

The Formation of Islamic Hermeneutics How Sunni Legal Theorists Imagined a Revealed Law, by David R. Vishanoff, (American Oriental Series: 93), (New Haven, Connecticut: American Oriental Society, 2011), xxi + 318 pp., ISBN: 978-0-940490-31-4, \$46 (cloth)

The hermeneutical aspects of Islamic legal theory (*uṣūl al-fiqh*), defined by the author of the present book as “the part of legal theory that focuses on the analysis and interpretation of the language of a scriptural canon” (p. xiii), has in recent decades been subject of a few significant detail studies, but not of any comprehensive systematic treatment. The present book provides a first comprehensive and systematic analysis of the development of Sunnī legal hermeneutics from its origins through the first half of the 5th/11th century, described by the author as “the formative or preclassical period of Islamic legal hermeneutics.” The classical period, Vishanoff explains, began “in the second half of the 5th/11th century, which witnessed a sudden proliferation of major works that would become enduring points of reference for the discipline by scholars such as Abū l-Walīd al-Bājī, Abū Ishāq al-Shīrāzī, Abū l-‘Uṣr al-Bazdawī, Imām al-Ḥaramayn al-Juwaynī, al-Sarakhsī, al-Ghazālī, Ibn ‘Aqīl, and Ibn Barhān” (p. xv).

The founder of Sunnī legal hermeneutics in Vishanoff’s view was al-Shāfi‘ī in his famous *Risāla* at the beginning of the 3rd/9th century. Before that time some hermeneutical concepts had been developed in the disciplines of Qur’ānic exegesis, theology and law, but no comprehensive hermeneutical theory for the interpretation of revealed texts, Qur’ān as well as Sunna. Together with his theory of an Islamic law based entirely on revealed texts, al-Shāfi‘ī elaborated a hermeneutics for the interpretation of these texts that recognized both their ambiguity and their ultimate clarity and was flexible enough for “negotiating the problematic relationship between the evolving and contested discourse of positive law and an evolving and contested body of authoritative texts” (p. 61). Al-Shāfi‘ī’s project of negotiating the relationship between revealed texts and legal rules (of positive law) set the course for the development of classical legal theory, even though it developed further significantly in some aspects before it reached its classical form.

Al-Shāfi‘ī’s approach to legal hermeneutics did not prevail in Sunnī Islam until the 5th/11th century. Vishanoff enumerates four alternative

concepts of Islamic law entailing different views of legal hermeneutics while competing with al-Shāfiʿī's "law-oriented" concept. In chapters 3-6 he analyzes their background and their final state at the end of the 4th/10th century. Chapter 3 deals with scripturalists, who sought to base the religious law exclusively only on the Qurʾān. As their most important representative Ibn Ḥazm is chosen and thoroughly discussed by Vishanoff. Chapter 4 deals with the rationalist later Baṣran Muʿtazila, with al-Qāḍī ʿAbd al-Jabbār as their main representative. Chapter 5 is devoted to the Ashʿariyya, who defended anti-Muʿtazilī traditionalist doctrine with rationalist argumentation. Vishanoff analyzes the legal and hermeneutical thought of al-Bāqillānī as their principal representative. In chapter 8 he discusses the hermeneutics of the Ḥanbalī Abū Yaʿlā Ibn al-Farrāʾ, describing it as based on intuitive grasp of "performative speech" and as law-oriented like al-Shāfiʿī's hermeneutics, yet distinctive in not seeking to derive all Islamic law ultimately from the Qurʾān.

In the concluding chapter 7, the relevance of the predominance of al-Shafīʿī's law-oriented paradigm in Sunnī legal theory to the contemporary Islamic legal discourse is discussed.

The book in general reflects penetrating thorough research and careful interpretation of a wide range of legal sources and secondary studies, and its major conclusions are set forth convincingly. The reaffirmation of the pivotal role of al-Shāfiʿī's *al-Risāla* in the conception and elaboration of mainstream Sunnī legal theory against recent views questioning this role is to be appreciated. Both achievement and problematic of al-Shāfiʿī's hermeneutics within his legal theory are perceptively analyzed.

There are some inadequacies and errors in the treatment of legal and theological thought deviating from the mainstream. Only one point may be noted here. Vishanoff's recognition of scripturalism in the sense of exclusive adherence to the letter of the Qurʾān as a third division besides rationalism and traditionalism in early Islamic jurisprudence (see p. 37) is misleading. The basic division among early Muslim religious scholars, theologians as well as jurists, was between rationalists, who considered reason essentially capable of recognizing justice, good and evil, and thus as the ultimate judge of religious law and good conduct, and traditionalists who denied human reason any epistemological role in religious law. Scripturalism was not constitutive of a third separate division and was compatible

with either traditionalism or rationalism. Chapter 3 on early scripturalists thus groups together legal scholars of entirely divergent outlook and background. The Khārijites may be described as scripturalists since for historical reasons they insisted on strict literal compliance with the commandments of the Qurʾān. Yet the great majority of them, moderate Ibāḍīs as well as radicals, were basically traditionalists supporting the Sunna and relying on *ḥadīth*. Only a minority inclined to the Muʿtazila and rationalist interpretation of the law. The commandments and prohibitions of the Qurʾān were for the Khārijites law in the strict sense, obligations (*farḍ*) enforced by legal sanctions. Sunna was generally understood in the original sense of the term as merely recommended, praiseworthy action and good conduct.

The Muʿtazilī al-Nazzām, on the other hand, was essentially a rationalist theologian. He viewed the law and good conduct as recognizable and definable by rational investigation and rejected the *ḥadīth*-based Sunna both as full of contradictions and superfluous. He insisted on literal acceptance of Qurʾānic legislation without extending it by analogical reasoning because he considered it as part of scriptural revelation that was not amenable to rational interpretation and could not be integrated into the rational system of law. The later Baṣran Muʿtazila, in contrast, endeavored to rationalize Qurʾānic legislation fully in the context of their rational legal thought.

Dāwūd al-Iṣbahānī and the Zāhiriyya are erroneously also classed by Vishanoff as scripturalists. They may properly be described as literalist in their strict adherence to the letter of the Qurʾān as well as the *ḥadīth*-based Sunna and their rejection of any extension of the law by rational analogy. They were radically anti-rationalist traditionalists. The meaning of the term scripturalism should not be extended to cover *ḥadīth* texts in addition to the holy Scripture, the Qurʾān. Vishanoff's criticism of Hallaq that he "misconstrued the Zāhiriyya as traditionalists" (p. 106, n. 257) is inappropriate.

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