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978-1-107-04148-6 - The Canonization of Islamic Law: A Social and Intellectual History

Ahmed El Shamsy

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The Canonization of Islamic Law

The Canonization of Islamic Law tells the story of the birth of classical Islamic law in the eighth and ninth centuries CE. It shows how an oral normative tradition embedded in communal practice was transformed into a systematic legal science defined by hermeneutic analysis of a clearly demarcated scriptural canon. This transformation was inaugurated by the innovative legal theory of Muḥammad b. Idrīs al-Shāfiʿī (d. 820 CE), and it took place against the background of a crisis of identity and religious authority in ninth-century Egypt. By tracing the formulation, reception, interpretation, and spread of al-Shāfiʿī's ideas, Ahmed El Shamsy demonstrates how the canonization of scripture that lay at the heart of al-Shāfiʿī's theory formed the basis for the emergence of legal hermeneutics, the formation of the Sunni schools of law, and the creation of a shared methodological basis in Muslim thought.

Ahmed El Shamsy is an Assistant Professor of Islamic Thought in the Department of Near Eastern Languages and Civilizations at the University of Chicago.

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فلا علم لأحد بسرائر الماضين على حقيقتها فإن علمها عند علام الغيوب و كل ما في أيدينا أن نستدل بالخبر
الشاهد على خبر غائب ولكن رب إستدلال وافق صواباً خفياً ولولاه لبطل علم كثير
محمود محمد شاكر

No one truly knows the secrets of those who have gone before us, for only the Knower of the hidden is acquainted with them. All we can do is reason from the known to the unknown. Yet many an inference accords with a hidden truth; were it not so, little could be known.

Maḥmūd Muḥammad Shākīr, *Qaḍiyyat al-shi'r al-jāhili*, 58

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Acknowledgments

I never chose this topic. I stumbled upon it quite by accident, via the chance discovery of a manuscript (al-Buwayṭī's *Mukhtaṣar*) that distracted me from the research project on legal maxims that I had been pursuing. What was intended as a semester's digression turned into nearly a decade's exploration of the origins of Islamic law and its institutions. In that time, I have received inspiration, feedback, and support from innumerable people, many of whom I have forgotten to thank here. The questions and hypotheses that animate this book emerged and were refined in conversations with Bilal Aybakan, Murteza Bedir, Eyyüp Said Kaya, Kevin Reinhart, Gregor Schoeler, Himmet Taşkömür, and especially Aron Zysow. In addition, I have benefited from the opportunity to discuss my research at a number of venues, most importantly at the collegial annual gatherings of the American Oriental Society. I gratefully acknowledge the generous advice of Peri Bearman, the developmental guidance of Bud Bynack, the research assistance of Khālīd 'Abduh, and the instruction in Shāfi'ī law given to me by Shaykh Naṣr al-Dīn Sha'bān, which laid the foundation for everything I have since learned about the subject. Roy Mottahedeh, Aron Zysow, Intisar Rabb, Khaled El-Rouayheb, Andreas Görke, and two anonymous reviewers provided useful comments on drafts of the manuscript or of parts of it. Finally, I thank my wife and editor, Hanna Siurua, for her merciless but constructive prodding, criticism, and suggestions, all of which have immeasurably improved this book in both form and content.

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Turkey, the Center for Islamic Studies (ISAM) in Istanbul, the Frederick Sheldon Fund at Harvard University, and the Friends of the Princeton University Library. This support allowed me to explore the manuscript collections of the Egyptian National Manuscript Library and the Arab League Manuscript Library in Cairo, the Bibliotheca Alexandrina in Alexandria, the Süleymaniye Library in Istanbul, the Asad National Library in Damascus, the Chester Beatty Library in Dublin, and the Firestone Library at Princeton University. The writing of the book was supported by the Islamic Legal Studies Program at Harvard Law School, the American Council of Learned Societies (with funds provided by the Mellon Foundation), and a book fellowship from the Social Science Research Council (again funded by the Mellon Foundation).

The cover image, of a 1928 painting titled *Courtyard of the Al-Azhar Mosque and University, Cairo* by Ivan Yakovlevich Bilibine (1876–1942), was provided courtesy of MacDougall Auctions. Although Bilibine's painting depicts a scene of scholarly exchange in the early twentieth century, the institutions, texts, and debates that characterized Islamic scholarship at the time of his Cairo visit represent a continuation of the culture of learning whose emergence a thousand years earlier I document in this book.

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Note on Dates, Places, and Terms

I give most dates in this book in dual form, with the Hijri date according to the Islamic calendar followed by the Common Era date, separated by a slash. Personal names are transliterated fully; place names and the names of dynasties are not. Nonspecialists should note the small but significant orthographic distinction between “al-Shāfi‘ī” (the scholar), “Shāfi‘īs” (the followers of al-Shāfi‘ī), and “Shāfi‘ī” (one such follower, or the adjective describing al-Shāfi‘ī, his ideas, his followers, and the school he founded). I use the anglicized term “Hadith” for reports of the Prophet Muḥammad’s sayings and actions in both the singular (orig. *ḥadīth*) and the plural (*aḥādīth*).