

READING THE SEMIOTICS OF A *MADĪNAH*: A DISCOURSE ON THE TOPOGRAPHY OF FĀS *

Akel Ismail Kahera

Introduction

Baber Johansen's, "The All Embracing Town And Its Mosques: *Al-Miṣr al-Jāmi'*", reveals a debate among the Ḥanafī jurists on the legality of Friday prayer and the legal definition of a *madīnah*.¹ Similar attention has not been given to the Mālīkī jurists or cities in the Maghrib.² The present essay will examine the city of Fās [*madīnat Fās*] as a legal concept. It results from the legal opinion [*fatwā*] of the *muftī* of Fās, Abū al-'Abbās Aḥmad b. Yaḥyā al-Wansharīsī (d. 914/1508), and the opinions of the Mālīkī jurists in the Maghrib, with respect to a debate concerning the expansion of the congregational mosque [*masjid al-jāmi'*] in *madīnat Fās*.³

Jurists of the five major *madhhabs*—Ḥanafī, Mālīkī,

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¹ Baber Johansen, "The All Embracing Town and Its Mosques: *Al-Miṣr al-Jāmi'*," *Revue de l'Occident Musulman et de la Méditerranée*, 323 (1981–2), 139–61.

² For a discussion of habitat disputes in the Maghrib see, Akel Ismail Kahera and Omar Benmira, "Damages in Islamic Law: Magribi Muftis and their *Fatwas*—9th to 15th century C.E.," *Journal of Islamic Law and Society*, E. J. Brill, vol. 5: 2 (1998) 131–64.

³ Al-Wansharīsī was born in Tlemcen in 834/1430 but later moved to Fās, where he was a *muftī* until his death in 914/1508. See Abū al-'Abbās Aḥmad b. Yaḥyā al-Wansharīsī, *al-Mi'yār al-Mughrib wal-Jāmi' al-Mu'rib 'an Fatāwī Ahl Ifriqiyah wal-Andalus wal-Maghrib* (Rabat: 1981–83).

Shāfi'ī, Ḥanbalī and Ja'farī—widely hold that the legal status of a *madīnah* rested solely on the presence of a single *masjid al-jāmi'* (congregational mosque) that can accommodate the local male population of a *madīnah*.⁴ Using the Fās incident, this essay will discuss the ruling of al-Wansharīsī which sanctions a single *masjid al-jāmi'* in *madīnat Fās*. Taking into account that Fās had two extant places of gathering from the period it was founded in the ninth century C.E., the debate challenges the legal status of a *madīnat Fās*.

In many medieval cities, among them, Cairo, Baghdad and Cordoba, when the population of the city increased, under the patronage of the ruling sovereign of the city, the expansion of the *masjid al-jāmi'* would naturally occur. In a sense patronage gave *de facto* approval to one congregational space. This is what occurred in Fās, although the evidence has shown that it was not the main reason to support a primary gathering space. In discussing the *fatwā* concerning the legality of prayer, this essay investigates, the events surrounding the expansion of the congregational space. In so doing it will consider the legal reasons that were inferred by the *muftī* of Fās; essentially, he held that the expansion of one edifice was both legal and necessary, without making reference to the other extant place of congregational worship.

There are several important arguments that evolve from the questions raised by a litigant [*muṣtafi'*], a resident of Fās, who

⁴ Al-Ḥillī, *Tadhkirat al-Fuqahā'* (Qumm: Mu'assasat Ahl al-Bayt, 1993), 55–61, discusses this formula; the jurists of the five major *madhabs* (including the *Ja'farī madhhab*) differ concerning the minimum gathering of male worshippers needed to constitute a congregation (*jum'ah*) and to legally perform the *ṣalāt al-jum'ah*. According to al-Suyūṭī the minimum number is three other than the *Imām*. See *al-Hāwī li-l-Fatāwā* (Beirut: Dār al-Kutub al-'Ilmiyyah, 1982), vol. 1, 66–71; Al-Shawkānī considers two people including the *Imām* would constitute a congregation as in the case of other ritual daily prayers, "unless there is evidence that would point to another opinion". See *al-Lum'ah fi l-tidād bi l-idrāk al-Ruka' min al-Jum'ah* (Sana: Maktabat Dār al-Quds, 1990), 6.