

**How to Cite:**

Habarneh, N. K. M. (2022). The life and political authority features of the Andalusian Imam Al-Tartushi in Siraj Al-Muluk (d. 520 AH / 1126 AD). *International Journal of Health Sciences*, 6(S9), 3269–3286. <https://doi.org/10.53730/ijhs.v6nS9.13302>

# **The life and political authority features of the Andalusian Imam Al-Tartushi in Siraj Al-Muluk (d. 520 AH / 1126 AD)**

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**Abstract**---Political thought in Islamic history is of great importance, as this thought helps to identify the morals and qualities that kings or sultans must possess, and also helps in studying issues related to political authority and the role of jurists in issuing fatwas on these issues, and their advice to rulers and sultans of the same era whom they served. The importance of the study is highlighted by the fact that it examines the political thought and political authority of one of the leading scholars of the Maliki school of thought. He is Imam Al-Tartushi, may God have mercy on him. This study aims to study the book (Siraj Al-Muluk) as a model that represents the thought of Al-Turtushi, this book was considered a reference for every ruler and judge.

**Keywords**---Al-Tartushi, Political Authority, Siraj Al-Muluk.

## **Introduction**

Since the emergence of the Islamic state, political thought has been studied by scholars and jurists who lived in the days of the Islamic state since its inception. Their different views and opinions had an impact on the occurrence of the Islamic renaissance that raised the status and prestige of the Islamic state over the years through the application of the leaders of Islam to the morals of rulers and kings that came from the beginning of our Holy Prophet Muhammad, peace be upon him. The Maliki jurists had clearly tangible contributions to the history of the Islamic state in general and to the history of Andalusia and Alexandria in particular, as they had a role in all areas of life during that period. Some of these jurists had a role in applying religious rulings, and some of them had an additional role besides his religious role as an advisor to the Caliph and the Wali in the political affairs of the state, so the Sultan did not hesitate to seek their advice. In addition to their role in public life.

Interest in political thought in Islamic history was of great importance in the study of an important Andalusian figure among the scholars of the Andalusian Maliki school. He is Imam Al-Tartushi (d. 520 AH / 1126 AD), and he is "Abu Bakr Muhammad bin Al-Walid bin Khalaf bin Suleiman bin Ayyub Al-Fihri Al-Andalusi - Sheikh of the Malikis -. His book, *Siraj Al-Muluk*, is an important reference for the sultans and jurists, since it talks about his life in four Islamic countries, namely: Andalusia, Iraq, the Levant, and Egypt (). During the writing of his book (*Siraj Al-Muluk*) in 516 AH / 1122 AD, he almost collected the policies of six nations, namely: the Arabs, the Persians, the Romans, India, the Sindh, and the Hindus (). It was known that he was ascetic, pious, and humble; also, he was described as knowledgeable, virtuous, and ascetic ().<sup>123</sup>

His political position towards these rulers was clear in his letters to Yusuf bin Tashfin on the one hand, and his fatwa to dismiss the kings of the sects on the other. Not to mention that al-Tartushi lived a difficult period amid the Fatimid rule, especially the period of the Ministry of Al-Afdal bin Badr Al-Din Al-Jamali. In addition, these attitudes during the period in which Al-Tartushi lived with minister Al-Afdal, who was considered a tyrant in his time. Al-Tartushi lived in bad conditions under the Fatimid ruling in Alexandria, until the arrival of minister Al-Ma'mun Al-Batahi, who was different from all ministers before him.

### **Previous Studies**

Previous research and studies focused on Imam Al-Tartushi as a political figure, as well as on his book - *Siraj Al-Muluk* - to get to know Imam Muhammad bin Al-Walid Al-Tartushi (d. 520 AH/1126 AD), as many of the following studies dealt with "(*Siraj Al-Muluk*).

### **Al-Omari's study, entitled: Scholar Al-Turtushi's Approach to Imamate through his book "Siraj Al-Muluk": A Doctrinal Study ().<sup>4</sup>**

The study aimed at studying Al-Tartushi's approach on the subject of the Imamate in the book (*Siraj Al-Muluk*). To achieve the objectives of the study, a theoretical framework was developed that covers: obedience to the ruler in what is good, patience and the prohibition of deviation from the ruler's command, supplication for the ruler, glorification and reverence for the rulers, and advising the rulers. One of the results of the study: that there is great importance to the issue of the Imamate, which is considered the shield that protects the ruler and the common people from cases of corruption and depreciation, and that the people have a duty towards the ruler and they should not disobey him.

<sup>1</sup> The Arabic Encyclopedia, Al-Tartushi (Muhammad bin Al-Walid) (450-520 AH/1059-1126 AD), viewed on: 11-12-2021 AD, 2021 AD.

<sup>2</sup> Rabouh, Abdul Qadir, The Experience of Reform according to Abu Bakr Al-Tartushi (d. 526 AH / 1130 AD) through his books. *Journal of Studies and Research (The Arab Journal in the Humanities and Social Sciences)*, 10 (4), 2018, pp. 144-161.

<sup>3</sup> Al-Dhahabi, Shams Al-Din Muhammad bin Ahmed bin Othman (died 748 AH / 1348 AD), *Biographies of the Nobles*, verified by: Shuaib Arnaout, Al-Resala Foundation, Beirut, 1984 AD, vol. 19.

<sup>4</sup> Al-Omari, Abdul Hadi bin Awad bin Moawad, Al-Tartushi's approach to the Imamate through his book "Siraj Al-Muluk": a doctrinal study, *Journal of Doctrinal Studies*, 12 (24), 2019, pp. 205-258.

**Rabouh's study, entitled: The Experience of Reform according to Abu Bakr Al-Tartushi (d. 526 AH / 1130 AD) through his works.<sup>5</sup>**

A unique reform experience was formed in the fifth century of migration by a group of jurists, scholars, and thinkers of that period to address the issue of reform in light of the general poor situation of the Islamic West, and to study the personality of Al-Tartushi in particular and his political and social outlook. The study is based on developing a theoretical framework that covers the personality of Al-Tartushi and his ideas about reform, and discussing the political ideas that he presented in his book (Siraj Al-Muluk), which he presented as a unique model that reveals the dialectical relationship between the societal political existence of a jurist or thinker and the political theorizing of that existence. Its results indicate that there are reform movements undertaken by the Almoravid State (Andalusia) to consolidate Islam as the basis for society and to deal with society's economic and social problems.

**Boullaras' study, entitled: Military Theorizing in Strategy and Tactics according to Abu Bakr Al-Tartushi (d. 520 AH / 1127 AD) through his book (Siraj Al-Muluk).<sup>6</sup>**

The study focuses on the book (Siraj Al-Muluk) in identifying the combat strategies, and it shows the useful theoretical framework in clarifying the book (Siraj Al-Muluk), its author, Al-Tartushi, and his view on the military aspect, which is an important source referred to by those interested in studies of military strategies applied in Islamic history.

**Al-Husseini's study, entitled: The Scientific Role of Al-Tartushi (d. 520 AH / 1121 AD) in the history of the philosophy of urbanism and politics through the book (Siraj Al-Muluk).<sup>7</sup>**

The study focuses on the scientific role of Al-Tartushi in the history of the philosophy of urbanism and politics by studying his book (Siraj Al-Muluk). The theoretical framework included: an introduction regarding the life of Al-Tartushi, his upbringing, his social and scientific position, his journey to Mecca, Zaragoza, Baghdad, Egypt and the Levant, seeking knowledge to acquire and teach it, in addition to his contributions to the science and philosophy of urbanism, politics, and civilization, as the book (Siraj Al-Muluk) contains great wisdom and advice for rulers. Its results were: that Al-Tartushi had differences with Ibn Hazm Al-Andalusi - who was his consort in jurisprudence - due to the disagreement between his teacher Al-Baji (d. 474 AH / 1082 AD) and Ibn Hazm.

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<sup>5</sup> Rabouh, Abdul Qadir, The Experience of Reform according to Abu Bakr Al-Tartushi. p. 144-161.

<sup>6</sup> Boullaras, Khamisi. Theorizing of War in Strategy and Tactics according to Abu Bakr Al-Tartushi (d. 520 AH / 1127 AD) through his book (Siraj Al-Muluk), Journal of Studies and Research (The Arab Journal of Humanities and Social Sciences), 2016 AD. p. 23.

<sup>7</sup> Al-Hussaini, Muhammad Ayed Manea, The Scientific Role of Al-Tartushi (d. 520 AH / 1121 AD) in the history of the philosophy of urbanism and politics through the book (Siraj Al-Muluk), Kufa Etiquette - University of Kufa, 8 (21), 2015 AD, pp. 347-378.

### **Raballah's study, entitled: Abu Bakr Al-Tartushi and his scientific role in the Egyptian countries.<sup>8</sup>**

This study is based on studying Al-Tartushi's political thought and its scientific role in the Egyptian country, and a theoretical framework was developed that covers the scientific role and political thought of Al-Tartushi. Its results were that Al-Tartushi lived under political and religious conditions in Alexandria, after learning the origins of the correct solid base in Tartusha by its greatest scholars, which led to the refinement of his personality as a political historian. His coexistence with the surrounding circumstances and the conflicts related to the kings of the sects made Al-Tartushi build a sound base of thought, so he established a sophisticated thought which he taught to his students. This is the result of his authorship of the book (Siraj Al-Muluk) dedicated to Minister Ma'moun Al-Batahi (515-519 AH/1121-1125 AD).<sup>9</sup>

#### **• What distinguishes this study from previous studies?**

The advantage of this study is that it talks about the subject of political thought in the book (Siraj Al-Muluk), as most of the previous studies talked about the issues of state reform, the philosophy of its construction, and the scientific role in which this book contributed.

### **Biography of Imam Al-Tartushi**

First: His name, lineage, and birth

It was stated in the Arabic encyclopedias and the sources that indicate the biographies of famous people that Al-Tartushi is: "Abu Bakr Muhammad bin Al-Walid bin Khalaf bin Suleiman bin Ayyub Al-Fihri Al-Andalusi, and he is the Sheikh of the Malikis." In Al-Tartushi's book, he mentions his lineage, which is: "The modern professor, the imam, the hafiz, the jurist, the ascetic, the scholar, the worker, the writer, the poet, Abu Bakr Muhammad bin Al-Walid bin Muhammad bin Khalaf bin Suleiman bin Ayyub Al-Qurashi Al-Fihri Al-Tartushi Al-Maliki, nicknamed Ibn Abi "Randaqah." He was born in the middle of the fifth century AH, specifically in the year (450 AH/1059 AD) and his lineage goes back to the city of Tartusha, as he mentioned a lineage in several books, Including Al-Dhahabi (d. 748 AH / 1348 AD) "The Life of the Nobles", and in the book of Ibn Farhon Al-Maliki (d. 746 AH / 1345 AD).<sup>1011</sup>

#### **Second: his education**

Abu Bakr was educated in the Great Mosque of Tartusha. After that, he went to the major cities of Andalusia to learn more. He arrived in the city of Zaragoza, and received science by one of its scholars, Abu Al-Walid Al-Baji (d. 474 AH/1082 AD),

<sup>8</sup> Raballah, Abd Al-Latif, Abu Bakr Al-Tartushi and his scientific role in the Egyptian country, an unpublished Doctoral thesis, University of D. Moulay Taher-Saidah, Supervised by: Laraj Gibran, 2015.

<sup>9</sup> Abd Al-Nabi, Ali Faisal, Minister Al-Ma'mun al-Batahi, his biography and role in the Fatimid Caliphate 515-519 AH / 1121-1125 AD, Journal of the College of Education - Al-Mustansiriya University, (6), 603-632, 2017.

<sup>10</sup> Al-Tartushi, p. 371.

<sup>11</sup> Al-Zarkali, Khair Al-Din, Al-Alam, 7th edition, Dar Al-Ilm for Millions, Beirut, 1986 AD, vol.1.

where he took matters of dispute from him, then Al-Tartushi was heard and authorized by him (). It is mentioned that during his forty years of age, Al-Tartushi traveled between the countries of Andalusia and the Arab Mashreq, seeking knowledge in the first place, and working and spreading it after that. And between the years 490 AH / AD and 491 AH / 1098 AD, Al-Tartushi came to Alexandria and settled there.<sup>12</sup>

### **Third: His sheikhs and students**

Al-Dhahabi (d. 748 AH / 1348 AD) mentioned in his book "Biographies of the Nobles" that Al-Tartushi was accompanying his sheikh, Abu Al-Walid Al-Baji (d. 474 AH / 1082 AD) in Zaragoza, and he learned the issues of controversy from him, then made the pilgrimage and entered Iraq. He also learned it at the hands of Abu Bakr Al-Shashi (), and he went to Bayt Al-Maqdis for a while and went to Al-Thaghr - which is Alexandria. Makhloof (d. 1360 AH / 1941 AD) mentioned in his book "The Tree of the Pure Light in the hierarchical levels of Al-Malikiyah" that Al-Tartushi accompanied Abu Al-Walid Al-Baji (d. 474 AH/1082 AD), and was taught and authorized by him. He also heard from Abu Bakr Al-Shashi, Abu Muhammad Al-Jarjani, Abu Ali Al-Tastari, and Al-Baji, who is Abu Al-Walid Suleiman bin Khalaf. From the judges of eastern Andalusia<sup>1314</sup>

#### **1- His Students:**

Al-Tartushi was known by Ibn al-Hajeb (d. 646 AH / 1248 AD) in his jurisprudential summary, as the professor. Also, Abu Bakr bin Al-Arabi (d. 543 AH / 1148 AD), one of the judges of Seville and its people, was taught by his teacher, Al-Tartushi, when he entered the Levant. It is mentioned that Al-Tartushi trusted him to carry a letter in which he recommended the Commander of the Faithful ibn Tashfin and advised him to adhere to the limits of religion in command and prohibition. Makhloof (d. 1360 AH / 1941 AD), stated that Al-Tartushi had received an innumerable number of students. Among them was (): Tariq Al-Makhzoumi, Abu Bakr bin Al-Arabi (543 AH/1148 AD), Abu Al-Taher Ismail bin Makki, Judge Ibn Saadeh, Abu Abd Al-Rahman Al-Asili, Muhammad bin Muslim Al-Mazri, and Judge Ayad.<sup>1516</sup>

### **Fourth: His Time**

#### **1- Political Conditions in the Period in Which he Lived:**

Al-Tartushi lived in the period between the fifth century AH to the end of the sixth century (); during that period, the crises of the kings of the sects occurred. In the year (478 AH / 1085 AD) the fall of Toledo occurred, and this led to the activity of the public and scholars and their demand for unity and jihad for the sake of God

<sup>12</sup> Al-Shayal, Jamal Al-Din, Abu Bakr Al-Tartushi, the rebellious ascetic scholar, Dar Al-Kitab Al-Arabi for printing and publishing, d.T. p. 6-7.

<sup>13</sup> Al-Shashi is "the imam, the scholar, the Sheikh of the Shafi'is, the jurist of his time, the pride of Islam, Abu Bakr Muhammad bin Ahmed bin Al-Hussein bin Omar Al-Shashi Al-Turki, born in the year 429 AH/1037 AD and died in the year 507 AH, he was taught in Maya then he taught in the regular school after Al-Ghazali."

<sup>14</sup> Al-Shashi, Dar Al-Kitab Al-Arabi for Printing and Publishing, D. T.

<sup>15</sup> Andalusia History website, Abu Bakr Al-Tartushi, seen on: 23-3-2022 AD.

<sup>16</sup> Makhloof, The Tree of the Pure Light in the hierarchical levels of Al-Malikiyah, p. 184.

Almighty. One of the most important of those who demanded unity was Abu Al-Walid Al-Baji (d. 474 AH/1082 AD), the Sheikh of Al-Tartushi, who made a trip throughout Andalusia to call for the unification of the ranks. In Bukhari's study, he talked about some of the events and facts that were centered around Yusuf bin Tashfin and his attempt to isolate the kings of the sects in that period:<sup>1718</sup>

- At the beginning of the year (483 AH/1090 AD), bin Tashfin made the third crossing to Andalusia to annihilate the kings of the sects.
- In the year (484 AH/1091 AD), Al-Mu'tamid bin Abbad surrendered after he guaranteed safety on himself and his money, and then joined his family to the south of Marrakesh to the city of Aghmat.

## **2- Social Conditions During the Time of Al-Tartushi**

Despite the difference between the inhabitants of Andalusia in the fifth century AH and its distinction as a heterogeneous mixture of several origins, only a strong central authority was united on one national bond, but they united and agreed intellectually, linguistically and historically, and they complemented each other in that<sup>19</sup>

- As for Muslims: In the fifth century AH, Muslims made up the vast majority of the population of Andalusia, and they intermarried with Arabs and Berbers. Among the personalities who converted to Islam from the Christian faith are: Ibn Bashkwal, people of Gharsiya, people of Qumus, as well as people of Murtin Al-Mujtama'<sup>20</sup>
- As for the Christians: During the rule of the Fatimid Caliph Al-Aamer (495-524 AH/1101-1130 AD), the people of the dhimmis enjoyed a period of tolerance and calm during that period<sup>21</sup>
- As for the Jews: During the period of the rule of the people of Hod in the Kingdom of Zaragoza (431-503 AH/1039-1110 AD), the Jews represented an important element in the Andalusian society. And before the Islamic conquest, they were suffering from persecution by the Goths, so they stood with the Muslims and were on their side in their conquest of the country.<sup>22</sup>

## **1- Economic Conditions:**

In Andalusia, in the fifth century AH / eleventh century AD, a state of famine and drought occurred in many areas. As goods decreased and prices increased, many individuals were forced to migrate from their place. Also, the owner of Zaragoza,

<sup>17</sup>Al-Tartushi, Abu Bakr Muhammad bin Al-Walid Al-Fihri (d. 520 AH / 1126 AD), Siraj Al-Muluk, I 1, the Egyptian Lebanese House, Cairo, 1994 AD. p.20-21.

<sup>18</sup>Bukhari, Omar. Berbers in Andalusia in the era of the sects during the century (5 AH/11 AD), unpublished Doctoral thesis, Ibn Daoud, Nasreddine, University of Abu Bakr Belkaid, Tlemcen, 2015 AD. p. 327.

<sup>19</sup>Ibn Abboud, Muhammad, Aspects of the Andalusian Reality in the Fifth Hijri Century, presented by: Al-Mununi, Muhammad, Al-Noor Press, supervised by: The University Institute for Scientific Research, Tetouan, 1987 AD.

<sup>20</sup>Tawfiq, Omar Ibrahim, The Picture of Andalusian Society in the Fifth Century of Migration (politically, socially and culturally), Dar Ghaida Publishing and Distribution, Jordan, 2009, p. 91.

<sup>21</sup>Abu Sharaya, Hamida Mansour Hassan, Political and Civilized History of the Kingdom of Bani Hod in Zaragoza (431-503 AH / 1039-1110 AD), published Master's thesis, Al-Tilsi, Bashir Ramadan, University of Benghazi, 2012 AD, 145.

<sup>22</sup>"The Jews were dominated by the Gothic and Roman rule for six centuries, and the Islamic rule also dominated them for the same period. The Goths: a tribe that migrated from northern Europe.

See: Al-Moussawi, Jawad Matar, The Conditions of the Jews in Spain Before the Islamic Conquest, Wasit Journal for Human Sciences, 5 (10), 2009, p. 7.

Al-Muqtadir Billah, Ahmad bin Hod (438-474 AH/1046-1081 AD), imposed the so-called “Financial Royalties” and taxes on the common people to give them to the Christians, with the exception of the state of people of Jahour in the beginning. It had a strong economy during the reign of Abu Al-Hazm bin Jahour (422-435 AH/1031-1043 AD) because of his distinguished and unique economic plans, the most important of which were: his piety in public money, and providing safety and security to the people.<sup>23</sup> During the era of the Caliph Al-Aamer Bi Ahkam Allah (495-524 AH/1101-1129 AD), the Fatimid coinage had a great impact on the Cairo markets.<sup>24</sup>

### **Fifth: His Works, His Scientific Works, and What Scholars Said About Him**

#### **1- Siraj Al-Muluk**

Al-Tartushi became famous in the Islamic world through his book “Siraj Al-Muluk” which he wrote between (Shawwal 515 - Shawwal 516 AH / 1121-1122 AD), and which he wrote for the Fatimid minister Al-Ma'mun Al-Batahi (515-519 AH / 1121-1125 AD). This book focused on the duties and qualities that kings should have in peace and war. One of the reasons why this book is distinguished was: The military formation of the Tartushi family, and his knowledge of the experiences of previous countries.<sup>25</sup>

#### **2- Other Scientific Works:**

Al-Maqri Al-Tilmisani mentioned in his book “Nafh Al-Tayyib min Ghosn Al-Andalus Al-Rateeb” that Al-Tartushi had several works. Among his works: A summary of Tafsir Al-Thalabi, the great book on issues of disagreement, a message on the prohibition of Roman cheese, the innovations in matters, and the book explaining the message of Sheikh ibn Abi Zaid. Makhlouf mentioned in his book “The Pure Tree of Light in The Hierarchical Levels of Al-Malikis” that Al-Tartushi wrote several books, the most important of which are: Siraj al-Muluk, which is sufficient evidence for the virtue of Al-Tartushi, in addition to a summary of Tafsir Al-Thalabi, a book on innovations in matters, an explanation of the message of Ibn Abi Zaid, a book on honoring parents, Siraj Al-Huda, a message on the prohibition of Roman cheese, the great book on issues of disagreement, and one of Al-Tartushi's most important books “Accidents and Heresies”.<sup>26</sup>

#### **3- What Scholars Said About Him:**

Ibn Al-Arabi narrates on the authority of his sheikh Al-Tartushi when the days of Al-Ubaidiyyah and said: “I had said to our sheikh, the ascetic Imam, Abu Bakr Al-Fihri: Leave the land of Egypt and travel to your country. He said: I do not like to

<sup>23</sup> Al-Danan, Intisar, The Economic Situation in Andalusia in the Era of the Emirs of the Sects, Al-Mayadeen Net Website, published on 12-26-2021 AD, seen on 6-18-2022 AD.

<sup>24</sup> Abdel Moneim, Inas Emad, The Market Economy in Egypt in the Fatimid Era (358-567 AH / 968-1171 AD), Iklee Magazine, (11), pp. 313-315.

<sup>25</sup> Boularas, Khamisi. Theorizing of War in Strategy and Tactics according to Abu Bakr Al-Tartushi (d. 520 AH / 1127 AD) through his book (Siraj Al-Muluk), Journal of Studies and Research (The Arab Journal of Humanities and Social Sciences), 2016 AD, p. 3.

<sup>26</sup> Al-Telmisani, Ahmed bin Muhammad Al-Maqri (d. 1041 AH / 1631 AD), “Nafh Al-Tayyib min Ghosn Al-Andalus Al-Rateeb”, volume 2, verified by: Ihsan Abbas, Dar Sader, Beirut, 1977 AD.

enter a country dominated by ignorance and lack of reason, so I said to him: Travel to Mecca, as it is the blessed land of Allah and His Messenger. As for Al-Dhahabi (d. 748 AH / 1348 AD), he mentioned in his book "Biographies of the Nobles", the saying of Ibrahim bin Mahdi bin Qulina on the authority of his teacher Al-Tartushi, where he said: "Our Sheikh Abu Bakr was more ascetic and worshiped than his knowledge.

### **Sixth: His Death**

Palenthea mentioned in his book "The History of Andalusian Thought" that Al-Tartushi lived in Alexandria until he died there. This was in the year (520 AH / 1136 AD), but it is more likely that his death was in the year (520 AH / 1126 AD), at about the age of (70), and his son Muhammad buried him in the cemetery of Illah.<sup>27</sup>

### **The Political Authority of Imam Al-Tartushi**

#### **First: The Concept of the State**

This paper talks about the religious state in which politics is for the divine law, the general ruler, members of the people or the common people, as there is no discrimination of white over black, nor of rank or status, and depends on the accountability of the ruler. Ibn Khaldun (d. 808 AH / 1406 AD) defined the state as "a phenomenon which occurs every time the political cycle ends". Ibn Khaldun, in his definition of the state, tries to explain its instability. This idea stems from his idea that the phenomena of human society are not stable at all. Ibn Khaldun said in this regard: "The conditions of the world and nations, their customs and their solutions, do not last on a single pace and a stable method. Rather, it is a difference over the course of days and a transition from one situation to another, as it is in people, times and cities. Also, this takes place in horizons, countries, times and states."<sup>2829</sup>

#### **Second: The Concept of Political Authority**

Political authority is considered one of the most important components of the rule of the Sultan, through which the behavior of the sultans towards their subjects is determined. The state based its authority and policy on a set of elements agreed upon by political theories: the people, the authority, the land or the region.<sup>30</sup>

Among the most important of these political theories are:<sup>31</sup>

- Theocratic theory: which considers that the state belongs to God, and this theory has developed and passed through three stages: the divine formula for governance, the direct divine right, that is, God chooses the ruler, and

<sup>27</sup> Mahmoud, Sajida Taha and Mahdi, Shams Ali Al-Imam Al-Tartushi (d. 520 AH) and his jurisprudential views on personal status, Journal of the Arab Scientific Heritage, (4), 2015 AD, 211-240.

<sup>28</sup> Al-Shalash, Muhammad Muhammad, The Civil State in Islamic Legislation (The Problematic of the Relationship and the Dialectic of Words), Al-Balqa Journal for Research and Studies, 18 (1), Article 2, 2015 AD. p. 84.

<sup>29</sup> Hadi, Riyadh Aziz, the concept of the state and its emergence according to Ibn Khaldun, Journal of Political Science, (37), d.T.

<sup>30</sup> Al-Wali, Muhammad, a summary of lectures in the Sharia Politics Unit, Muhammad I University, d. T. p. 76.

<sup>31</sup> Al-Khatib, Numan Ahmed, Al-Wajeez in Political Systems, 2nd Edition, House of Culture, 2011, p. 35.



the indirect divine formula, meaning that God delegates one of the human beings to rule the people.<sup>32</sup>

- The natural theory: which affirms that the state is a natural phenomenon like all other phenomena, and it is established as a result of the group's desire to live an organized life, and the social theory, which affirms that the establishment of the state is the result of a conflict between human groups, the domination of one group over another, and, as a result, taking over the reins of government.
- Legal theory: which sees that states were established on a legal basis, and a group of theories may branch from it, such as: the agreement theory, and this theory sees that the state was established as a result of an agreement between its members on the form of a contract and the ruler is not a part to it and the group is not obligated to it. Next, the institutions theory, which says that the state is established in two stages, the first being the agreement of the individuals, and the second is the transformation of the idea into a reality.

### **Third: The Position of the Maliki Scholars on Authority**

#### **1- Andalusian Scholars:**

Andalusian jurists who lived in the time of Al-Tartushi had a specific policy, which represented their position on the authority and the public. They had their role in reconciling and resolving differences that were arising between these two parties. Some jurists took over the functions of supervising political and religious tasks, such as the judiciary, the ministry, supervising the bureaus, monitoring endowments, hisba, as well as supervising financial affairs in the state. Some of the most important jurists in Andalusia and Alexandria in the fifth century AH were:

1. Abu Jaafar Makki bin Isa bin Ahmed, known as Al-Kindi: He is a virtuous hermit jurist who taught many scholars, and he died in Cordoba in the year 454 AH/1062 AD.<sup>33</sup>
2. The judge of the group, Abu Al-Qasim Siraj bin Muhammad bin Abdullah bin Siraj: He was the best of the people of his time and the most forgiving of his peers, a jurist, well-versed in science, and he died in the year 456 AH/1064 AD.<sup>34</sup>
3. Abu Jaafar Ahmed bin Muhammad bin Mughaith Al-Sadafi, the chief of Toledo, was a jurist who preserved fatwas and rulings, and he was an eloquent writer who wrote (Convincing Documents), and he died in the year 459 AH/1066 AD.<sup>35</sup>
4. Abu Muhammad Abdullah Al-Sabti Al-Andalusi, the virtuous scholar and jurist: he wrote (The Collection on Documents), and he died in 460 AH/1067 AD.<sup>36</sup>

<sup>32</sup> Al-Wali, Muhammad, a summary of lectures in the Legislative Politics Unit, p. 49.

<sup>33</sup> Makhlouf, The Tree of the Pure Light in the hierarchical levels of Al-Malikiyah, p. 175.

<sup>34</sup> Ibn Bashkwal, Abi Al-Qasim (578 AH/1038 AD): The connection, without verification, The Egyptian House of Printing, Egypt, Volume 1, 1966 AD

<sup>35</sup> Al-Maliki, Ibn Farhoun (d. 799 AH / 1397 AD), the brocade of the doctrine in the knowledge of notable scholars of the doctrine, Medina Press, Dar es Salaam, Tanzania, 1972 AD.

<sup>36</sup> Ibn Bashkwal, vol. 1, p. 280.

5. Abu Omar Ahmed bin Muhammad bin Issa Al-Qattan Al-Qurtubi, the Imam, the jurist, and the virtuous: He was responsible for the Fatwa and the consultation and died in the year 460 AH/1067 AD.<sup>37</sup>

## **2- The Scholars of Alexandria and Egypt:**

Abu Bakr Al-Tartushi is considered one of the first scholars to live in Alexandria and Egypt. It is also mentioned that there was a group of Maliki jurists residing in Alexandria and Andalusia, among the most prominent of these jurists was Sanad bin Anan Al-Asadi who died in Alexandria in the year 521 AH / 1127 AD, as well as Ibn Tumart, who is considered a ruler and a scholar; he died in 522 AH / 1128 AD (). In addition, Ibn Al-Arabi who was considered among the Maliki classes of Andalusia, and finally Ibn Bartella, who died in the year 563 AH / 1167 AD.<sup>38</sup>

### **Fourth: Imam Al-Tartushi's Relationship with the Rulers**

Al-Tartushi is considered one of the founders of the psychology of authority in Islamic times, and he is one of the founders of the political advice approach to kings. Where he took advantage of his knowledge and the fact that he needed nothing from the kings. His approach appeared in the book *Siraj al-Muluk*, in which he talked about his relationship with the sultans and his advice to them. Moreover, he talked about his position towards the common people and clarified their rights and tasks, then he touched on the state of the state, how to build it, and the causes of its demise and destruction. Also, he talked about state institutions from the Ministry, the judiciary, the army, and the domains in his book.

#### **1- Minister Shahanshah bin Badr Al-Jamali (Minister Al-Afdal):**

He is Abu Al-Qasim Shahanshah, nicknamed the better king, of Armenian origin. His ministry lasted for twenty-eight years (487-515 AH/1094-1121 AD) ().<sup>39</sup> Al-Tartushi's relationship with Minister Al-Afdal began since the Fatimids settled in the state and they had persecution situations in which they intended to restrict Al-Tartushi, as they put taxes on him, and this was issued by Judge Bin Hadid, who is: "Abu Talib Ahmed Bin Abdul Majeed Bin Ahmed Bin Hadid". The main reason for that was the jealousy of bin Hadid from Al-Tartushi, because of the popularity and love which were shown to him by the people of Alexandria. Al-Tartushi used to mention the people of Hadid in an ugly way, for their oppression and brutality in imposing tyrannical laws on people.<sup>40</sup>

Al-Tartushi had a position with Minister Al-Afdal in which he was a true advocate, as he entered the room of Minister Al-Afdal and said to him: "The reason in which you became the king was only due to the death of the person who was before you, so the situation was beyond your control, as it is now."<sup>41</sup>

<sup>37</sup> Al-Maliki, Ibn Farhun, p. 102.

<sup>38</sup> Makhlouf, *The Tree of the Pure Light in the hierarchical levels of Al-Malikiyah*, p. 204.

<sup>39</sup> Al-Zarkali, Khair Al-Din, *Famous People*, 7th edition, p. 103.

<sup>40</sup> Ayoub, Muhammad Shaaban, *The Scholar Al-Tartushi. Andalusian scholar loved Alexandria and hated the Fatimids*, Al Jazeera Net, published on: 12-29-2019, seen on: 25-3-2022.

<sup>41</sup> Ayoub, Muhammad Shaaban, published on: 29-12-2019 AD, seen on: 25-4-2022 AD.

## **2. Minister Al-Ma'mun Al-Batahi (515-519 AH / 1121-1125 AD):**

And Minister Al-Ma'mun is "Muhammad bin Fatik bin Mukhtar bin Hassan bin Tammam, known as Al-Batahi". During this period, Al-Ma'mun Al-Batahi took over the ministry after the death of Al-Afdal. Here began the life of relief in the journey of Al-Tartushi, where al-Ma'mun deliberately released him, brought him close to him, and honored him. As such, Al-Tartushi went to his first place in Alexandria, returned to his scientific activity and focused his attention on clarifying and criticizing matters that contradict Sharia and justice.<sup>424344</sup>

## **3. Yusuf bin Tashfin:**

He is "Yusuf bin Tashfin bin Ibrahim bin Tawqit bin Wartaqun bin Mansour bin Masala bin Maniya bin Namali Al-Sinhaji Al-Hamiri". Al-Dhahabi mentioned him in his book "Biographies of the Nobles" and said: "he was a brave hero, gallant, just, and majestic".<sup>45</sup>

## **Fifth: The Opinion of the Maliki Scholars from Authority and the Public**

### **1- The Support of Authority by the Jurists:**

The jurists contributed to the overall political activity in the state, and the most prominent of these areas were: guidance and advice. They presented their opinion when asked, and considered giving advice as a religious duty, as it is among what is known as enjoining good and forbidding evil.

Consultation with jurists is one of the established matters in the state. Judge Ayyad said about that in describing one of the sultans of Andalusia when he was appointed as his advisor that "He used to consult him in all his matters." The jurists are consulted in all public and private matters of the state, and thus they differ from the consulting jurists who are only concerned with rulings and what is related to matters of religion. Dr. Al-Kubaisi put in his book the reasons for his separation between the consulting jurists (religious rulings) and the advisors (general rulings):<sup>46</sup>

Some jurists whom the authority consults in public affairs were not advisors. On the other hand, the category of advisory jurists emerged in 202 AH / 817 AD, while the advisors existed from the beginning of the entry of Islam into Andalusia. The consulting jurists are an official group that only the Caliph has the right to appoint and remove them. As for the advisors, they do not share the same privilege.<sup>47</sup>

<sup>42</sup> Abd Al-Nabi, Ali, Minister Al-Ma'mun al-Batahi, pg. 605.

<sup>43</sup> Raballah, Abd Al-Latif, Abu Bakr Al-Tartushi and his scientific role, p. 61.

<sup>44</sup> Al-Tartushi, Siraj Al-Muluk, p. 26.

<sup>45</sup> Arabs, Omar, Yusuf Bin Tashfin in History, published Master's thesis, D.N, D.T, p. 8. See also: Al-Dhahabi, Biographies of the Nobles, vol. 19, p. 252-253.

<sup>46</sup> Judge Ayyad, Ayyad bin Musa bin Iyadh Al-Sabti (d. 544 AH / 1149 AD), Arranging Perceptions and Approaching the Paths, verified by: Abdel Qader Al-Sahrawi, Fadala Press - Muhammadiyah, Morocco, 1966 AD, Volume 2.

<sup>47</sup> Al-Kubaisi, Khalil Ibrahim, The Role of Jurists in Political and Social Life in Andalusia, Al-Bashaer Company, Beirut, 1983 AD, p. 112.

## **2- Official and Private Missions**

In view of the scientific and social status of the jurists, they were assigned by the caliph and the authorities with official tasks inside or outside Andalusia, and the most prominent of these official tasks were: concluding peace between the caliphs and those who rebelled against them. The trust of all parties in the jurists and their position between the public and the authority is what enabled them to handle such tasks.

As for their internal tasks, they used the authority of the jurists to suppress the internal rebellions; then, the jurist goes to those areas and asks them to obey the ruler. They also had other tasks, such as investigating the facts. The Sultan used to send them to the districts and cities in order to hear the complaints of the people who were subjected to injustice from one of the judges, workers, or pimps. Also, taking the pledge of allegiance to the prince and the sultan from the minister, his assistants, men of authority, and the famous people of the city. The jurists were entrusted with following up on the affairs of the palace during the absence of the Sultan during one of his conquests due to the knowledge, firmness, and authority of the jurist<sup>48</sup>

## **3- Encouraging People to Jihad**

The role of the jurists was to encourage and contribute to jihad, and their role was to explain the rewards of jihad and encouraging people by them, write books about its virtues, and to urge the authority and the people to jihad. And the role of the jurists appeared in the battles, as they contributed to raising the morale of the people to confront the enemies even if the number of the enemies exceeded their number. Sources mention the practice of jihad by the jurists every year, as the jurists participated in the leadership of the army and were at the head of the small armies entering the enemy's land.<sup>49</sup>

## **4- Attestation of Jurists:**

The jurists contributed in the field of supporting the authority through their testimony on the books issued by the authority, the documents that complicate matters for it, and the covenants it makes. The goal of the authority from the testimony of jurists was to obtain the legitimacy of laws, covenants and testimonies before the public and to confirm their commitment to them<sup>50</sup>

## **5- Positive Opposition Towards the Sultan**

It is one of the methods of holding rulers indirectly accountable. The jurists used the principle of communication with the rulers, and this principle was prevalent among the Maliki jurists in particular and among the Muslims in general, and it was entering the rooms of rulers. Judge Sahnoun mentions that he was warning against entering the rooms of rulers, as going to the palaces of the sultans is an

<sup>48</sup> Al-Kubaisi, *The Role of Jurists in Political and Social Life in Andalusia*, p. 117.

<sup>49</sup> Ayyad, *Arrangement of Perceptions and Approaching the Paths*, Volume 3, P. 161.

<sup>50</sup> Al-Kubaisi, Khalil Ibrahim, *The Role of Jurists in Political and Social Life in Andalusia*, p. 130.

evidence of the tendency and the use of personal licenses for their own business and not to flatter the rulers.<sup>51</sup>

## **6- Passive Opposition Towards the Sultan:**

And that is to remove the rulers, and the ruler is removed because of his injustice and shortcomings towards his nation, and this was an example of the disagreement among Muslim jurists. Some jurists have made it clear that the nation's unanimity on the sultan and his dismissal is obligatory upon his disbelief after faith, abandoning the establishment of prayer, usurpation of money, ignorance of the limits, and the disruption of the rights of the public.

However, other jurists said that he must be admonished, instructed, intimidated, and abandoned in what he calls for in disobedience to Allah the Almighty. Some jurists have concluded that he must be removed if he becomes insane and fails to distinguish between right and wrong, becomes deaf or dumb, or abandons the interests of the nation, then he must be removed. For example, when Yusuf bin Tashfin was seeking victory over the Christians in the Battle of Zallaqa (497 AH / 1103 AD), but the conflict remained and he returned to Morocco. Then, he went to Andalusia to fight the Spanish and support the kings of the sects in it; nonetheless, he caught a letter by one of the kings of the sects urging the Spanish Christians to persevere in the face of bin Tashfin. Therefore, Yusuf bin Tashfin obtained a fatwa that allowed the removal of this king and the control of his kingdom because he abandoned the interest of the nation; afterwards, he eliminated the kings of the sects and took control of Andalusia and the title of Emir of the Muslims.<sup>52</sup>

As for the cases of rebellion against the ruler in the Islamic history are few, the armed rebellion was less than that. The armed rebellion against the sultan caused a great dispute among the jurists, some of them advised to be patience with him and to guide him so that the country does not enter a state of chaos, while others called for his removal if his injustice was combined with infidelity. Ibn Hazm, who died in 456 AH, said: "It is necessary to remove him... and put someone else to establish the truth".<sup>53</sup>

## **8. Reluctance of the Jurists from Authority:**

The Maliki jurists were keen to create a space between them and the sultan and the rulers until, sometimes, the situation resembled rejection and boycott when accompanying the sultan in his palace made them forget about their basic work, which is jurisprudence and serving the religion and the public. The jurists of Andalusia offered them the position of the judiciary, but they rejected it. This was the case of many jurists, as it was considered a personal deficiency in the personality of the jurist. In addition, some jurists refrained from the palaces of the sultans, such as Judge Abu Abdullah Al-Katani Al-Fassi, who died in 597 AH/1200 AD, as he was requested by the Sultan to attend his council but did not

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<sup>51</sup> Al-Sir, Amr Walid, Accountability of Rulers in Maliki Jurisprudence, Master's Thesis, Supervised by: Mohamed Amezian, Qatar University, Qatar, 2018 AD. p. 74.

<sup>52</sup> Al-Sir, Amr, Accountability of Rulers in Maliki Jurisprudence, p. 108.

<sup>53</sup> Al-Sir, Amr, Accountability of Rulers in Maliki Jurisprudence, p. 108.

come out to receive the delegations of the Sultan, claiming that he suffered from a disease, to avoid going to the Sultan's Palace.<sup>54</sup>

Al-Ghazali mentions the jurists of his time by saying: "As they devoted themselves to these positions and presented themselves to the rulers, got to know them, and asked for high positions and connections from them, because they were the dearest people to the sultans; however, they became the most humiliating people by turning to the sultans". This is what the Andalusian jurists considered one of the things that remove respect for the sultans and weaken their character.<sup>55</sup>

## **Sixth: His Attitude towards Authority and the Public**

### **1- Authority Duties:**

With regard to duties, several events were mentioned by Al-Tartushi with the rulers, one of those was with Ibn Tashfin - Emir of Muslims in Andalusia - when his student, Ibn Al-Arabi, carried a letter to him, offering him advice and guidance, as stated in Al-Tartushi's letter to Al-Batahi and the Sultan should: Command and act with the fear of Allah the Almighty. And he said in that speech: "O King, no one is above commanding to fear Allah the Almighty, and no one is more honorable than accepting Allah's command, nor is there a greater safety than knowing Allah's orders, and no one is more honorable than being characterized by the attributes of Allah."

In addition to what Al-Tartushi mentioned about the rights and duties of the sultans, Ibn Taymiyyah (d. 728 AH / 1328 AD), stated in his book "Legislative Politics", that one of the duties of the governor or the ruler in his state is to know the limits which Allah ordered and to enjoin good and forbid evil, and this was confirmed by the idea that it is the duty of the ruler to enforce the five obligatory prayers, and to punish those who neglect the prayers, according to the consensus of the Muslims.<sup>56</sup>

### **2- Duties of the Public:**

Although the Maliki scholars had different attitudes towards the Fatimid authority, they spoke on behalf of, and for the sake of, the public on various issues. These issues focused on the social, political, and economic conditions of the public, as they aimed to defend the Sunni sect against the distortion attempts sought by the Fatimid state.

Al-Tartushi explains that obeying the imams is considered an obligation on the public - who are, the common people - and that obedience to the sultan is associated with obedience to Allah the Almighty. Since the common people have

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<sup>54</sup> Al-Taher, Ibn Ayyash, *Maliki Jurisprudents and the Almohad Authority in Morocco*, Master's Thesis, Supervised by: Hajj Aifa, University of Algiers, Algeria, 2014 AD. p.108.

<sup>55</sup> Ibid, p. 109.

<sup>56</sup> Al-Tartushi, *Siraj Al-Muluk*, p. 237.

to fear Allah the Almighty ﷻ in the right of the sultan by obeying him, and obedience brings together the religion and organizes the affairs of Muslims.<sup>57</sup>

### ***Dealing with the Public:***

With regard to the company of people to each other, it was mentioned about the companionship of Muhammad Al-Amin by the poet Abu Nawas. He spoke badly about the people of Iraq, when a man came to the gathering of the poet Abu Nawas, and said: "The people of Iraq are immoral, alcoholic, and go to brothels." Al-Ma'mun insulted his brother Al-Amin in his company with the poet Abu Nawas, saying: "Abu Nawas accompanied a poet who was a disbeliever".<sup>58</sup>

How righteous is the sultan who guides the public to paths where they are right and can prevail with him! At that time, he will be the head of the chiefs, and the ruler over the virtuous masters. On the other hand, if he neglects them to succumb to their desires, Then, they will lose their religion, and their morals will fall, and they will remain, as the Arabic proverb once said, in the reprehensible group. This was mentioned in the book of Al-Tartushi about the people who have no chiefs or secretaries between them: (They are equal like the teeth of a donkey), and some say: (Equal like the teeth of a comb).<sup>59</sup>

Also, this was mentioned regarding the Persians: (The hearts of the public are the treasures of their kings, so whatever they put in them they know that it is in them).<sup>60</sup>

And how good is what Abd Al-Malik bin Marwan said: (O people of Sham, I am to you like a male ostrich protecting its chicks; it removes filth from them, keeps stones away from them, shelters them from rain, protects them from fog, and guards them from wolves. O people of Sham. You are the protection and the cloak, and you are the kit and the shoe. The non-Arabs said: (The most powerful of kings: He who leads the bodies of the public to obey him with their hearts) ().<sup>61</sup>

Also, Muawiyah said to Ziyad: (Who is the most powerful of people, me or you? He said: O Commander of the Faithful, Allah has not made a man who protects people with his sword as equal to the one who hears people, so they obey him with kindness).<sup>62</sup>

### **Seventh: His Position on the Unity of the Nation**

The Maliki jurists called for the unity of the nation; this is done through unity and cooperation (). This call began with the inability of the kings of the sects to protect the Muslims and their inability to stand up to the Christians and their

<sup>57</sup> Al-Maliki, Abu Bakr Muhammad bin Al-Walid Al-Tartushi (d. 520 AH / 1126 AD), Siraj Al-Muluk, I 1, Dar Al-Minhaj for Publishing and Distribution, Riyadh, 2014 AD. p. 221.

<sup>58</sup> Al-Tartushi, Siraj Al-Muluk, p. 408.

<sup>59</sup> Al-Tartushi, Siraj Al-Muluk, p. 411.

<sup>60</sup> Al-Tartushi, Siraj Al-Muluk, p. 413.

<sup>61</sup> Al-Tartushi, Siraj Al-Muluk, p. 414.

<sup>62</sup> Al-Tartushi, Siraj Al-Muluk, p. 415.

attacks. Abu Muhammad ibn Abd Al-Barr Al-Nimri was urging for jihad and calling for the reunification of the nation, saying: "If our reunion was organized, our people were healed, and we were like limbs in the body and the fingers in the hand jointly, then we would not miss an arrow, would not lose our honor, nor would we be humiliated by a party. Also, Abu Bakr bin Ahmed bin Muhammad bin Abdullah bin Ishaq bin Muhallab bin Jaafar volunteered to remove the differences that had occurred between the kings of the sects and gathered their words, thus attaining an important place among the kings of the sects, and also had a role in warding off sedition among them."<sup>63</sup>

Despite these calls for the unification of the nation, some of them refrained from the call to unity and solidarity. Therefore, the catastrophe was the fall of Toledo in the year (478 AH / 1094 AD); afterwards, the scholars called for the call to jihad and unity, and he was the most famous of them was

Abu Al-Walid Al-Baji (d. 474 AH/1082 AD), who toured the country of Andalusia in length and breadth, calling people to unite the ranks and warning them of division and conflict ().<sup>64</sup> Sources such as Ibn Al-Abar Al-Quda'i (d. 595 AH / 1199 AD) mentioned in the book - *Diwan Ibn Al-Abar* - that Al-Mutawakkil bin Al-Muzaffar bin Al-Aftas (460-487 AH/1068-1094AD) delegated Abu Al-Walid Al-Baji to the kings of the sects, inviting them to reunite and defend the enemies, and all of them would listen to his preaching. Judge Ayyad stated: "Al-Baji died in Almeria, and he was there as an ambassador for the presidents of Andalusia, to unite them to support Islam.

Al-Hamdawi mentioned in his book "The Jurisprudence of the Sultanate Laws" on the authority of the Caliph that he is considered a personal guarantor of the nation's unity and cohesion. Accordingly, it is not permissible to have multiple imams to prevent tearing the people and the country apart. However, this principle had nothing to preserve it except the strength of the soldiers. When this strength was torn and weakened, the warring princes overtook it. It was unable to protect unity, so ethnic and sectarian mini-states were established in the East and the West, and the jurists made various forms of pretentious deduction and legislation for the permissibility of multiple imams.<sup>65</sup>

Al-Ghazali also mentioned the unity of the nation (d. 505 AH / 1112 AD) and Al-Razi (d. 311 AH / 923 AD) two statements. Al-Ghazali said about the unity of the nation that it can only be dealt with by a compelling authority that the public obey, as he said in this regard: "The disease of the nation has no cure, except with an obedient, compelling authority." As for Al-Razi, he said in it that it is not possible to gain control of the nation except with a compelling and disciplined leader, where he said in that: "The nation must have a compelling and disciplined leader".<sup>66</sup>

<sup>63</sup> Shalaby, Omar Rajeh, *The Role of Andalusian Scholars in Political Life during the Fifth Century Hijri*, Journal of the Islamic University (Human Studies Series), 16 (2), 261-285, 2008 AD. p. 266.

<sup>64</sup> Shalaby, Omar, *The Role of Andalusian Scholars in Political Life*, p. 267.

<sup>65</sup> Al-Hamdawi, Abd al-Karim Muhammad Muti', *The Jurisprudence of the Royal Rulings*, 1st Edition, Dar al-Kutub al-Ilmiyya, Beirut, 1998 AD. p. 146.

<sup>66</sup> Shalaby, Omar, *The Role of Andalusian Scholars in Political Life*, p. 267.



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