

Mālik and Medina: Islamic Legal Reasoning in the Formative Period, by Umar F. Abd-Allah Wymann-Landgraf (Islamic History and Civilization Studies and Texts, vol. 101) (Leiden & Boston: Brill, 2013), xi + 552 pp., ISBN: 978-90-04-21140-7, €199.00 / \$277.00 (hb)

The year 2013 saw the long-overdue publication of Umar Faruq Abd-Allah Wymann-Landgraf's immensely important study on Islamic law. *Mālik and Medina* is based on Abd-Allah's 1978 dissertation, "Mālik's concept of *ʿamal* in the light of Mālikī legal theory," which has circulated for decades in the form of photocopies and PDF files. The work's appearance in printed form provides an opportunity for a critical evaluation of its contribution to the field of Islamic legal studies.

Mālik and Medina is a detailed study of the legal terminology of Mālik ibn Anas (d. 179/795) as found in his seminal book, the *Muwattaʿa*², and in the later collection of his statements, the *Mudawwana*. Indeed, *Mālik and Medina* is perhaps the most detailed and comprehensive study of the legal doctrine (*fiqh*) of any Muslim scholar, as only the legal-theoretical writings of selected jurists (most notably, al-Shāfiʿī in the work of Joseph Lowry and al-Āmidī in that of Bernard Weiss) have thus far received comparable treatment. In his book, Abd-Allah painstakingly identifies and analyzes the numerous fine distinctions that underpin Mālik's thought, and he consequently achieves an exceptional level of insight into the latter's work. By examining Mālik's terminology closely and systematically, Abd-Allah shows conclusively that Mālik's *Muwattaʿa*³ was a work of law rather than simply a collection of reports about Muḥammad and other early authorities. Further, although the *Muwattaʿa*⁴ is the earliest extant such work, it is not primitive in the sense of being unsystematic: to the contrary, Abd-Allah's careful reconstruction reveals a sophisticated conceptual framework. In addition to its contribution on Mālikī terminology, *Mālik and Medina* sheds new light on early Ḥanafism and early Shāfiʿism by analyzing other jurists' reactions to Mālik's ideas. The revised text is enhanced by updated and exhaustive engagement with secondary literature, including welcome references to Arabic-language studies that regrettably receive little attention in Western scholarship.

The book opens with an introduction to Mālik as a Medinese scholar and to the *Muwaṭṭaʿ*, the *Mudawwana*, and other early works that preserve Mālik's opinions. Abd-Allah relies primarily on the manuscript research of Miklos Muranyi, providing a useful summary and persuasive interpretations of the latter's findings. He does not engage systematically with the issue of authenticity, but he does point out internal evidence of the *Mudawwana's* reliance on the *Muwaṭṭaʿ* (contra Norman Calder's skepticism regarding the works' dating) and refers to recent studies on these texts.

Chapter 2 draws on cases of positive law in the *Muwaṭṭaʿ* and the *Mudawwana* in order to distill Mālik's legal-theoretical approach to the Qurʾān, ḥadīth, Sunna, consensus, custom, considered opinion (*raʾy*), analogy (*qiyās*, which Abd-Allah juxtaposes with al-Shāfiʿī's method), discretion (*istiḥsān*, which he juxtaposes with Abū Ḥanīfa's method), preclusion (*sadd al-dharāʿiʿ*), and considerations of the unstated good (*maṣāliḥ mursalā*). Abd-Allah demonstrates in great detail that although Mālik used Qurʾānic texts and prophetic traditions extensively, these sources were not in themselves norm-generating for Mālik; rather, he always interpreted them through the lens of Medinese praxis, *ʿamal abl al-Madīna*. This praxis functions as a communal interpretive mechanism that ensures the validity of source texts – guaranteeing, for example, that a report or a Qurʾānic statement has not been abrogated and that its implications are understood correctly.

Chapters 3 and 4 observe the crucial concept of Medinese praxis from the perspectives of its detractors and its adherents, respectively. Chapter 3 analyzes critiques of Medinese praxis by Mālik's contemporaries (Abū Yūsuf, al-Shaybānī, and early Shāfiʿīs) and by later scholars (Muʿtazilīs, Ḥanafīs, Shāfiʿīs, and Zāhirīs). Chapter 4 lays out the views of advocates of Medinese praxis, namely, Mālik himself, his contemporary al-Layth ibn Saʿd, and later Ḥanbalīs. These chapters show, first, that there was a textualist critique of Medinese praxis, put forward by early Ḥanafīs as well as Shāfiʿīs and Zāhirīs, that considered Mālik's approach too independent of and unintelligibly related to the texts of revelation. That the Shāfiʿīs and the Zāhirīs held this view is unsurprising, but Abd-Allah's finding that it was in fact first voiced by Ḥanafīs is significant and contrary to conventional wisdom. Second, Abd-Allah demonstrates that the non-Mālikīs who were most positively disposed towards Medinese praxis were Ḥanbalīs (particu-

larly the Ibn Taymiyya family of jurists, but not Ibn Qudāma), again contradicting the common perception of Ḥanbalīs as rigid textualists. It must be pointed out, however, that the earliest Ḥanbalī *uṣūl* texts, such as those of Abū Yaʿlā and Ibn ʿAqīl, were not consulted for this overview of Ḥanbalī views.

The second part of the book (Chapters 5 to 10) offers a meticulous analysis of Mālik’s terminology as found in the *Muwattaʿa*’ and the *Mudawwana*, elucidating Mālik’s terminological strategies for referring to the Sunna, Medinese praxis, and Medinese consensus, respectively. A cursory glance at Mālik’s writing might suggest that he has much less of an individual voice than jurists writing a generation after him. But Abd-Allah hones in on the terse phrases with which Mālik introduces his positions, such as “the precept among us is” or “the agreed precept among us is,” and argues convincingly that these are carefully employed terms that signify different levels of prevalence among Medinese jurists and thus different levels of authority for the positions they introduce. These distinctions make it possible to identify a spectrum in Mālik’s terminology from universal Medinese consensus, at one end, to Mālik’s individual opinion on a matter, at the other, and a second spectrum spanning communal praxis that goes back to the prophetic age and praxis originating in more recent legal reasoning.

Abd-Allah challenges received wisdom on several counts. First, he argues that in this first work on Islamic law proper, the *Muwattaʿa*’, ḥadīth are clearly not coextensive with the law: Mālik’s legal opinions are underdetermined by ḥadīth reports, and the disagreements between Mālik and his contemporaries were overwhelmingly over differing interpretations of the same sources rather than over incompatible ḥadīth. This observation appears incommensurable with the idea that ḥadīth were simply fabricated to justify the law. Second, Abd-Allah highlights the importance of *raʿy*, in the sense of extra-textual legal reasoning (including extensive use of analogy and benefit considerations), in Mālik’s thought, and he shows that, contrary to common perception, the Ḥanafīs were more focused on texts than were the Mālikīs. And third, he emphasizes Mālik’s acceptance of differences of opinion and depicts an atmosphere among early jurists that was far less fiercely polemical than generally assumed by Western scholarship. There is some ambiguity about this point, however: on the one hand, Abd-Allah cites Joseph Schacht’s description of “violent

conflict of opinions” and Fazlur Rahman’s of a “stormy formative period” (p. 19), but on the other hand, he admits that Western scholars have also recognized early jurists’ widespread acceptance of legitimate differences of opinion.

This third proposition, that the early period saw less conflict about the law than hitherto supposed, leads Abd-Allah to argue that the author of the most extensive contemporary attack on Medinese praxis, *Ikbtilāf Mālik* (“Disagreement with Mālik”), contained in the *Kitāb al-Umm* of al-Shāfi‘ī, cannot be al-Shāfi‘ī himself (p. 62, n. 120). He bases his dismissal of al-Shāfi‘ī’s authorship on two features of the text: its hostile tone and its arguments, which, in Abd-Allah’s view, occasionally reveal a misunderstanding of Mālik’s positions that seems unlikely for al-Shāfi‘ī, who was Mālik’s student. The first argument is not convincing. Al-Shāfi‘ī could be an aggressive opponent, as shown by his other debates, and he did not suffer what he considered faulty arguments lightly, as shown by his exclamation to al-Shaybānī regarding an argument of Abū Ḥanifa’s: “If anyone else than your teacher had drawn this analogy, what would you have told him? Wouldn’t you have said: ‘You have no business talking about law?’” (*al-Umm*, ed. ‘Abd al-Muṭṭalib, 8:71). In addition, in the *Ikbtilāf*, al-Shāfi‘ī’s ire is directed primarily at his Mālikī opponent and at what he sees as the opponent’s unreasonable recalcitrance, not at Mālik himself. Finally, accounts of al-Shāfi‘ī’s death claim that he died from injuries inflicted by Mālik’s followers in response to his criticism of Mālik. As for the content of the arguments in the *Ikbtilāf*, numerous passages elsewhere in the *Umm* show clearly that al-Shāfi‘ī grappled earnestly with the meaning of Mālik’s concept of Medinese praxis, initially defending it against its critics, then growing increasingly disillusioned, and eventually rejecting the concept entirely: in a comment added to his earlier defense of a Mālikī opinion, al-Shāfi‘ī explains, “I used to hold this opinion with this justification, but I stopped doing so . . . because I found some of them [i.e., the Medinese] claiming [it as] Sunna, but then I did not find their claimed Sunna to reach back to the Prophet. Therefore, I [now] prefer analogy in this case” (*al-Umm*, 9:105). The legal-theoretical stance that underpinned Mālik’s opinions was not intuitively clear to his students, and al-Shāfi‘ī and his peers were thus engaged in the same task as Abd-Allah, namely, examining the corpus of Mālik’s rulings in order to glean his overall approach.

The second area in which Abd-Allah appears to err on the side of harmony concerns the phenomenon of *ra'y* in early Islamic law. He displays a clear awareness of the dangers of “falling into historical confluents” (p. 9) when writing the history of terms, but he himself conflates Mālik’s use of extra-textual considerations in legal reasoning with *ra'y* in the sense in which the term was employed in the second Hijrī century. Abd-Allah considers the epithet given to Mālik’s Medinese teacher Rabī‘a, “Rabī‘at al-Ra’y” (“Rabī‘a the legal reasoner”), evidence of Medinese acceptance of *ra'y*. However, there are strong indications that the epithet was not meant as a “respectful” one, such as Ibn al-Mājjishūn’s retort, “You say ‘Rabī‘a the legal reasoned;’ no, by God, I have never seen anyone keener on protecting the Sunna than he is” (al-Khaṭīb al-Baghdādī, *Tārīkh Madīnat al-salām*, ed. Ma‘rūf, 9:417). A letter from the Egyptian jurist al-Layth ibn Sa‘d to Mālik (which Abd-Allah cites in a different context, p. 226) also makes reference to “Rabī‘a’s divergence from what came before” and the agreement of al-Layth, Mālik, and Ibn al-Mājjishūn regarding Rabī‘a’s faults.

Describing al-Layth ibn Sa‘d as a proponent of Medinese praxis is also problematic. It is true that al-Layth begins his letter to Mālik by agreeing that all Muslims “are subordinate (*tab‘*) to the people of Medina” (p. 221) as the place of revelation, but the principal aim of his letter is to justify the parallel authenticity and normativity of the practices established by Muḥammad’s companions subsequently in other locations throughout the Islamic empire. Al-Layth’s claim that no one follows the consensus of Medinese jurists more than he does may be simply a polite but meaningless phrase; or it may denote that he agrees with unanimous Medinese positions or, at the other extreme, that he considers such positions universally binding. Abd-Allah assumes the last interpretation, but this is speculation. In any case, al-Layth proceeds to demonstrate that Medinese scholars disagree on a large and growing number of issues, with the implication that the scope of genuine, unanimously supported Medinese praxis is in fact very limited. Therefore, al-Layth should be considered one of the earliest critics of Medinese praxis, not its proponent.

In spite of these points of critique, *Mālik and Medina* is an enormously important study of early Islamic law that does for the Mālikī school what has not been achieved for any of the other schools, namely, providing a systematic analysis of its foundational texts of

positive law. Schacht's study of al-Shāfi'ī's *al-Umm*, though long accepted almost without question, is woefully inadequate and skewed by Schacht's primary concern with the evolution of ḥadīth. Early Ḥanafī legal texts are almost a terra incognita in Western scholarship, demonstrated by the fact that the full text of al-Shaybānī's foundational work, *al-Aṣl*, was not published until 2012 despite being easily available in manuscript form. Similarly, the first systematic overview of Aḥmad ibn Ḥanbal's surviving oeuvre in the form of the various *masā'il* works of his students (by Saud al-Sarhan) has only just been published. This does not mean that macro-historical accounts of Islamic legal history ought to be suspended until basic coverage of Grundlagenforschung has been completed; it simply underscores the still tentative bases of such large-scale histories. Early Islamic legal history remains an understudied field, and *Mālik and Medina* will hopefully serve as an exemplar of the systematic analysis of a legal work.

Ahmed El Shamsy

University of Chicago, Chicago, IL-USA