

***Islamic Legal Thought: A Compendium of Muslim Jurists***, edited by Oussama Arabi, David S. Powers, and Susan A. Spectorosky (Leiden & Boston: Brill 2013), xv+590 pp., ISBN: 978-90-04-25452-7, €208.00 / \$270.00 (hb)

The subtitle of the book, *A Compendium of Muslim Jurists*, is deceptive, suggesting that this edited volume is a reference work on jurists of Islamic law. However, this volume is much more. It is a comprehensive account of the development of Islamic law from its inception to the present through the biographies and contributions of some of its most important jurists, with the caveat that some Islamic legal luminaries were left out. While each of the 23 chapters stands on its own, this reviewer highly recommends anyone truly interested in the history of Islamic law to read the book as a whole, not just individual chapters or sections. Although the book is a hefty 590 pages long, it is worth the time and effort.

The book is divided into three parts of various lengths. Part one is devoted to the formative period, part two to the classical period, and part three to the modern period, each part containing chapters on the biography and contributions of leading jurists of Islam. The formative period, according to the editors (Arabi, Powers, and Spectorosky), is characterized as the period in which the founding fathers of the four Sunnī schools of law and their immediate followers had established the main contours of Islamic law, ending by the year 261/874. This section contains the biographies of the eponyms of the four Sunnī schools of law, Abū Ḥanīfah (d. 150/767; written by H. Yanagihashi), Mālik ibn Anas (d. 179/795; by Y. Rapoport), al-Shāfi‘ī (d. 204/820; by J. Lowry), and Aḥmad ibn Ḥanbal (d. 243/855; by S. Spectorosky). These four chapters are supplemented with contributions of J. Brockopp on Saḥnūn ibn Sa‘īd (d. 240/854) and P. Hennigan on al-Khaṣṣāf (d. 261/874), both important figures for the Mālikī and Ḥanafī school respectively. What all chapters of this first part bring to the fore is the intellectual and political struggles that each of these jurists faced while articulating their vision of how Muslims best live by and follow the

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divine word. Their formulations of the laws of the relatively new religious community of Muslims is the result of the interaction of geographical, political, economic as well as societal factors of their times. Furthermore, their distinct personalities played a role in their engagement with the world – and, thus, in their understanding of the role of law and its application in society. Apparent in these chapters is that all jurists here presented were eager to resolve issues facing Muslims in their daily life based on what they understood to be the legacy of the Prophet Muḥammad, be that based on direct transmission of his doctrine or rationalization of its spirit. Their goal was to ensure that the believers' actions were in consonance with the prophetic message; yet, they had different approaches and priorities. The chapters in the first section show that two factors had major influence on shaping these jurists' articulation of law: educational structures and politics. Who studied with whom and in which political environment proved formative on their respective doctrines. Reading the first six chapters of *Islamic Legal Thought* is also a digest of “who's who” of early Islamic legal deliberations and practice. Clearly, the formation of Islamic law was a slow process and one of cumulative efforts by many more than the figure heads of the schools of law.

The second, and longest part of *Islamic Legal Thought* covers the classical period. The editors, laudably, extend the usual definition of “classical” to include the long stretch between the formation of Islamic law (from about 300/900) until the modern period, the latter of which is marked by the interaction with European imperialism and the French invasion of Egypt in 1213/1798. While having the classical period last almost 900 years might seem unwieldy, it makes good sense for the commonalities and continuities of this period for Islamic law. This is the time period of consolidation and elaboration of legal doctrines in compendia and commentaries; the articulation of the interplay of law and theology in the emerging genre of *uṣūl al-fiqh*; the institutionalization of legal education in the *madrasah* system; and the continuous and increasing integration of Islamic law and its practitioners into the body politic culminating in the Ottoman official legal hierarchy. The scholars of this section belong to a second stage in the history of Islamic law. By sifting through the legal views current in the previous centuries, Ḥanafī jurists such as al-Ṭaḥāwī (d. 321/933; by N. Tsafirir) and al-Sarakhsī (d. 483/1090; by O. Taştan) built a coherent legal doctrine and helped crystallize the identity of their school. Other scholars contributed to the development of the

theoretical bases of Islamic law and shaped the understanding of *uṣūl al-fiqh* as we know it today as evident in the chapters on al-Jaṣṣāṣ (d. 370/981; by M. Bedir), Ibn Ḥazm (d. 456/1064; by S. Kaddouri), al-Ghazālī (d. 505/1111; by E. Moosa), and al-Āmidī (d. 631/1233; by B. Weiss). The chapters highlight the theological debates and questions of human agency in this world that influenced jurists' interpretation of the divine law.

A constant thread throughout the chapters of this second part is the role of politics. Be it as judge, mufti or teacher, jurists' relationship with the political authorities affected how Islamic law was articulated and practiced. They often faced a precarious balancing act in light of political upheaval, falling out of favor or pressure to comply with the political designs of the ruling elite. The biographies of Ibn Rushd al-Jadd (d. 520/1126; by D. R. Serrano), al-Qāḍī 'Iyāḍ (d. 544/1149; by C. Gómez-Rivas), al-Wansharīsī (d. 914/1509; by D. Powers), and Ebu's-su'ud (d. 982/1574; by C. Imber) show the ups and downs that official recognition brought upon jurists. The Ottoman *şeybülislam* [*sheikh al-Islām*] Ebu's-su'ud was probably among the most successful and influential legists in aligning political expedience with the demands of Islamic law along Ḥanafī interpretation; though critics may call it rubberstamping capricious policies. Yet even those scholars who remained outside the official judicial hierarchies had their share of conflict with the juristic-political environment, as exemplified in the life of al-Shāḥibī (d. 790/1388; by M. K. Masud), whose solutions for the social and economic pressures facing the population of Granada in the 8<sup>th</sup>/14<sup>th</sup> century faced staunch opposition from his Mālikī colleagues. The threat of imprisonment (or worse) was a jurist's constant companion as evidenced in many of these chapters that refer to the trials and tribulations not just of their main subject but of the precarious situation of scholars in general (see e.g., p. 358).

That political patronage had positive sides is apparent in the chapter on al-Sharīf al-Murtaḍā (d. 436/1044; by D. Stewart), one of two chapters devoted to Shī'ī jurists. During the Buyid period Twelver Shī'ism saw unprecedented scholarly activity, resulting in the establishment of what would be called the Ja'farī school of law. Al-Sharīf al-Murtaḍā was instrumental in consolidating and defending Shī'ī legal doctrines against their Sunnī counterparts. That interaction and competition with Sunnī legal scholarship affected the articulation of Shī'ī legal doctrine is also evident in R. Gleave's presentation of Muḥammad Bāqir al-Bihbihānī (d. 1205/1791), who re-asserted the

dominance of the so-called *uṣūlī* school in Shīʿī legal thought. Like many of the chapters of this book, it bears witness to the fact that legal doctrines do not come about in a vacuum but germinate and are articulated within a larger intellectual milieu. The existence of contradictory and competing views enables jurists to formulate their ideas more sharply. Which idea wins the day depends on factors that do not always have to do with their internal coherence but with the environment in which they are absorbed.

This is particularly apparent when looking at part three of the book, which presents the life and work of four jurists working in the modern period. Modern, according to the editors, marks the period “when Muslim jurists were compelled to take into account non-Islamic legal systems, mainly those of the colonial powers” (p. 3). The chapters devoted to the modern period probe the impact of colonialism on Islamic law as well as the subsequent establishment of the nation-state. The four jurists portrayed cover the full range of the modern jurist’s experience, from the actual threat of imperialist occupation, to social change, to codification of Islamic law in the newly emerging nation-state. Threatened with French interference, al-Mahdī al-Wazzānī (d. 1342/1923; by E. Terem) saw the survival of Islamic law in the preservation of the traditional political structure. He closely aligned with the Moroccan king, supporting his autocratic rule and refuting legal arguments that permit revolt against an unjust ruler. The fight against the onslaught of Western legal systems is also present in the chapter on Muḥammad Rashīd Riḍā (d. 1935; by M. Haddad). Working outside the official legal establishment, and using modern print media to spread his views, Rashīd Riḍā sought to undermine the intrusion of Western law through strengthening the adaptability of Islamic law to the modern environment, advocating the opening of the door to *ijtibād* and drawing on universal principles, such as *maṣlaḥah*, to attain unity among Muslims. The Sudanese jurist Ḥasan al-Turābī (d. 2016; by A. Layish) similarly argued for a new legal methodology. Eschewing adherence to a particular school of law, he, like Rashīd Riḍā, envisioned *ijtibād* as the solution for invigorating what he saw as stagnant Islamic legal practice. Al-Turābī’s new legal theory was informed by practical consideration of the modern state. For example, he intended to realize consensus (*ijmāʿ*) at the national level in form of a consultative assembly of ‘*ulamāʿ*’, a type of parliament, whose agreements become binding legal rules. He also elevated subsidiary concepts of Islamic law, such as *maṣlaḥah* and *istiṣḥāb*, as guiding

principles in legislation with the aim of statutory codification of Islamic law. Different was the solution of ‘Abd al-Razzāq al-Sanhūrī Pāshā (d. 1971; by O. Arabi), who, in drafting legal codes for the newly found nation-states of Egypt, Syria, and Iraq, reconciled Islamic legal doctrines with Western laws. He saw Islamic and Western law as not so different in their aims of avoiding legal lacunae, clarifying the lawful and unlawful, and shaping society. Al-Sanhūrī’s embrace of Western legal ideas was, as Arabi points out, also driven by his desire to achieve social justice; the Qur’ānic message of equality and fairness could be attained through a codified law that applies to citizens of a nation-state “irrespective of race, social status, or gender” (p. 494).

*Islamic Legal Thought* is a well-rounded survey of the history of Islamic law. Its scope is broad and the individual chapters are, on balance, well-structured and give the reader a good introduction to the life and thought of the scholar under consideration. On occasion, a more heavy-handed editorial presence would have been desirable to eliminate some of the imbalances among chapters, such as the amount of translation from a jurist’s work. In some chapters, a few sentences are interspersed here and there, while others present lengthy passages and coherent articulations on a particular subject in order to bring to life the legal thought of the jurist under consideration. Similarly, the use of secondary scholarship is rather uneven, with the result that some jurists appear a little forlorn in their historical and intellectual environment (e.g., Abū Ḥanīfah and al-Qāḍī ‘Iyāḍ). A strength of this book lies in the attention authors pay not only to the debates in which their subjects engaged in their own time but just as much to the current scholarly debates about the development of Islamic legal thought (the importance of Norman Calder, Joseph Schacht, and Wael Hallaq are felt throughout). Overall, the book highlights the intellectual developments within Islamic law, the connectedness of law with political power and social conditions, and the importance of the educational experience that form the bedrock of transmitting legal knowledge in content as well as form. Its breadth and depth benefits the novice and the seasoned scholar of Islamic law alike.

**Felicitas Opwis**

*Georgetown University – Washington D.C.-USA*  
fmo2@georgetown.edu