**Book Reviews**


Fundamental questions to the discussion of Sunni schools’ historical development include: What is the appropriate dating for the schools’ formation? What are the key features of these schools? What is the role of the eponyms in the development of the legal schools (*madhhab*)? Why were the schools exclusively attributed to them? Did the Sunni legal schools develop during the time of their eponyms primarily through their juristic contributions or was this process of formation consolidated much later? Why did some schools die out? Schacht’s study of al-Shāfi’ī’s works is foundational to these debates and to the Orientalist discourses on the origins of Islamic law. In his *Origins of Muhammadan Jurisprudence*, he argues that Sunni legal discourse remains unorganised until the arrival of al-Shāfi’ī’s works, a figure that Schacht labels the “master architect” of Sunni jurisprudence. Wael B. Hallaq, on the other hand, challenges much of Schacht’s original thesis, presenting his own antithesis, where he asserted that al-Shāfi’ī’s jurisprudence did not receive attention until a century after his death. Christopher Melchert in his monumental work *The Formation of the Sunni Schools of Law: 9th–10th Centuries C.E.* further refines Schacht’s ideas and makes new contributions to Schacht’s thesis. Melchert provides additional points to expand and develop the initial timeline presented by Schacht. The present book review looks at the middle-stage analysis of the Sunni schools’ formation, where Schacht’s ideas were crystallised and some departure from Schachtian school was advanced.
This important contribution by Melchert attempts to answer most of the above questions regarding the early development of Sunni law.

Melchert provides a major revision to Schacht’s thesis by revising his dating for the emergence of the classical madhhabs from the middle of ninth century to the late ninth and early tenth centuries (pp. 87, 116, 137). He, however, confirms Schacht’s thesis that the classical schools moved away from identifying themselves primarily with geographical localities to an identification with their eponymous figures. Thus, the school of Kufa transforms into the school of Abū Ḥanīfah (p. xxvi). Melchert offers some simple correctives throughout his study to Schacht’s work, including the fact that during this process of consolidation, traditionalists1 increasingly adopted a compromise system in which their jurisprudence became more open towards the use of rational tools in addition to their strong foundation in the textual sources, describing them as “semi-rationalist” (p. 70). Likewise, the rationalist school also made its own compromises, moving towards the traditionalists in its greater attention to textual sources. Melchert here seems to be validating Hallaq’s thesis on the great traditionalist-rationalist synthesis. As he points out, the Ḥanafi school attempted to reconstruct its history in a manner that highlighted the traditionalist credentials of their founding figure, while revising its legal manuals to better ground and defend its doctrines textually in specific hadith texts (p. 48).

Melchert bases his study on classical Islamic biographical dictionaries. He places considerable emphasis on the systematisation of the personal and oral transmission of legal knowledge from teacher to student. For Melchert, the development of the madhhabs did not take place at the time of the eponyms. While these key figures made their own original contributions, doing much of the initial work, we cannot speak of a full madhab until after few centuries. Thus, the school of Abū Ḥanīfah was not fully synthesised until the time of Abū Ja’far al-Ṭahāwī (d. 321/933) and Abū al-Ḥasan al-Karkhī (d. 340/952).

Melchert studies six schools to confirm his thesis: the Ḥanafi, Mālikī, Shāfi‘i, Ḥanbali, Zāhirī, and Jarīrī schools; the first four of these survived and flourished because they did not fall prey to the weaknesses that led to the demise of the latter two. The schools that could not survive and eventually died out, did not adopt qiyās and were typically critical of taqlīd (p. 188). The Zāhirī school, additionally, did not associate itself with the prevailing

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1 Melchert is aware of the difficulty associated with the term “traditionalist,” hence, he provides an explanatory note to differentiate between the terms “traditionalist” and “traditionist” on the one hand, and different meanings that the word “traditionalist” connotes when used by several modern writers on the other hand, see for details pp. 2-3 of the work under review.
theological orthodoxy, whereas all other four schools did. Melchert refers to the work of Louis Massignon who identifies most of Zahirīs as Mu'tazilah including Abū Bakr al-Zahirī. Melchert, however, objects to this position and says “Massignon probably goes too far in suggesting that all Zahiriyah were Mu'tazilah; for example, Abū Ya'lá ‘Abd al-Mu'min ibn Khalaf (d. 346/975) of Nasaf was said to be Zahirī for his opposition to qiyās and the Mu'tazilah.” Despite this fact, identification of Zahirī jurists as Mu'tazilah did result in loss of support for Zahiriyah from the masses as opposed to Ḥanbali jurisprudents who had the support of the grass roots due to their association with the prevailing theological orthodoxy that is Ash'ariyyah (pp. 188–89). As another reason for dying out of these schools, Melchert points out that the Zahirī and Jarīrī schools could not attract the appropriate patronage networks and that their methods of teaching were outmoded. No exceptional literary work could be identified by the followers of these two schools, which is another major reason for their eventual demise. By contrast, the Ḥanafī and Shāfi‘ī schools were blessed with an extensive commentary literature, whereas, the Ḥanbali school had firm popular support, allowing it to survive without a heavy commentary tradition. As Melchert thus illustrates, those schools that survived and flourished did so because they were not rigid to their initial methodology, were more open to external influences, incorporated the use of ḥadīth, qiyās, taqlīd, and other emerging sources of law that were established in the formative period, and remained relevant to their mediating role between state and society, providing them with substantive law.

Considering the book’s overall scheme and layout, the author begins by dealing with the different usages of the word madhhab from the early days of Islam to its modern usage. Next, his introduction provides an extensive literature review of the research on the legal schools, where he suggests an extensive engagement with the ideas of Schacht, Hallaq, and Calder. Nevertheless, his primary emphasis remains on Schacht’s central ideas. Melchert rejects the simplistic narrative that the schools were directly established by their eponyms, and he therefore treats the works of eponyms as unintentional preparatory work for the formation of schools. In the first chapter, he provides an analysis of the views of ašḥāb al-ḥadīth and ašḥāb al-ra’y that are constitutive of the pre-school formation debates. He elaborates on the traditionalists’ thesis and on the impracticalities of their programme. Chapter two treats the gradual shift from regional schools to personal schools (from the Kufan school to the Ḥanafī school and from the Hijāzī school to the Mālikī school). The third chapter deals with the systemisation of

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traditionalism within the Hanafi school, primarily through a shift in theological creed. Melchert also pinpoints the consolidation of the traditional Hanafi school with the emergence of a Hanafi commentary literature among author-jurists. Chapter four particularly deals with the figure of al-Shafi'i, considering him a “semi-rationalist” who struck a balance between rationalism and traditionalism. In chapter five, Melchert associates the birth of the classical Shafi’i school with Ibn Surayj (d. 306/918). Teacher-student relationships become obvious at the time of Ibn Surayj and adherence to the Shafi’i school is now linked to the teacher’s adherence the school’s doctrine. Chapters six and seven deal with bio-bibliographical details of the “founders” of the Hanafi and Hanbali schools, further analysing their key works, while the final two chapters deal with the schools that failed to adapt and survive and eventually died out. Here the author provides several insightful reasons for the fading out of the Zahirî and Jariri schools.

The book is a unique contribution to the field of Islamic law, and its importance and value can be primarily gauged from its extensive mining of biographical dictionaries. This work is thus a great example of how to write history through the lens of biographical works.

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