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*Mālik and Medina: Islamic Legal Reasoning in the Formative Period.* Leiden: Brill, 2013. Pp. 552 + xiv. Hardcover. ISBN: 978-9004211407. €199/\$277.

Wymann-Landgraf's *Mālik and Medina* is a large book comprising over five hundred pages. It deals with three main issues: Mālik's (d. 179/796) legal methodology, its reception by later scholars, and the legal methodologies of other jurists of the formative era, which Wymann-Landgraf defines as the first three centuries of Islam. *Mālik and Medina* depicts Islamic legal reasoning in the formative period as driven by a set of coherent and rationalist considerations. In this picture, each of the four Sunni legal traditions, from its origins in the formative period, represents a distinct and philosophically coherent approach to law-making, which Wymann-Landgraf identifies as its principal and most significant feature. Wymann-Landgraf calls this the "four schools theory" and considers it to be his book's main contribution to scholarship.

The book is divided into two parts. The first is devoted to an overview of Mālik's methods of legal interpretation and those of later Mālikī scholars, along with an analysis of the reception of Mālik's understanding and use of the concept of praxis (*'amal*) by later Mālikī and non-Mālikī scholars. The second part of the book is a detailed analysis of Mālik's reasoning on a variety of legal rules.

The first chapter gives basic historical background on Mālik and discusses the primary sources for the reconstruction of his legal thought: the different versions of the *Muwaṭṭa'*, the *Mudawwana*, and a few other early Mālikī sources. Wymann-Landgraf relies heavily on Miklos Muranyi's scholarship on the early North African Mālikī tradition and rejects Calder's revisionist dating of both the *Muwaṭṭa'* and *Mudawwana*. This allows him to use both as sources for the reconstruction of Mālik's legal thought.

The second chapter provides an overview of Mālik's legal reasoning and its reception by later Mālikī scholars. It includes a comparative examination of the legal methodologies of other important formative-era figures, most prominently Abū Ḥanīfa (d. 150/767) and al-Shāfi'ī (d. 204/820). The chapter documents Mālik's attitude towards the material sources of law (the Qur'ān, ḥadīth, and consensus) and methods of extending the law (such as analogy [*qiyās*], juristic preference [*istiḥsān*], preclusion [*sadd al-dharā'i'*] and unstated goods [*al-maṣāliḥ al-mursala*]). Wymann-Landgraf also shows how later Mālikīs such as Ibn al-Qāsim (d. 191/806), Ibn 'Abd al-Barr (d. 463/1070), al-Qarāfi (d. 684/1285), and al-Shāṭibī (d. 790/1388) conceived of Mālik's legal methodology. The chapter thus comprises both a synchronic analysis of styles of

reasoning in Mālik's era and a diachronic analysis of the reception of Mālik's thought by post-formative Mālikīs.

The third and fourth chapters of the book are an analysis of the reception of Mālik's distinctive use and understanding of the concept of praxis by later Mālikī and non-Mālikī scholars. The third chapter provides a catalog of arguments against the authority of Medinese praxis as a legal proof made by non-Mālikī scholars of the formative period (such as al-Shāfi'ī, Abū Yūsuf [d. 182/798], and al-Shaybānī [d. 189/805]), and by later post-formative scholars such as the Ḥanafī al-Sarakhsī (d. 483/1090), the Shāfi'ī al-Ghazālī (d. 505/1111), the Mu'tazilī 'Abd al-Jabbār (d. 415/1025), and the Zāhirī Ibn Ḥazm (d. 456/1064). There are two principal arguments against Mālik's notion of praxis: that Medina has no special and unique preeminence over other cities, and that a binding consensus requires the concurrence of the inhabitants of all cities, not simply those of Medina. The fourth chapter examines how Medinese praxis was understood by later Mālikīs and Ḥanbalīs (Ibn Taymiyya [d. 728/1328] and Ibn al-Qayyim [d. 751/1350]). It analyzes Mālikī and Ḥanbalī justifications of praxis as a binding legal argument, what constitutes it, and the conceptual work it can do in establishing a legal rule amidst a tangle of conflicting binding texts and arguments. For Mālik, praxis is more than what the people of Medina did or the norms applied by its judiciary, "to constitute a legal proof, praxis needed the endorsement of Mālik's teachers. Their explicit or tacit endorsement constituted its authentic *isnād* in Mālik's views" (p. 241). Later Mālikīs argued that praxis helps the jurist to discover the correct legal rule by distinguishing between repealed and repealing texts, those that are normative and those that are not, prophetic actions that were isolated and those that were habitual, and the Prophet's various roles as a universal law-giver, state leader, military commander, judge, head of family, and so forth.

The fifth chapter begins the second major part of the book by providing an overview of Mālik's distinctive terminology in his discussion of legal opinions and proof-texts in the *Muwatta'*. Each of the following five chapters, which are the heart of the book, is devoted to the analysis of a single term. For example, the sixth chapter examines Mālik's invocation of 'sunna' in his explication of the law in six different cases. The seventh chapter analyzes Mālik's invocation of terms that refer to the people of knowledge in Medina. The eighth looks at Mālik's explicit references to Medinese praxis. The ninth and tenth chapters look at the most ubiquitous of Mālik's terms, '*al-amr*' (which Wymann-Landgraf translates as 'precept'). Each of the chapters offers close textual analysis of Mālik's discussion of a wide variety of legal issues, ranging from the calculation of zakat on gold and silver to issues raised by an individual's late arrival at congregational Friday prayers. In the five chapters devoted to Mālik's

terminology, Wymann-Landgraf analyzes a total of forty-five different legal issues. The discussion of a typical case starts with a summary of the law as articulated by Mālik in the *Muwattaʿa*, highlighting the conceptual role played by the key term in the legal issue, followed by comments on the law in question attributed to Mālik by the collectors of the *Mudawwana* and supplemented by the opinions of Ibn al-Qāsim. Wymann-Landgraf then presents the positions advocated by other major formative legal scholars, especially Abū Ḥanīfa, on the same issue. The cumulative effect is to illustrate the legal methodology that motivated Mālik's laws in the context of alternative opinions motivated by other legal methodologies; this contrast between competing legal methodologies is central to the book's main argument.

Wymann-Landgraf's close textual analysis of Mālik's distinctive legal terminology yields a number of insights, of which I will list just a few here. For Mālik, "Praxis was the vehicle transmitting the sunna. Ḥadīths and post-Prophetic reports were ancillary and only partially complete legal references" (p. 323). Thus Medinese praxis, as the carrier of the sunna, adds details not present in authoritative legal texts. Wymann-Landgraf finds that Mālik often invokes praxis to justify why the Medinese would depart from rules that would be required by the straightforward application of analogy. He notes that Mālik distinguishes between praxis supported by Medinese consensus and praxis unsupported by such consensus, and offers the intriguing hypothesis that praxis supported by consensus often resulted from the Medinese judiciary's application of a norm; consequently, issues under the purview of the judiciary tended to yield greater uniformity of praxis and thus consensus.

Wymann-Landgraf sees his work as making three main contributions to current scholarship on the history of Islamic legal thought: reconsideration of the chronology and significance of the emergence of the four Sunni legal schools, correction of our understanding of formative-era attitudes towards difference of opinion, and refutation of Schacht's theory on the relationship between ḥadīth and law.

The central theoretical claim of *Mālik and Medina* is that each of the four Sunni legal traditions had a characteristic and coherent legal methodology and a distinctive body of positive law already in the formative period. Wymann-Landgraf articulates the "four schools theory" as an alternative to the dominant narrative on the emergence of the four schools. This narrative portrays Islamic law in the formative period as a collection of rules generated by the *ad hoc* legal opinions of religious authorities who applied an inchoate set of interpretive methods, in an undisciplined manner, to religious texts and customary norms. In this view, the legal schools did not adopt a coherent legal methodology until after al-Shāfiʿī. Wymann-Landgraf's close textual analysis of

Mālik's legal thought belies this narrative. He clearly shows that Mālik had a coherent and distinctive legal methodology, based fundamentally on Medinese praxis, with which he justified inherited opinions, clarified the law in ambiguous cases, and dealt with opposing legal views and their rationales. Important aspects of this often implicit legal methodology were theorized and made explicit by later Mālikī scholars, thus showing the continuity between the founder of the legal school and its later adherents.

Wymann-Landgraf's central thesis goes beyond Mālik and Mālikism, and makes a broad claim about the philosophical coherence and continuity of legal method in four Sunni schools. His main source for the laws and rationales in the other schools is Ibn Rushd's (d. 595/1198) *Bidāyat al-Mujtahid*, a work of comparative law. I think, though, that reliance on this work is not without its pitfalls, because it is unclear what Ibn Rushd's sources are for either the opinions of formative era jurists, especially those of Abū Ḥanīfa, or the justifications they used to substantiate them. Was Ibn Rushd transmitting opinions and justifications from Ḥanafī sources or Ḥanafī colleagues? When Ibn Rushd identifies an opinion as Abū Ḥanīfa's, is he identifying it as the opinion of that specific historical individual or rather as a rule that later Ḥanafīs advocated? When Ibn Rushd says that Abū Ḥanīfa held the opinion X on an issue because of a reason Y, is he transmitting from a Ḥanafī source specifically attributed to Abū Ḥanīfa, or from a later jurist who was speculating about why Abū Ḥanīfa might have held that position, or is it Ibn Rushd's own conjecture as to what Abū Ḥanīfa's reasoning might have been based on his knowledge of Ḥanafī legal methodology? If Ibn Rushd is making his own conjecture, and if the attribution to Abū Ḥanīfa is meant to be taken as an attribution to the the Ḥanafī school and not to the historical individual, then Ibn Rushd cannot be treated as a source who represents views and legal methods roughly contemporaneous with those of Mālik. We would need a close textual analysis of Ibn Rushd's work of comparative law to rule out this possibility. To my knowledge, this has not been done yet. It may be that Wymann-Landgraf is perfectly justified in using Ibn Rushd as he does, but we cannot know.

In addition to this methodological difficulty, there are two serious ambiguities in Wymann-Landgraf's "four schools theory." According to the main component of the theory, each of the four classical schools has a distinctive legal methodology that characterized the legal thought of formative-era jurists and that was subsequently adopted by scholars belonging to the tradition inaugurated the eponymous founder. Thus, an important feature of the four schools theory is the temporal continuity of the founder's legal methodology throughout the pre-modern history of the tradition. It is unclear, though, what Wymann-Landgraf means when he talks about a coherent and continuous

legal methodology. One interpretation would be that later scholars of the school used the legal methodology to justify the generation of new law. If we assume that this is what Wymann-Landgraf means by legal methodology, then one may ask how its continuity over time within a legal tradition can be demonstrated. I would imagine that the strongest evidence for this aspect of the thesis would be presence of justifications for new law articulated by tradition-bound jurists in terms of the school's distinctive legal methodology. If such justifications can be found, then we have very strong evidence of the continuity of the legal method in the justification of new norms over the history of the tradition. Where would such justifications be found? Presumably books of positive law (*fiqh*) and collections of fatwas would be sources most conducive to this type of inquiry. But these are not the sources that Wymann-Landgraf uses. Rather he primarily uses works of legal theory (*uṣūl al-fiqh*), with special attention to how Mālikī legal theorists interpreted and understood aspects of Mālik's legal methodology in theoretical terms. The problem with this approach is that it does not substantiate the continuity of a legal method, if we assume that what Wymann-Landgraf means is a methodology used to justify new laws.

There is another conceptual ambiguity in Wymann-Landgraf's "four schools theory", which also relates to his thesis about the continuity of a tradition's legal methodology. He exhaustively demonstrates the centrality and substance of the concept of Medinese praxis to Mālik's legal method. Mālik and others understood the authority of this method as stemming from the ability of Medinese praxis to indicate a norm instituted by the Prophet and conveyed as a practice by the community from generation to generation down to Mālik's time. The authority of Medinese praxis is therefore derived from the authority of the Prophet. This much is clear. Moreover, Mālik was an eye-witness to Medinese praxis and he uses it to justify norms based on his personal testimony to its content. But what happens to the role of Medinese praxis in Mālik's legal methodology in subsequent generations when Mālikism spread outside the confines of Medina and flourished in the Maghrib and al-Andalus? For example, the Andalusian Mālikī Ibn 'Abd al-Barr could not have relied on Medinese praxis to justify new law, because he was not an eyewitness to it. He lived in al-Andalus, and so many centuries had passed since the death of the Prophet that I doubt he would have thought that the praxis of the people of Medina during his time indicated an unbroken practice that originated with the Prophet. If this is the case, then in the eyes of later Mālikīs, Medinese praxis may be trusted to provide an epistemic foundation for core Mālikī rules, but it cannot do much else. It could not have been used by later Mālikīs to justify new laws. This begs the question of the place of Medinese praxis in a distinctive and

continuous Mālikī legal method. Medinese praxis is certainly what makes Mālikism distinctive. If we exclude it, then can we really posit the existence of a distinctive legal method practiced continuously over the history of the school?

These ambiguities aside, I think that Wymann-Landgraf is largely correct in his assertion that figures such as Mālik and Abū Ḥanīfa were relying on a distinctive legal methodology to generate and justify norms, and he thoroughly demonstrates that this was the case with Mālik. And there certainly seems to be a sense in which aspects of this legal methodology continue to play important roles in the subsequent histories of the legal schools. But the nature of these continuities is still unclear. No such ambiguities beset the book's two other major scholarly contributions.

In contrast to Islamicists such as Joseph Schacht and Fazlur Rahman, who portray formative-era jurists as viewing difference of opinion as at best tolerable and at worst undesirable, Wymann-Landgraf shows that difference of opinion is not something early jurists sought to avoid or suppress; rather it was an integral component of their legal thought. Formative-era jurists actively sought out difference of opinion; they also changed their minds frequently. Both of these facts are incompatible with an attitude of suspicion or rejection toward difference of opinion.

Schacht hypothesized that the plethora of legal opinions in early Islam and the atmosphere of intense competition amongst early authorities caused them to fabricate and circulate reports back-projected to increasingly earlier authorities in order to enhance the legitimacy of their legal opinions. In his view, this was the true origin of many legal Prophetic ḥadīth and other reports. Harald Motzki has demonstrated the implausibility of widespread and systematic fabrication through the detailed and systematic analysis of the mechanics of report transmission. For his part, Wymann-Landgraf disproves Schacht's hypothesis of widespread ḥadīth fabrication by analyzing the role of ḥadīth in the legal arguments of formative-era jurists. He shows that they did not often cite conflicting proof texts on issues on which they disagreed. There are very few instances of a difference of opinion rooted in conflicting ḥadīth texts. Rather, formative-era jurists often shared a corpus of texts (including ḥadīth) that they interpreted differently, using a host of interpretive methods to neutralize the legal implications of proof-texts that conflicted with the law they advocated. Moreover, the relative paucity of ḥadīth compared to the multiplicity of legal questions addressed by jurists suggests that ḥadīth were not systematically fabricated. If widespread fabrication had occurred, we would see an abundance of ḥadīths used as proof-texts for the many legal issues on which formative-era jurists had conflicting views. This is not the case.

*Mālik and Medina* is most likely to be of use to graduate students and scholars of Islamic law and Islamic thought. The work assumes a basic understanding of the intricacies of Islamic legal history and thought that makes it difficult for undergraduates. That being said, given that it covers forty-five laws from a variety of legal fields and their various legal rationales, *Mālik and Medina* can serve as an instructor's reference for the distinctive legal methodologies used by jurists of the formative period. Wymann-Landgraf does an excellent job of summarizing the main trends of Western scholarship on Islamic legal reasoning and legal traditions, and thus offers a sound historiographical review of the main theories in the field. I found the detailed analysis and presentation of the forty-five cases the most enjoyable part of the book. It is apparent that Wymann-Landgraf has masterly control over the details of the legal issues and is able to convey clearly the legal values at stake for Mālik and other formative-era jurists. The presentation of the cases in the context of competing positions in the formative period gives us a clear picture not only of Mālik's reasons for holding the opinions that he did, but also of the options that were available to him. *Mālik and Medina* shows that the justifications for formative-era law were more often than not rooted in sources outside of scripture and that the creation and justification of laws followed coherent legal methodologies, rooted in eminently rational considerations. *Mālik and Medina* decisively shows that "Ijtihād – and not ḥadīth – was the 'real stuff' of the emergent law" (p. 516).

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