muslims there was a general wave of ignorance and disrespect for the ʿulamā' which indicated a lapse in the practice of their religion. This was not tolerable to al-Maghīlī, so he used all the devices he could to alienate the Jews, whom he charged rightly or wrongly with all lawlessness and conceit. It was for this that he declared that "showing friendship to them by the Muslims was the

worst of crimes, amounting to unbelief, because the Jews were the enemies of the Prophet". It follows therefore that all Muslims having any dealings with the Jews were regarded as being sympathetic to them.

It should be observed that al-Maghīlī made the issue of having anything to do whatever with the Jews as tantamount to enmity towards the Prophet, and this he considered a clear sign of unbelief. He classified the whole people of Tamantīṭ into two groups: lovers of the Prophet and his enemies. All those Muslims sympathising with the Jews were the enemies of the Prophet and hence unbelievers, because that was a clear sign of unbelief; so such Muslims must be fought, and waging war against them was the best form of jihād. To be a good Muslim, according to this teaching of al-Maghīlī, one has to sever all relations with the Jews and strive to humiliate them by imposing upon them every form of degradation and preventing them from practising their religion through destroying their synagogue.

Clearly, all these were non-conformist dogmas. They were firstly not conforming to the popular tradition in the Māliki School. The ruling of declaring Muslims unbelievers for having a *modus vivendi* with the Jews is sufficient to show al-Maghīlī's declaration of independence from the decisions of earlier Māliki jurists. These decisions have been made clear to us by Ibrahim b. Hilal's deliberations outlined in Chapter V.

Secondly, they did not accord to the popular tradition in the other madhahibs or schools. Al-Maghīlī's view of virtually forcing

the Jews to abandon their religion was tantamount to non-recognition of the Ahl al-dhimma and such a view could not be condoned by any of the orthodox Schools. It appears that al-Maghīlī had accepted the views of Ibn Hazm who tried to show that there should be compulsion in religion. This shows how independent al-Maghīlī was. But he knew what he was doing. He had objectives and plans to achieve them. These plans he executed with the utmost vigour:

His intentions were not and could not be appreciated by his contemporary ʿulamāʾ, who were conformists of the first order. So he was quickly in trouble with them. They rose against him and attributed to him all sorts of bad qualities, the mildest of which was that he was a man interested in kingship and nothing else.

On his part, al-Maghīlī considered them not only as unbelievers because they defended the Jews, but also "more harmful than a thousand devils" because they were not keen on removing evils, but only on standing in the way of those, like himself and his disciples, who wished to reform people. Al-Maghīlī's relations with the ʿulamāʾ were of great animosity, as is vividly shown in the literature which their polemics yielded.

Another function which al-Maghīlī assumed was that of striving to re-establish an Islamic state, since, according to him, none existed in Tuwāt. Instead there was the rule of the Jahiliyya. His teachings concerning the Caliphate, the Dhimma and the Jizya, which brought him into a direct clash with the authorities on the local level, and also what one might call the national level, were all

directed towards reforming the political system in Tūwāt. His conflict with ^CAsnūnī, the Wattasid king, Muḥammad al-Shayk, and his battle against the Marinid Sultan were all geared towards this same goal. And they were the main causes of the unfriendly relationship which existed between him and the authorities.

Al-Maghīlī's relationship with the general public was quite different from that existing between him and the Culamā' and the political authorities. They regarded him with respect, reverence and blind loyalty, and he was able to draw them on to his side because of several factors. The general collapse of political authority in his time and the reverence with which the religious Shaykhs were looked upon enabled them to wield great authority on their side. Al-Maghīlī's first step in his reformation drive was the establishment of a zawiyah at Bū-^CAli. All these factors united in his favour, and on top of these was his ability to influence people through his oratory and stimulating writing. He appealed to their emotion, their reason and their religion by using evidences from aql (reason), religion (dīn) and murū'a (integrity) to establish his points of view. This explains his success, at least initially, in demolishing the synagogue in the face of great opposition from all those in authority.

The influence of this on al-Maghīlī's thinking was great because he saw that he could even attempt to wrest power from the corrupt and oppressive rulers and this encouraged him to try his luck on an apparently weakling ruler. Had he succeeded in the attempt he might

have marched against Muhammad al-Shaykh, who had insulted him at the instigation of the hostile Culamā' of Fas. In spite of his defeat in the attempt to assume power by force, al-Maghīlī's conviction of being a mujaddid became stronger after the incident of the Tamantitan synagogue. This encouraged him to pursue his reforming enterprises elsewhere. Whether his departure from Tuwāt was an escape or whether he was setting out on a pilgrimage, his actions in the Saharan and West African cities tell us definitely what he was aiming to do. We see him attempting reformation wherever he went, by spreading and establishing the Islamic faith, building mosques, removing 'evil' practices, establishing Islamic institutions within the framework of an Islamic state and diffusing Islamic learning and culture. His endeavours were sometimes met with hostility on the part of the Culamā', and the authorities to the extent of being involved in battle. The repetition of strife between al-Maghīlī and communities other than the Tuwātians is clear evidence in favour of the point made in this study that al-Maghīlī's primary objective was to reform the Muslims, by making them conform to the Islamic teachings according to his interpretation and by removing any ills which he considered had affected the true practice of their religion. Whereas in Tuwāt the main ill as he saw it was the dominant position of the Jews and the friendly attitude of the Muslims towards them, this problem was non-existent in the other places he visited because there were no Jews. We saw him fighting both Jews and Muslims in Tuwāt, but in Aïr the strife was between him and lax Muslims whose evil ways he

wanted to correct. It is interesting to observe that in Tuwāt he taught that any form of relationship with Jews or other unbelievers was harām (unlawful), ranking with unbelief, but in Kano, where he found that the polytheists were mingling with the Muslims in market places and houses, all he could advise was that "they should not be allowed to display polytheism, wine, eating in Ramadhan or fornication" so that Muslims might not be led into temptation. This is enough to show us the real nature of al-Maghīlī's mission. He no doubt occupied the 'seat' of tajdīd and had allowed himself the freedom of applying ijtihād to make new laws to suit the new situations in which he found himself, because "there must be a remedy for every disease and a statement and action according to the prevalent circumstances ... and laws should be invented to the degree of a people's invention of crimes, since mischiefs must be removed at all costs".¹

The tradition of tajdīd or reform and the principle of jihād against fellow Muslims has been bequeathed by al-Maghīlī to later generations, particularly in Hausaland. This became one of the organs of the development of Islam and Muslim culture in the Western Sudan. This is particularly so if the question of jihād is considered. It was only in al-Maghīlī's teachings more than anybody else's that the Western Sudan reformers found the dogma of declaring fellow Muslims unbelievers for associating with unbelievers. It was also in his teaching that they had the dogma of waging war on fellow

1. Al-Maghīlī, Risala ila Abi Abd al-Lah Muhammad b. Ya'qub, appendix p.

Muslims when they become venal or friendly to unbelievers. Such action is not only permitted but is the best form of jihād. These two dogmas of al-Maghīlī were the direct outcome of his experience in Tuwāt and they were the very dogmas tenaciously adhered to by all those who imitated him in the Sahara and West Africa.

Shehu Uthman b. Fodio, his brother^C Abdullah and his son Muhammad Bello, wrote several works in which they presented their doctrinal basis for the Jihād. The main foundations on which they based their arguments are the two dogmas which al-Maghīlī formulated as a result of his experience in Tuwāt. By application of the same dogmas the Fodios branded the Hausa city-states as unbelievers and this justified waging war against them. In the Najm al-ikhwan the Shehu quoted seventeen lines from al-Maghīlī's Misbāh al-arwāh in his effort to declare the Hausa unbelievers. The same evidences recur in other of the Shehu's works - viz. the Sirāj al-ikhwān, the Tanbīh al-ikhwān, Ta^Clīm al-ikhwān, Shams al-ikhwān and the Tahdhīr al-ikhwān. Abdullah b. Fodio uses the same evidence in his Diya al-sultān and Muhammad Bello in the Miftah al-sadād. The writings of the Fodios in turn influenced other Jihād leaders like al-Hajj Umar al-Fūti and others. So his influence on the Jihād leaders cannot be contested as he was certainly their main source of inspiration on this question.

The question that may be asked is whether al-Maghīlī was successful in his efforts at reform or whether he failed. This question

must be answered in two parts. Firstly, in the Maghrib, where it is clear from the account of his life in Twāt that he at least succeeded initially in the following :

- (a). In uniting the masses around him,
- (b). In inflicting a thorough defeat on his opponents, the Jews, the Culamā' and the Muslims supporting the Jews.
- (c). In freeing himself from the shackles of taqlīd.
- (d). And in leaving behind a group of devout disciples who were following his ideology. Both Ibn Askar and Buras reported that there were in Twāt and other places some disciples of al-Maghīlī working according to his madhhab.

How long his success lasted or whether his objectives of curtailing all forms of relationship between the Muslims and the Jews and of establishing a reformed Islamic state in Twāt is difficult to assess with certainty. It would appear that successes did not last long. Had they lasted, al-Maghīlī would have stayed on in Twāt. It also appears that he did not succeed in curtailing, in the degree he wanted, relationship between the Muslims and the Jews, nor in the establishment of a reformed Muslim state. The indications are that the Jews and their Muslim supporters asserted themselves after al-Maghīlī's departure from Twāt. They re-established themselves so much that they could take vengeance for what difficulties al-Maghīlī caused them by killing his son.

Secondly, al-Maghili's story in the Western Sudan was quite different. We saw him succeeding

- (a) In spreading and establishing Islam
- (b) In establishing Muslim states functioning according to Muslim political institutions and
- (c) In leaving a chain of students who continued his work.

All these successes persisted in the centuries and we saw their vitalisation in the eighteenth, nineteenth and twentieth centuries by the Fodios and other Western Sudan reformers. No doubt other Muslim divines visited the Sudan. They must have contributed towards the dissemination of Islam and Islamic culture. Unfortunately their account has not yet come down to us in any great measure to be able to assess their contribution and even their memories seem to have been forgotten. About al-Maghili we can deduce from his works, from his living memory in the Sahara, Hausaland and Mali, and from the actions of later generations following his footsteps. This indicates that his influence and contribution must have been greater than any Muslim divine who set foot on these territories, to leave such an indelible mark on the minds of the people.

Thus it can be said in the light of this study that

- (a) Al-Maghili regarded himself as a reformer and his teachings and actions show that he was certainly one.
- (b). That his reformation had two phases, one in the Maghrib and the other in Western Sudan.
- (c). That he had temporary successes in the Maghrib and several failures.

(d). That in the Sudan he had a more enduring success which continued to flourish throughout the centuries from his time to our day

The underlying causes for the two results would appear to reside in the attitudes and behaviour of al-Maghili and the circumstances which surrounded the two spheres of his operation. In the Maghrib al-Maghili behaved in a very rebellious manner clashing with the interests of several groups of the society and they must have united their forces against him. His open clash with the political authority had the double repercussions of rousing them against him and alienating some of his supporters among the few 'Culamā' who supported him.

The use of violence which formed part of his methods to achieve his objectives was too severe to achieve a lasting success.

In the Western Sudan al-Maghili adopted a milder attitude in his teachings and actions. He tried to conform to the Māliki madhhab as far as possible and encouraged adherence to it. He also tried to be on peaceful terms with the rulers; all these helped in his being readily accepted by all and sundry.

Al-Maghili must have learnt lessons from his earlier experiences and so he decided to try other methods. There are signs in his later writings that he realised some of his earlier errors which he ~~attributed to the mischief of Satan, who was bent on misleading upright people.~~

~~On the balance al-Maghili no doubt succeeded as a Muslim reformer and can be counted as one of the great leaders in Islam. He no doubt~~

attributed to the mischief of Satan, who was bent on misleading upright people.

On balance al-Maghilī succeeded as a Muslim reformer and can be counted as one of the major figures in African Islam. He undoubtedly considered himself to be such, as can be seen in his disputing in a superior tone with people like Sanūsī of Tilimsān and Sayūti of Egypt.

Taj al-din Fima yajib 'ala'l-mulukI. Introduction

A brief note about this work has already been given in chapter I of this thesis.¹ This is the political treatise al-Maghili is known to have written for Muhammad Rumfa, the Emir of Kano. Unlike the Wasiyat, al-Maghili did not mention the name of the emir whom he was addressing in the treatise. It is clear, however, that he was addressing a certain ruler whom he furnished with the necessary tools of administering an Islamic State. It is known that al-Maghili wrote the treatise in Kano.² It is also known that he visited Kano during the reign of Muhammad Rumfa, for whom he wrote the Wasiyat. In addition to the Wasiyat, al-Maghili wrote the Taj for him.³ I have attempted to show in chapter III of this thesis how the teachings of al-Maghili in the Taj were implemented by Muhammad Rumfa and how the traces of this implementation were discernable during the reign of that ruler. A great deal of the influence of these teachings can be recognised in Kano today. All this forms strong evidence to the effect that the Taj was written for Muhammad Rumfa. Al-Maghili also tells us that he wrote other

1. See p.13.

2. Ahmad Baba, Nayl al-ibtihaj bi tatriz al-dibaj, (Cairo, 1932), p.331.

3. Ahmad Baba, reports that al-Maghili wrote a treatise in the affairs of Sultanate for the Kano ruler. Ibid; See also, H. T. Baldwin, Obligation of Princes, (Beirut, 1932), p.4.

treatises than the Wasiyat for Muhammad Rumfa.⁴ This leaves no room to doubt the idea that the Taj was intended to be a constitution for the government of Muhammad Rumfa.

The above is also evidence in favour of the authenticity of the Taj since all the circumstances for writing it are known. In addition to a clear statement of al-Maghili's full name in the body of the Taj, there are echoes in it of al-Maghili's style and ideas which are to be found in his other works.⁵

I have indicated earlier in this thesis that an edition of the Taj and a translation of it have been published.⁶ The limitations of these two publications have been touched upon. The two authors' chances to present a well edited text and a translation were made meagre by the fact that they had a single manuscript to rely upon. This ms has got blank spaces and is not the best of the MSS in Rabat. The result was that the first edition has several omissions and many mistakes which I have attempted to point out in the footnotes. It is hoped here to compile a fuller and better edition.

The new edition has been compiled from four manuscripts, viz., AK, BK, AR and BR.

4. Vide the Wasiyat in Appendix II of this thesis.

5. See chapter I p.15, where I gave an example of al-Maghili's use of a certain verse in the Ta'lif, the Ajwiba and the Taj. His teaching on the Jizya is also the same in the Ta'lif and the Taj.

6. See p.13 of this thesis.

AK is housed in the National Archives, Kaduna under this number - 718/B/AK 16:2.⁷ It has nine folios 17 x 12.5 cm., 23 lines per page. It is written in good Western Sudan Maghribi hand. It must have been derived from a copy which was written in Hausaland during the lifetime of al-Maghīlī because it has this sentence in the opening folio - "Lattafa'l lahu bihī-wa adāma hayātaḥu li'l-muslimīna ...". May God have mercy upon him and may He prolong his life for the (happiness) of the Muslims. This indicates that the origin of this copy was written when al-Maghīlī was alive. All copies written after his death do not carry that sentence. None of the copies seen in Rabat has got it. According to the information furnished in the last folio, by the copyist, this copy is the fourth in succession to the one written by al-Maghīlī himself. The date of this copy has been recorded in the catalogue as 937/1530⁸, but this date has not been established as it does not appear on the MS. itself. It has been made the basis of this edition because it is the best by way of completeness and accuracy.

BK is also preserved in N. A. Kaduna under this accession number - 660/M/AR 10:8.⁹ It has six folios 18 x 12 cm, 26 lines per page. The hand is that of West African form of Maghribi writing and is very legible. It is clearly independent of AK.

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7. Muhammad Bello Uthman, The Catalogue of Arabic Manuscripts collected from the former Northern Region of Nigeria, (Kaduna, 1970), p.94.
8. M. B. Uthman, op.cit., p.94.
9. Ibid., p.86.

AR is preserved in B. G. Rabat under the accession number of D364. It has six folios, 15 x 10 cm, 26 lines per page. It appears to be the copy used by Wazir Zayyan in his edition. This is because there are some blank spaces in AR which are also seen in Zayyan's edition. It is written in legible Maghribi script.

BR, which has the accession number of K3325 is also preserved in B. G. Rabat. It has seven folios, 14.5 x 8.9 cm, 20 lines per page. It is in thin Maghribi hand readable with some difficulty but it is superior to AR because it has no blank spaces and is more accurate.

Reference has also been made to Zayyan's edition which has been named AZ. A photostat copy of this is also preserved in B. A. Kaduna under this number - 937/O/AR 11:27.¹⁰ Microfilm and photostat copies of these works have been obtained from their respective libraries mentioned above. The Arabic text is given herewith.

10. M. B. Utham, op.cit., p.127.

تاج الدين فيما يجب على الملوك

بسم الله الرحمن الرحيم و صلى الله على سيدنا

محمد وآله وصحبه وسلم تسليما كريما

قال الشيخ الفقيه (حجة الاسلام¹) الامام العالم العلامة تاج الدين ومصباح

المسلمين ابو عبد الله محمد بن عبد الكريم المغيلي (التلمساني²) لطف الله به

(و ادام حياته للمسلمين و اعانه على ما هو عليه من الامر بالمعروف والنهي عن

المنكر³) .

الحمد لله رب العالمين الرحمن الرحيم ملك يوم الدين والصلاة والسلام على

رسول الله خير خلق الله محمد بن عبد الله وعلى آله واصحابه اجمعين .

اما بعد وفقك الله للمتقوى وعصمك من نزغات الهوى⁴ فان الامارة خلافة من⁵

الله و نيابة من رسول الله فما اعظم فضلها⁶ و ما اثقل حملها ان عدل الامير ذبحته⁷

التقوى بقطع اوداج الهوى⁸ وان جار ذبحته الهوى بقطع اوداج التقوى فعليكم⁹

(يرحمك الله) بتقوى الله كل نفس ذائقة الموت وانما توفون اجوركم يوم القيامة¹⁰

فمن زحزح عن النار و ادخل الجنة فقد فاز¹¹ و ما الحياة الدنيا الا متاع الغرور¹² .

وسأذكر لك من ذلك جملة مختصرة في ثمانية ابواب والله الموفق للصواب .

1. AZ omits. Inserted from AR but BR omits all except bare name.

2 AZ and others omit. 3 AZ , AR and BR omit partly so in BK.

4 AZ , AR and BR نزع 5 AZ العصى which is incorrect.

6 AZ شانا ذلك which is incorrect. 7AZ بجنة which is incorrect.

8AZ وقظم اذراج التقوى which is incorrect, it does not make any sense.

9AZ وجد التقوى وان جاء which is incorrect. It does not make any sense.

10AZ and AR omit. BR and BK رحمك الله .

11AZ في أدقة which is a terrible mistake.

12AZ فقل which is incorrect.

الباب الاول

فيما يجب على الامير من حسن النية

16 15 14 13
 الامارة (حرب) بين (بلوى) الهوى والتقوى فعلى كل ذى عقل
 وامانة ان يباعد عنها الا اذا لم يكن (له) بد منها 18 17
 • واستعن في امرك كله بالله • وليكن عملك كله لوجه الله • وذكر نفسك انك
 واحد من خلق الله • كثير اقوى منك لولا نصر الله • ففيمكن طعمك كله في الله •
 وخوفك كله من الله • وهمك كله في مصالح خلق الله • ما ولاك الله عليهم
 لتكون سيدهم ومولاهم • وانما ولاك لتصالح لهم دينهم ودنياهم • واشكر
 نعمة الله عليك واحسن كما احسن الله عليك ولا تقنط من رحمة الله • فكم كرب
 فرجه الله • ورأس كل بلية احتجاج السلطان عن الرعية •

الباب الثاني

فيما يجب على الامير من حسن الهيئة

19
 الامارة مقمحة للنفس الامارة • فعلى كل امير ان يتردى برداء الهيئة في
 الحضرة والغيبة 20
 • فظهر حب الخير واهله وابغض الشر واهله • و زين
 جسمك وطيب ربحك وحسن ثوبك بمباح 22 21
 من زينة الرجال • غير متشبه بالنساء
 ولا مفلس لبیت المال • فلا تتزين بذهب ولا فضة ولا حرير بحال • فان

13 AZ and others omit.

14 AZ omits.

15AZ

الامارة معمجة للنفس الامارة which is not in any of MSS.

16 AZ ذا which is grammatically incorrect. 17 AZ, AR and BR

18 AZ ير معنا which is incorrect. omit.

19 inserted from BR, which is a better rendering. All others

20 AZ في الحاضر which is incorrect. الهيئة have

21 AZ and AR حسن • وزين. All others agree on

22 AZ بجاح which is incorrect.

ذلك (كله) ²³ قبح ودناءة وضلال . وتربح ان جلست . واسكن ما استطعت
 ولا تعبت ولو بيديك وليكن ²⁴ نظرك تفرسا (واطراقك تفكرا) ²⁵ واقبالك على
 الخلق بوجه اداء الحق ²⁶ . ولا تفتح فمك ولولتثاؤب فان (كأد) ²⁷ ان
 يغلبك فاذا ذكر ريك يذهب عنك . وان غفلت حتى غلبك فسد فمك بظهر احدي
 يديك ²⁸ . شعر :

ولا تقهقه ابدا فانما يقهقه الاعمى ويزداد اعمى

وكن على الصمت حريصا ²⁹ دائما فقلما يسلم من تكلمنا

وان يكن لا بد فاختر محكما ³⁰ واخفض من الصوت لكي لا تندما ³¹

AK المرء باصغريه قلبه ولسانه . فقد ³²م عقلك (بين يدي لسانك فان لسانك مرآة ³³

قلبك) وقلبك مجمع شأنك . اقبح القبائح اثنان كبر الفقير ³⁴ وكذ بالسلطان

فاذا تحدثت فاصدق واذا وعدت فاوف واذا امرت او نهيت عن شيء فلا تغفل عنه

حتى تبلغ القصد منه . واياك ان تقصر خطوتك عن ³⁵مقاتلتك وعمالك :

اذا اهمل السلطان شأن ³⁶ مقاله فقد بان منه الضعف في كل حاله ³⁷

وامسى كليل الامر (والنهى) في الورى ³⁸ وارمى بثوبي عزه وجماله

23 AZ and AR omit. BR agrees with AK and BK. 24 AR and AZ وليين

25 AZ omits. It has instead ولكن اقتطفهما which is incorrect.

26 AZ يوجد which is incorrect. 27 AZ and AR blank space.

28 AZ and AR باحدى ظاهر يديك which is incorrect.

29 AZ and AR حارصا which is incorrect.

30 AZ and AR لا بد فاخر which is incorrect.

31 AZ كيلا without J which is also omitted by AR and BR.

32 AZ and AR فقوم عقلك . 33 AZ, AR and BR omit.

34 AZ الفقيه which could be a rendering.

35 Az and AR blank space. 36 AZ مقاله which is incorrect.

37 AZ حالته which is incorrect.

38 AZ and AR blank space.

ولا تقرب لمجلسك وخدمتك ناقصا في عين الناس فان دائرة المرء لباسه فاختر خيرا
لباس :

اذا قرب السلطان اخيار قومه³⁹ واعرض عن اشرارهم فهو صالح
وان قرب السلطان اشرار قومه واعرض عن اخيارهم فهو طالح
وكل امرئ ينبئك عنه قرينه وذلك امر في البرية واضح
ولا تجعل نفسك عبد شوب ولا حصان ولا عبد بساط ولا مكان⁴¹ وبالجملة
حال الرعية وحال السلطان كفتان فتصرف في حالك بالزيادة والنقصان⁴²
حتى يعتدل الميزان⁴³ ورأس كل بليّة احتجاج السلطان عن الرعية⁴⁴ .

الباب الثالث

فيما يجب على الامير من ترتيب مملكته

الامارة سياسة في ثوب رياسة . فعلى كل امير ان يرتب نظام مملكته . لسكونه
وحركته . على ما يتمكن به من صلاح رعيته . فمن ذلك خدام بالحضرة يتصرفون .
وعقلاء يشيرون . وامناء يقبضون ويصرفون وكتاب وحساب يحفظون ورسول وجساس
وحفظة وعساس . ومن ذلك علماء تقاة يرشدون وأئمة فضل يجمعون وعدول يشهدون
(ومحتسبون يكشفون ويصلحون وارياب شرطة يزجرون)⁴⁵ . وشفعاء يشفعون وقضاة⁴⁶

39 AZ أخيرا which is incorrect.

40 AZ الكلب which is incorrect.

41 AZ فسطاط which is incorrect. AR فسطاط which could be a rendering.

42 AZ مال which is incorrect. It is not supported by any of the MSS.

43 AZ مال which is incorrect. It is not supported by any of the MSS.

44 AZ مال which is incorrect. It is not supported by any of the MSS.

45 AZ ثقات . 46 AZ omits.

ثقات يفصلون ورجال معظمون لوجه الله وعمال ⁴⁷يجبون حق الله ووزراء لا
 يخشون الا الله • ومن ذلك ايضا حصن حصين ⁴⁸مكفي بالحريز ⁴⁹وخييل ⁵⁰حديدة
⁵¹(وظهرور رشيدة) • ورجال شجعان حاضرة في كل اوان • وعدد كثيرة متينة
 واطباء عارفة امينة •
 ومن ذلك ايضا في الحروب وزراء يجمعون الرجال ويخففون الاثقال ويحملون
 على الحذر و ⁵²السلاح • ويرتبون الجيش للكفاح بصد ر ثابت من الابطال • و
 جناحين من سائر الخيل وبلغاء ينشطون القلوب ويقبحون الهروب • وعرفاء
 بالحروب برأيهم تنكشف الكروب • فان الحرب خدعة ليس بالكثرة ولا بالسرعة •
 ورأس كل بليية احتجاب السلطان عن الرعية •

الباب الرابع

فيما يجب على الامير من الحذر بالحضر و السفر
 الامارة غرور جنتها الحذر • فظاهر القوة والجلد والزهد في الصاحبة
 والولد و الرغبة في الابطال والعدد • ⁵³وانهض عن مجاورة الهرة والفأر
 لمساورة ⁵⁴ايوث القفار • شعر :

47 AZ which is incorrect. ^{يجبون}
 48 AZ which is incorrect. ^{وكفى}
 49 AZ which is incorrect. ^{بالخزين}
 50 AZ which is incorrect. ^{حديدة}
 51 AZ and AR omit.
 52 AZ and AR insert
 53 AZ which is incorrect. ^{النهض}

55 والا قبح الله الجبان من الورى واكساه ثوب الخزي في طبق الثرى

56 أبا الجبين كان الملك يملك قبلنا وما الملك الا بالشجاعة يشترى

57 اخو الحرب ان عضت به الحرب عضها وان شممت عن ساقها الحرب شمى

مقام السلطان في الحضر رأس كل بلية و ضرر

58 مجال عقاب الطير في الجو والفلا وانشط ديك في البيوت يجول

وما الملك الا للعقاب بعزمه ولنديك صوت في الدجاج يصول

59 فاركب جياذ العزم على سروج الحزم • واحيي البلاد من قحط الفساد يريح المطار

وسحاب الغبار ورعد الصهيل وبرق الصقيل وصواعق السيوف وامطار الصفوف •

60 فالملك بالسيف لا بالتسويق وهل يندفع الخوف الا بالتخوف • ولا يقرب من

طعامك و شرابك و فراشك و ثيابك الا اقرب احبائك • ولا تفارق الدرع والسلاح

ولا يقربك الا اهل الامانة والصلاح (ولا تتم بغير مكان امين وغير مرقدك في

كل حين واترك زيك المعروف في كل) مكان مخوف 61 وادرك بحماك في كل اوان عصبة

63 من امناء شجعان عساس ورماة ورجال وفرسان وليس وقت الخوف كوقت الامان

واكنتم سرك عن غيرك حتى تتمكن من امرك (وخذ 64) حذر من النمامين ولو كانوا

55 AZ and AR القرى which is incorrect.

56 AZ and AR أبا الجبين which is incorrect.

57 AZ and AR omit.

58 AZ مقام which is not a good rendering.

59 inserted from BR. AZ مضمرة which is incorrect.

60 AZ بالتهديد which is a possible rendering but is not supported by any of the MSS including AR the basis of AZ.

61 AZ and AR omit the whole is a serious omission they have instead لانك بمكان مخوف BR لان تنام في مكان مخوف

62 AZ أدن which is a possible rendering.

63 AZ الشجعان which is grammatically incorrect.

64 AZ omits.

أكثر من سبعين ولا تغتر بظواهر الرجال وكن كيساً فطنا في كل حال رسل الهدية⁶⁵
 عيون صرفهم كيساً واماكمهم جنون واني مرسله اليهم بهدية فناظرة بهم⁶⁶ يرجع
 المرسلون وازل كل حصن لا تقدر عليه لئلا يستند اعداؤك اليه فتتقسم الرعية وتعظم
 البلية و خف من الحبل لئلا تلسعك الحية ورأس كل بلية احتجاج السلطان عن الرعية .

الباب الخامس

فيما يجب على الامير من الكشف عن الامور

الامارة حيلة في حيوان الحيلة فعلى كل امير ان يكشف عن بعض الامور بحسب⁶⁷
 المقدور وذلك كل امر لو اعرض عنه لخشى⁶⁸ ضرورة منه فمن ذلك ان يسأل عن كل ما
 جهل من العدل والامناء والمتقين قبله والاصياء ويحجر على كل مهمل من يتيم
 وسفيه ويأمر⁷⁰ برفعه اليه ليولي عليه ويكشف عن عدد ورثة كل من مات وعن شأن كل
 من ترك من ضعفاء البنين والبنات وعن بيت المال وازراق العمال وعن كل ما هو
 موكول لنظره من مال وغير مال على⁷¹ (جهة⁷²) الاستبصار والورع لا على جهة
 الاضرار والطمع . شعر :

إذا أهمل الراعي المواشي في الخلا والوى اليها في المراح وأهملها

فما هو الا واحد من اسودها و عما قليل تنجلي عنه اولا

65 AZ which is incorrect. واسئل
 66 AZ which is incorrect. بما
 67 AZ الاميرة which is incorrect.
 68 AZ مخشى which is incorrect;
 69 AZ والمتقين
 70 AZ which is incorrect. ويدبر
 71 AZ للنظر
 72 AZ omits.

و من ذلك ايضا ان يتحفظ على عماله في جميع اعمالهم ويتدبر اقوالهم ويختبر
احوالهم ويحصي قبل الولاية اموالهم ويتفقد في كل حين اعمالهم (فكل من
ظهر منه تقصير زجره و كل من خشي منه ظلما عزله)⁷³ وكل من تكررت به الشكوى
من غير بيان ابدله ان وجد بدله والا كان لهم كسليم الدار لريها⁷⁴ (او)⁷⁵ كماشك
(قرون)⁷⁶ البقرة لحلابها • وكلما زاد على اموالهم اخذه وان شك فيه قسمه
وليكن عليهم كراعي الماشية بين الاسود الضاربة فمن عمال السوء جميع الفساد⁷⁷
في كل البلاد • شعر :

اذا كنت في امر فقم فيه ناصحا وان تستتب فاختر خيارا لاسله
و من يأت بالكلب العقور لبايه فحقر جميع الناس من سوء فعله
(عاملك عملك و فعله فعلك ان احسن فالثواب لكما وان اساء فالعقاب عليكما)⁷⁸
و من ذلك ايضا (ان يكشف)⁷⁹ عن قويت فيه تهمة الفساد ان شهد بوجود علامتها
الاشهاد • فمن شهد عليه عدول بوجود خمر في بيته او علامته كشف الامير عن
بيته فان وجد فيه نكله وكسره والا توعد و زجره و من ظهرت (عليه)⁸⁰ علامات
شرب (الخمر)⁸¹ من رائحة أو كلام او مشى استنكه فان ثبت عليه رائحة خمر (حد)⁸²
لشربه ولو لم يكن متهما بذنبه وان شك في رائحته زجر بحسب بعده و قره و من
وجد مع امرأة (اجنبية)⁸³ كامرأة على حالة منكرة زجر بموجع الجلد ان لم يثبت
عليه موجب الحد •

73 AZ and AR omit. 74 AZ لريها which is not a good rendering;
75 AZ and AR omit. 76 AZ and AR omit. AR رها
77 AZ ويطل which is incorrect AR يكن
78 AZ and AR omit. BR agrees with both AK and BK in this a
79 AZ and AR omit. addition.
80 AZ and AR omit. BR agrees with both AK and BK.
81 AZ and AR omit.
82 AZ and AR omit.
83 AZ and AR omit. 84 AZ and AR منكرة which is a possible rendering.

ومن ذلك ان يكشف عن اخبار الاعداء بالجساس الامناء في كل اوان من فتنه واما ان
حتى لا يخفى عليه شيء من حركاتهم وسكناتهم في كل زمان فان الجهل عمى والبصير
يغلب! الف اعسى واعظم بلية صحبة الغفلة على الرعية وتدبر قول بلقيس " وانسي
85
86
AK مرسله اليهم بهدية (فناظرة بما يرجع المرسلون) " .

ومن ذلك ايضا ان يكشف عن ذم النمامين ومدح المداحين فكم قربوا من بعيد
وكم بعدوا من قريب وكم حبيبوا من عدو وكم كرهوا من حبيب (وكم خربوا من بعيد)⁸⁷
وكم خرب النمام من حصن مشيد بشفتيه لا بفأس من حديد فابعد النمام عنك من بعيد
كم سفة النمام من عقل رشيد . ومنهم من يمدح كثيرا (ثم يذم)⁸⁸ ويذم كثيرا ثم يمدح
لتنفي التهمة عنه ان ذم أو مدح . فاكشف عن كل قضية . واحذر من اعوانك بالكلية
فكم حولت الهدية من ناسك الميهودية أو النصرانية . ورأس كل بلية احتجاج السلطان
عن الرعية .

الباب السادس

فيما يجب على الحكام من العدل في الاحكام⁸⁹
للسلطنة رجلا العدل والاحسان . فالعدل ان يوفي كل ذي حق حقه من
نفسه وغيره الاحسان ان يتفضل من نفسه لا من غيره . فمن العدل ان يسوى بين
الخصمين في دخولهما وجلوسهما والنظر⁹⁰ والكلام معهما وغير ذلك من شأنهما

85 AZ and AR ضحية which is incorrect.

86 AZ and AR omit.

87 AZ and AR omit.

88 inserted from BK.

89 AZ السلطنة which is incorrect.

90 AZ تنظر which is incorrect.

وليكن في جميع شأنه بمعزل من غير قبض ينفر و لا بسط يجسر⁹¹ فلا يرد على من سلم عليه غير السلام و لا ينبسط اليه ببشاشة و لا كلام حتى يتبين له انه ليس من اهل خصام وان ذريعة فيه لحرام⁹² . فان سأله احد الخصمين او كلاهما عن مسألة او حال من احواله فليعرض عن سؤاله وليقل لهما " اقبلا على شأنكما واستويا فيما بينكما لا ارجحية اليوم لاحدكما . " فان ظهرت ارجحية لاحدهما بدخول او مكالمة او نحوها فليبين⁹⁵ للاخر تسويتهم وليعدل بعد ذلك بينهما ومن العدل ايضا ان يعطي كل واحد من الاخصام نوبته من الكلام ثم لا يقبل من الشهود الا عدلا رضى فيما سيق اليه لا تهمة فيه على المشهود عليه فان تعذرت⁹⁶ العدالة في كرفة⁹⁷ جهل او فرية ضلالة فامثلهم في الصدق⁹⁸ حاله بعد كشف واستكثار وسياسة واستبصار فان على الشهادة مدار الامور واكثر الشهاداء بالذلالة مغرور وفي الجهالة مغمور . ثم لابد ان يطلع المطلوب على اسباب الطالب ويعذر اليه حيث⁹⁹ لا يخاف من ظلمه عليه فاذا انتهى الامر الى حده ، حكم بعد المشاورة في قصده . ولا يجوز له شيء من احكامه¹⁰⁰ الا بمشهور مذهب امامه ، فان الحكم بغير المعتمد جور وضلال . ويجب نقضه على كل حال . ويختص¹⁰¹ دعاوى الجنايا¹⁰² بانواع السياسات فالمدعي عليه بكسرة من غير بينة ثلاثة اقسام :

91 AZ and AR يخص للحرام

92 AZ and AR للحرام أو غيرها

93 AZ and AR خصمية

95 AZ which is incorrect. فليس

96 AZ which is incorrect. AR تعذرت

97 AZ which is incorrect. AR قرية جهل

98 AZ which is incorrect; AR مزية

99 AZ which is not a good rendering. حتى

100 AZ which is incorrect; AR agrees with AK. بمشهور

101 AZ which is incorrect; AR agrees with AK. ويقتض

102 AZ and AR الجنائيات all others have الخيانات

قسم بعيد عما نسب اليه فهذا لا يلفت لدعوى المدعي عليه بل يؤدب ان كان
 من اهل الاصلاح لاجل ما نسب (اليه) • وقسم قريب من الدعوى فهذا
 لا بد من البلوى يحبس ويهدد ¹⁰³ ويوجع ويجلد بحسب الجريمة وبعده من
 التقوى • وربما يغرم في كسرقة بالدعوى واليمين من غير تبين • وذلك
 حيث علم بمثل الدعوى واشتهر وتكرر منه الضرر • لان شهرته بما نسب اليه
 يصير المدعي كالمدعي عليه • ومن تكررت منه الاذاية واشتهر حبس حتى تظهر
 AK تويته او يقبر • وقسم بين القسمين لا يعلم من اي الجزئين ¹⁰⁴ فهذا
 ايضا لا بد من اعتقاله وكشف الحاكم عن حاله • فان تبين ¹⁰⁵ قسمه من القسمين
 حكم له بحكمه من الحكمين • والا ارسله بعد سياسة وتهديد وكشف
 ووعيد بحسب ما يقتضيه النظر من التشديد وكل ذلك بالتقوى لا بالتهديد
 وليس كل الناس سواء • فهذا حكم من ادعى عليه بكسرقة ¹⁰⁶ من غير بينة •
 اما من ادعى عليه بكنفس فلا بد ¹⁰⁷ اولا من حبس ومن ربط بالحديد ومن
 كشف وتهديد • فان ظهر امر عمل عليه والا نظر في قريه او بعده مما
 نسب اليه فان قرب طرول في اعتقاله وان بعد عجل بارساله • وكل احد
 له حكم بحسب حاله • ولا بد للامير الاعظم ان يجلس كل يوم للناس بحيث
 يصله النساء والاطفال ولا يكفيه ما نصبه من القضاة وغيرهم من العمال ¹⁰⁸
 لان شكوى الرعية قد تكون منهم وواجب عليه (ان) يزرهم عنهم و الا

103 AZ وبوهم which does not fit in the context.

104 AZ and AR الجزئين

105 AZ and AR قسمة which is incorrect.

106 AZ and AR في كسرقة

107 AZ and AR الحبس which is incorrect.

108 AZ and AR يطلع which is incorrect.

هو كسلم الدار لاربابها وكماسك قرون البقرة لحلابها • وقد عزل الخلفاء رضي
الله عنهم الصالحين بسبب الشكوى لما فيه من تأليف (قلوب)¹⁰⁹ الرعية وقرب
التقوى • ورأس كل بلية احتجاج السلطان عن الرعية •

الباب السابع

110

يجب على كل امير ان لا يجني الاموال الا من حيث اباح الله ومن
يتعد حدود الله فقد ظلم نفسه لا تدرى¹¹¹ لعل الله يحدث بعد ذلك امرا •
الكرم روح السلطنة وعدمه نفس الشيطنة واول الكرم واساسه الامساك عما في
ايدي الناس • والكف عن اموال الناس بقاء المملكة وجمالها • والطامع في
اموالهم خراب المملكة وزلزالها •

فمن الاموال التي احل الله للامراء قبضها وصرفها زكاة العين والحرث
والماشية وزكاة المعدن وزكاة الفطر وخمس الركاز والمعادن وخمس الغنيمة
واموال الجزية والصلح وما يؤخذ من تجار اهلها وتركة لا وارث لها وما
افاء الله به من اموال اهل الحرب بلا حرب فاذا كان الامير عادلا في¹¹²
صرف مال الله وجب على من بيده شيء منه زكاة¹¹⁴ او غيرها ان يدفعه له ليصرفه
وزكاة العين موكولة لامانة اربابها فليس لامير ان يهتك في طلبها استارهم
ولا ان يفتش ديارهم ولا ان يحلف الا اشرارهم • فمن ادعى عدم كمال
نصابه او حوله صدق في قوله • كما فرزع من ان قبل قدومه اخذت منه¹¹⁵ او

109 AZ and AR omit.

110 AZ العدل which is incorrect.

111 AZ لانقك which is incorrect.

112 AZ and AR الامام which is a possible rendering.

113 AZ and AR زكاة

114 AZ and AR للامير

115 AZ and AR وان

116

ان عليه ديننا يسقط الزكاة عنه •

ومن الاموال التي حرم الله عز وجل على الامراء وغيرهم كل ظلم ومن الظلم

ما يأخذه الامير على ولاية القضاء او غيره وهو حرام باجماع المسلمين و ذريعة

117

لافساد الدين وفتح ابواب الرشوة (وقهر المساكين) •

118

(ومن الظلم ايضا الرشوة وهي) حرام باجماع فلا يجوز لسلطان ولا

غيره من القضاة والعمال ان يأخذ من احد الخصمين ولا من كليهما شيئا لا قبل

الحكم ولا بعده ولا ان يقبل الهدية من الرعية فانها باب كل بلية • اذا دخلت

الهدية على ذى سلطان (خرج عنه العدل والاحسان • وكل ما يشتريه) ¹¹⁹ أو

غيره ¹²⁰ ممن يتقي شره فهو قطعة نار وصاحبه بالخيار •

ومن الظلم ايضا العقوبة بالمال كأخذ مال سارق أو زاني وهي حرام على

كل حال الا اذا كانت جناية الجاني متعلقة بذلك المال كلبن خلط بماء فالصدقة

به حلال •

ومن الظالم ايضا المكس وهو حرام باجماع و من زعم حليته كفر وقد جاء في

الخبر " لا يدخل الجنة مكاس المكاسون اخوان الكلاب يلعنهم حتى الغراب ولا

يملا عين ابن آدم الا التراب • ويتوب الله على من تاب " •

ومن الظلم ايضا اخذ العشر او غيره من ارباب الحقوق او التركات وهو حرام

باجماع المسلمين ونصوص الايات ¹²¹ فطوبى لمن تاب الى الله قبل الممات و وويل

116 AZ and AR زكاة • 117 AZ and AR omit.
118 AZ and AR omit. 119 AZ and AR omit.

120 AZ فمن which is incorrect. AR ممن •

121 AZ الاية which could be correct but does not fit in
the rhyming prose.

لمن غرتة شهواته حتى مات • فان وقع / بالناس مصيبة تفتقر لمال ولا شيء في بيت المال ولا يمكن دفع ضررها الا من اموالهم وجبت الاعانة عليهم بحسب احوالهم من غير ان يستمر ذلك عليهم وذلك كسقوط حصن بمكان خوف لا كمصيبة¹²² نزلت بسultan من قائم لينزع منه ما بيده فقد روى عن مالك رضي الله عنه أنه سئل عن الوالي اذا قام عليه قائم بطلب ازالة ما بيده مثل يجب علينا ان ندفع عنه؟ قال: " اما مثل عمر بن عبد العزيز فنعم واما غيره فلا ودعه وما يريد منه ينتقم الله من ظالم بظالم ثم ينتقم من كليهما ورأس كل بلية احتجاج السلطان عن الرعية •

الباب الثامن

في مصارف اموال الله

124

يجب على كل من بيده شيء من مال الله الا يصرفه الا في المصارف التي شرع (الله) ومن لم يحكم بما انزل الله فاولئك هم الظالمون • وسيعلم الذين ظلموا اي منقلب ينقلبون •

الكرم دوام الملك والبخل والتبذير خرابه • فالكرم بذل ما يحتاج اليه عند

الحاجة لمستحقه بقدر الطاقة فمن خرج عن هذا الحد فقد تعدى وظلم ولا

حظه من الكرم ، هو اما بخيل او مبذر في ارزاق بيت المال وكل منهما خراب

المملكة على كل حال • فان كان البخل (أو)¹²⁵ التبذير¹²⁶ حيلة سلطان فعليه

ان يستنيب في عطايا مملكته من ثقة خاصته اهلا • لان كلا من البخل و

التبذير لا يليق بالمملكة اصلا •

122 AZ لا المصيبة اذا which is incorrect.

123 AZ ومالي بدمنة which is incorrect. AR agrees with AK.

124 AZ and AR omit.

125 AZ والتبذير which is incorrect. BR agrees with.

126 AZ and AR حيلة which is incorrect.

ومال الله الذي جعله رزقا لعباده قسمان • قسم لاصناف معينة • وقسم في
 يصرفه الامام في المصالح • فالاول زكاة العين والحرث والماشية وزكاة المعدن
 وزكاة الفطر فمصرف غير زكاة الفطر الاصناف الثمانية في قوله تعالى " انما
 الصدقات للفقراء و (المساكين والعاملين عليها والمؤلفة قلوبهم وفي الرقاب
 والغارمين وفي سبيل الله) وابن السبيل • ويجب صرفها من محل الوجوب¹²⁹
 ناجزا ان وجد به مستحق والا نقلت لأقرب مكان (فيه) مستحق وان كان في¹³⁰
 محل وجوبها مستحق وفي غيره احوج منه فرق في محل وجوبها بعضها ونقل¹³¹
 للاحوج بعضها بحسب الاجتهاد • واجرة نقلها من الفيء لا منها ، و لا
 يجب تعميم الاصناف كلها فان اخرجت لبعضها اجزأت الا ان تعطي للمعامل
 فقط فلا تجزء ويقدم¹³² الاهم فالاهم والاحوج فالاحوج ويفضل بعضهم على
 بعض بقدر الحاجة- ومصرف¹³³ زكاة الفطر الصفيين الاولين فقط. فتصرف
 في محل وجوبها و لا يعطي حارسها منها فان تعذر صرفها فيه ففي اقرب
 مكان ممكن كالزكاة •

والثاني وهو الفيء كخمس الركاز والمعادن وخمس الغنيمة وما يوخذ
 من اهل الذمة واهل الصلح وما يوخذ من تجارهما وخراج الارضيين
 وتركة لا وارث لها وما أفاء الله به من اموال اهل الحرب بلا حرب للامام¹³⁴
 يصرفه بالتقوى لا بالهوى على الاهم فالاهم من مصالح المسلمين (وهو واحد

128 AZ omits. This obscures the meaning. AR agrees with AK.

129 AZ omits. AR من انما الصدقات الى ابن السبيل

130 AZ and AR omit.

131 AZ which is incorrect. AR agrees with AK. -تزم

132 AZ which is incorrect. AR agrees with AK. ويقوم

133 AZ which is incorrect. AR agrees with AK. وتصرف

134 AZ and AR الامام which is incorrect.

135 منهم) فقد اجتمعت حكماء العرب والهند والروم (والفرس) ¹³⁶ على ان سخاء الملك على نفسه مع البخل على رعيته عيب وفساد لملكه واحق الناس بالتوسعة عليه من مال الفيء حماة الدين من قضاة المسلمين والعلماء الاتقياء المرشدين واهل بلد كل مال احق ¹³⁷ (به) من غيرهم الا ان ينزل بهم حاجة فينقل اليهم منها بعد اعطاء اهلها ما ¹³⁸ يغنيهم على وجه النظر فان كان غير بلد اهل المال احوج من اهل بلده نقل لهم اكثر بحسب النظر .

وسيرة أئمة العدل في قسم الفيء ان يبدأ ¹³⁹ الامام بسد ¹⁴⁰ ما لا غنى عن ¹⁴¹ سده من حصن وسلاح وغيره ثم بارزاق العلماء والقضاة والمؤذنين و كل من بيده شيء من مصالح المسلمين كالمقاتلين ثم بالفقراء الاحوج فالاحوج حتى يعم باجمعهم من ذكر وانثى وصغير وكبير بحسب احتياجهم وانواع حوائجهم ثم يعم بما بقي جميع الناس بالسوية غنيهم وفقيرهم عريهم ومولاهم الا ان يرى الامام حبسه للنوائب بنية صادقة ونظر صائب . فان اتسع المال ابقى منه في بيت المال فضلة لما يحدث من النوائب وبناء المساجد وفك الاسارى وقضاء الديون ومؤونة تزويج العزّاب واعانة الحجاج وغير ذلك من وجوه الاحتاج . ويفضل آل النبي صلى الله عليه وسلم في قسم الاموال وجميع الاحوال فقد كان عمر بن عبد العزيز رضي الله عنه يخص اولاد فاطمة رضي الله عنها كل عام باثني عشر الف دينار سوى ما يعطي غيرهم من ذوى

135 AZ and AR omit. 136 AZ and AR omit.

137 AZ and AR omit. 138 AZ and AR يعينهم which is a possible rendering

139 AZ ان بيد which is incorrect. AR agrees with AK.

140 AZ يسد which is incorrect. AR agrees with AK.

141 AZ and AR ما لا بد من

142 Inserted from AR and BR. Both AK and BK have which is not a good rendering.

القريبي

فهذه سنة صرف اموال الله عز وجل للمسلمين لكن الظالمون اليوم في ضلال
 مبين • قطعوا العدل والاحسان ووصلوا الظالم والبهتان فقلت ارزاقهم وساعات
 اخلاقهم وجاءهم الموج من كل مكان رينا ما خلقت هذا باطلا سبحانه وقنا
 عذاب النار • رينا انك من تدخل النار فقد اخزيته¹⁴³ وما للضالمين من انصار •
 رينا اننا سمعنا مناديا ينادي للايمان ان آمنوا بربكم فآمننا رينا فاغفر لنا
 ذنوبنا وكفرنا سيئاتنا وتوفنا¹⁴⁴ مع الابرار • رينا وآتنا ما وعدتنا على
 رسلك ولا تخزنا يوم القيامة انك لا تخلف الميعاد • (والحمد لله رب
 العالمين¹⁴⁵ والصلاة والسلام على سيدنا محمد النبي الامي الطاهر
 الزكي وعلى آله وصحبه وسلم تسليما • انتهى وكفى وسلام على
 عباده الذين اصطفى وصلى الله على مولانا محمد النبي المصطفى وعلى آله
 الوفاء وسلم تسليما •

143 AZ أخذيته which is incorrect.

144 AZ وتوجنا which is incorrect.

145 Inserted from BR.

APPENDIX II.I. INTRODUCTIONWasiyat al-maghili ila Muhammad b. Ya^cqub.

The Wasiyat al-maghili ila Muhammad b. Ya^cqub has already been introduced in my brief description of the sources.¹ It is one of al-Maghili's works which were written in West Africa, most probably in Hausaland. The circumstances under which it was written are made clear in the text itself. It was a response to a specific request made by the Emir of Kano, Muhammad b. Ya^cqub popularly known as Muhammad Rumfa, who according to Palmer's dating, ruled Kano between 1463-1499.² Muhammad Rumfa wanted some guidance on how to prevent people from committing crimes. It would appear that after al-Maghili had written the Taj for Muhammad Rumfa, he realised that the question of ta'zir or discretionary punishment was not touched on at all by al-Maghili, so he made a specific request for it to be written about.

The internal evidence indicates that al-Maghili was writing to Muhammad Rumfa from a certain place. The first indication is that al-Maghili, after the traditional opening of his letter glorifying Allah and praising the Prophet, starts with the words "from Muhammad b. ^cAbdulkarim b. Muhammad al-Maghili ... to ... Muhammad b. Ya^cqub Sultan Kano." This indicates that al-Maghili was writing a letter from a certain place. It is unlikely that al-Maghili would write in this

1. See chapter 1, p.13 of this thesis.

2. Sir Richmond Palmer, *Sudanese Memoirs*, vol.IV, (Lagos, 1928), p.111. I have already drawn attention to the fact that these dates cannot be accepted as precise. See chapter II, p.63 of this thesis.

form if he was in Kano. The second indication is the saying in the beginning and at the end of the Wasiyat "Peace, mercy and blessing of Allah be upon you", which makes it clear that he was writing a letter, not a formal work.

Another interesting evidence is that, of all al-Maghilī's works which so far have come to light, only the Wasiyat bears a date. The indication is that it bears a date because it is a letter and not a formal work of authorship. Al-Maghilī's practice in his formal writings was that of omitting dates. He had been consistent throughout.

The contents of the letter show that al-Maghilī had already accumulated experience about the conditions in Kano, and so he was in a position to give precise advice. They also show that the Wasiyat is one of several others written to Muhammad Rumfa. It is described by al-Maghilī as the most emphatic advice. We know the existence of at least one other piece of advice in the form of the Tāj, the treatise in the art of Government which Ahmad Baba speaks of and which has already been dealt with in Chapter I and Appendix I of this thesis.

In all probability the Wasiyat was written in Katsina when al-Maghilī visited it again after returning from Kano in the year 897/1492.

Palmer translated the Wasiyat from a ms copy.³ Since Palmer's translation, the work has appeared in print three times. The first and the second are in two works published by Adamu ^cAbdullah al-Ilorī:

3. See chapter I pp.7, 13, n.29 of this thesis.

Al-islām fī nijeriya wa uthman b. fodio and Mūjaz tāriḫ nijeriya.⁴

The third is in the Misbah of Rabiḥ Būnar.⁵ In all these publications the Wasiyat has just been printed without any critical edition and there are several omissions and mistakes.⁶

The following edition is compiled from three manuscripts, K, T and D. K is housed in the N. A. Kaduna under this accession number, BAUPROF/1:13. It is introduced by an official of the Archives as follows:-

A Memorandum letter by Sheikh Muh. ibn Abdulkarim al-Maghilie al-Tilimisanie (sic)

The above memorandum letter was copied from the original by Emir of Bauchi Yakubu I. The original copy was written by El-Mughilie (sic) of "Tuwat" to the Emir of Kano Muhammad Rumfa, the son of Yakuba (1463-99) during his visit of Katsin, Kano and then finally to Gao the capital city of the famous Alhaji Muhammadu Askia of Songhay. It was said that similar copies were also despatched to various Emirs of the Western Sudan.

The content was a response to the request of the Emir of Kano for a guide to those in authority (Emirs and Judges) and for the enlightenment of his people for a successful way of living here, in the world and after death.

Collected from the present Emir of Bauchi M. Adamu in 1961.

The ms has three folios 17 x 11 $\frac{1}{2}$ cm, 23 lines per page. This is the only copy that I know of which is not in the quotation of the Fodios.

4. Adamu ^c Abdullah al-lori, Mūjaz tarīḫ nijeriya, (Beirut, 1965), pp.134-36.

5. R. Būnar, Misbah al-arwah fī usul al falah, (Alger, 1968), pp.173-77.

6. See A. A. al-Ilori, op.cit., pp.136 and 135 for two serious omissions; R. Būnar, op.cit., pp.74 and 76.

T is quoted by Shehu Uthman dan Fodio in chapter VI of his Tanbih al-ikhwan 'ala ahwal ard al-sudan. The Tanbih is available in various private collections and in the Jos and Kaduna N. As. Dr. Last has carefully listed its locations in the different places.⁷

The Wasiyat starts on fol.176 of ms and finished on fol. 186. Two folios of 26 x 15 cm, 31 lines per page. It is written in the Maghribi hand of Western Sudan.

D is quoted by ^CAbdullah b. Fodio in his Diya al-siyasat wa fatawi 'l-nawazil mimma huwa min furu' al-din min masa'il. This work is also available in several private collections and in Kaduna N.A., A.B.U. and Jos. N.A.⁸ It is written in a clear Western Sudan hand. It has two folios, 17 x 14 cm, 25 lines per page. The Wasiyat starts on folio 56 and finishes on folio 68. It stops where the date 897 is recorded.

It appears that al-Maghili after finishing writing his letter to Muhammad Rumfa and concluding it by writing the date and the invocation of final peace and blessing, he found it necessary to draw the attention of Muhammad Rumfa to the importance of the piece of advice which his letter contained, so he continued and added several lines.

K has been made the basis of this edition because it appears to be the earliest of all of them. It has one major defect, which is that the copyist - Emir of Bauchi Yahubu I wrote the date in which he

7. M. Last, The Sokoto Caliphate, (London, 1967), p. 239

8. M. Last, op.cit., p. 241.

apparently copied it, which is the year one thousand two hundred and fifteen (1215/1801). This replaces al-Maghīlī's date of composition, which is eight hundred and ninety seven (897/1492). Otherwise K is the best of the three mss. used.

Reference has also been made to the two published texts which have been named A and B. This is for the purpose of pointing out the mistakes and the omissions.

وصية المغيلي الى محمد بن يعقوب

بسم الله الرحمن الرحيم ، صلى الله على سيدنا محمد وآله وصحبه

وسلم تسليما .

1

من عبد الله تعالى محمد بن الكريم (بن محمد) المغيلي التلمساني (لطف

الله به وجميع احبابه بجاه سيدنا محمد صلى الله عليه وسلم وعلى آله واصحابه)²

الى ابي عبد الله محمد بن يعقوب سلطان كنو وفقه الله لما يرضاه و اعانه على

ما أولاه من امور دينه و دنياه بجاه سيدنا محمد (صلى الله عليه وسلم) . سلام³

عليكم ورحمة الله وبركاته . أما بعد فانك سألتني ان اكتب لك جملة مختصرة فيما

يجوز للحكام في ردع الناس عن الحرام .

6

فاعلم اعاننا الله و اياك على رعاية وداعه و حفظ ما اودعنا من (شرائعه) انه

لا بد من (درء⁷) المفسد الدينية و الدنيوية بالمقامع الشرعية على حسب الطاقة

البشرية . و لا يجوز ان يترك مفسد على فساد مع امكان (رده)⁸ عنه (بسبب)⁹ او

لعنه او حبسه او ربطه او ضربه او صلبه او قتل او نفي او نهب¹⁰ ماله او حرق بيته

او غير ذلك من العقوبات الشرعية لكل داء¹¹ و دواء¹¹ و لكل مقام مقال و فعال و بحسب

ما يظهر فيه من الاحوال . فصن مقامات الخلافة النبوية عن الالهانة بردع¹² العامة

عن سوء الادب بالاقوال و الافعال و سائر الاحوال . و لا تصبر لكل من تعمد ذلك

1. A omits.

2. A, B and D omit.

3. D ولاه

4. A and B صلوات الله عليه و سلامه 5. T. السلام 6. Inserted from d & T

7. A and B ردع which is incorrect. 8. A and B رده which is incorrect

9. A and B omit. 10. A لعنه أو حبسه أو ربطه أو ضربه أو قتله أو نفيه

11. A and B omit. 12. Inserted from T. K has رجع which is curious.

13 ولم ينته عنه لأن ردع ذلك ومثله حق الله تعالى ورسوله (الكريم) . 14
 وامنح جميع اهل بلادك عن جميع انواع الشرك وكشف العورة و شرب الخمر و اكل
 الميته و الدم وغير ذلك من المحرمات . 16 وامنح الكفار من ان يظهرُوا (شيئا من)
 ذلك (و من اظهار اكل و شرب او نحوه في رمضان لأن كفار بلادكم) بين المسلمين في
 الاسواق و المنازل وغيرها (فلو تركوا ل اظهار) شرك او خمر او فطر في رمضان
 او زنى او غير ذلك من المنكرات و انواع ضلالهم لكان ذلك ذريعة لان يعمل كفعلهم
 ضعفاء العقول من العامة و النساء و الصبيان وغير ذلك لا سيما و الغالب على اهل
 تلك البلاد الجهل و الهوى و اصلهم كان كذلك و قد قال العلماء " الرجوع الى
 الاصل يكون بادنى سبب " . فانهم عن ذلك كله و اشهر انكاره و تواعد العقوبة
 لمن فعله ثم بعد ذلك عاقبه باقرب شيء يردعه و يردع مثله . و ان لم يمكنك ردعه
 و منعه عن ذلك الا بقطع يده او رجليه او صلبه او قتله او غير ذلك من الروادع
 الشرعيه فافعله لانه ظالم و الظالم احق ان يحمل عليه . لكن لا تفعل بالمفسد
 ما هو اشد في ردعه الا اذا رأيت انه لا يرجع بغيره . و مثال ذلك ان ترى انهم لا
 يتركون (من عمل (الخمر) الا ينهب اموالهم او حرق بيوتهم او اجلائهم او غير ذلك
 فافعله و لا تبالي . و من لم يسترامته او عبده (ولم ينته الا ببيعه عليه او يأخذه

13. B ينتبه which is incorrect. 14. D درء 15. A and B omit.

16. A كفار بلادك 17. A omits. 18. A omits.

19. A insert من المحلات which is not justified. 21. A مثل

20. A and B فلو لم يتركوا اظهار 22. T ضعفه which is another good rendering

23. A and D فانهم which is incorrect. 24. A, F and T لم يكن

25. A inserts و 26. D ما ذكر

27. A omits. An omission which seriously affects the meaning.

28. A and B omits. 29 Inserted from D; A and من لم ينته من الناس

30. B الخير which is a terrible blunder.

31. T احراق which is not a good rendering.

32. A and B insert أوبيع الكفار منهم which makes the meaning obscure.

33. A omits ب

منه فافعل ذلك³⁴ ولا تبالي وكذلك من يغش بمسحات ناقصات³⁵ و ابي ان ينتهي عن

المعاملة بها فخذها منه واجعلها في مصالح المسلمين واما من لا يغش بها ولا

ابي ان ينتهي فمره باصلاحها ان اراد المعاملة بها³⁷.

وكذلك من يتلقى ما يأتي للسوق من طعام وغير ذلك فيشتريه قبل وصوله

للسوق او بعد وصوله وبيعه على يده فان لم ينتهوا الا بنفيهم او بنهب ذلك منهم³⁸

فافعل ولا تبال لان مقصد الشارع في الروادع درء المفسد وجلب المصالح

بحسب الامكان في كل زمان ومكان فليس الخبر كالعيان ولذلك قال الامام العادل

عمر بن عبد العزيز رحمه الله تعالى³⁹: "تحدث للناس اقدسية بقدر ما احدثوا

من الفجور"⁴⁰ فلا بد من ازالة الفساد على كل حال . لو ان تعارضت

مفسدة و مصلحة فدرء المفسد مقدم على جلب المصالح⁴¹ وان تعارضت مفسدتان

احدهما دينية والاخرى دنيوية فدرء المفسدة الدينية اولى . وكذلك اذا تعارضت

مفسدتان احدهما اكبر من الاخرى⁴² فدرء المفسدة الكبرى اولى . وهذا الذي بيناه

لك يكفيك ان شاء الله تعالى في تلك المناكر وغيرها .

(واعلم⁴³) ان الناس في حكم الله ورسوله سواء فلا تخرج من ذلك عالما ولا عابدا ولا

شريفًا ولا اميرا وأقم حق الله على جميع عباد الله بالتقوى لا بالهوى ومن عارضك في

34. A omits.

35. T بمسجد ناقصات which is an obvious mistake.

36. B omits which is a serious omission.

37. A and B omit. 38. A and B omit ب !.

39. A. رحمة الله عليه which is incorrect.

40. T مفسدات which is another good rendering.

41. A omits. An omission which conceals the classification al-Maghili was trying to make.

42. B omits the whole three lines. This misses entirely the points al-Maghili was trying to make.

43. A and B omit.

شيء من ذلك عاقبه بما فيه ردع له ولمثله وان لم يمكن الا بقطع يده أو رجله أو
 44 45 46 فيه أو صلبه فافعله لكن بعد ثبوت و تثبت في ذلك كله ومقابلة كل واحد بما
 يليق به بحسب حاله من الخير والشر والتواضع والطغيان فتصرف في ذلك
 بالزيادة والنقصان حتى يعتدل الميزان وليس الخبر كالعيان والله المستعان .
 وفي هذا القدر كفاية لمن سبقت له من الله العناية ⁴⁷ (والسلام عليكم ورحمة الله ⁴⁸
 وبركاته) ، (وكتبه عام سبعة وتسعين وثمانائة) . انتهى .
 وكما نوصيك به من أمور دينك ودينك تعرف ⁵¹ اذا نسيت شيئا منه فلا تنس
 أن من غير دين ⁵² الله فقد كفر . ومن تغيير دين الله أن يكون الظالم قاضيا لانه
 يحكم بالظلم وهو يقول هذا هو الشرع ومن فعل ذلك فهو كافر لانه صير
 الباطل حقا والحق باطلا . فان كان ولا بد من أن تجعل بعض الظالمين
 حاكما فلا تجعله باسم القاضي فان القاضي ⁵⁴ من صفات رسول الله صلى الله عليه
 وسلم لا يوصف به الا عالم تقي لا يأخذ الرشى ولا يحكم بالهوى .

44. A and B أنه which is incorrect. 45. Inserted from D.

46. A and B insert. 47. A and B omit. 48 A and B omit.

49. A B omit; Inserted from D and T; K has:

وكتبه عام الف ومائتين وخمسة عشر which is an invention of a copyist,
 who apparently replaced the date of authorship with the
 date of copying.

50. D terminates here. 51. A and B insert ذلك

52. A حكم 53. A حكم الله ودينه

54. Inserted from T.

فالله الله هذه الوصية اؤكد⁵⁵ من جميع الوصايا اما يكفيكم ان تظلموا
 باسم السلطنة فتكونوا مذنبين ترجو رحمة الله حتى تظلموا باسم
 الشرع فتكونوا كفارا والكافر لا نصيب له من رحمة الله فظهر مقام
 الشريعة من كل خبث⁵⁶ فانه مقام رسول الله صلى الله عليه وسلم لعل
 الله يغفر لك ذنبك جميعا⁵⁷ . الحمد لله رب العالمين والصلاة
 والسلام على من لا نبي بعده⁵⁸ .

55. A and B omit.

56. A omits.

57. حيث which is incorrect.

58. A inserts من اتبع الهدى

APPENDIX III

LIST OF AL-MAGHILĪ'S WORKS

Maghili

Ahmad Baba made the first attempt to give a list of al-Maghilī's works.¹ Later attempts by Cherboneau², Hiskett³ and Bunar⁴ have all been mainly based on Ahmad Baba. Hiskett's list is so far the most comprehensive. He records twenty three works by al-Maghilī. Several of these works which were only known by their names in the biographies have now come to light. What I try to do here is to give an up to date list of the works of al-Maghilī and to describe those of them which have so far come to light. I shall try to give the location of the MSS and explain which of them have been published. I shall also give the list of the remaining works which have not yet been discovered, using additional information from sources other than Ahmad Baba. Attempts have also been made to suggest where possible dates for the composition of some of the works

1. Extant works seen

1. Ajwibat al-maghilī - This is commonly known as the As'ilat askia. I have explained in chapter I of this thesis that this is an improper name. Ibn Maryam uses the correct name.⁵

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1. Ahmad Baba, Nayl al-ibtihaj bi tatrīz al-dibaj, (Cairo, 1932), p.331.
 2. Cherbonneau, 'Histoire de la litterature Arabe au Soudan', JA, (October, 1855), pp.397-398.
 3. Bivar and Hiskett, "The Arabic literature of Nigeria to 1804: a provisional account", BSOAS, vol.XXV (1962), pp.107-109.
 4. R. Bunar, Misbah al-arwah fi usul al-falah, (Alger, 1968), pp.21-22.
 5. Ibn Maryam, editor Ibn Shanab, Al-bustan fi dhikr al-awliya wa'l-ulamā' bitilimsan, (Alger, 1908), p.256.

There are two copies in N. A. Kaduna, viz. MSS 984/O/AR 12:1, 985/O/AR.12.2; two copies in B.N. Paris, viz. MSS Fondes Arabes 5259 Folio 39-44, 48-65; and one copy in B.N. Alger, uncatalogued.⁶

a) MS 984/O/AR.12:1 is a photostat copy and is written in Maghribi script. There are several blotted places. It has twenty five folios, 15 x 11 cm, 16 lines per page. The date of the copy is 1120/1715.

Alhaji Bello Uthman records that the date of composition is 899/1493.⁷ This is a very interesting date but the difficulty is that it is nowhere recorded in the body of the manuscript. If this date can be established this MS can be one of the earliest copies.

b) MS 985/O/AR 12:2 is also a photostat copy. It is written in Maghribi hand slightly more readable than MS 984 above. It has also several obliterated spots. It has fifteen folios, 17 x 12 cm, 22 lines per page. The date of the copy is 1237/1821. It has also the same date for compilation as recorded in N.A. Kaduna catalogue.⁸ This clearly shows that these dates are arrived at by calculation.

c) MS.5259 has seventeen folios, viz. fol.48-65. 18 x 11 cm, 23 lines per page. It is in good Maghribi script.

d) Another copy under the same number - fol.39-44 - is incomplete. It has ten folios, 15.5 x 11.5 cm, 22 lines per page. It is also in good Maghribi hand.⁹

6. Hiskett has reported that there is a copy in Dakar, vide Bivar and Hiskett, op.cit., p.108.

7. Alhaji Bello Uthman, The Catalogue of Arabic Manuscripts Collected from the former Northern Region of Nigeria (Kaduna, 1970), p.128.

8. Ibid., p.129.

9. Vide G. Vajda, Index General des Manuscrits Arabes Musulmans, (Paris, 1953), p.331.

e) MS B.N. Alger (uncatalogued) is in very good Maghribi hand.

It has ten folios 20 x 16 cm, 23 lines per page.

2. Ajwibat al-maghilī ilā al-sanūsī fi 'l-tawhīd. The only copy that has come to light is housed in B.G. Fās under this number 80HL/656. It is written in very thin legible Maghribi script. It has twenty folios, 10 x 8 cm, 23 lines per page.

3. Amal al-yawm wa'l-layla. The only yet available copy is preserved in B.N. Paris MS ar. 5673, fol.257-259.¹⁰

4. Kitāb ifham al-anjāl ahkām al-ājāl. This is probably one of the early works by al-Maghilī. It was written in the 1470s when he was in Tamantit. It is housed in the B.N. Madrid. It is slightly incomplete. It has fifty seven folios, 16 x 12 cm, 15 lines per page. It is in Maghribi legible hand. It is the most voluminous work of al-Maghilī yet available.¹¹

5. Manh al-wahhāb fi radd al-fikr ilā 'l-sawāb. This is embodied in another MS D2231,¹² which is a commentary to it. Dr. Hiskett's suggestion that this work is the same as Rajz al-maghilī and manzumāt al-maghilī is correct. Al-Maghilī in his introduction to the Sharh manh al-wahhāb says hādha sharh mujaz li bayān al-muhim min rajzi al-mulaqqab bi manh al-wahhāb fi radd al-fikr ilā 'l-sawāb. This is a brief commentary aimed at expounding the important points enshrouded in my rajaz entitled Manh al-wahhāb fi radd al-fikr ilā al-sawāb. Ahmad Baba tells us that

10. G. Vajda, op.cit., p.257. See also my elucidation of the contents in chapter III of this thesis.

11.

12. This is item 9 in this list.

al-Maghīlī has a mazūma which he named Manh al-wahhāb.¹³ This clearly shows that the Rajaz, the Manzūma and the urjūza all refer to the Manh al-wahhāb. Ahmad Baba informs us further that al-Maghīlī has three commentaries on the Manh al-wahhāb.¹⁴ One of these is extant, which is MSS D 2231 and 643 described above.

6. Manzūma. This is a poem in which al-Maghīlī launches a vigorous attack on the supporters of the Jews among the Muslim population. He invokes divine malediction upon such Muslims, whether they are kings or common people. There are two MSS copies, one in B.G. Rabat and the other in P.L. Rabat. The first is number Q 683. It is a single page, 22 x 14 cm, 24 lines per page. The second is on the colophon of MS P.L.6331.

7. Misbah al-arwāh fī usul al-falāh. The actual work has not yet come to light. A great deal of its contents is known through Ibrahim b. Hilāl extensive quotation from it in his Ta'liqat 'alā misbah al-arwāh. It is preserved in B.G. Rabat under this number D 2660. It is written in a readable Maghribi hand and has thirty five folios, 18 x 11 cm, 24 lines per page.

8. Murasala ma'a 'l-suyūti fī 'l-mantiq. This is the al-Maghīlī controversy with al-Suyūti in verse on the question of al-mantiq. It has been recorded by Ahmad Baba in the Nayl, which has been published in Cairo in 1932.¹⁵ A more complete version of the poem is recorded in al-Nasiri's 'Ajāib al-asfār wa lata'if al-akhbār.¹⁶ A statement in al-Suyūti's Sawn al-mantiq reveals that this poem was composed in 1464.¹⁷

13. Ahmad Baba, op.cit., p.331.

14. Ibid.

15. Ahmad Baba, op.cit., p.332.

16. Muhammad Abu Ra's al-Nasiri, 'Ajā'ib al-asfār wa lata'if al-akhbār, B.N. Paris, MS 4618. fol.108-109.

17. Al-Suyūti, Sawn al-mantiq wa 'l kalam 'an fan al-mantiq wa 'l-kalam,

It is therefore one of the earliest extant writings of al-Maghīlī.

9. Sharḥ manḥ al-waḥḥāb fī radd al-fikr ilā 'l-sawāḥ. This title appears in the body of the work. It is housed in the B.G. Rabat under this accession number D.2231. Other copies are also preserved in B.G. Tetwan and B.N. Paris. Their accession numbers are 643 and MS 5602 respectively.

MS D.2231 has thirteen folios 14 x 10 cm, 23 lines per page; MS 643 carries the name Urjūzat al-maghīlī. It has eight folios; MS 5602 has twelve folios.

If we assume that all al-Maghīlī's works on mantiq were the direct influence of al-Suyūṭī's Ṣawn al-mantiq, then this work could have been written in the 1460s.¹⁸

10. Ta'liḥ fī mā yajib 'alā 'l-muslimīn min ijtināb al-kuffār. This is known under several different names as follows:-

Taqyīd nafīs fī mā yajib 'alā 'l-muslimīn min ijtināb al-kuffār.

Risālat al-maghīlī.

Aḥkām ahl al-dhimma

Risāla fī 'l-taḥdhīr min mukḥalatat ahl al-dhimma.

It is wrongly known as Misbah al-arwah fī uṣūl al-falāḥ.

There are:-

Six copies in B.G. Rabat, viz. D2889, D3441, D2223, D1602,

D2013 and D2530.

Two copies in P.L. Rabat, viz. 6830 and 6331.

One copy in B.N. Alger, viz. 1508.

One copy in B.N. Tunis, viz. 369 (Abdaliyya).

18. At least two of these works were said to have been motivated by al-Suyūṭī's Ṣawn al-mantiq. Vide Nasiri's 'Aja'ib al-asfar, fol.108-109.

a) MSS D2013, D2530 and 1508 have been described in my introduction to chapter IV of this thesis. The description of the others mentioned above follows:-

MS D2889 carries the name Taq̄īd nafīs. It is written in Maghribi script readable with some difficulty. It has ten folios and contains a biography of al-Magh̄īlī inserted by a copyist. It is very similar to the one given by Ibn ^cAskar in the Dawhat, which is apparently the source of the copyist.

b) MS D2223 carries, wrongly, the name Misbah al-arwah fī usul al-falah. It is written in a satisfactory Maghribi hand. It has nine folios, 14 x 9 cm, 23 lines per page. It has a commentary at the end by al-Makki who gives it the wrong name.

c) MS D3441 is written in a very poor Maghribi hand. It has five folios, 19 x 14 cm, 29 lines per page.

d) MS D1602 also carries the wrong name of Misbah al-arwah. It has eight folios, 14.5 x 9 cm, 21 lines per page.

e) MS 6830 carries the name Risalat al-magh̄īlī and is written in good Maghribi hand. It has eight folios, 15.7 x 9.2 cm, 24 lines per page.

f) MS 6331 also carries the name Risalat al-magh̄īlī. It is written in good Maghribi hand and has eight folios, 14 x 10 cm, 21 lines per page.

g) MS 369 (^cAbdaliyya) carries the name Risala fī'l tahdhir. It is written in legible Maghribi hand and has thirteen folios, 19 lines per page.

11. Taj al-dīn fī mā yajib ^cala 'l-mulūk. It is also known under several names, viz.

Ta'lif fī'l imāra.

Ta'lif fī umūr al-saltana.

Risalat al-mulūk.

Ta'lif fī mā yajib ala 'l-mulūk

There are:-

Four copies in B.G. Rabat, viz. D1816, D364, K3169 and K3325.

Two copies in N.A. Kaduna, viz. 660 M/AR.10:18, and 718/B/AR
16:2.¹⁹

MS D364, K3325, 660M/AR 10:18 and 718/B/AR 16:2 have been described in my introduction to the edition of the text in Appendix I of this thesis. The description of the rest now follows:-

a) MS D1816 carries the name Ta'lif fī mā yajib 'ala 'l-mulūk. It is written in a beautiful Maghribi hand and has fifteen folios 14 x 9 cm, 19 lines per page and is rubricated. The date of the copy is 1143/1730.

b) MS K3169 carries the name Ta'lif fī 'l-imāra. It is written in a satisfactory Maghribi hand and has eight folios, 13 x 10 cm, 22 lines per page. It is apparently dependent on D364.²⁰

12. Wasiyat al-Maghili ilā Muhammad b. Ya'qūb. It is known as the Risalat ilā abī 'Abdullah Muhammad b. Ya'qūb and Mukhtasar mim mā yajūz li'l-hukām fī radd al-nās 'an al-haram. A copy is preserved in N.A. Kaduna, which is uncatalogued. It has also been quoted in full by Shehu Usuma b. Dodio in his Tanbih al-ikhwan and by 'Abdullah b. Fodio in his Diya al-siyasat. Kaduna copy has three folios and is written in a West African Maghribi hand.

19. There is an additional name of Tar'if fī mā yajib 'ala 'l-mulūk. Vide Bivar and Hiskett, op.cit., item 1, p.107.

20. This work has been edited by Muhammad Zayyan and translated by T. W. Baldwin.

A printed text has been published by Adamu Abdullah al-Ilori in his Mujaz farikh nijariya. It has also been reprinted by R. Bunar in his purported Misbah al-arwah fi usul al-falah.²¹ This is the only work of al-Maghili which has the date of composition 892/1492.

2. Works known from al-Maghili's biographers

The biographers who furnished us with names of these works are Ahmad Baba in the Nayl, Ibn Maryam in the Bustan and Buras al-Nasiri in the Aja'ib al-asfar.

13. Al-badr al-munir fi 'ulum al-tafsir.
14. Al-fath al-mubin.
15. Fihrisat al-marwiyat.
16. Iklil al-mughni.
17. Idah al-sabil fi biyu'ajal khalil.
18. Kitab al-albab fi radd al-fikr ila 'l-sawab wa ma yatadhakkar illa uli'l-albab.
19. Miftah al-ku'uz. This is a commentary on the chapter of biyu^c (trade transactions) in the Mukhtasar khalil.
20. Miftah al-nazar fi 'ilm al-hadith.
21. Mukhtasar talkhis al-miftah.
22. Mughni al-nabil fi sharh al-mukhtasar.
23. Muqaddima fi'l mantiq
24. Muqaddima fi'l 'arabiya.

21. Vide Adamu 'Andullah al-Ilori, Mujaz tarikh nigeriya, (Beirut, 1965), pp.134-136; R. Bunar, Misbah al-arwah fi usul al-falah, (Alger, 1968), pp.73-77; See also appendix II of this thesis.

25. Qasīda fi'l-madih.
26. Sharh al-jumal fi'l mantiq.
27. Sharh khutbat al-mukhtasar.
28. Sharh mukhtasar talkhis al-miftah.
29. Tafsir al-fatiha.
30. Tanbih al-ghafilin ^can makr al-mulbisin. 9

Nothing can be said about those works which have not yet come to light. As for the twelve works which have come to light, it is definite that the Taj (item 11 above) and the Wasiya (item 12) were probably written in the same year, i.e. 1492 in Kano since they were written for the Kano ruler Muhammad Rumfa. This is if the date which appears on the Wasiya is accepted as authentic. The Ajwibat al-maghili (item 1 above) could have been written in Tagedda before al-Maghili visited Gao, and this could be in the year around 1493.

The Ta'lif (item 10) was almost certainly written in Tuwat ^{about} in the year 1486. The Manzuma could have been composed in the same ^{time} year because its subject is connected with that of the Ta'lif.

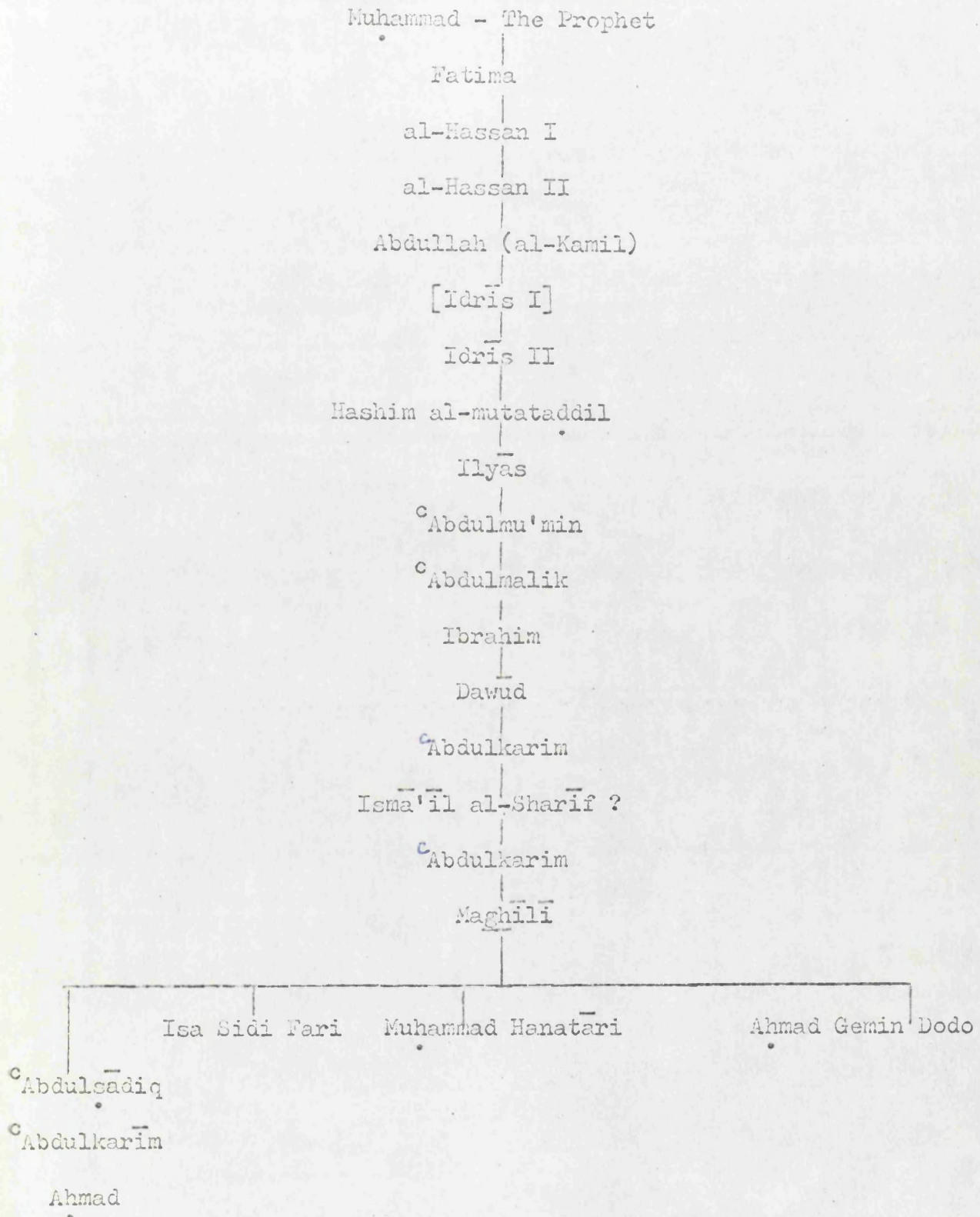
The Ajwiba (item 2 above) could be one of the earliest of al-Maghili's works, probably written in 1450s when al-Maghili was still a student. This could be in Tilimsan, Bijaya or Algiers. Internal evidence suggests that the Ifhaim (item 4 above) was written in Tamantit before the outbreak of the controversy of the synagogue. It was apparently meant to be a text book for students. This could be in 1479 when al-Maghili came to Tuwat for the second time. The Misbah has also something in common with

the Ta'liif and so it could belong to the same place, Tuwat, and the same period, 1486.

The Amal al-yawm wa'l-layla reveals al-Maghili as a man of great experience in life, and it indicates that it was written after all the squabbles in which al-Maghili was involved and so it could have been written in Hausaland or Tuwat or Gao towards the close of al-Maghili's life. Most of these suggestions are indeed rough guides. We need more information to be able to fix precise dates for al-Maghili's writings.

APPENDIX IV

A tree of al-Maghili's pedigree



i. Samples of folios from Taj al-mulūk
(a) beginning of MS AK- i.e. 718/B/AR 16:2

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ مَوْلَى اللَّهِ عَلَى سَيِّدِنَا مُحَمَّدٍ وَآلِهِ وَصَحْبِهِ
 أَهْلِ بَيْتِهِ أَجْمَعِينَ بِإِذْنِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ أَعْلَمُ أَنَّ الْعَالَمَ أَعْلَمُ بِالْمَلِكِ
 الْمُسْلِمِ الْمُسْلِمِينَ بِعَبْدِ اللَّهِ مُحَمَّدِ بْنِ عَبْدِ الْكَرِيمِ الْمُقْبِلِ
 الْمُسْلِمِ نَرِطُفَ اللَّهِ بِهِ وَأَدَامَ حَيَاتَهُ لِلْمُسْلِمِينَ وَأَعَانَهُ عَلَى
 مَا هُوَ عَلَيْهِ مِنَ الْأَمْرِ بِالْمَعْرُوفِ وَالنَّهْيِ عَنِ الْمُنْكَرِ التَّحْدِيثِ
 رَبِّ الْعَالَمِينَ الرَّحْمَنِ الرَّحِيمِ مَنْكَ يَوْمَ الدِّينِ وَالصَّلَاةِ
 وَالسَّلَامِ عَلَى رَسُولِ اللَّهِ فَخَيْرُ خَلْقِ اللَّهِ مُحَمَّدٌ عَبْدُ اللَّهِ وَعَلَى
 آلِهِ وَصَحْبِهِ أَجْمَعِينَ أَمَا بَعْدُ وَفَكَرْتُ بِاللَّحْفِ وَبِالْحَمْدِ لِمَنْ
 تَزَعَّدَ الْهُدَى فَارِ الْإِمَارَةَ خَلِيفَةً مِنَ اللَّهِ وَنِيَابَةً مِنَ اللَّهِ
 جَمَاعَةً عَظِيمَةً وَمَا أَتَى حَمَلَهَا رِجَالُ الْأَمِيرِ بِحُجَّتِهِ الْكُفْرِيَّةِ
 بِقَطْعِ أَوْدَاجِ الْهُدَى وَارْتِدَائِهِ الْهُدَى بِقَطْعِ أَوْدَاجِ
 الْكُفْرِيَّةِ وَعَلَيْكَ يَا حَمْدُ اللَّهِ بِتَقْوَى اللَّهِ كَانَتْ حَسْرَةُ الْهُدَى
 وَنَمَاتُ الْهُدَى جَوْرًا جَوْرًا يَوْمَ الْقِيَامَةِ جَمْرٌ حَزْمٌ عَرَانِيَّةٌ
 وَأَدْخَلَ الْجَنَّةَ فَكَيْفَ جَزَاءُ الْحَيَاةِ الْبَيْتِ الْأَمْرُ الْكُفْرِيَّةِ
 وَشَادَ كَرْلُكَ مِنْ ذَلِكَ جَمَلَةٌ مُنْتَصِرَةٌ فِي نَمَانِيَّةِ ابْوَابِ اللَّهِ
 الْمَوْجُوبِ الْمَوَابِ بِبَابِ الْأَوْجِيَاءِ بِعَلَى الْأَمِيرِ حَسْبُ
 فَنِيَّةِ الْإِمَارَةِ حَرْبٍ بِبَيْرُوتِ الْهُدَى وَالنَّهْيِ وَقَطْعِ الْكُفْرِ
 عَقْرُ وَامَانَةٌ أَنْ يَجِدَ عَنْهَا الْإِلَادَةَ الْمُبَكِّرَةَ بِدَمْنِهَا وَتَعْرِطُ بِاللَّهِ
 وَأَسْتَفْرِجُ أَمْرًا كَلِمَةً بِاللَّهِ وَلِيكْرَ عَمَلِكَ كَأَنَّهُ لَوْجُهُ بِاللَّهِ
 وَدَكَرْتُ نَجْسَكَ الْكَلِمَةَ وَاحِدًا مِنَ خَلْقِ اللَّهِ كَثِيرًا فَوْزًا مِنْكَ
 لَوْلَا نَصْرُ اللَّهِ وَبَيْكْرُ طَمَعِكَ كَلِمَةً مِنَ اللَّهِ وَكُفْرُوكَ
 كَلِمَةً مِنَ اللَّهِ فِي مَصَالِحِ خَلْقِ اللَّهِ مَا وُلَاكَ اللَّهُ عَلَيْهِمْ
 تُكْفَرُ لِسَانُهُمْ وَمَوْلَاهُمْ وَارْمَاوَلَاكَ عَلَيْهِمْ

التصريح

(b) last folio of ms. BK i.e. 660/M/AR 10:8

ربنا الذي من ثقل النار وقد اخزيته وما للظلمين من انصار
 ربنا اننا سمعنا مناديا ينادي للايمان امنوا بربكم
 فعامنا ربنا واغنى لنا ونوبنا وكفى عنا سبيعا لنا وتوينا
 مع الامراء وربنا وانا ما وعدتنا على اسلاد ولا تغربنا
 يوم القيامة انك لا تخلف الوعد والصلوة والسلام
 على سيدنا محمد الامين والسلام على المرسلين والحمد
 لله رب العالمين كل صباح الارواح من نسخة النسخ
 نسخك من خط نسخك من خط نسخك من خط
 مصباح عصره يدور عبد الكريم المغربي التلمساني
 لدى الابد وكار التي اتم يوم الثلاثة عند الكعبة وريده
 صاحبه سلمان بن ابو بكر البرقوقي الحمد لله

رب العالمين والصلوة
 والسلام على سيد المرسلين
 وعلى اله وصحبه اجمعين
 ورضي الله تعالى عن السادة
 التابعين والعلماء
 العاملين الائمة الا
 بيعة المجتهدين
 ومقلديهم الى
 يوم الدين

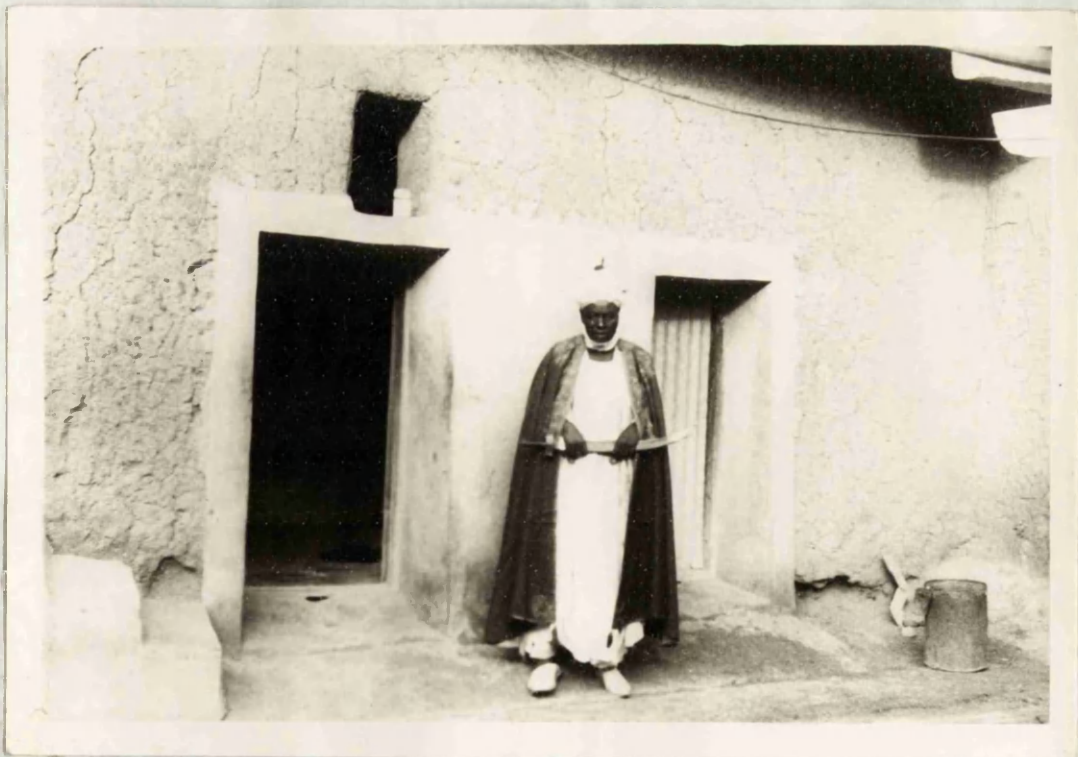
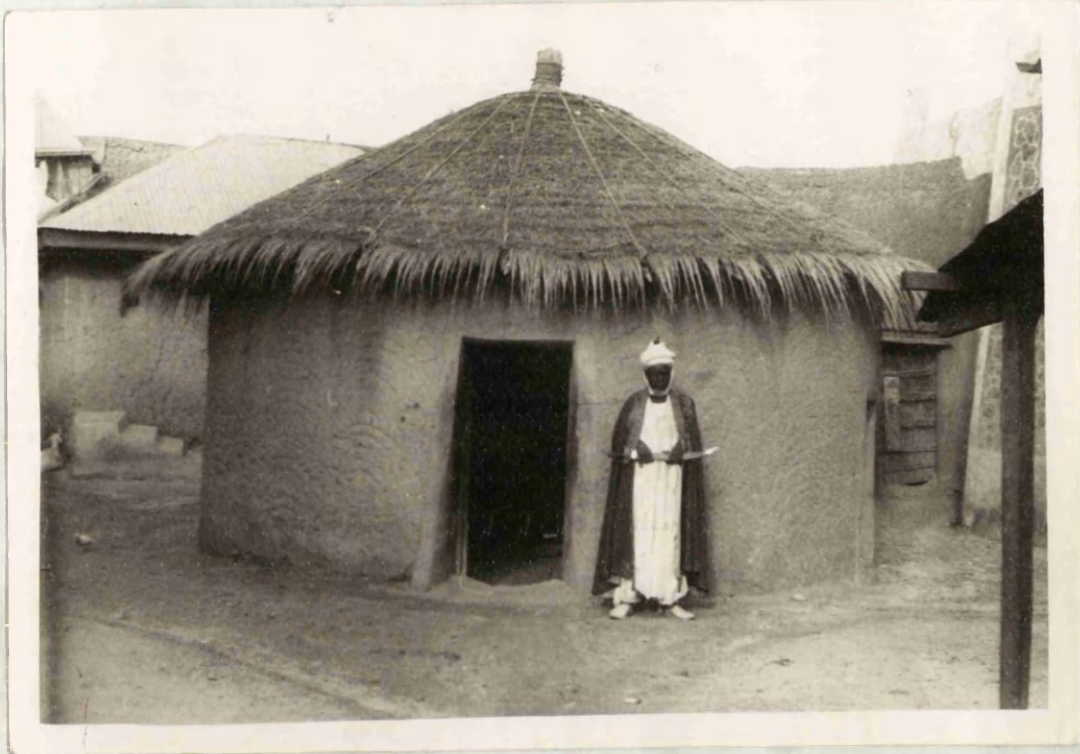
(c) Opening folio of ms. AR i.e. D.364 which was the basis of Zayyah's edition.

◊ قال القتيبي في تفسيره الاسماء العظام التي افاض الله بها على من يشاء من عباده
 ◊ في صياح الانبياء ابو جبرائيل عليه السلام وهو الذي خلقه الله عز وجل من نور
 ◊ الذي يبعث به الروح الاميرة الى القلوب والاشباح والانس والجن والانس والانس
 ◊ على رسول الله صلى الله عليه وسلم وهو الذي خلقه الله عز وجل من نور والانس والانس
 ◊ اذ ابعد عن ربه في الجنة من نور والانس والانس وهو الذي خلقه الله عز وجل من نور
 ◊ خلافة من الله وتباعدت عن رسول الله صلى الله عليه وسلم وهو الذي خلقه الله عز وجل من نور
 ◊ ان عول الامير في الجنة النور في كل احوال النور وهو الذي خلقه الله عز وجل من نور
 ◊ وقد كلف اهل الجنة النور في كل احوال النور وهو الذي خلقه الله عز وجل من نور
 ◊ اجودكم يوم القيامة من نور والانس والانس وهو الذي خلقه الله عز وجل من نور

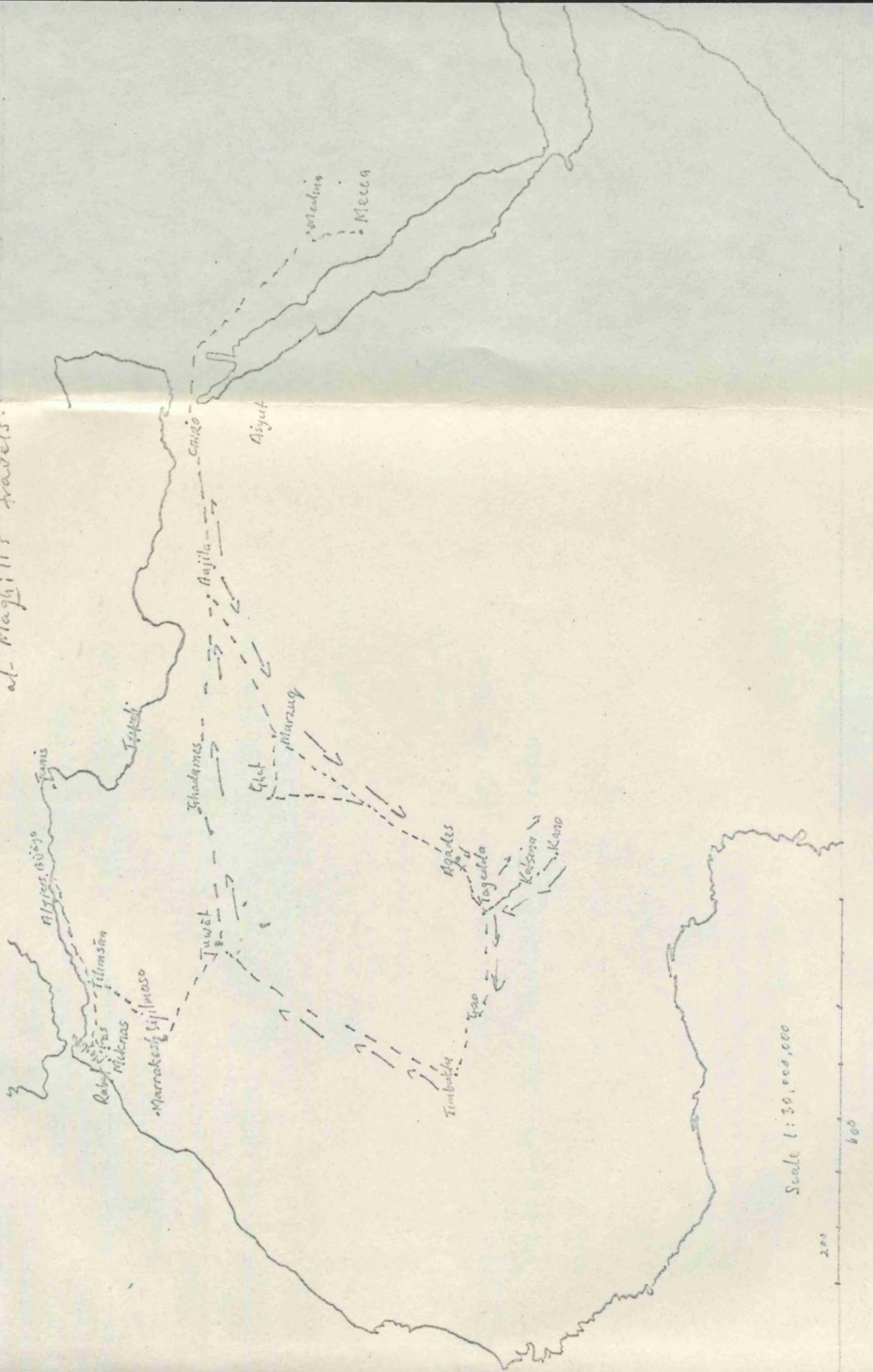
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APPENDIX VI

Photographs of the representative of al-Maghili's descendants in Kano, the front of the house in which al-Maghili lived, the School in which he taught and his sword.



A sketch map showing probable routes for
at Maghili's travels.



APPENDIX VIIIA Note on Transliteration

The transliteration of Arabic words conforms to the system adopted by the Encyclopaedia of Islam (New Edition) except in three respects, as follows :

1. The letter ج is transliterated as j not as dj

2. The letter ق is transliterated as q not as k

3. Every name of a person consisting of two words one of which is an attribute of Allah is treated as one word, thus

ʿAbd al-Karīm becomes ʿAbdukarīm the joining letter always being 'u'.

List of Abbreviations used in this thesis.

A.M.	Archives Marocaines
B.G.	Bibliothèque Générale
B.M. London	British Museum, London
B.N.	Bibliothèque Nationale
B.S.O.A.S.	Bulletin of the School of Oriental and African Studies, University of London
E.I.	Encyclopaedia of Islam
J.A.	Journal Asiatique
J.A.H.	Journal of African History
J.A.S.	Journal of the African Society
J.R.A.S.	Journal of the Royal Asiatic Society
K.S.	Kano Studies
M.E.S.	Middle Eastern Studies
MS	Manuscript
MSS	Manuscripts
N.A.	National Archives
P.L.	Palace Library
Research Bull. C.A.D.	Research Bulletin of the Centre of Arabic Documentation
R.M.M.	Revue du Monde Musulman

GLOSSARY

Ahl-al-Kitāb	the People of the Book (the Christians and the Jews)
Ahl-al-Bayt	descendants of the Prophet Muhammad
ʿālim (pl. ʿulamā')	a Muslim learned man
ʿulamā' al-sū	wicked learned men
amīr	Muslim Governor of a territory
Banī Tsangīt	name of a tribe
Bayt al-māl	Muslim public treasury
<u>dhimma</u>	obligation of protection
<u>dhimmī</u>	a protected person in a Muslim territory
dīn	religion
faqīh	jurist
fatwā	legal decision or opinion
fiqh	Muslim jurisprudence
fulānī	the people speaking fulfulde
fulfulde	the language of the fulbe or fulānī tribe living largely in West Africa
fuqahā	jurists
girgan	list of Katsina kings
hadīth	a Prophetic tradition
hush al-gan	thinking well of someone

ijmā'	a consensus of opinion among Muslim jurists or scholars
ijtihād	independent reasoning
imām	leader in prayer, a political head, e.g. a caliph, a leading Islamic scholar
imāra	chieftancy
isnād	chain of narrators
Jāhiliyya	the age of ignorance
jamā'ca	a group of people, a community of Muslims with a spiritual or temporal leader. It also means an ordinary group of people
jihād	holy war, or any action in the way of Allah
jizya	the tax paid by dhimmīs living in a Muslim territory
Ka'ba	the cubic room known as the House of Allah in the Meccan Mosque - Muslim centre for pilgrimage
<u>kharāj</u>	tax
ma'a'ji (Hausa)	chief treasury
madhhab	school of thought or law
Māliki madhhab	the School of Law headed by Mālik b. Anas
ma'rifā	knowledge, knowledge acquired by intuition
manqūl	pertaining to tradition
ma'qūl	pertaining to intellect
matn	text

mithqāl	a measure of gold worth two dirhams
mu ^c allim	a Qur'ānic teacher
muftī	legal adviser or chief justice
mujaddid	revivalist, reformer in the Muslim sense
munāfiq (pl. munāfiqūn)	hypocrite
muwālāt	friendship, alliance
nafl	additional prayers
nisba	ascription or genealogy
qāḍi	a judge or one who settles disputes among Muslims
qāḍi al-jamā'a)	chief justice
qāḍi al quḍāt)	
qibla	Muslim direction for prayer
Qur'ān	Muslim Holy Book which was revealed by God to Muḥammad
Rajab	the fifth month in the Muslim lunar year
Ramaḍān	the tenth month in the Muslim lunar year. It is the month for fasting
Risāla	a message from Allah. The Rasūl is the carrier of such a message
ru'asā' al-zalimīn	chief oppressors
Ṣafar	the second month in the Muslim lunar year
ṣaḡhār	subordination
ṣaḡhirūn	subordinates
sajū	rhyming; prose

<u>shari'a</u>	Islamic law
<u>sharif</u>	person claiming descent from Prophet Muhammad
<u>shaykh</u>	professor, leader of a Muslim order
<u>shurafā'</u>	plural
<u>sūfi</u>	Muslim mystic
<u>sunna</u>	a way; the sayings and actions of the Prophet Muhammad
<u>ṭalaba</u> (sing. <u>ṭalīb</u>)	Those who study under a Muslim scholar or follow a <u>sūfi shaykh</u>
<u>taqlid</u>	copying - rigid conformism
<u>tawhīd</u>	belief in the Unity of God
<u>ʿulamā'</u>	see <u>ʿālim</u>
<u>walā</u>	alliance or friendship
<u>wazīr</u>	a vizier
<u>wud</u>	love
<u>wuḍū'</u>	ablution
<u>al-ḡan</u>	supposition
<u>zāwiya</u> (pl. <u>zāwaya</u>)	a retreat, or a communal residence of a <u>sūfi shaykh</u>

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