

## The Sale of Option with Judge Iyadh through Ikmal al Mu'al-lim: A Comparative Jurisprudential Study

**Tahaelamine LAZHARI**

University of ghardaya

Email, [lazhari.tahaelamine@univ-ghardaia.dz](mailto:lazhari.tahaelamine@univ-ghardaia.dz)

### **Abstract:**

*This take a look at examines the jurisprudential rulings of Judge Iyadh bin Musa Al-Yahsubi (d. 544 AH) concerning the "sale of choice" (khiyār al-shart) as specific in his seminal work, Ikmal al-Mu'allim bi-Fawa'id identity Muslim. The research highlights Judge Iyadh's comparative technique, wherein he gives the reviews of various Islamic criminal colleges before articulating his desire based on evidence. Although a prominent Maliki scholar, the have a look at exhibits his intellectual independence, as he often diverged from the faculty's established views whilst proof dictated otherwise. Key findings from his evaluation include the general permissibility of the sale of alternative, the absence of a set time restrict for its duration, and the view that the vendor cannot stipulate this selection.*

**Keywords:** Judge Iyadh, Ikmal al-Mu'allim, Sale of Option, Islamic Jurisprudence, Maliki School.

## La vente d'option avec le juge Iyadh à travers Ikmal al Mu'al-lim : une étude jurisprudentielle comparative

### **Résumé :**

*Cette étude examine les décisions jurisprudentielles du juge Iyadh bin Musa Al-Yahsubi (mort en 544 AH) concernant la « vente avec option » (khiyār al-shart) telle qu'elle est décrite dans son ouvrage fondateur, Ikmal al-Mu'allim bi-Fawa'id identity Muslim. La recherche met en évidence la technique comparative du juge Iyadh, qui consiste à présenter les avis de différentes écoles juridiques islamiques avant d'exprimer son opinion sur la base de preuves. Bien qu'il soit un éminent érudit malikite, l'étude montre son indépendance intellectuelle, car il*

*s'écarter souvent des opinions établies de l'école lorsque les preuves indiquent le contraire. Les principales conclusions de son évaluation comprennent la permissibilité générale de la vente d'options, l'absence de limite de temps fixe pour sa durée et l'opinion selon laquelle le vendeur ne peut pas stipuler cette option.*

**Mots-clés :** *Juge Iyadh, Ikmal al-Mu'allim, vente d'options, jurisprudence islamique, école malikite.*

## Introduction:

Judge Iyadh bin Musa Al-Yahsubi, who died in the year 544 AH, is considered one of the prominent figures in jurisprudence in general, and Maliki jurisprudence in particular, as he combined knowledge of hadith and knowledge of jurisprudence, leaving behind precious works that became among the most important books relied upon in Islamic jurisprudence after him, and among the most important of them is his famous book "Ikmal al-Mu'allim bi-Fawa'id Muslim" which is considered one of the most important commentaries on Sahih Muslim, and a completion of the commentary on al-Mu'allim by Imam al-Mazari, may God have mercy on him, and among the issues that Judge Iyadh addressed in his book is the issue of the sale of option and what falls under it in terms of a condition for it and its duration, and it is one of the important issues in financial transactions ancient and modern, due to its regulation of contracts and achievement of justice between the contracting parties, which removes the causes of dispute and conflict, and therefore this research acquires special importance in the jurisprudence of financial transactions, and Judge Iyadh seeks to mention the jurisprudential schools in the issue then prefers among them by expressing his jurisprudential choice and revealing his method in argumentation, and standing on the establishment of the rules of Maliki jurisprudence on one hand and openness to the sayings of other schools on the other hand, so how did Judge Iyadh address the issue of option in his book Ikmal al-Mu'allim and what is his method in presenting the sayings and their evidences and preferring among them?

## 1. Introduction to Judge Iyadh

### 1.1. His Name, Birth, and Upbringing

#### 1.1.1. His Name and Kunya

- His Name: He is Iyadh bin Musa bin Iyadh bin Amrun bin Musa bin Iyadh bin Muhammad bin Abdullah bin Musa bin Iyadh Al-Yahsubi<sup>1</sup> , Al-Sabti<sup>2</sup> , he was the imam of his time in hadith and its sciences, grammar, language, Arab speech, their days, and their lineages<sup>3</sup> , and there are those who mention one of Judge's ancestors "Umar" without waw and nun<sup>4</sup> .
- His Kunya: He was nicknamed, may God have mercy on him, as Abu al-Fadl<sup>5</sup> .

#### 1.1.2. His Birth, Lineage, and Upbringing

##### 1) His Birth:

Judge Iyadh, may God have mercy on him, was born in the city of Ceuta<sup>1</sup> , in the middle of the month of Sha'ban, in the

---

<sup>1</sup> Al-Yahsubi, relative to Yahsub, an Arab tribe from Himyar. See *Wafayat al-A'yan wa Anba' Abna' al-Zaman*, by Abu al-Abbas Shams al-Din Ahmad bin Muhammad bin Abi Bakr bin Khallikan, edited by: Ihsan Abbas, Dar Sader Beirut, vol.3, p.483 and *Tadhkirat al-Huffaz*, by Shams al-Din Abu Abdullah Muhammad bin Ahmad bin Uthman bin Qaymaz al-Dhahabi, Dar al-Kutub al-Ilmiyyah Beirut, 1st ed., 1998 CE, vol.4, p.27

<sup>2</sup> Relative to the city of Ceuta in Morocco, which now belongs to Spain. See *Azhar al-Riyad fi Akhbar al-Qadi Iyad*, by Shihab al-Din Ahmad bin Muhammad bin Ahmad bin Yahya, Abu al-Abbas al-Maqri al-Tilmisani edited by: Mustafa al-Saqa, Ibrahim al-Ibyari, Abd al-Azim Shalabi, Matba'at Lajnat al-Ta'lif wa al-Tarjamah wa al-Nashr Cairo, vol.1, p.23

<sup>3</sup> *Wafayat al-A'yan wa Anba' Abna' al-Zaman*, Abu al-Abbas Shams al-Din Ahmad bin Muhammad bin Ibrahim al-Barmaki al-Irbili, edited by: Ihsan Abbas, Dar Sader – Beirut 1st ed., vol.3, p. 483

<sup>4</sup> The same source, Shams al-Din al-Barmaki, vol.3, p. 483

<sup>5</sup> See *Shadharaat al-Dhahab fi Akhbar man Dhahab*, Abd al-Hayy bin Ahmad bin Muhammad Ibn al-Imad al-Akri al-Hanbali, edited by: Mahmud al-Arna'ut, Dar Ibn Kathir, Damascus, 1st ed.1986 CE, vol.6, p.226, and *al-Ta'rif bi al-Qadi*, by his son Abu Abdullah Muhammad, , p.3.

year four hundred and seventy-six<sup>2</sup> and there are those who said that his birth was in the year four hundred and forty-six<sup>3</sup> , and there are those who said that he was born in the year four hundred and ninety-six<sup>4</sup> but most sayings are on the year four hundred and seventy-six<sup>5</sup> .

## 2) His Lineage:

The lineage of Judge Iyadh, may God have mercy on him, goes back to an Arab lineage, as Al-Yahsubi is attributed to Yahsub, a tribe from Himyar<sup>6</sup> and it was named so attributed to Yahsub bin Malik bin Zayd bin Sahl bin Amr bin Qays bin Muawiyah bin Jusham bin Abd Shams bin Wail bin Ghawth<sup>7</sup> , and Himyar is from the Yemeni Arab tribes<sup>8</sup> , and many of the Yahsubis migrated to Andalusia, and a fortress there is attributed to them called Qal'at Yahsub<sup>9</sup> then the ancestors of

---

<sup>1</sup> Mu'jam al-Buldan, Shihab al-Din Abu Abdullah Yaqut bin Abdullah al-Rumi al-Hamawi, Dar Sader Beirut, 2nd ed. 1995 CE, vol.3, p. 132.

<sup>2</sup> See: Wafayat al-A'yan, Ibn Khallikan, vol.3, p.485, and al-Ta'rif bi al-Qadi, by his son Muhammad, p. 2.

<sup>3</sup> al-Bidayah wa al-Nihayah, Abu al-Fida' Ismail bin Umar bin Kathir al-Qurashi al-Basri then al-Dimashqi, edited by: Abdullah bin Abd al-Muhsin al-Turki, Dar Hajar li al-Tiba'ah wa al-Nashr wa al-Tawzi' wa al-I'lan, 1st ed. 1997 CE, vol.16, p.352

<sup>4</sup> al-Shifa bi Ta'rif Huquq al-Mustafa - appended with the marginal note called Mazil al-Khafa' an Alfaz al-Shifa, Abu al-Fadl al-Qadi Iyad bin Musa al-Yahsubi, the marginal note: Ahmad bin Muhammad bin Muhammad al-Shamni, Dar al-Fikr for Printing, Publishing and Distribution, ed.1988 CE, p.4

<sup>5</sup> Shadharaat al-Dhahab fi Akhbar man Dhahab, Ibn al-Imad, vol.6, p.226.

<sup>6</sup> See al-Dibaj al-Mudhahhab, Ibn Farhun, vol.2, p.51.

<sup>7</sup> al-Lubab fi Tahdhib al-Ansab, Izz al-Din Ibn al-Athir, Dar Sader Beirut, ed. 1980 CE, vol. 3, p.407 .

<sup>8</sup> See Mu'jam al-Buldan, Shihab al-Din Abu Abdullah Yaqut bin Abdullah al-Rumi al-Hamawi, vol.2, p.306.

<sup>9</sup> See: Marasid al-Ittila' ala Asma' al-Amkinah wa al-Biqat, Abd al-Mu'min bin Abd al-Haqq, Ibn Shumayl al-Qati'i al-Baghdadi, Dar al-Jil Beirut 1st ed. 1991 CE, vol.3, p.1118, Jamharat Ansab al-Arab, Abu Muhammad Ali bin Ahmad bin Sa'id

Judge Iyadh moved to Fez<sup>1</sup> then to Kairouan<sup>2</sup> , and they had settlement there<sup>3</sup> .

His son Muhammad said: "Our ancestors were in ancient times in Andalusia, then they moved to the city of Fez and they had settlement in Kairouan, I do not know whether before their arrival in Andalusia or after that"<sup>4</sup> , then Amrun, who is one of the ancestors of Judge Iyadh, moved to Ceuta after the Fatimids entered<sup>5</sup> , Morocco, and the reason for his departure from Fez to Ceuta was knowledge of the news of his two brothers Al-Qasim and Isa, who were residing in Cordoba<sup>6</sup> , then he chose, may God have mercy on him, to stay in Ceuta<sup>7</sup> .

### 3) His Upbringing:

Judge Iyadh, may God have mercy on him, grew up in a house of knowledge and religion and a family of noble morals, great prides and glories, and this was reflected in the Judge's adoption of the morals of his ancestors, parents, and family, so

---

bin Hazm al-Andalusi al-Qurtubi al-Zahiri, *Dar al-Kutub al-Ilmiyyah* Beirut, 1st ed., 1983 CE.vol.1, p.406.

<sup>1</sup> Fes: a Moroccan city. See Marasid al-Ittila' ala Asma' al-Amkinah wa al-Biqat', Abd al-Mu'min bin Abd al-Haqq Ibn Shumayl al-Qati'i al-Baghdadi, vol.3, p.1014.

<sup>2</sup> al-Qayrawan: a Tunisian city, formerly Ifriqiya. See Mu'jam al-Buldan, Shihab al-Din Abu Abdullah Yaqt bin Abdullah al-Rumi al-Hamawi, vol.4, p.420.

<sup>3</sup> Azhar al-Riyad fi Akhbar Iyad, al-Maqri, vol.1, p.28.

<sup>4</sup> al-Ta'rif bi al-Qadi, by his son Abi Abdullah Muhammad, edited by Muhammad bin Sharifa, 2nd ed.1982 CE, Matba'at Fadhala al-Muhammadiyah, p.2 .

<sup>5</sup> They are the Shia Ubaydiyyun, relative to the first of their caliphs, and he is Ubayd Allah al-Mahdi bin Muhammad al-Habib bin Ja'far al-Musaddaq bin Muhammad al-Maktum bin Ismail al-Imam bin Ja'far al-Sadiq, see: *Diwan al-Mubtada' wa al-Khabar fi Tarikh al-Arab wa al-Barbar wa man Asarahum min Dhawi al-Sha'n al-Akbar*, Ibn Khaldun, edited by: Khalil Shihada, *Dar al-Fikr* Beirut, 2nd ed. 1988 CE vol.3, p.449.

<sup>6</sup> Cordoba: it is a great city in Andalusia in the middle of its lands and it was the seat of its kingdom and its capital, and in it were the kings of Banu Umayyah and the mine of the virtuous and the source of the nobles, see *Mu'jam al-Buldan*, Shihab al-Din al-Hamawi, vol.4, p.324.

<sup>7</sup> See *al-Ta'rif bi al-Qadi Iyad*, his son Muhammad, p. 2, 3.

he was intelligent, clever, and loving of knowledge and its people, and he does not leave the recitation of the Quran in any circumstance whatsoever. And in this regard, his son Muhammad, may God have mercy on them both, mentions some of his virtues, saying: "He grew up with chastity and protection, satisfactory in characteristics, praiseworthy in sayings and actions, described with nobility, understanding, and acumen, seeking knowledge, eager for it, diligent in it, magnified by the elders among the people of knowledge, much in sitting with them, and attending their sessions, until he excelled in his time, and led all his peers, and reached in the diversification in the branches of knowledge what is known, so he was among the memorizers of the Book of God Almighty and upholding it, not leaving its recitation in every state, with good and pleasant recitation"<sup>1</sup> .

Where he began by memorizing the Book of God, then sought hadith and jurisprudence, and his learning was from the scholars of Ceuta, and Ceuta was teeming with scholars from various specializations, due to its geographical nature, as it is a city passed by either those coming from Andalusia to Morocco or those coming from the East, and the Judge studied under many of them<sup>2</sup> .

Also, the Judge lived most of his life under the shadow of a state that glorifies knowledge, respects its people and appreciates them, and listens to their rulings and consultations, so this was what pushed the Judge to acquisition and interest in seeking and eagerness to sit with the people of knowledge and discuss them, and his son Muhammad mentioned that in sitting with the elders and scholars, saying: "Magnified by the elders

---

<sup>1</sup> The same source, p.4.

<sup>2</sup> See al-Qadi Iyad wa Juhuduhu fi Ilmay al-Hadith Riwayah wa Dirayah, al-Bashir Ali Hamd al-Turabi, Dar Ibn Hazm Beirut, 1st ed. 1997 CE, p.72.

among the people of knowledge, much in sitting with them, and attending their sessions"<sup>1</sup>.

## 1.2. His Scientific Status

Judge Iyadh, may God have mercy on him, attained a high status among the scholars of his era and his school, as he occupied a prestigious position with his teachers, peers, and students, so no branch of knowledge is mentioned except the name of Judge Iyadh appears as a star in it, rather he was one of the greatest of his era and Morocco is not mentioned except Judge Iyadh, may God have mercy on him, is mentioned; Ibn Khallikan said: "The imam of hadith in his time, and the most knowledgeable people in its sciences, and in grammar, language, Arab speech, their days, and their lineages"<sup>2</sup>.

As his teachers, peers, and students testified for the Judge, and we mention among them:

Siraj bin Abd al-Malik<sup>3</sup> : He said to him when he intended to travel to Andalusia "It is more in need of you than you of it"<sup>4</sup>.

Abu Muhammad bin Abi Ja'far<sup>5</sup> : This imam said about him "No one nobler than Iyadh has reached us from Morocco"<sup>6</sup>.

Ibn Bashkuwal<sup>1</sup> : This imam, the hadith scholar, said about him, showing his seeking of hadith and its sciences "He collect-

---

<sup>1</sup> al-Ta'rif bi al-Qadi Iyad, his son Muhammad, p. 2,3.

<sup>2</sup> Wafayat al-A'yan, Ibn Khallikan, vol.3, p.483.

<sup>3</sup> Siraj bin Abd al-Malik bin Siraj bin Abdullah bin Siraj Abu al-Husayn, he was the unique of his time and the sign of his era, died in 508 AH, see: Bughyat al-Multamis fi Tarikh Rijal Ahl al-Andalus, Ahmad bin Yahya bin Ahmad bin Umirah, Abu Ja'far al-Dabbi (died: 599 AH), Dar al-Katib al-Arabi Cairo, ed.1967 CE, vol.1, p.304

<sup>4</sup> al-Ihatah fi Akhbar Gharnatah, Lisan al-Din Ibn al-Khatib, Dar al-Kutub al-Ilmiyyah, 1st ed., 1424 AH, vol.4, p.194

<sup>5</sup> The Imam the scholar jurist of the Maghrib Sheikh of the Malikis Abu Muhammad Abdullah bin Abi Ja'far Muhammad bin Abdullah al-Khushani al-Mursi died in 526 AH, see: Siyar A'lam al-Nubala', al-Dhahabi, vol.19, p.102

<sup>6</sup> al-Ta'rif bi al-Qadi, by his son p.106.

ed much from hadith and has great care for it, and interest in collecting and recording it, and he is from the people of diversification in knowledge, intelligence, alertness, and understanding"<sup>2</sup>.

Abu Bakr bin Abd al-Rahman al-Suyuti<sup>3</sup> : The imam, the memorizer Jalal al-Din al-Suyuti said about him: "He was the imam of the people of hadith in his time and the most knowledgeable people in its sciences and in grammar, language, Arab speech, their days, and their lineages"<sup>4</sup>.

Abd al-Hayy bin Ahmad bin Muhammad Ibn al-Imad<sup>5</sup> : He said about him "He was the imam of his time in various sciences, excessively intelligent"<sup>6</sup>. Abu al-Abbas al-Maqqari al-Tilmisani<sup>7</sup> : Al-Maqqari, may God have mercy on him, said

<sup>1</sup> Abu al-Qasim Khalaf bin Abd al-Malik bin Mas'ud bin Bashkuwal bin Yusuf bin Dahah al-Khazraji al-Ansari al-Qurtubi the hadith scholar of Andalusia died in 578 AH, see: Wafayat al-A'yan, Shams al-Din al-Barmaki, vol.2, p.240.

<sup>2</sup> al-Silah, Ibn Bashkuwal, al-Silah fi Tarikh A'immat al-Andalus, Ibn Bashkuwal, cared for its publication, corrected it and revised its original: al-Sayyid Izzat al-Attar al-Husayni, Maktabat al-Khanji, 2nd ed., 1955 CE, p.430.

<sup>3</sup> The scholar the Imam the hafiz Abd al-Rahman bin Abi Bakr, Jalal al-Din al-Suyuti, the author of the superior beneficial compositions, died in 911 AH, see Shadharaat al-Dhahab, by Ibn al-Imad, vol.10, p. 76, 77, 78.

<sup>4</sup> Tabaqat al-Huffaz, Jalal al-Din al-Suyuti, Dar al-Kutub al-Ilmiyyah Beirut, 1st ed., 1403 AH, vol.1, p.470.

<sup>5</sup> The Imam the jurist the litterateur the historian the narrator Abu al-Falah Abd al-Hayy bin Ahmad bin Muhammad al-Akri al-Dimashqi al-Salihi al-Hanbali, known as Ibn al-Imad, died in 1089 AH, see Shadharaat al-Dhahab, by Ibn al-Imad, vol.1, 86, 87, 88, 89.

<sup>6</sup> The same reference, vol.6, p.226.

<sup>7</sup> Ahmad bin Muhammad bin Ahmad bin Yahya, Abu al-Abbas al-Maqri al-Tilmisani the historian the litterateur the hafiz, and al-Maqri relative to Maqqarah (with fathah on mim and tashdid on qaf maftuhah) from the villages of Tlemcen, died 1041 AH, see al-A'lam, al-Zarkali al-Dimashqi, Dar al-Ilm li al-Malayin Beirut, 15th ed., vol.1, p.237, Mu'jam A'lam al-Jaza'ir, Adil Nuwayhid, Mu'assasat Nuwayhid al-Thaqafiyah li al-Ta'lif wa al-Tarjamah wa al-Nashr, Beirut, 2nd ed., 1400 AH, vol.1, p.310.

about him "Judge Abu al-Fadl, may God have mercy on him, was good in presenting issues, much in editing quotations and countless scholars benefited from him"<sup>1</sup> .

Ibn Farhun<sup>2</sup> : Ibn Farhun spoke in his book *Al-Dibaj al-Mudhahhab* about Judge Iyadh, saying "He was the imam of his time in hadith and its sciences, knowledgeable in interpretation and all its sciences, a jurist in principles, knowledgeable in grammar, language, Arab speech, their days, and their lineages, insightful in rulings, concluding conditions, memorizer of Malik's school, may God have mercy on him"<sup>3</sup> .

### 1.3. His Teachers

Our imam Judge Iyadh, may God have mercy on him, studied under a considerable number of scholars and teachers, in various sciences and arts, and he collected their mention in his famous book "*Al-Ghunyah*" where he indexes his teachers, and those from whom he took or heard or who authorized him or corresponded with him, and likewise those who dealt with the teachers of Judge Iyadh, his son Muhammad in his book "*Al-Ta'rif bi-l-Qadi*", and Abu al-Abbas al-Maqqari al-Tilmisani in his book "*Azhar al-Riyad fi Akhbar al-Qadi Iyadh*". Judge Iyadh, may God have mercy on him, received from a group of teachers, some of them were in Ceuta and some he traveled to them and they are many, around one hundred teachers from whom he received, he said, may God have mercy on him, after listing and arranging them: "These are one hundred biographies and we have left a group whom we met and discussed with them and attended their discussion sessions from the ju-

---

<sup>1</sup> *Azhar al-Riyad fi Akhbar Iyad*, Abu al-Abbas al-Maqqari , vol.3, p.18, 19.

<sup>2</sup> Ibrahim bin Ali bin Muhammad, Ibn Farhun, Burhan al-Din al-Ya'mari, a researching scholar who assumed the judiciary and he is from the sheikhs of the Malikis, died in 799 AH, see *al-A'lam*, al-Zarkali, vol.1, p.52.

<sup>3</sup> *al-Dibaj al-Mudhahhab*, Ibn Farhun, vol.2, p.47.

rists and narrators whom we did not take books or hadith from, sufficing with what we mentioned and with God Almighty is success and He Almighty has mercy on all by His mercy"<sup>1</sup> , so the place does not allow us to mention them and we suffice with some of them for their fame:

The jurist Judge Abu Abdullah Muhammad bin Isa bin Husayn al-Tamimi: He is the first with whom he opened the mention of his teachers and he is the most senior of the teachers of Ceuta and its jurist, Judge said, may God have mercy on him "The most senior of our teachers in our town Ceuta, may God have mercy on him, and the foremost of their jurists"<sup>2</sup> , died in the year 501 AH<sup>3</sup> , the Judge heard from him and adhered to him for jurisprudence and debate in al-Mudawwanah and al-Muwatta' and hearing the compositions, and took from him most of the books of hadith and jurisprudence, the Judge said "I read and heard from him with the reading of others much and he authorized me all his narration"<sup>4</sup> .

Muhammad bin Abdullah known as al-Mawruri: The reciter teacher among those seated in Ceuta for reciting the Quran, and he, may God have mercy on him, was interested in the science of recitations and the differences of reciters and narrators, Judge said, may God have mercy on him "I recited the Quran to him several completions"<sup>5</sup> , died around 500 AH<sup>6</sup> .

Al-Hasan bin Ali bin Tarif al-Nahwi al-Taharti: The teacher of grammar in Ceuta, and he is testified for righteousness, he

---

<sup>1</sup> al-Ghunya, al-Qadi Iyad, p.227.

<sup>2</sup> al-Ghunya Fahasat Shuyukh al-Qadi Iyad, Iyad al-Yahsubi al-Sabti, edited by: Mahir Zuhayr Jarrar, Dar al-Gharb al-Islami, 1st ed. 1402 AH, p.27.

<sup>3</sup> al-Dibaj al-Mudhahhab fi Ma'rifat A'yan Ulama' al-Madhhab, Ibn Farhun, vol.2, p.241.

<sup>4</sup> al-Ghunya, al-Qadi Iyad, p.28.

<sup>5</sup> The same reference, p.90.

<sup>6</sup> The same reference, p.90.

spent his life teaching grammar, Judge Iyadh said "I studied with him much from the books of literature and grammar and recited to him the book of the sciences of hadith by al-Hakim Abu Abdullah"<sup>1</sup> , died in the year: 501 AH<sup>2</sup> .

Judge Abu al-Walid Muhammad bin Ahmad bin Ahmad bin Ahmad bin Muhammad bin Ahmad bin Abdullah Rushd<sup>3</sup> : The jurist judge of the congregation in Cordoba, famous for virtue, caring for acquiring sciences, unique in the science of jurisprudence and disagreement, died in the year 520 AH<sup>4</sup> .

The teacher Abu Abdullah Muhammad bin Ahmad bin Khalf bin Ibrahim al-Tajini al-Qurtubi, famous as Ibn al-Hajj<sup>5</sup> : Judge of the congregation in Cordoba, imam of the mihrab of the Maliki in Damascus, his family was the house of knowledge and judiciary in Cordoba, when the Franks took it they moved to Seville, died in the year 529 AH<sup>6</sup> .

**The Sixth Branch:** The famous Judge, the memorizer, the imam Abu Bakr Muhammad bin Abdullah bin Muhammad bin Abdullah bin Ahmad bin al-Arabi al-Ma'afiri al-Ishbili<sup>7</sup>

The scholar of the people of Andalusia and their narrator, he held the judiciary of Seville for a while and was dismissed, so he turned to spreading sciences and classifying in interpretation, hadith, jurisprudence, and principles, died in the year 453 AH<sup>8</sup> .

---

<sup>1</sup> The same reference, p.141.

<sup>2</sup> Bughyat al-Wu'ah fi Tabaqat al-Lughawiyin wa al-Nuhah, Jalal al-Din al-Suyuti, edited by: Muhammad Abu al-Fadl Ibrahim, al-Maktabah al-Asriyyah Lebanon, vol.1, p.513.

<sup>3</sup> Azhar al-Riyad, Shihab al-Din al-Maqri , vol.3, p.59.

<sup>4</sup> al-Silah, Ibn Bashkuwal, p.546; Jamharat Tarajim al-Fuqaha' al-Malikiyyah, Dr. Qasim Ali Sa'd, Dar al-Buhuth li al-Dirasat al-Islamiyyah wa Ihya' al-Turath, Dubai United Arab Emirates, 1st ed., 2002 CE, vol.2, p.687 .

<sup>5</sup> Azhar al-Riyad, al-Maqri, vol.3, p.61.

<sup>6</sup> The same reference, vol.3, p.64.

<sup>7</sup> The same reference, vol.3, p.62.

<sup>8</sup> al-A'lam, al-Zarkali, vol.6, p.230.

The imam Abu Abdullah Muhammad bin Ali bin Umar al-Tamimi al-Mazari residing in Mahdia<sup>1</sup> : From the teachers of Ifriqiya, the last of those independent in verifying jurisprudence and the rank of ijtihad and precision of consideration, the hadith scholar, author of "al-Mu'allim fi Sharh Muslim" he was one of the great imams of his time, died in the year 536 AH<sup>2</sup> .

Abu al-Walid Hisham bin Ahmad bin Hisham al-Hilali, known as Ibn Baqwa<sup>3</sup> : And it is said Ibn Baqwah, from the people of Granada, its judge and mufti, the imam, the jurist, the narrator, the hadith scholar, the knowledgeable, the great, the virtuous, died in the year 530 AH<sup>4</sup> .

Judge Abu Abdullah Muhammad bin Abd al-Rahman bin Ali bin Sa'id bin Abdullah bin Shubrin<sup>5</sup> : He was from the people of knowledge, acquaintance, and understanding, knowledgeable in principles and branches, died in the year 503 AH<sup>6</sup> .

Abu Muhammad Abdullah bin al-Sayyid al-Batalyawsi<sup>7</sup> : The famous imam, jurist of Cordoba and its imam, he was knowledgeable in literatures and languages, proficient in them, advanced in knowing and mastering them, died in the year 521 AH<sup>8</sup> .

The imam Abu Bakr Muhammad bin al-Walid bin Muhammad bin Khalf bin Sulayman bin Ayyub al-Fihri known as al-Turtushi<sup>9</sup> : He advanced in jurisprudence in doctrine and disa-

---

<sup>1</sup> al-Ghunyah, al-Qadi Iyad, p.65.

<sup>2</sup> Shadharaat al-Dhahab fi Akhbar man Dhahab, Abd al-Hayy bin Ahmad bin Muhammad Ibn al-Imad al-Akri al-Hanbali, Abu al-Falah, edited by: Mahmud al-Arna'ut, Dar Ibn Kathir Damascus – Beirut, 1st ed., 1986 CE, vol.6, p.186.

<sup>3</sup> Azhar al-Riyad, al-Maqri , vol.3, p.154.

<sup>4</sup> Shajarat al-Nur al-Zakiyyah, Muhammad bin Salim Makhluaf, vol.1, p.149.

<sup>5</sup> Azhar al-Riyad, al-Maqri , vol.3, p.155.

<sup>6</sup> al-Silah, Ibn Bashkuwal, p.538.

<sup>7</sup> Azhar al-Riyad, al-Maqri , vol.3, p.160.

<sup>8</sup> Wafayat al-A'yan, Ibn Khallikan, vol.3, p.96.

<sup>9</sup> al-Ghunyah, al-Qadi Iyad, p.62.

greement and in principles and the science of monotheism and attained imamate and taught there and adhered to asceticism and withdrawal and contentment with the distance of his fame and the greatness of his presidency, died in the year 520 AH<sup>1</sup> .

#### 1.4. His Death

After a life full of knowledge, teaching, judiciary, and authorship, Judge Iyadh died on the night of Friday the ninth of Jumada al-Thani in the year 544 AH<sup>2</sup> and his death was not in his town Ceuta, but he died, may God have mercy on him, in the city of Marrakesh, Ibn Bashkuwal said "And he died, may God have mercy on him, in Marrakesh exiled from his homeland in the middle of the year five hundred and forty-four"<sup>3</sup> .

And there is disagreement on the cause of his death on several sayings:

It was said he died due to a short illness that afflicted him shortly before his death. And it was said he died poisoned: a Jew poisoned him<sup>4</sup> .

And it was said he died suddenly on the day Imam al-Ghazali invoked against him, when he heard that he issued a fatwa to burn the book "al-Ihya'", and this saying is not correct because al-Ihya' was burned in the year 503 AH, and al-Ghazali died, may God have mercy on him, in the year 505 AH, while the Judge died after that by thirty-nine years, in the year 544 AH, and the correct is that the one who issued the fatwa for

---

<sup>1</sup> al-A'lam, al-Zarkali, vol.7, p.133.

<sup>2</sup> See: Tadhkirat al-Huffaz, al-Dhahabi, vol.4, p.69; Tabaqat Ulama' al-Hadith, Abu Abdullah Muhammad al-Salihi, edited by: Akram al-Bushi, Ibrahim al-Zaybaq, Mu'assasat al-Risalah li al-Tiba'ah wa al-Nashr wa al-Tawzi', Beirut – Lebanon 2nd ed. 1996 CE, vol.4, p.81; al-Istiqsa li Akhbar Duwal al-Maghrib al-Aqsa, Shihab al-Din Abu al-Abbas Ahmad bin Khalid al-Nasiri, Ja'far al-Nasiri/ Muhammad al-Nasiri, Dar al-Kitab - Casablanca, vol.2, p.75.

<sup>3</sup> al-Silah, Ibn Bashkuwal, p.429.

<sup>4</sup> al-A'lam, al-Zarkali, vol.5, p.99.

that is Judge Abu al-Qasim Ibn Hamdin, may God have mercy on him<sup>1</sup> .

## 2. Introduction to the Book *Ikmal al-Mu'allim*

### 2.1. The Name of the Book and Its Attribution to Its Author

Judge Iyadh mentioned the naming of his book in its introduction, and that he chose a name for this book that shows its subject through its title, and the name of the book carried recognition of the favor of those before him so he named it "*Ikmal al-Mu'allim bi-Fawa'id Muslim*", and this choice by the Judge was judging on the difference in naming, unlike what came in the difference of naming "*al-Mu'allim*"; and there is another name that came for this book which is "*Ikmal al-Mu'allim fi Sharh Muslim*"<sup>2</sup> ; however, the intent is to explain the subject of the book and the field of its study.

As for its attribution to Judge Iyadh, it is a matter of consensus of the sources on attributing the book *Ikmal al-Mu'allim* to him, may God have mercy on him, and connected chains came for some scholars proving that<sup>3</sup> .

### 2.2. Its Subject

The subject of the book and its field appear through its title as it is a commentary on the authentic collection of Imam Mus-

---

<sup>1</sup> Dawlat al-Islam fi al-Andalus, Muhammad Abdullah Inan the Egyptian historian Maktabat al-Khanji, Cairo, vol.3, p.416.

<sup>2</sup> al-Dibaj al-Mudhahhab, Ibn Farhun, vol.2, p.48; al-Ihatah fi Akhbar Gharnatah, Ibn al-Khatib, vol.4, p.193; Tabaqat al-Mufasssirin, Muhammad bin Ali bin Ahmad, Shams al-Din al-Dawudi al-Maliki, Dar al-Kutub al-Ilmiyyah Beirut, 1st ed.1983 CE, vol.2, p.23.

<sup>3</sup> Fahasat Ibn Khayr al-Ishbili, Ibn Khayr al-Ishbili, edited by: Bashshar Awwad Ma'ruf - Mahmud Bashshar Awwad, Dar al-Gharb al-Islami Tunis, 1st ed., 2009 CE.

lim bin al-Hajjaj, and also a completion of the efforts of those who preceded him, and the matter concerns:

- Al-Mazari and his book "al-Mu'allim" as he completed his commentary on the hadith<sup>1</sup> .
- And al-Jayyani and his book "Taqyid al-Muhmal" as he completed some of the defects occurring in the chains and mentioned some names that fell with al-Jayyani<sup>2</sup> .

So Judge Iyadh worked on completion in the chains and commentaries and collecting benefits, and each of them authorized the Judge in his book<sup>3</sup> .

### **2.3. The Status of al-Ikmal in the Commentaries on Sahih Muslim**

The book "Ikmal al-Mu'allim" by Judge Iyadh is considered one of the most important commentaries on Sahih Muslim, as no jurist or scholar or student of knowledge can dispense with it, and it became famous and its fame spread in the entire Islamic world and evidence of that:

\*The spread of its narration with chains and the interest of scholars in teaching it in various parts of the earth<sup>4</sup> .

\*The abundance of manuscript copies (six copies) in the horizons of the Islamic world in each of Turkey, Dublin, Mecca, al-Azhar, Riyadh, and the Umm al-Qura copy photographed from the Rabat copy<sup>5</sup> .

\*The book "Ikmal al-Mu'allim" was the reason for the appearance of a number of commentaries as they followed its path and proceeded on its method, and completed his book and from that we mention:

---

<sup>1</sup> Ikmal al-Mu'llim, al-Qadi Iyad, vol.1, p.72.

<sup>2</sup> The same reference, p.71.

<sup>3</sup> al-Ghunyah, al-Qadi Iyad, p.(65 ,35).

<sup>4</sup> Fahrasat Ibn Khayr al-Ishbili, Abu Bakr Ibn Khayr, p.165.

<sup>5</sup> Ikmal al-Mu'llim, al-Qadi Iyad, vol.1, p.(54 ,53 ,52 ,51).

1-"Ikmal al-Ikmal" Muhammad bin Ibrahim bin Muhammad Abu Abdullah al-Yaquri who died in the year 707 AH<sup>1</sup> .

2-"Ikmal al-Ikmal" for Isa bin Mas'ud bin Mansur bin Yahya bin Yunus bin Abdullah bin Abi al-Hajj died 744 AH<sup>2</sup> .

3-" Ikmal al-Ikmal" for Muhammad bin Khalifah bin Umar al-Washtati al-Abbi who died in the year 828 AH<sup>3</sup> .

4-" Mukmil Ikmal al-Ikmal " for Muhammad bin Yusuf al-Sanusi who died in the year 895 AH<sup>4</sup> .

### 3. The Sale of Option with Judge Iyadh in Ikmal al-Mu'allim

The sale of option is one of the widespread and customary sales, and the Judge in his commentary on Sahih Muslim addressed this type, but in our research we shed light on what the Judge had in it as a jurisprudential choice.

#### Definition of Option

**Option linguistically:** Option is the noun from choice, and it is seeking the better of two matters<sup>5</sup> .

**Terminologically:** It is the sale in which one of the parties has the right to leave it or retract in it during a specified period either to proceed with the sale or cancel it<sup>6</sup> .

And conditional option: That the two contracting parties or one of them stipulates the option until a known period<sup>1</sup> .

---

<sup>1</sup> al-Muqaffa al-Kabir, Taqi al-Din al-Maqrizi, edited by: Muhammad al-Ya'lawi, Dar al-Gharb al-Islami, Beirut Lebanon, 2nd ed., 2006 CE, vol.5, p.36.

<sup>2</sup> A'yan al-Asr wa A'wan al-Nasr, Salah al-Din al-Safadi, vol.3, p.723; al-A'lam, al-Zarkali, vol.5, p.109.

<sup>3</sup> Tarajim al-Mu'allifin al-Tunisiyyin, Muhammad Mahfuz, Dar al-Gharb al-Islami, Beirut Lebanon, 2nd ed. 1994 CE, vol.1, p.37.

<sup>4</sup> al-A'lam, al-Zarkali, vol.7, p.154.

<sup>5</sup> Lisan al-Arab, Ibn Manzur, vol.4, p.267.

<sup>6</sup> See: Mawsu'at al-Fiqh al-Islami, Muhammad bin Ibrahim bin Abdullah al-Tuwayjiri, Bayt al-Afkar al-Dawliyyah, 1st ed. 2009 CE, vol.3, p.456.

### 3.1. The Issue of the Ruling on Conditional Option

Conception of the Issue: The jurists differed on the ruling of conditional option which is that one of the contractors or both stipulates the option on two sayings so there are those who prohibited it and those who permitted it.

#### 3.1.1. *Sayings of the First School and Their Evidences*

- Sayings of the First School: Not permissible and with it said Ibn Abi Shubrumah<sup>2</sup>, and the Zahiris<sup>3</sup>.
- Their Evidences:

First from the Sunnah:

That it is risk, and the Messenger of God, peace be upon him, prohibited the sale of risk from Abu Hurayrah, may God be pleased with him, said: "The Messenger of God, peace be upon him, prohibited the sale of pebbles, and the sale of risk"<sup>4</sup> as for the aspect of risk in it; because he does not know whether the sale will be completed or decreased? And when will it be completed? And this is gross ignorance<sup>5</sup>.

The hadith of Abu Qilabah: "From Abu Qilabah, Anas said: The Messenger of God, peace be upon him, passed by the people of al-Baqi', so he said: 'O people of al-Baqi'" they raised their

---

<sup>1</sup> Mawsu'at al-Fiqh al-Islami, Muhammad bin Ibrahim bin Abdullah al-Tuwayjiri, Bayt al-Afkar al-Dawliyyah, 1st ed., 2009 CE, vol.3, p.458.

<sup>2</sup> See: Bidayat al-Mujtahid wa Nihayat al-Muqtasid, Abu al-Walid Muhammad bin Rushd, edited by: Majid al-Hamawi, Dar Ibn Hazm Beirut, 2nd ed. 2012 CE, vol.3, p.1189.

<sup>3</sup> al-Muhalla bi al-Athar, Abu Muhammad Ali bin Ahmad bin Sa'id bin Hazm al-Andalusi al-Qurtubi al-Zahiri, Dar al-Fikr Beirut, vol.7, p.268

<sup>4</sup> Narrated by Muslim, Book of Sales, Chapter on the Invalidity of the Sale of Pebbles and the Sale Involving Gharar, Hadith No. 1513, vol.3, p.1153.

<sup>5</sup> al-Aziz Sharh al-Wajiz al-Ma'ruf bi al-Sharh al-Kabir, Abd al-Karim bin Muhammad bin Abd al-Karim, Abu al-Qasim al-Rafi'i al-Qazwini, edited by: Ali Muhammad Awada - Adil Ahmad Abd al-Mawjud, Dar al-Kutub al-Ilmiyyah, Beirut - Lebanon, 1st ed. 1997 CE, vol.4, p.184.

heads, so he said: 'O people of al-Baqi' do not separate two sellers except with satisfaction"<sup>1</sup> . -

And the hadith of Abu Hurayrah "Do not separate two except with mutual consent"<sup>2</sup> ; and if the condition is still in place despite their separation, it indicates lack of satisfaction. - Conditional option enters into the hadith of the Prophet, peace be upon him: "Every condition that is not in the Book of God is invalid"<sup>3</sup> so the mentioned condition must be invalid, and if it is invalid, then every contract that is not validated except by the validity of what is not valid, then it has no validity without doubt, so the sale that was contracted on the condition of option must be invalid<sup>4</sup> .

The aspect of argumentation with the hadiths: That these hadiths contradict the requirement of conditional option, so conditional option does not make the sale complete with the satisfaction of the contractors. Second: The owners of this saying also argued with the rule saying "The origin in conditions is

---

<sup>1</sup> Narrated by al-Bayhaqi, al-Sunan al-Kubra, Abu Bakr al-Bayhaqi, edited by: Muhammad Abd al-Qadir Ata, Dar al-Kutub al-Ilmiyyah, Beirut, 3rd ed. 2003 CE, Book of Sales, Chapter on the Two Parties to the Sale Have the Option as Long as They Do Not Separate Except the Sale of Option, Hadith No.10446, vol.5, p.445; Mursal and its men are trustworthy, see: Anis al-Sari fi Takhrij wa Tahqiq al-Ahadith allati Dhakaraha al-Hafiz Ibn Hajar al-Asqalani fi Fath al-Bari, Abu Hudhayfah, Nabil bin Mansur bin Ya'qub bin Sultan al-Bisara al-Kuwaiti, edited by: Nabil bin Mansur bin Ya'qub al-Bisara, Mu'assasat al-Samahah, Mu'assasat al-Rayyan, Beirut – Lebanon, 1st ed.,2005 CE, vol.9, p.6411..

<sup>2</sup> Narrated by Abu Dawud, al-Sunan, Book of Sales, Chapter on the Option of the Two Parties to the Sale, Hadith No.3458, vol.5, p.327, Sahih Hadith, see: Irwa' al-Ghalil, al-Albani, vol.5, p.126.

<sup>3</sup> Narrated by Ibn Majah, Sunan Ibn Majah, Abu Abdullah Muhammad bin Yazid al-Qazwini Ibn Majah, edited by: Shu'ayb al-Arna'ut, Adil Murshid, Muhammad Kamil Qarah Ballali, Abd al-Latif Hirz Allah, Dar al-Risalah al-Alamiyyah Damascus, 1st ed. 2009 CE, Chapter on the Mukatab, Hadith No.2521, vol.3, p.563, Sahih, see: Irwa' al-Ghalil, al-Albani, vol.5, p.152.

<sup>4</sup> See: al-Muhalla, Ibn Hazm, vol.7, p.270.

prohibition and invalidity<sup>1</sup> . Except what evidence came on its permissibility and validity from the Book or Sunnah<sup>2</sup> .

Third from the rational:

The condition of option opposes the requirement of the contract. Because its requirement is obligation, and the condition of option makes it non-obligatory. And every condition that opposes the requirement of the contract is invalid<sup>3</sup> .

### ***3.1.2. Sayings of the Second School and Their Evidences***

- Sayings of the Second School: Permissible and it is the saying of the majority<sup>4</sup> .
- The Evidences:

First from the Sunnah:

The hadith of Habban bin Munqidh: "From Ibn Umar said: Habban bin Munqidh was a weak man, and he had been struck on his head with a wound, so the Messenger of God, peace be upon him, made for him the option in what he bought three, and his tongue had become heavy, so the Messenger of God,

---

<sup>1</sup> Sharh al-Qawa'id al-Sa'diyyah, Abd al-Muhsin bin Abdullah bin Abd al-Karim al-Zamil, Dar Atlas al-Khadra' li al-Nashr wa al-Tawzi', Riyadh Kingdom of Saudi Arabia, 1st ed., 2001 CE, p.174.

<sup>2</sup> al-Mu'amalat al-Maliyyah Asalah wa Mu'asarah, Abu Umar DUBYAN bin Muhammad al-DUBYAN, 2nd ed., 1432 AH, vol.5, p.216.

<sup>3</sup> Tabayyin al-Haqa'iq Sharh Kanz al-Daqa'iq wa Hashiyat al-Shilbi, Uthman bin Ali bin Mihjan al-Bari', Fakhr al-Din al-Zayla'i al-Hanafi, the marginal note: Shihab al-Din Ahmad bin Muhammad bin Ahmad bin Yunus bin Ismail bin Yunus al-Shilbi Publisher: al-Matba'ah al-Kubra al-Amiriyyah - Bulaq, Cairo, 1st ed., 1313 AH, vol.5, p.156.

<sup>4</sup> See: al-Mudawwanah, Malik bin Anas, vol.3, p.206 and al-Mabsut, al-Sarakhsi, vol.13, p.17 and Minhaj al-Talibin wa Umdat al-Muftin fi al-Fiqh, Abu Zakariya Muhyi al-Din Yahya bin Sharaf al-Nawawi, edited by: Awad Qasim Ahmad Awad, Dar al-Fikr, 1st ed. 2005 CE, p.99 and al-Kafi fi Fiqh al-Imam Ahmad, Ibn Qudamah al-Maqdisi, Dar al-Kutub al-Ilmiyyah, 1st ed., 1994 CE, vol.2, p.26.

peace be upon him, said to him: 'Sell and say: No deception'. And I used to hear him say: No deception no deception. And he would buy the thing and bring it to his family, so they would say: This is expensive. He would say: Indeed, the Messenger of God, peace be upon him, gave me option in my sale"<sup>1</sup> and deception is deceit by concealing a defect in it or saying it is worth more than its value. So the Messenger, peace be upon him, permitted Habban bin Munqidh to stipulate the option in his sale to ward off harm from him, and this indicates the permissibility of stipulating the option in the sale<sup>2</sup> .

The hadith of Ibn Umar: "That the Messenger of God, peace be upon him, said: 'The two sellers each of them has the option over his companion as long as they do not separate, except the sale of option"<sup>3</sup> ; and this hadith indicates the permissibility of the sale of option, al-Baji said, may God have mercy on him: "His saying: They have the option as long as they do not separate, so there is no option between them after separation except in the sale of option, as if he said: The ruling of the sale is obligation upon the contract except the sale in which the option is stipulated, so the option is established in it according to what is stipulated"<sup>4</sup> .

---

<sup>1</sup> Narrated by al-Bayhaqi, al-Sunan al-Kubra, Book of Sales, Chapter on the Proof that It Is Not Permissible to Condition the Option in the Sale, Hadith No.10458, vol.5, p.449, Hasan Hadith, see: Silsilat al-Ahadith al-Sahihah wa Shay' min Fiqhiha wa Fawa'idhiha, Nasir al-Din al-Albani, Maktabat al-Ma'arif li al-Nashr wa al-Tawzi', Riyadh, 1st ed., vol.6, p.882.

<sup>2</sup> al-Mu'amalat al-Maliyyah Asalah wa Mu'asarah, Abu Umar Dubyan bin Muhammad al-Dubyan, vol.6, p.193.

<sup>3</sup> Narrated by Muslim, Book of Sales, Chapter on Establishing the Option of the Assembly for the Two Parties to the Sale, Hadith No. 1531, vol.3, p.1163

<sup>4</sup> al-Muntaqa Sharh al-Muwatta', Abu al-Walid Sulayman bin Khalaf bin Sa'd bin Ayyub bin Warith al-Tujaybi al-Qurtubi al-Baji al-Andalusi, Matba'at al-Sa'adah - next to the Governorate of Egypt, 1st ed. 1332 AH, vol.5, p.55.

The aspect of argumentation with the hadiths: All the hadiths in this chapter are explicit clear in indicating the establishment of the option in the hadith of Habban bin Munqidh and Ibn Umar.

Second from Istishab: The origin in conditions is validity and permissibility except what came a text prohibiting its stipulation, and that what is presumed in them is permissibility and lack of prohibition, and likewise they are valid by entailing their effects and results, and none of them is prohibited, or invalidated except by a religious evidence that prohibits that or invalidates it, so if evidence is established prohibiting it changes this presumption, so the established origin and the consistent rule in conditions is that they are permissible, and every condition is valid that the legislator did not bring what indicates its prohibition<sup>1</sup> .

### ***3.1.3. The Choice of the Judge***

Judge Iyadh saw that the sale of option is permissible, he said, may God have mercy on him, in *Ikmal al-Mu'allim* "And the sale of option with us is permissible"<sup>2</sup> .

### ***3.1.4. The Preference***

Through the evidences it appears that the choice of the Judge was correct as the hadiths are explicit in the permissibility of the option, as for their rejection of the hadith of Munqidh bin Habban that it is not authentic, it is established that it is a good hadith<sup>3</sup> ; it is valid to argue with it, and their rejection of the hadith of Kathir bin Yazid, because it is discarded by agree-

---

<sup>1</sup> See: *al-Qawa'id al-Fiqhiyyah wa Tatbiqatiha fi al-Madhahib al-Arba'ah*, Muhammad Mustafa al-Zuhayli, Dar al-Fikr Damascus, 1st ed. 2006 CE, vol.2, p.833.

<sup>2</sup> *Ikmal al-Mu'lim*, al-Qadi Iyad, vol.5, p.147.

<sup>3</sup> See: *Silsilat al-Ahadith al-Sahihah wa Shay' min Fiqhiha wa Fawa'iduha*, Nasir al-Din al-Albani, vol.6, p.882.

ment, so it is not authentic<sup>1</sup>, and the saying of those who prohibit the sale of option is discussed on the pretext that it is risk, that their argument is not correct, because conditional option is only permissible for the need to ward off deceit by deliberation, **as for their saying that the hadith is specific to Habban bin Munqidh, it is answered that** this is not correct as there is no one specified with a ruling from the rulings, and also that specificity is not established by mere possibility, but it must be specified<sup>2</sup>, and the ruling is related to the generality of his saying, peace be upon him: "The two contracting parties have the option as long as they do not separate except the sale of option" so everyone enters into that, so its generality requires the permissibility of this except what exited by evidence<sup>3</sup>, as for the hadith "Every condition that is not in the Book of God is invalid" the intent by it is the condition opposing the Book of God i.e. a prohibited condition, and it is what is clarified by the hadith "The Messenger of God, peace be upon him, said: The believers are at their conditions except a condition that makes lawful what is unlawful or makes unlawful what is lawful", and it is answered about the rule by which Ibn Hazm argued that it is not conceded and it is "The origin in conditions is prohibition and invalidity", because the majority are on the contrary so the rule with them is that the origin in contracts and conditions by which people stand is permissibility and allowance<sup>4</sup>; and God Almighty is higher and more knowledgeable.

---

<sup>1</sup> The same reference, vol.3, p.285

<sup>2</sup> See: al-Mu'amalat al-Maliyyah Asalah wa Mu'asarah, Abu Umar Dubyan bin Muhammad al-Dubyan, Maktabat al-Malik Fahd al-Wataniyyah, Riyadh, 2nd ed. 2013 CE, vol.6, p.194.

<sup>3</sup> Sharh al-Talqin, al-Mazari, vol.2, p.557.

<sup>4</sup> See: al-Qawa'id al-Fiqhiyyah wa Tatbiqatiha fi al-Madhahib al-Arba'ah, Muhammad Mustafa al-Zuhayli, vol.2, p.815.

## 3.2. The Issue of the Duration of the Option

Conception of the Issue: And this issue is in conditional option which is that one of the contractors or both stipulates the option for himself in canceling the contract or proceeding with it during a period by which his commodity becomes clear, and this period the jurists differed in determining it on three sayings.

### 3.2.1. Sayings of the First School and Their Evidences

- Sayings of the First School: No increase in it over three days, and it is the saying of Abu Hanifah<sup>1</sup> , and al-Shafi'i<sup>2</sup> , and it is a saying with the Malikis<sup>3</sup> .
- The Evidences:

First from the Sunnah:

The hadith of Habban bin Munqidh: "From Ibn Umar, said: I heard a man from the Ansar and there was a lisp in his tongue complaining to the Messenger of God, peace be upon him, that he is always deceived in sale, so the Messenger of God, peace be upon him, said to him: 'When you contract say no deception then you have the option in every commodity you buy three

---

<sup>1</sup> See: al-Asl, Muhammad bin al-Hasan bin Farqad al-Shaybani edited by: Dr. Muhammad Boynukalin, Dar Ibn Hazm Beirut, 1st ed. 2012 CE, vol.2, p.457, al-Mabsut, al-Sarakhsi, vol.13, p.41; al-Inayah Sharh al-Hidayah, Muhammad al-Babarti, Dar al-Fikr, vol.6, p.304.

<sup>2</sup> See: Mukhtasar al-Muzani, Ismail al-Muzani, vol.8, p.173, al-Umm

<sup>3</sup> See: Manahij al-Tahsil wa Nata'ij Lata'if al-Ta'wil fi Sharh al-Mudawwanah wa Hall Mushkilatiha, al-Rajraji, vol.6, p. 377 and al-Talqin fi al-Fiqh al-Maliki, Abu Muhammad Abd al-Wahhab bin Ali bin Nasr al-Tha'labi al-Baghdadi al-Maliki edited by: Abi Uways Muhammad Bu Khubzah al-Hasani al-Tatwani, Dar al-Kutub al-Ilmiyyah, 1st ed. 2004 CE, vol.2, p.143.

nights, if you are satisfied keep it and if you are displeased return it"<sup>1</sup>.

The aspect of argumentation with the hadith: The origin is that the option is not permissible then excepted from it what came in the text so this option is legislated as an exception to ward off deceit from people so the option is a license excepted from the non-permissible principles, like al-araya excepted from al-muzabanah, so the license must be in its place and with its descriptions i.e. by specifying three days only without increase on it, so it is restricted to the place of the text, and the text made the period three days, so it is not increased on, and because the need is realized by the three mostly; as for the increase on the three it corrupts the sale because it is a condition opposing the requirement of the contract and the Sharia came in three days<sup>2</sup>.

And their main reliance also in determining the duration of the option, with the hadith of the milked one "From Abu Hurayrah, that the Prophet, peace be upon him, said: 'Whoever buys a milked sheep has the option three days'<sup>3</sup>.

---

<sup>1</sup> Narrated by al-Bayhaqi, al-Sunan al-Kubra, Book of Sales, Chapter on the Proof that It Is Not Permissible to Condition the Option in the Sale More Than Three Days, Hadith No. 10459, vol.5, p.449.

<sup>2</sup> See: Tuhfat al-Fuqaha', Muhammad bin Ahmad bin Abi Ahmad, Abu Bakr Ala' al-Din al-Samarqandi, Dar al-Kutub al-Ilmiyyah, Beirut, 2nd ed., 1994 CE, vol.2, p.66.

<sup>3</sup> Narrated by Muslim in Book of Sales, Chapter on the Ruling of Selling the Milked Animal, Hadith No.1524, vol.3, p.1158, and Musnad al-Imam Ahmad bin Hanbal, Abu Abdullah Ahmad bin Muhammad bin Hanbal, edited by: Shu'ayb al-Arna'ut and Adil Murshid, and others Mu'assasat al-Risalah Beirut, 1st ed., 2001 CE, Hadith (9397), vol.15, p.232, and Sunan Abi Dawud, Abu Dawud Sulayman bin al-Ash'ath bin Ishaq bin Bashir bin Shaddad bin Amr al-Azdi al-Sijistani, edited by: Shu'ayb al-Arna'ut - Muhammad Kamil Qarah Ballali, Dar al-Risalah al-Alamiyyah Damascus, 1st ed., 2009 CE, Chapter on Whoever Buys a Milked Animal and Dislikes It, Hadith(3444)vol.5, p.317.

### 3.2.2. *Sayings of the Second School and Their Evidences*

- Sayings of the Second School: The option is permissible with any period stipulated and it is the saying of Abu Yusuf<sup>1</sup> .
- The Evidences:

First from the Book:

He Almighty said: “ ”<sup>2</sup> , so the origin in this verse is that the ruler is what was agreed upon, so the option is permissible more than three if agreed on that<sup>3</sup> .

Second from the Sunnah:

The hadith of the Prophet, peace be upon him: "From Abu Hurayrah, that the Messenger of God, peace be upon him, said: 'The Muslims are at their conditions'<sup>4</sup> ; and because this period is attached to the contract, so whatever they agreed on is permissible like the term<sup>5</sup> .

---

<sup>1</sup> al-Asl, Muhammad bin al-Hasan al-Shaybani, vol.2, p.458.

<sup>2</sup> Surah al-Ma'idah 1.

<sup>3</sup> Sharh al-Zarkashi ala Mukhtasar al-Kharqi, Shams al-Din Muhammad bin Abdullah al-Zarkashi al-Misri al-Hanbali, Dar al-Ubaykan, 1st ed. 1993 CE, vol.3, p.402.

<sup>4</sup> Narrated by Abu Dawud in al-Sunan, Chapter on Reconciliation, Hadith No.3594, vol.5, p.446, and al-Bayhaqi in al-Sunan al-Saghir, Ahmad bin al-Husayn bin Ali bin Musa al-Khusrawjirdi al-Khurasani, Abu Bakr al-Bayhaqi, edited by: Abd al-Mu'ti Amin Qal'aji, Jami'at al-Dirasat al-Islamiyyah, Karachi – Pakistan, 1st ed., 1989 CE, in Chapter on Partnership, Hadith (2105) vol.2, p.307, and al-Albani said about it: Sahih Hadith, see: Irwa' al-Ghalil fi Takhrij Ahadith Manar al-Sabil, Muhammad Nasir al-Din al-Albani, al-Maktab al-Islami Beirut Lebanon, 2nd ed. 1985 CE, Chapter on Conditions in Sale, Hadith(1303), vol.5, p.142.

<sup>5</sup> Sharh al-Zarkashi, Shams al-Din Muhammad bin Abdullah al-Zarkashi, vol.3, p.402.

### 3.3. Sayings of the Third School and Their Evidences

- Sayings of the Third School: It has no limit even if they did not stipulate that, and with it said Malik<sup>1</sup> .
- The Evidences:

First from the Sunnah:

"From Nafi', from Ibn Umar, that the Messenger of God, peace be upon him, said: The two sellers each of them has the option over his companion as long as they do not separate except the sale of option"<sup>2</sup>

The aspect of argumentation: So this hadith indicates the permissibility of the absolute sale of option and the restricted, and the absolute is the one silent about specifying the duration of the option and the restricted what specified the term of the option in it<sup>3</sup> .

Second from the rational: What is understood from the choice is choosing the sold item, so it must be specified by a time in which he chooses and knows his commodity, commodities differ so every commodity needs a period, the period according to the need to know the commodity so there are commodities that need a day or two days, and there are those

---

<sup>1</sup> See: al-Muwatta', Malik bin Anas al-Asbahi, verified by: Muhammad Mustafa al-A'zami, Mu'assasat Zayd bin Sultan Al Nahyan li al-A'mal al-Khayriyyah wa al-Insaniyyah - Abu Dhabi - UAE, 1st ed., 2004 CE, vol.4, p.968; and al-Tabsirah, al-Lakhmi edited by: Dr. Ahmad Abd al-Karim Najib, Wizarat al-Awqaf wa al-Shu'un al-Islamiyyah, Qatar, 1st ed. 2011 CE; and al-Istidhkar, Ibn Abd al-Barr, vol.6, p.684; and Bidayat al-Mujtahid wa Nihayat al-Muqtasid, Ibn Rushd, vol.3, p.1190.

<sup>2</sup> Previously extracted, p.60.

<sup>3</sup> Sahih Muslim ma' Sharhihi Ikmal Ikmal al-Mu'lim wa Sharhihi Mukmil Ikmal al-Ikmal, al-Imam Muhammad bin Khalifah al-Wushtani al-Abi and al-Imam Muhammad bin Muhammad al-Sanusi al-Hasani, Dar al-Kutub al-Ilmiyyah Lebanon, ed.2008 CE, Book of Sales, Chapter on Establishing the Option of the Assembly for the Two Parties to the Sale, Hadith No.43, p.351.

known and tested a week, and there are those determined by the month.

### ***3.3.1. The Choice of the Judge***

Judge Iyadh, may God have mercy on him, took the third saying which is that the duration of the option has no limit, the Judge said in his book *Ikmal al-Mu'allim* : "And the sale of option with us is permissible, whether a term is set for it or not and the ruler sets for the sold item from the term what is tested in it like them"<sup>1</sup> ; and his saying also "And the opponents made this wording a principle in setting the term of the option"<sup>2</sup> so his saying "the opponents" in it indicates his opinion of not specifying a term for the option, and describing the opinion of those who made a term for it with his saying "the opponent", and he explicitly states that in *al-Tanbihat* saying: "And it has no limit with us and no amount that must be except by the ruling of the commodity that needs the option from thorough investigation about it"<sup>3</sup> .

### ***3.3.2. The Preference***

Through the evidences it becomes clear that the choice of the Judge was correct, for the hadith of the Prophet, peace be upon him, in excepting the sale of option saying: "The two sellers each of them has the option over his companion as long as they do not separate except the sale of option", so he was silent about the duration of the option and it was not specified by a term, as the specification by three days only came specific to Munqidh because he was deceived in sale, but the interest is in not specifying a duration for that because the sale according to what is needed from the period of looking at it and choosing it

---

<sup>1</sup> *Ikmal al-Mu'lim*, al-Qadi Iyad, vol.5, p.147.

<sup>2</sup> The same source, vol.5, p.147

<sup>3</sup> *al-Tanbihat al-Mustanbatah*, al-Qadi Iyad, vol.5, p.1238

and asking about it<sup>1</sup> , so the house needs the month and two months and testing the neighbors, and the slave girl and the slave have the week to test morals and defects and every commodity has the amount by which it is known and tested as the second hadith relied upon in specifying the duration of the option came in the milked sheep and did not come in the option specifying.

### 3.4. The Issue of Stipulating It from the Seller's Side

Conception of the Issue: After knowing the ruling of the option, in this issue we address the ruling of stipulating it from one of the contractors which is the seller, so is stipulating it from the seller's side permissible, or is it specific to the buyer? So the jurists differed on the ruling of this condition on two sayings:

#### 3.4.1. Sayings of the First School and Their Evidences

- **Sayings of the First School:** And stipulating the option for the seller and the buyer is permissible and with it said Malik<sup>2</sup> , and Judge Abd al-Wahhab<sup>3</sup> .
- The Evidences:

From the interest:

Conditional option is only permissible for the need to ward off deceit by deliberation, and the two contractors are equal in that, the seller and the buyer as long as they need the period of deliberation and knowing the commodity, and because this condition is permissible for the rule: "That the origin in con-

---

<sup>1</sup> al-Muntaqa, al-Baji, vol.5, p.56.

<sup>2</sup> al-Istidhkar, Ibn Abd al-Barr, vol.6, p.483.

<sup>3</sup> al-Talqin fi al-Fiqh al-Maliki, al-Qadi Abd al-Wahhab al-Baghdadi, vol.2, p.143

tracts and conditions is validity and permissibility<sup>1</sup> , and the evidences have concurred on the validity of this origin<sup>2</sup> .

### 3.4.2. *Sayings of the Second School and Their Evidences*

- Sayings of the Second School: Stipulating it for the seller is not permissible and if stipulated it corrupts the sale and with it said Ibn Shubrumah and al-Thawri<sup>3</sup> .
- Their Evidences:

First from the Sunnah:

" From Ibn Umar, said: Habban bin Munqidh was a weak man, and he had been struck on his head with a wound, so the Messenger of God, peace be upon him, made for him the option in what he bought three and his tongue had become heavy, so the Messenger of God, peace be upon him, said to him : 'Sell and say no deception' so I used to hear him say: No deception no deception and he would buy the thing, so he brings it to his family so they say this is expensive so he says: Indeed the Messenger of God, peace be upon him, gave me option in my sale"<sup>4</sup>,

The aspect of argumentation with the hadith: Struck : i.e.: hit, and the wound that reached the mother of the head which is the brain or the thin skin on it<sup>5</sup> , and this hadith came for the interest of the buyer and to ward off harm from him, and not for the seller.

---

<sup>1</sup> al-Qawa'id al-Fiqhiyyah wa Tatbiqatiha ala al-Madhahib al-Arba'ah, Muhammad Mustafa al-Zuhayli, vol.1, p.102.

<sup>2</sup> al-Mu'amalat al-Maliyyah Asalah wa Mu'asarah, Abu Umar Dubyan bin Muhammad al-Dubyan, Maktabat al-Malik Fahd al-Wataniyyah, Riyadh 2nd ed., 2010 CE, vol.6, p.197.

<sup>3</sup> al-Talqin fi al-Fiqh al-Maliki, al-Qadi Abd al-Wahhab al-Baghdadi, vol.2, p.535

<sup>4</sup> Previously extracted, p.62.

<sup>5</sup> Nayl al-Awtar, Muhammad bin Ali al-Shawkani al-Yamani, edited by: Issam al-Din al-Sababti, Dar al-Hadith, Egypt, 1st ed., 1413 AH, vol.5, p.218.

Second from the interest: The origin requires prohibition from the sale of option but it was licensed in it for the necessity to it. And the necessity is realized only in the buyer, because he needs to test the sold item, and the seller has no need for testing, so if he has no need for this purpose, he must be prevented from it, for the removal of the cause of the license in his right<sup>1</sup>.

### 3.4.3. *The Choice of the Judge*

Judge, may God have mercy on him, saw that it is not permissible for the seller to stipulate the option, he said in his book *Ikmal al-Mu'allim*: " And stipulating it for the seller is not permissible if stipulated the sale is corrupted"<sup>2</sup>.

### 3.4.4. *The Preference*

Through the evidences it becomes clear that the opinion of the Judge was correct, and that for the hadith of Munqidh, so this hadith licensed the condition for the buyer without the seller, as he is the one meant by the option and by testing and examining the commodity, as it is strange to him and he is ignorant of it, as the necessity requires that the buyer tests his commodity, unlike the seller as his entry to the market, and offering his commodity for sale is considered approval to sell it, and remains the agreement on the price, otherwise it becomes retraction in his sale, and God knows best.

---

<sup>1</sup> See: *Bidayat al-Mujtahid wa Nihayat al-Muqtasid*, Ibn Rushd, vol.3, p.1189, and *al-Talqin fi al-Fiqh al-Maliki*, al-Qadi Abd al-Wahhab al-Baghdadi, vol.2, p.535

<sup>2</sup> *Ikmal al-Mu'lim*, vol.5, p.160.

## Conclusion:

We conclude at the end of this research that Judge Iyadh was a prominent jurist in the Maliki school, and his book *Ikmal al-Mu'allim* is one of the books that concern jurisprudence and its chapters and among them what we addressed the sale of option, and we can make what was extracted in the following results:

- 1) The scientific status of Judge Iyadh and the height of his heel in various fields, such as the science of jurisprudence, principles, hadith, biographies, and morals, as he is from the teachers of the school to whom reference is made.
- 2) The scientific status of *Ikmal al-Mu'allim* among the commentaries on hadith, as it is one of the best commentaries on Muslim and that for its linguistic, jurisprudential, and principled benefits.
- 3) The book *Ikmal al-Mu'allim*, consists of two parts, a part in which he completed the commentary of "al-Mu'allim" by al-Mazari, and a part in which he completed "Taqyid al-Muhmal" by al-Jayyani.
- 4) Through this study it becomes clear that Judge Iyadh, may God have mercy on him, was not an imitator but revolved with the evidence wherever it revolved, and despite his following of Malik's principles he opposed Malik and the Malikis in many issues.
- 5) It becomes clear from this study, the abundance of the jurisprudence of Judge Iyadh and that appears by presenting the jurisprudential issues and studying them comparatively, and reviewing the sayings sometimes from within the school and other times with sayings from other schools.

- 6) Through this study it becomes clear that Judge Iyadh - may God have mercy on him- was not an imitator, but revolved with the evidence wherever it revolved, and despite his following of Malik's principles -may God have mercy on him- he opposed Malik and the Malikis in many issues.
- 7) Judge, may God have mercy on him, saw that it is not permissible for the seller to stipulate the option.
- 8) Judge Iyadh, may God have mercy on him, took that the duration of the option has no limit.
- 9) Judge Iyadh saw that the sale of option is permissible and it is the saying of the majority.

### List of Sources and References:

1. Biographies of the Nobles for Shams al-Din Muhammad bin Ahmad bin Uthman al-Dhahabi, investigation: a group of investigators under the supervision of Shu'ayb al-Arna'ut, al-Risalah Foundation Beirut, third edition 1985 AD.
2. Al-Dibaj al-Mudhahhab in Knowing the Notables of the School's Scholars, for Ibn Farhun, investigation: Muhammad al-Ahmadi Abu al-Nur, Dar al-Turath for Printing and Publishing Cairo.
3. Deaths of the Notables and News of the Sons of Time, for Abu al-Abbas Shams al-Din Ahmad bin Muhammad bin Abi Bakr bin Khallikan, investigation: Ihsan Abbas, Dar Sader Beirut.
4. Reminder of the Memorizers, for Shams al-Din Abu Abdullah Muhammad bin Ahmad bin Uthman bin Qaymaz al-

- Dhahabi, Dar al-Kutub al-Ilmiyyah Beirut, first edition, 1998 AD.
5. Flowers of the Gardens in the News of Judge Iyadh, for Shihab al-Din Ahmad bin Muhammad bin Ahmad bin Yahya, Abu al-Abbas al-Maqqari al-Tilmisani investigation: Mustafa al-Saqa, Ibrahim al-Ibyari, Abd al-Azim Shalabi, Printing Press of the Committee for Authorship, Translation and Publishing Cairo.
  6. Fragments of Gold in the News of Who is Gold, Abd al-Hayy bin Ahmad bin Muhammad Ibn al-Imad al-Akari al-Hanbali, investigation: Mahmud al-Arna'ut, Dar Ibn Kathir, Damascus, first edition 1986 AD.
  7. Dictionary of Countries, Shihab al-Din Abu Abdullah Yaqut bin Abdullah al-Rumi al-Hamawi, Dar Sader Beirut, second edition 1995 AD.
  8. The Beginning and the End, Abu al-Fida' Ismail bin Umar bin Kathir al-Qurashi al-Basri then al-Dimashqi, investigation: Abdullah bin Abd al-Muhsin al-Turki, Hajar House for Printing, Publishing, Distribution and Advertising, first edition 1997 AD.
  9. The Healing by Defining the Rights of the Chosen One - appended with the marginal note called Remover of the Hidden from the Words of the Healing, Abu al-Fadl Judge Iyadh bin Musa al-Yahsubi, the marginal note: Ahmad bin Muhammad bin Muhammad al-Shamni, Dar al-Fikr Printing, Publishing and Distribution, edition 1988 AD.
  10. The Essence in Refining the Lineages, Izz al-Din Ibn al-Athir, Dar Sader Beirut, edition 1980 AD.
  11. Observatories of Information on the Names of Places and Spots, Abd al-Mu'min bin Abd al-Haqq, Ibn Shamayl al-Qati'i al-Baghdadi, Dar al-Jil Beirut first edition 1991 AD.

12. Collection of Arab Lineages, Abu Muhammad Ali bin Ahmad bin Sa'id bin Hazm al-Andalusi al-Qurtubi al-Zahiri, Dar al-Kutub al-Ilmiyyah Beirut, first edition, 1983 AD.
13. Introduction to the Judge, for his son Abu Abdullah Muhammad, investigation: Muhammad bin Sharifa, edition: second 1982 AD, Fadhala Printing Press al-Muhammadiyah.
14. The Book of the Beginner and the News in the History of the Arabs, Berbers and Their Contemporaries of Great Affairs, Ibn Khaldun, investigation: Khalil Shihada, Dar al-Fikr Beirut, edition: second 1988 AD.
15. Judge Iyadh and His Efforts in the Two Sciences of Hadith Narration and Understanding, al-Bashir Ali Hamd al-Turabi, Dar Ibn Hazm Beirut, first edition 1997 AD.
16. Seeking the Seeker in the History of the Men of the People of Andalusia, Ahmad bin Yahya bin Ahmad bin Umayrah, Abu Ja'far al-Dabbi (died: 599 AH), Dar al-Katib al-Arabi Cairo, edition 1967 AD.
17. The Encompassment in the News of Granada, Lisan al-Din Ibn al-Khatib, Dar al-Kutub al-Ilmiyyah, first edition, 1424 AH, vol.4, p.194
18. The Connection, Ibn Bashkuwal, The Connection in the History of the Imams of Andalusia, Ibn Bashkuwal, cared for its publication, corrected it and reviewed its original: Mr. Izzat al-Attar al-Husayni, al-Khanji Library, second edition, 1955 AD.
19. Classes of the Memorizers, Jalal al-Din al-Suyuti, Dar al-Kutub al-Ilmiyyah Beirut, edition: first, 1403 AH.
20. The Notables, al-Zarkali al-Dimashqi, Dar al-Ilm lil-Malayin Beirut, fifteenth edition.

21. Dictionary of Algerian Notables, Adil Nuwayhid, Nuwayhid Cultural Foundation for Authorship, Translation and Publishing, Beirut, second edition, 1400 AH.
22. The Sufficiency Index of the Teachers of Judge Iyadh, Iyadh al-Yahsubi al-Sabti, investigation: Mahir Zuhayr Jarrar, Dar al-Gharb al-Islami, edition: first 1402 AH.
23. Seeking the Conscious in the Classes of Linguists and Grammarians, Jalal al-Din al-Suyuti, investigation: Muhammad Abu al-Fadl Ibrahim, al-Asriyyah Library Lebanon.
24. Collection of Biographies of Maliki Jurists, Dr. Qasim Ali Sa'd, Dar al-Buhuth for Islamic Studies and Heritage Revival, Dubai United Arab Emirates, edition: first, 2002 AD.
25. Classes of Hadith Scholars, Abu Abdullah Muhammad al-Salihi, investigation: Akram al-Bushi, Ibrahim al-Zaybaq, al-Risalah Foundation for Printing, Publishing and Distribution, Beirut - Lebanon second edition 1996 AD.
26. The Investigation for the News of the Countries of the Far Morocco, Shihab al-Din Abu al-Abbas Ahmad bin Khalid al-Nasiri, Ja'far al-Nasiri/ Muhammad al-Nasiri, Dar al-Kitab - Casablanca,.
27. The State of Islam in Andalusia, Muhammad Abdullah Inan the Egyptian historian al-Khanji Library, Cairo.
28. Classes of Interpreters, Muhammad bin Ali bin Ahmad, Shams al-Din al-Dawudi al-Maliki, Dar al-Kutub al-Ilmiyyah Beirut, edition: first 1983 AD.
29. Index of Ibn Khayr al-Ishbili, Ibn Khayr al-Ishbili, investigation: Bashar Awwad Ma'ruf - Mahmud Bashar Awwad, Dar al-Gharb al-Islami Tunisia, edition: first, 2009 AD.
30. Ikmal al-Mu'allim, Judge Iyadh, vol.1, p.72.
31. The Great Muqaffa, Taqi al-Din al-Maqrizi, investigation: Muhammad al-Ya'lawi, Dar al-Gharb al-Islami, Beirut Lebanon, edition: second, 2006 AD.

32. Biographies of Tunisian Authors, Muhammad Mahfuz, Dar al-Gharb al-Islami, Beirut Lebanon, edition: second 1994 AD.
33. Encyclopedia of Islamic Jurisprudence, Muhammad bin Ibrahim bin Abdullah al-Tuwayjiri, Bayt al-Afkar al-Dawliyyah, edition: first 2009 AD.
34. Encyclopedia of Islamic Jurisprudence, Muhammad bin Ibrahim bin Abdullah al-Tuwayjiri, Bayt al-Afkar al-Dawliyyah, edition: first,2009 AD.
35. The Beginning of the Mujtahid and the End of the Moderate, Abu al-Walid Muhammad bin Rushd, investigation: Majid al-Hamawi, Dar Ibn Hazm Beirut, edition: second 2012 AD.
36. The Explained with Evidences, Abu Muhammad Ali bin Ahmad bin Sa'id bin Hazm al-Andalusi al-Qurtubi al-Zahiri, Dar al-Fikr Beirut.
37. The Honorable Commentary on the Concise Known as the Great Commentary, Abd al-Karim bin Muhammad bin Abd al-Karim, Abu al-Qasim al-Rafi'i al-Qazwini, investigation: Ali Muhammad Awada - Adil Ahmad Abd al-Mawjud, Dar al-Kutub al-Ilmiyyah, Beirut - Lebanon, edition: first 1997 AD.
38. The Great Traditions, Abu Bakr al-Bayhaqi, investigation: Muhammad Abd al-Qadir Ata, Dar al-Kutub al-Ilmiyyah, Beirut, edition: third 2003 AD.
39. Companion of the Thief in Extracting and Verifying the Hadiths Mentioned by the Memorizer Ibn Hajar al-Asqalani in Fath al-Bari, Abu Hudhayfah, Nabil bin Mansur bin Ya'qub bin Sultan al-Basarat al-Kuwaiti, investigation: Nabil bin Mansur bin Ya'qub al-Basarat, al-Samahah Foundation, al-Rayyan Foundation, Beirut - Lebanon, edition: first,2005.

40. Traditions of Ibn Majah, Abu Abdullah Muhammad bin Yazid al-Qazwini Ibn Majah, investigation: Shu'ayb al-Arna'ut, Adil Murshid, Muhammad Kamil Qurah Ballali, Abd al-Latif Hirz Allah, Dar al-Risalah al-Alamiyyah Damascus, edition: first 2009 AD.
41. Commentary on the Sa'diyyah Rules, Abd al-Muhsin bin Abdullah bin Abd al-Karim al-Zamil, Dar Atlas al-Khadra' for Publishing and Distribution, Riyadh Kingdom of Saudi Arabia, edition: first, 2001 AD.
42. Financial Transactions Original and Contemporary, Abu Umar Dubyan bin Muhammad al-Dubyan, edition: second, 1432 AH.
43. Clarifying the Facts Commentary on the Treasury of the Minutiae and the Marginal Note of al-Shilbi, Uthman bin Ali bin Mahjan al-Bari'i, Fakhr al-Din al-Zayla'i al-Hanafi, the marginal note: Shihab al-Din Ahmad bin Muhammad bin Ahmad bin Yunus bin Ismail bin Yunus al-Shilbi The Publisher: The Great Amiriyyah Printing Press - Bulaq, Cairo, edition: first, 1313 AH.
44. The Method of the Seekers and the Reliance of the Muftis in Jurisprudence, Abu Zakariya Muhyi al-Din Yahya bin Sharaf al-Nawawi, investigation: Awad Qasim Ahmad Awad, Dar al-Fikr, edition: first 2005 AD.
45. The Sufficient in the Jurisprudence of Imam Ahmad, Ibn Qudamah al-Maqdisi, Dar al-Kutub al-Ilmiyyah, edition: first, 1994 AD.
46. Series of Authentic Hadiths and Something of Their Jurisprudence and Benefits, Nasir al-Din al-Albani, al-Ma'arif Library for Publishing and Distribution, Riyadh, edition: first.
47. The Selected Commentary on al-Muwatta', Abu al-Walid Sulayman bin Khalaf bin Sa'd bin Ayyub bin Warith al-Tajibi al-Qurtubi al-Baji al-Andalusi, al-Sa'adah Printing

Press - next to the Governorate of Egypt, edition: first 1332 AH.

48. The Jurisprudential Rules and Their Applications in the Four Schools, Muhammad Mustafa al-Zuhayli, Dar al-Fikr Damascus, edition: first 2006 AD.
49. Financial Transactions Original and Contemporary, Abu Umar Dubyan bin Muhammad al-Dubyan, King Fahd National Library, Riyadh, edition: second 2013 AD.
50. The Origin, Muhammad bin al-Hasan bin Farqad al-Shaybani investigation: Dr. Muhammad Boynukalin, Dar Ibn Hazm Beirut, edition: first 2012 AD.
51. The Care Commentary on the Guidance, Muhammad al-Babarti, Dar al-Fikr.
52. The Instruction in Maliki Jurisprudence, Abu Muhammad Abd al-Wahhab bin Ali bin Nasr al-Tha'labi al-Baghdadi al-Maliki investigation: Abu Uways Muhammad Bu Khubzah al-Hasani al-Titwani, Dar al-Kutub al-Ilmiyyah, edition: first 2004 AD.
53. Gift of the Jurists, Muhammad bin Ahmad bin Abi Ahmad, Abu Bakr Ala' al-Din al-Samarqandi, Dar al-Kutub al-Ilmiyyah, Beirut, edition: second, 1994 AD.
54. The Collection of Imam Ahmad bin Hanbal, Abu Abdullah Ahmad bin Muhammad bin Hanbal, investigation: Shu'ayb al-Arna'ut and Adil Murshid, and others al-Risalah Foundation Beirut, edition: first, 2001 AD.
55. Traditions of Abu Dawud, Abu Dawud Sulayman bin al-Ash'ath bin Ishaq bin Bashir bin Shaddad bin Amr al-Azdi al-Sijistani, investigation: Shu'ayb al-Arna'ut - Muhammad Kamil Qurah Ballali, Dar al-Risalah al-Alamiyyah Damascus, edition: first, 2009 AD.
56. Commentary of al-Zarkashi on the Abridgment of al-Kharqi, Shams al-Din Muhammad bin Abdullah al-

- Zarkashi al-Misri al-Hanbali, Dar al-Ubaykan, edition: first 1993 AD.
57. The Small Traditions, Ahmad bin al-Husayn bin Ali bin Musa al-Khusrojirdi al-Khurasani, Abu Bakr al-Bayhaqi, investigation: Abd al-Mu'ti Amin Qal'aji, University of Islamic Studies, Karachi – Pakistan, edition: first, 1989 AD.
  58. Irrigating the Thirst in Extracting the Hadiths of the Path's Beacon, Muhammad Nasir al-Din al-Albani, al-Islami Office Beirut Lebanon, edition: second 1985 AD.
  59. Al-Muwatta', Malik bin Anas al-Asbahi, verified: Muhammad Mustafa al-A'zami, Zayed bin Sultan Al Nahyan Foundation for Charitable and Humanitarian Works - Abu Dhabi - United Arab Emirates, edition: first, 2004 AD.
  60. The Insight, al-Lakhmi investigation: Dr. Ahmad Abd al-Karim Najib, Ministry of Endowments, Qatar, edition: first 2011 AD.
  61. Sahih Muslim with Its Commentary Ikmal al-Mu'allim and Its Commentary Mukmil Ikmal al-Ikmal, Imam Muhammad bin Khalifah al-Washtani al-Abbi and Imam Muhammad bin Muhammad al-Sanusi al-Hasani, Dar al-Kutub al-Ilmiyyah Lebanon, edition 2008 AD.
  62. Attaining the Desires, Muhammad bin Ali al-Shawkani al-Yemeni, investigation: Issam al-Din al-Sababiti, Dar al-Hadith, Egypt, edition: first, 1413 AH.