Reviews of Books

The Canonization of Islamic Law: A Social and Intellectual History. By AHMED EL SHAMSY. New York: CAMBRIDGE UNIVERSITY PRESS, 2013. Pp. ix + 253. $90.

Recent years have witnessed several important scholarly contributions devoted to the thought and legacy of the prominent jurist and legal theorist Muḥammmad b. Idrīs al-Shāfiʿī (d. 204/820), reacting to studies that questioned the early date and influence of his works (particularly Wael Hallaq, "Was al-Shāfiʿī the Master-Architect of Islamic Jurisprudence," *International Journal of Middle East Studies* 25,4 [1993]: 587–605, and Norman Calder, *Studies in Muslim Jurisprudence* [Oxford Univ. Press, 1993]). The book under review by Ahmed El Shamsy, along with the monographs of Joseph E. Lowry (Brill, 2007), Mohyddin Yahia (Brepols, 2009), and David R. Vishanoff (American Oriental Society, 2011), as well as a number of articles by Lowry and El Shamsy himself, have established that al-Shāfiʿī's works can be reliably attributed to him, that they were of early date, and that they exerted influence soon after he wrote them rather than after a long hiatus. The present work makes all of these arguments, in greater detail than available heretofore, within a larger, overarching argument. Al-Shāfiʿī proposed a radically new system of legal hermeneutics that successfully resolved a number of debates that were current in his day, limiting the canon of sacred sources of the law to the Quran and the extant body of hadith. This model barred customary practice from determining Islamic law, overthrowing the old, communitarian model championed by the Mālikīs, and in the course of the next century and a half it went on to become nearly universally accepted among Sunni jurists. It owed its success in part to the political support of the Ṭūlūnid dynasty in Egypt and to resistance to the imperial policies of the ʿAbbāsids. *The Canonization of Islamic Law* thus squarely focuses on the writings and legacy of al-Shāfiʿī, something that is not immediately evident from the book's title or from its chapter titles (chapter eight, an exception, mentions "the Shāfiʿī school"). This work, like that of Joseph Schacht and Vishanoff's recent monograph, assigns al-Shāfiʿī a pivotal and innovative role in the establishment of what became defining features of Islamic orthodoxy: the standard modes of hermeneutics of the sacred sources in the Sunni legal tradition.

The term "canonization" is used here in a distinct and unusual sense, as shorthand for the restriction of the textual sources for Islamic legal interpretation to the Quran and the hadith corpus. El Shamsy explains that he treats neither the canonization of the Quranic text nor that of Sunni hadith, but he does not address other meanings that might at first be conjured up by the phrase "the canonization of Islamic law," viz., the establishment of particular Islamic legal rulings, such as the prohibition of interest in commercial transactions, or the fixing of the conventions of Islamic lawbooks, such as the division of the law into standard chapters following the set order of ritual purity, prayer, fasting, alms, pilgrimage, and so on. Yet another use of the term "canon" in Islamic legal studies to date occurs in Brannon Wheeler's *Applying the Canon in Islam: The Authorization and Maintenance of Interpretive Reasoning in Ḥanafī Scholarship* (State Univ. of New York Press, 1996), in which it refers to the establishment of the hierarchy of authority of legal texts and jurists in the Ḥanafī legal tradition, something that El Shamsy has recently discussed for the Shāfiʿī tradition in an informative survey ("The *Ḥāshiyah* in Islamic Law: A Sketch of the Shāfiʿī Literature," *Oriens* 41 [2013]: 289–315).

The Canonization of Islamic Law is divided into eight chapters grouped in three parts, in addition to an introduction and a conclusion. The first part describes al-Shāfiʿī's theories, mainly his treatment of the hadith corpus as a sacred textual source of Islamic legal material on a par with the Quran, to the exclusion of other sources such as local tradition. Drawing in detail on the works in al-Shāfiʿī's oeuvre, including fragments of his old *Risāla* quoted in later sources, the well-known *Risāla* in its revised form, and also *Kitāb al-Umm*, with the various treatises of disputed legal questions and legal theory preserved with it, El Shamsy provides a thorough overview of al-Shāfiʿī's debates with contemporary and earlier scholars, especially Mālikī and Ḥanafī jurists, suggesting that he developed his hermeneutical theory

to counter specific failings he saw in their legal interpretive practices, namely, reliance on the living tradition of Medina in the case of the Mālikīs and reliance on *raʾy* and *istiḥsān*, which he viewed as uncontrolled, subjective reasoning, in the case of the Ḥanafīs. El Shamsy also provides an insightful treatment of debates in al-Shāfiʿī's day regarding consensus and the status of hadith. He makes several significant advances in this regard, identifying al-Shāfiʿī's unnamed interlocutor in the second half of *Jimāʿ al-ʿilm* as Ibrahim b. ʿUlayya (d. 218/833), which was not attempted by Aisha Musa in her recent book *Hadith as Scripture* (Palgrave Macmillan, 2008), despite the fact that she devoted a large part of her study to *Jimāʿ al-ʿilm* and published a translation of it into English.

The second part of the book connects the rise in popularity of al-Shāfiʿī's theories with developments in social and political history, especially the ʿAbbāsid inquisition over the createdness of the Quran (833–848 C.E.) and the rise of the Ṭūlūnid dynasty in Egypt (868–905 C.E.). The main thrust of El Shamsy's argument is that adherence to al-Shāfiʿī's legal tradition came to be associated with resistance to the ʿAbbāsids and to the Ḥanafī jurists in their employ, who were viewed as imperial pawns. Shāfiʿī prominence was strongly established when Ibn Ṭūlūn and his descendants instituted an independent polity and championed Shāfiʿī jurists after they had been marginalized, persecuted, and boycotted in the first half of the ninth century. In this section El Shamsy highlights the central role that Egypt played in the Islamic intellectual history of the religious sciences, providing a counterweight to previous scholarship that locates all innovation in legal thought in Baghdad, the imperial capital.

The third part of the book discusses the influence of al-Shāfiʿī's theories over the century and a half following his death. Assiduous investigation of a large number and wide variety of sources has enabled El Shamsy to show the extent of al-Shāfiʿī's influence, including many specific instances that have not been noted before, not only in Shāfiʿī law itself but also among traditionists such as Abī Dāwūd al-Sijistānī (d. 275/888-9), Ḥanafī jurists such as ʿĪsā b. Abān (d. 221/836) and al-Ṭaḥāwī (d. 321/933), Mālikī jurists such as Muḥammad b. ʿAbd Allāh b. al-Ḥakam (d. 268/882), Quranic commentators such as Ibn Abī Ḥātim al-Rāzī (d 327/938), Muḥammad b. Jarīr al-Ṭabarī (d. 310/923), and Ibn al-Mundhir (d. 318/930), and other scholars such as al-Jāḥiẓ (d. 255/868-9), Abū ʿUbayd al-Qāsim b. Sallām (d. 224/838-9), and ʿAbd al-Azīz al-Kinānī (d. ca. 221–40/836–54). Even a few of these suffice to disprove Wael Hallaq's overstated claim in his above-mentioned article that al-Shāfiʿī's work met with "oblivion" for over a century. El Shamsy also succeeds in showing that al-Shāfiʿī's theories had a transformative effect on both the Mālikī and Ḥanafī legal traditions, both of which incorporated his views on hadith.

Another contribution El Shamsy makes in this section is to sketch in more concrete terms the group of direct disciples and other scholars of the next several generations who worked in al-Shāfiʿī's tradition and preserved and transmitted his works, drawing on unpublished manuscripts such as al-Buwayṭī's (d. 231/846) *Mukhtaṣar*, works that have only recently come to light, and anecdotes culled from a variety of sources such as *Tārīkh Dimashq* of Ibn ʿAsākir (d. 571/1176). He cites several early lists of disciples that show awareness of a developing school of jurists with allegiance to al-Shāfiʿī, and highlights the point that among al-Shāfiʿī's disciples, al-Buwayṭī and al-Muzanī (d. 264/878) already presented different interpretations of the master's paradigm.

Overall, the work admirably accomplishes what it sets out to do, and it is in addition clearly written and carefully documented. Its treatment of the Arabic source material is exemplary—translations are excellent, as are the interpretations of technical passages, and there are exceedingly few typographical and transliteration errors. This is no easy feat, as al-Shāfiʿī's style is quite idiosyncratic and at times opaque, and his use of technical terms disconcerting to scholars used to reading later sources. The meanings he assigns to technical terms often differ from those assumed by later jurists, and the endemic problem of distinguishing technical from ordinary uses of terms is consequently augmented. El Shamsy renders one text from *Jimāʿ al-ʿilm—mubtadaʾuhu wa-maṣdaruhu wa-maṣrifuhu*—as "its subject, source, and endpoint" (p. 59), when in my estimation this is merely al-Shāfiʿī's odd manner of saying "its beginning, middle, and end." The only transliteration issue I noticed was *al-Zabarqān* (d. 122/739-40) (p. 23 n. 33), which should probably be *al-Zibriqān*; a typographical error occurs in the death date of ʿAbd al-Raḥmān b. Mahdī, the supposed addressee of al-Shāfiʿī's *Risāla*, which is given as 298/824 (p. 170 n. 16), when it should be 198/814.

Criticisms that could be directed at this work have more to do with what the author either did not write or might have written. *The Canonization of Islamic Law* supports the traditional view of al-Shāfiʿī as the founder of the discipline of *uṣūl al-fiqh*, or legal theory and hermeneutics. This is the view that Hallaq challenged in his 1993 article, and while El Shamsy, along with Lowry and Vishanoff, has provided ample evidence that one of Hallaq's claims—al-Shāfiʿī's lack of influence in the next century—is untenable, he has not directly addressed Hallaq's other main claim, that the *Risāla* does not resemble later manuals of *uṣūl al-fiqh* in form, a strong argument against al-Shāfiʿī's formative influence on the genre as a whole. *The Canonization of Islamic Law* passes over this matter in silence for it does not investigate the early genre of *uṣūl al-fiqh*, its form, or its conventions, though it addresses many aspects of legal theory relevant to such works.

In addition, one cannot help wondering to what extent our view of Islamic legal history has been shaped by the fact that al-Shāfiʿī's *Risāla* has survived the ravages of time intact, whereas other presumably seminal works have not. A survey of surviving literary production from the ninth and tenth centuries shows that for some reason the Shāfiʿīs—and especially the more traditionalist wing of al-Shāfiʿī's intellectual descendants—were much more successful in preserving and transmitting their works to posterity than were their Ḥanafī, Muʿtazilī, and Ẓāhirī counterparts. Certainly, earlier jurists such as Muḥammad b. al-Ḥasan al-Shaybānī exerted a formative influence on al-Shāfiʿī himself, and what appear to be innovations in al-Shāfiʿī's works may be more indebted to earlier works than is evident in extant sources. Perhaps the story would look quite different from the perspective of scholars from the rationalist wing of the Shāfiʿī tradition, such as al-Karābīsī (d. 245/859 or 248/862) or Ibn Surayj (d. 306/918), of whose 400 reported works only one survives; from the perspective of ninth-century Ḥanafī jurists, of whose works very little survives; or from the perspective of Muʿtazilīs such as al-Naẓẓām (d. ca. 221/836), al-Jāḥiẓ, Abū ʿAlī al-Jubbāʾī (d. 303/915-6), or Abū l-Qāsim al-Balkhī (d. 319/931). El Shamsy recognizes the existence of alternative legal theories but often gives them short shrift (e.g., pp. 66, 185), suggesting that al-Shāfiʿī's theories were more comprehensive, systematic, scientific, or intellectually satisfying in comparison. The truth is that there is very little on the basis of which to assess the theories of al-Aṣamm (d. 202/818), Bishr al-Marīsī (d. 218/833), or al-Naẓẓām regarding legal hermeneutics for the simple reason that next to none of their works have survived. It is difficult to imagine, however, that al-Naẓẓām's theories of jurisprudence could have been any less coherent or systematic than those of al-Shāfiʿī, given what is known of his erudition and skill in dialectic.

El Shamsy argues that the Shāfiʿī school formed a legal *madhhab* early in the ninth century that served as a model for the other Islamic legal *madhhab*s, critiquing the views of George Makdisi (*The Rise of Colleges*, 1981) and Christopher Melchert (*The Formation of the Sunni Legal Schools*, 1997). Already in the ninth century, he points out, the Shāfiʿī school had a distinct group identity, a common legal literature, and a shared intellectual discourse. This is enough to establish that they constituted a school of thought and an intellectual and educational tradition, but not enough to show that they formed the type of exclusive, self-reproducing social institution that Makdisi and Melchert intended. Since El Shamsy's criteria for the existence of the legal school are not the same as those of Melchert or Makdisi, the critique to some extent compares apples to oranges. Indeed, Melchert's characterization of the ninth-century Shāfiʿī school as "in important ways prefiguring the guild school more clearly than any other grouping of its time" (Melchert, *Formation*, 68) is a position that is close to El Shamsy's own.

The Canonization of Islamic Law stresses that a pivotal moment in Islamic religious and intellectual history was thoroughly Egyptian, countering historians of Islam who view Baghdad as the intellectual hub of the Islamic world. Although al-Shāfiʿī was a native of Arabia and spent most of his life in the Hijaz, Yemen, and Iraq, he resided in Egypt during his last few years and did his most influential teaching there. The next several generations of his students were concentrated in Egypt as well, and it was they who successfully set the parameters of interpretation that came to characterize Islamic orthodoxy, working primarily against Ḥanafī jurists who served as instruments of ʿAbbāsid imperial domination. This narrative puts some wind in the sails of embattled Egyptian nationalists. In addition to being *umm al-dunyā*, the mother of civilization, Egypt may also be considered *umm al-sharʿ*, the mother of Islamic law, and the nation's schoolbooks will no longer have to reach all the way back to the Hyksos to cite a stirring example of Egyptians' successful resistance to outside domination. While al-Shāfiʿī may

not have uttered Muṣṭafā Kāmil's (1874–1908) immortal words, "If I weren't Egyptian, I would have wished to be Egyptian," he may rightfully assume a hallowed place in the Egyptian national pantheon. One suspects, though, that Iraqi nationalists will beg to differ.

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Mirror for the Muslim Prince: Islam and the Theory of Statecraft. Edited by MEHRZAD BOROUJERDI. Modern Intellectual and Political Theory of the Middle East. Syracuse: SYRACUSE UNIVERSITY PRESS, 2013. Pp. xi + 465. $49.95.

This timely edited volume aims at broadening our understanding of the debates, disagreements, and questions pertaining to the problem of Islam and governance. The volume varies in the originality of its thirteen individual chapters, and is overall stronger on topics related to Persian and South Asian thought. Most of the chapters do not present new research so much as build on (even republish) previous studies, which makes the volume primarily useful for undergraduate teaching purposes.

Asma Afsaruddin's chapter, "*Maslahah* as a Political Concept" (pp. 16–44), is mostly a historical survey from the earliest period of Islam of the use and function in governance of *maṣlaḥa* (common good, welfare, benefit), covering Sunni historical and exegetical works on the period of the Prophet and Rāshidūn; Shiite sources that show a combined concern for the right of ʿAlī and his heirs to rule and the good governance that would have resulted; later political treatises like those of al-Jāḥiẓ, al-Māwardī, and Ibn Taymiyya; and modern discussions by Rashīd Riḍā, Yūsuf al-Qaraḍāwī, and Tariq Ramadan. It covers a similarly broad range of topics seen to intersect the concept of *maṣlaḥa*, including the selection of the successor to the Prophet; the Quranic conception of "priority" or "precedence" (*ṣābiqa*) among the early followers of Muḥammad; the institution of early political institutions like the register (*dīwān*); the grounds for distributing stipends and booty and suppressing civil war; the rational reasons for the caliphate; the place of pragmatism and moral compromise in statecraft; and, finally, the grounds for democracy in modern Islam. The breadth of coverage in this efficient chapter makes it a good introduction to a range of concepts and problems falling under the purview of *maṣlaḥa*.

Chapters three to six narrow the focus to premodern Persianate thought. Alireza Shomali and Mehrzad Boroujerdi's "On Saʿdi's *Treatise on Advice to the Kings*" (pp. 45–81) includes a thematic introduction and a particularly valuable translation of the eponymous treatise by the scholar and poet Muṣliḥ al-Dīn Saʿdī (d. 1291 or 1292), most likely the first of its kind into English. The authors point out the strikingly secular nature of Saʿdī's image of governance, seeing it as offering a social contract model of the legitimate relationship between rulers and ruled. Crucial to this vision is the non-legalism of statecraft and governance; the ruler's task is not to follow prescribed Sharia rules but to employ his own practical wisdom in the pursuit of justice and the welfare of his flock. This is portrayed as a secular kind of knowledge and activity; in fact, one of Saʿdī's aphorisms sounds strikingly similar to the moral constructivism of recent neo-Kantians like Rawls: "Hold sway over others such that if you were one of them you could tolerate such reign." Only if the king fulfills this obligation is he entitled to support and obedience.

The chapter by Saïd Amir Arjomand, "Perso-Islamicate Political Ethic in Relation to the Sources of Islamic Law" (pp. 82–106), takes aim at a long-standing Western assumption that Islamic norms of government were restricted to the ideal theory of the caliphate and Sharia-based governance. This assumption, often shared by modern Islamists, has the consequence of portraying the vast majority of political regimes in Muslim lands as illegitimate from a religious perspective. Arjomand calls for a more historically and sociologically realistic approach and argues that, far from being a detested reality on the ground, kingship was valorized (alongside the Sharia and caliphate) as a permanent and God-given office necessary for securing justice on earth. Building on his recent work, Arjomand points to texts as *Kalīla wa-Dimna*, the *Golestān* of Saʿdī, Ibn Qutayba's *ʿUyūn al-akhbār*, Ibn Miskawayh's *Tahdhīb al-akhlāq*, and subsequent Persian treatises on ethics, collections from the chanceries, and