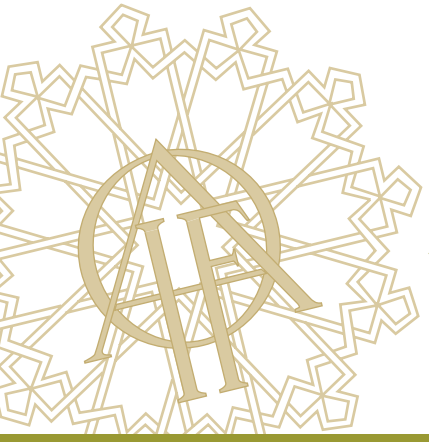
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Jonathan E. Brockopp

The Formation of Islamic Law. The Egyptian School (750-900).

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JONATHAN E. BROCKOPP

The Formation of Islamic Law
The Egyptian School (750–900)

In 1964, Joseph Schacht wrote that Egypt did not develop an "ancient" (or regional) school on the scale of those present in the Ḥiǧāz, Syria and especially Iraq in the beginning of the eighth century; rather, he argued, Egypt "fell under the influence of the other schools, particularly that of Medina".[1] Schacht recognized that later, in the mid-ninth century, Egypt was a center of legal activity, but this activity was confined to two personal schools of law, those of Muḥammad b. Idrīs al-Šāfiʿī (d. 204/820) and of Mālik b. Anas (d. 179/795), that grew out of the ancient Medinan school.[2] Schacht's observations have been reiterated by many scholars,[3]

1. I am grateful to Mathieu Tillier and the anonymous reviewers for their helpful and critical comments. Schacht, *Introduction*, 28. Schacht may have been responding to scholars, such as Rhuvon Guest and Charles Torrey, who regularly referred to an "Egyptian school of law".

2. Building on Schacht's thesis, Christopher Melchert (*Formation of the Sunni Schools*) has tried to explain the development of personal from regional schools, arguing that this was essentially a defensive measure against either traditionalists (for the Ḥanafīs, p. 36) or the surrounding majority of pagans and Christians (for the Mālikīs, p. 39-40). More recently, Wael Hallaq (*Origins and Evolution*) argued forcefully for an Arab precedent for the formation of these schools. In "Competing theories of authority", I argued that the anomaly of Ibn ʿAbd al-Ḥakam's compendia of law is a significant problem for any evolutionary scheme of legal development. The present article is my first attempt to explain how Ibn ʿAbd al-Ḥakam's compendia may have arisen within the context of Egypt.

3. In addition to Melchert and Hallaq, note also Patricia Crone, *Roman, Provincial and Islamic Law*, p. 20, where she defines these early schools as "congeries of scholars who lived in the same city, often making a livelihood as merchants and shopkeepers and discussing law in their spare time;" like Schacht, she dates them to about 720, but says they may have existed earlier.

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but both halves of his formula need revisiting. His second observation is easier to address, since we now have witnesses to many more texts from the ninth century than did Schacht. From these, we know that Egyptian jurists in the mid-ninth century were in fact heavily engaged in the interpretation and dissemination of legal works from Mālik and al-Šāfiʿī, but the works of native Egyptians such as al-Layṯ b. Saʿd (d. 175/791) and Ašhab b. ʿAbd al-ʿAzīz (d. 204/820) were not forgotten. Moreover, Egypt's unique intellectual environment placed an indelible stamp on both the Mālikī and Šāfiʿī schools. So rather than say that Egypt was subsumed into these two personal schools, it would be more correct to say that Egypt formed their birthplace.[4]

But Schacht's first observation needs modification as well. A careful reading of the sources demonstrates that all the markers of an ancient school of law were present in Egypt as well – this is especially the case if we expand Schacht's conception of the ancient school to include: a community of the Prophet's companions; scholars who collected hadiths; and an administrative center with a long tradition of judges and specialists in Islamic law.[5] New work on Greek, Coptic and Arabic papyri, along with analysis of ninth and tenth-century manuscripts from Egypt and North Africa, provides evidence of an active intellectual and administrative society that continued from late antique Egypt without serious interruption through the early centuries of Islamic rule.[6] Whereas the assertion, that ancient schools of Islamic law developed in Kūfa and Medina, is based on reasoned speculation and a judicious reading of histories, biographies and hadith collections written centuries after the fact, the assertion that Egypt had no such ancient school is based primarily on negative arguments: no native Egyptians developed a personal school of law, and few Egyptian authorities appear as tradents in collections of hadiths. We now know, however, that Alexandria's fame for scholarship did not end with the Arab conquest, and that ninth-century Egyptian legal scholars produced texts every bit as sophisticated as their contemporaries in the rest of the Islamic world. Further, Egyptian scholars anticipated their contemporaries in several key areas. So there may be reason to question the bias of biographical dictionaries that see Egypt primarily as the recipient of legal knowledge rather than a source.

4. As mentioned above, Melchert suggests that in Egypt personal schools developed out of a defensiveness toward the local Christian population. There may be something to this, though, as I have argued elsewhere, the role of charismatic authority in Islamic law has deep roots. See my "Theorizing Charismatic Authority".

5. The definition is my own, though it builds on suggestions made by Crone and Schacht. Schacht is clearer about what these ancient schools were not than what they were, though he is quite convinced that the direction of influence went from Kūfa to Medina (*Introduction*, p. 28-31). The very problem of producing a definition underlines the fact that we have almost no direct evidence for the existence of these regional schools; rather, they are presumed to exist because of the personal schools that developed thereafter. While it may be that Crone over-emphasizes the part-time, accidental nature of legal discussions in the earliest period, I believe that Hallaq overplays the professionalization of legal scholars and actors. Finally, in response to a concern by one of the anonymous reviewers, I want to be explicit that the point of this article is not to refute Schacht, but to suggest that new evidence warrants revisiting his claim.

6. For an overview of Egyptian administration during this period, see Mathieu Tillier, "Les « premiers » cadis de Fusṭāṭ", in this volume.

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Part of the reason that Egypt is slighted in the history of Islamic law may be the fact that it maintained a fraught political relationship with the centers of the Umayyad and ʿAbbāsid empires. Between 642 and 900 CE, Egypt went through several phases, oscillating between independence and centralized control, culminating in the semi-autonomous dynasties of two Turkish warriors, Aḥmad b Ṭulūn (d. 270/884) and Muḥammad al-Iḫšīd (d. 334/946), who made Fusṭāṭ and its environs into a true local capital. This political independence was made permanent in 969 CE, when Egypt fell to the Fāṭimids, sworn enemies of the ʿAbbāsids in Baghdad. Egypt became a center of Ismāʿīlī propaganda; Mālikism shifted further west, to North Africa, Andalusia and West Africa, while Šāfiʿī scholars moved east and south.[7] The decline of Sunni scholarship in Egypt during the Fāṭimid period may have caused modern scholars to overlook Egypt's role in the formation of Islamic law, but due to a new array of sources it is worth looking at this history afresh.

It is an obvious, but seldom mentioned point, that Fusṭāṭ figures large in Muslim histories of Egypt. At first blush, this seems reasonable since by the ninth century Fusṭāṭ had established itself as the economic, administrative, and cultural center of Egypt; scholars in Fusṭāṭ produced the significant books of law and history on which its contribution to the early development of Islamic law must rest. In the seventh and eighth centuries, however, it is Alexandria that played the more influential role in the economic and scholarly life of Egypt. We have no literary history of early Islamic Alexandria, but piecing together evidence from a wide variety of documents and literary sources, considering economic, social, military and religious developments, it is possible to recover some of Alexandria's history as a center of economic, social and scholarly activity.

Brief Historical Overview of Egypt (600–900)

When ʿAmr b. al-ʿĀṣ received the capitulation of Alexandria in 641 he had taken control of a war-torn country that had not yet been fully re-integrated into the Byzantine Empire. Only 14 years earlier, in 627, the decade-long occupation of Egypt by the Persian Empire was ended by Heraclius,[8] but economic and theological issues continued to separate Egypt from the Eastern Roman Empire. The importance of Egypt as a pawn traded between Constantinople and Ctesiphon rested both in its massively fertile river valley and its active commercial centers, capable of producing both grain and taxes for the victor. But Egypt's independent wealth was matched by an independence of scholarship. Since ancient times, Alexandria was the site of major philosophical, astronomical and medical advances,[9] and so the independence of

7. This is, of course, a generalization. For example, there was also an important Mālikī presence in Baghdad in the 10th century and beyond.

8. Alfred Butler's century-old account (*Arab Conquest of Egypt*, p. 54-129) is based on John of Nikiou, and other Greek, Coptic and some Arabic sources; it is still an excellent overview. For a brief update, see the excellent essay by Walter Kaegi, "Egypt on the eve". A translation of John is available (Charles, trans., *The Chronicle of John*).

9. For examples, see Haas, *Alexandria*.

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its religious scholars should come as no surprise. The christological debates that symbolized this assertion of independence need not detain us here, but papyri from Alexandria and other scholarly centers in Egypt detail the continued influence of scholarship and writing well into the Islamic period.[10] Though the history of early Islamic Egypt has been told before, the implications of these developments for the rise of a scholarly class have been overlooked.[11] In the seventh century, the Arabs were just another in a long line of foreign minorities ruling over Egypt, but unlike the Byzantines and Persians who preceded them, the Arabs became Egyptians.[12] By the ninth century, they and their clients had become an indigenized scholarly and merchant elite, intimately woven into the social fabric.

Arabs had long been familiar with Egypt,[13] but the initial conquests and the establishment of a garrison city in Fusṭāṭ represented the first significant settlement of Arabs in the region. The well-known retreat of ʿAmr b. al-ʿĀṣ to Fusṭāṭ from Alexandria is often explained as a strategic move to maintain easy communication with Medina, but it also resulted in Alexandria virtually disappearing from the Arab historian's purview. Classified as an outpost (*ṭaġr*) due to its position on the sea, Alexandria does not play a significant role in Arab historical imagination.[14] For the first few decades of the Islamic era, as the Arab conquests continued westward, administrative and commercial life continued in Alexandria, while Fusṭāṭ served as the base for raids and eventual expansion to North Africa and Europe.

ʿAmr b. al-Āṣ is so closely connected with early Islamic Egypt that he is rumored to have visited Alexandria in pre-Islamic times.[15] However that may be, he built the beginnings of an Arab state in Fusṭāṭ, laying out his famous mosque and a governmental quarter outside the walls of the Roman fort of Babylon in 642. The size of his ambitions, as measured by the size of his mosque, was modest. The initial structure measured a mere 100 ft wide by 50 ft deep, and in terms of architecture probably did not rival local Christian churches, not to mention

10. For an overview of recent finds, which include an estimation that there are over 150,000 Arabic papyrus fragments awaiting analysis, see Sundelin, "Introduction". Fifty years ago, Artur Steinwenter (*Das Recht der koptischen Urkunden*) disparaged the artificial boundaries that separated scholars of late antique Egypt, based on their knowledge of only Greek, Coptic or Arabic texts and the subsequent presumption of a distinction between Greek, Coptic and Arabic law. Roger Bagnall believes that this division is starting to be overcome; see his edited volume *Egypt in the Byzantine World*, and especially his introduction (p. 1-17).

11. Butler focuses on only the first 50 years, while the *Cambridge history of Egypt* has no section devoted to the development of Islamic law. A good deal of useful information, however, can be gleaned from the specialized studies of Khoury (*ʿAbd-Allāh Ibn-Lahīʿa*) and the many texts by Miklos Muranyi. Charles Torrey's introduction to his edition of ʿAbd al-Raḥmān Ibn ʿAbd al-Ḥakam's *Futūḥ Miṣr* and Rhuvon Guest's introduction to al-Kindī's *Kitâb el umarâ (el wulâh) wa Kitâb el qudâh*, are also excellent guides to the material.

12. Conversion certainly played a role here, but the policy of allowing Muslim men to marry Christian women must have as well, though evidence is almost entirely lacking.

13. Kaegi, "Egypt on the eve", p. 44-45.

14. The pharaohs preferred capitals in Upper Egypt (Thebes) or at the point where upper and Lower Egypt met (Memphis). Alexandria's position and prestige was dictated by its accessibility first to the Greco-Roman empire and then to the Byzantine. This same position caused it to be vulnerable to attack from the sea until such time as the Muslims built a navy.

15. Kaegi, "Egypt on the eve", p. 44.

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the great buildings of Alexandria at the time.[16] ʿAmr's use of a minbar, borrowed from a church pulpit and much discussed as a legal precedent, is just one example of his awareness of the vastly superior Christian civilization around him.[17] Similarly, early coins demonstrate that the mint was initially left in Alexandria and only later brought to Fusṭāṭ; at that point, however, early coins were still marked with Greek letters, demonstrating the same slow process of Islamicization found in the rest of the Empire.[18] The coins are emblematic of a bureaucratic inertia that led to a continuation of policies and personnel. Early papyri were composed in Greek, Arabic and Coptic as Copts quickly filled positions left open by fleeing Byzantine functionaries.[19] Only in 87/706 was the *dīwān* changed from Coptic to Arabic.[20] The slow process of Islamicization and the weight of an ancient civilization meant that Egypt followed a separate path from either Iraq or the Ḥiǧāz. In the first *fiṭna* after ʿUṯmān's death, Egypt helped to play kingmaker as ʿAmr occupied it a second time, removing ʿAlī's governor in 658 and backing Muʿāwiya; ʿAmr was still bristling, apparently, from ʿUṯmān's replacement of ʿAmr as governor of Egypt, appointing his own foster brother, ʿAbd Allāh b. Saʿd, in his stead.[21]

Given the continuing tensions among power centers in Syria, Iraq, and Arabia, Egypt must have seemed a good place to settle down. The story of eighty of the Prophet's Companions determining the *qibla* of ʿAmr's mosque may be legend, but al-Suyūṭī counts 354 Companions among those who participated in the conquest or who resided in Egypt at some point in their lives.[22] Perhaps more important in terms of legal scholarship, al-Suyūṭī counts seventy of the most important Followers in Egypt, including ʿAbd Allāh b. Zubayr (d. 74/692)[23] and ʿAbd al-ʿAzīz b. Marwān (d. 85/754).[24] ʿAbd al-ʿAzīz's son ʿUmar, the future Umayyad caliph, may have been born in Egypt and certainly spent time there during the twenty years when his father

16. See Eustace K. Corbett's delightful imagination of this simple structure in "History", p. 767. Doris Behrens-Abouseif (*Islamic Architecture*, 49) suggests it was not entirely devoid of decoration, however.

17. *Ibid.* Arab governors also oversaw the building of huge Episcopal residences in Ḥilwān, just south of Fusṭāṭ, based on Byzantine models; see Grossman "Early Christian Architecture", p. 130.

18. At first, only copper coins were minted in Egypt, with the name changing from ALEX to MASR (but still in Greek letters) sometime in the late seventh century (Schultz, "Monetary history", p. 325). This slow transition of administration from Alexandria to Fusṭāṭ fits with the building of a governor's residence in Alexandria toward the end of Muʿāwiya's reign, a residence that was eventually abandoned (see n. 45 below).

19. The papyri found in Aphrodito are in all three of these languages. See Abbott, *Kurrah Papyri*, and Rāġib, "Lettres nouvelles".

20. Kennedy, "Egypt as a Province", p. 69.

21. Wensinck, "ʿAmr".

22. Al-Suyūṭī, *Ḥusn al-Muḥāḍara*, 1, p. 132-209. I am grateful to one of the anonymous reviewers for pointing out that al-Suyūṭī is serving as a bit of a cheerleader for Egypt, recovering its history for the glory of his patrons. This is an important point, and recommends caution when depending on this text, and all literary texts, for factual information. Likewise, it is true that ʿUmar b. ʿAbd al-ʿAziz is the subject of hagiography. Yet the very development of a hagiographical tradition is, I would argue, an essential aspect of a school of law. Similar traditions were developed around Mālik b. Anas, al-Šāfʿī and other legal scholars, lending an aura of authority to these scholars.

23. *Ibid.*, 1, p. 210.

24. *Ibid.*, 1, p. 216.

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served as Egypt's governor.[25] ʿUmar's residency in Egypt may help to explain his concern for Egypt and North Africa during his caliphate;[26] ʿUmar is remembered for sending teachers of Islamic law to these provinces, including Nāfiʿ, the client of Ibn ʿUmar (b. al-Ḫattāb), whom ʿUmar b. ʿAbd al-ʿAziz sent to Egypt.[27] Nāfiʿ's transmission of hadiths to Mālik b. Anas were so famous that the later Mālikī school dubbed this the "golden chain" due to its reliability. As caliph, ʿUmar b. ʿAbd al-ʿAziz was also famously lenient toward new converts, a policy that ended with his death in 101/720; the reversal of this policy under ʿUmar's successors may have led to the long period of Coptic revolt that began in 725.[28]

The change in ruling dynasty from Umayyad to ʿAbbāsid led to an Egypt of increasing independence. By the 780s, Egypt was striking its own gold and silver coins;[29] a period of civil war in Egypt from 813-816 was ended only by the imposition of a Persian governor, al-Sarī b. al-Ḥakam, from Baghdad. This apparent assertion of ʿAbbāsid control was illusory, since al-Sarī and his sons reigned for the next ten years, perhaps the first independent dynasty to rule over Egypt.[30] By 827 an unusual event in the mosque of ʿAmr is emblematic of the self-awareness of Egypt's scholarly class. ʿAbd Allāh b. Ṭāhir, the ʿAbbāsid general and governor, gathered together the opinion-makers of the city to help determine who would be the next *qāḍī*. The account, as preserved by al-Kindī, portrays various scholars voicing their opinions to the governor.

> The first to speak was Yaḥyā b. ʿAbd Allāh b. Bukayr[31] and he said: "Surely it is for the Amir to choose for the *qāḍī*ship whomever you think. But spare us two men: don't appoint a foreigner or a peasant as our *qāḍī*". He meant by this foreigner: Ibrāhīm b. al-Jarrāḥ[32] and the peasant: ʿĪsā b. Fulayḥ.[33]

The careful balance of power, here, between Ibn Ṭāhir and the scholarly elite is fascinating, but so also is the fact that this group of scholars had become indigenized to the point of seeing a previous *qāḍī*, appointed from Baghdad, as a "foreigner" and demanding one of their own as *qāḍī*.[34] With the dissolution of the Arab army of Egypt in 833 and the last Arab governor serving in 856, Arabs no longer ruled Egypt, but they did form a local scholarly class that apparently wielded some amount of power.

25. Cobb, "ʿUmar b. ʿAbd al-ʿAzīz", p. 821.
26. The Egyptian scholar Muḥammad b. ʿAbd Allāh b. ʿAbd al-Ḥakam (d. 268/882) compiled traditions about him in *Sīrat ʿUmar*.
27. Al-Suyūṭī, *Ḥusn al-Muḥāḍara*, 1, p. 258.
28. Guest, introduction to *Kitâb el umarâ*, 2.
29. Schultz, "Monetary history", p. 327.
30. Guest, introduction to *Kitâb el umarâ*, p. 3.
31. He died in 231/845, was a student of Mālik, but considered a weak transmitter. His recension of Mālik's *Muwaṭṭaʾ* has been preserved.
32. He was the previous *qāḍī* and a Ḥanafī, see ʿAbd al-Raḥmān b. ʿAbd al-Ḥakam, *Futūḥ Miṣr*, p. 246.
33. Al-Kindi, *Kitâb el umarâ*, p. 433-34; translated in Brockopp, *Early Mālikī Law*, p. 39-41.
34. *Ibid.*

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The building of a monumental new mosque in 879 by the Turk Aḥmad b. Ṭulūn signaled a new phase in Fusṭāṭ's expansion: the Fusṭāṭ area finally had buildings that rivaled the churches and academies in Alexandria. By this time, however, Alexandria had been reduced to a shadow of its former self.[35] The shifting fortunes of Alexandria and Fusṭāṭ form the fundamental framework within which any history of the development of Islamic law must be told. While during the Umayyad period, Egypt was intensely linked with Damascus through personal and political ties, it retained an independent streak, due to its strategic position and its great wealth. With the onset of the ʿAbbāsid period, the Arabs who immigrated to Egypt began to see themselves as natives, separate from Baghdad. As we will see, the political autonomy and natural wealth that supported both the semi-independent government of Ibn Ṭulūn and the rivalry of the Fāṭimids, also served as the foundation of an increasingly independent scholarly community.

Early Period – First Scholars and the Role of Alexandria (725–775)

Across the Islamic world of the time, the fifty year period between 725 and 775 was a transition between the regional schools, marked by discussions of law and collections of hadith, and the beginnings of personal schools centered on key masters: Abū Ḥanīfa (d. 150/767) and Sufyān al-Ṯawrī (d. 161/778) in Kūfa, al-Awzāʿī (d. 157/774) in Damascus and Mālik b. Anas (d. 179/795) in Medina. Egypt is generally left out of this discussion; its earliest scholars of international reputation were Ibn Lahīʿa (d. 174/790) and al-Layṯ b. Saʿd (d. 175/791), neither of whom developed a personal school of law.[36] But a closer look demonstrates that already in the early part of the eighth century, Egypt was the residence of important scholars of law and hadith.

One method of sifting source material simply involves tracing the origins of these well-regarded scholars. Consider, for example, the fact that while Ibn Lahīʿa and al-Layṯ were famous for their many travels in search of hadiths, they also collected hadiths from the many members of the Follower generation who lived in Egypt, including Ibn Lahīʿa's own father.[37] Both al-Layṯ and Ibn Lahīʿa also depended heavily on traditions gathered by a Nubian convert to Islam, Yazīd b. Abī Ḥabīb (d. 128/745),[38] a well-regarded (*ṯiqa*) transmitter of many hadiths from ʿAbd Allāh b. al-Ḥāriṯ b. Ǧaz' (d. 88/707) and other companions of the Prophet.

35. The non-Muslim population of Egypt remained significant, however. For example, the Fāṭimid caliph al-Ḥākim, made one of his many idiosyncratic decrees in response to a supposed frustration with the number of Christians and Jews in the professional and bureaucratic classes.

36. For an analysis of the telling correspondence between al-Layṯ and Mālik, see M. Tillier in this volume.

37. Guest (Introduction to *Kitâb el umarâ*, p. 35) speculates that the family arrived in Egypt with the conquests; he also relates the story that Ibn Lahīʿa was nicknamed "Abū Ḫarīṭa" due to the notebook that he carried around with him to record hadiths from visitors to Fusṭāṭ.

38. Sezgin, *Geschichte*, 1, p. 341-342; Yazīd is also mentioned by Harald Motzki, "The Role of Non-Arab Converts" on p. 303); on p. 311, Motzki notes his Nubian descent, but not his residence in Alexandria; he also dismisses any connection to Coptic Christianity. See also Khoury, *ʿAbd-Allāh Ibn-Lahīʿa*, p. 114-115.

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Al-Suyūṭī relates that Yazīd was a seminal figure who began to organize Islamic law in Egypt on the basis of *ḥalāl* and *ḥarām*. He was one of three Egyptians granted the right by ʿUmar b. ʿAbd al-ʿAzīz to pronounce on matters of Islamic law.[39] Given what we now know about the continuing importance of Alexandria in the seventh and eighth centuries, it is not surprising to find that Yazīd was living in Alexandria in 737, where Muḥammad b. Isḥāq (the famous compiler of Muḥammad's *sīra*) studied with him along with other Egyptian authorities.[40]

The family of the most important historian of early Islamic Egypt, ʿAbd al-Raḥmān b. ʿAbd Allāh b. ʿAbd al-Ḥakam (d. 275/871) also had ties to Alexandria. ʿAbd al-Raḥmān himself was born in Fusṭāṭ and came of age during a brilliant period in Fusṭāṭ's scholarly community, studying with scholars such as Muḥammad b. Idrīs al-Šāfiʿī and Ašhab b. ʿAbd al-ʿAzīz (both died 204/819). However, ʿAbd al-Raḥmān's father ʿAbd Allāh, an important jurist whose two compendia of jurisprudence will be discussed below, was born in Alexandria in 155/772 and moved the family to Fusṭāṭ. His grandfather (ʿAbd al-Ḥakam, d. 171/787) and great-grandfather (Aʿyan b. Layṭ b. Rāfiʿ al-Ḥaqlī, d. 136/749) lived and died in Alexandria,[41] where they were part of a small community of experts on Islamic law that included the above-mentioned Yazīd b. Abī Ḥabīb and the *faqīh* Yaʿqūb b. ʿAbd al-Raḥmān b. Muḥammad al-Zuhrī (d. 181/797).[42]

As discussed above, Fusṭāṭ was slow in developing as a full-fledged capital of Egypt, so it is reasonable to suggest that Alexandria may have played a significant role in the development of the Egyptian scholarly community. ʿAbd al-Raḥmān often depends on his father for historical notes on Alexandria, including this description of the city:

> Alexandria was, so my father ʿAbd Allāh b. ʿAbd al-Ḥakam told me, three cities right next to one another: the port, which is the place of the lighthouse and those that administer it; Alexandria, where the fort (*qaṣaba*) of Alexandria is located today; and Naqīṭa. Each one of the three has a wall around it, and behind that is yet another wall which surrounds all three together.[43]

From this and other sources, we know that early Egyptian governors paid much attention to Alexandria, building both mosques and a governing quarter (*dār al-imāra*) there in 44/655.[44] The continuing economic and political significance of Alexandria may have contributed to the early development of Islamic law there as well. First, experts on law and hadith at this time

39. Al-Suyūṭī, *Ḥusn al-Muḥāḍara*, 1, p. 259-260, where he writes: "*ǧaʿala ilayhim ʿUmar b. ʿAbd al-ʿAzīz al-futyā bi Miṣr*".

40. Jones, "Ibn Isḥāḳ", 3, p. 810.

41. The family's origins are apparently from a village near Ayla, which itself is near modern day Aqaba; al-Samʿānī (*al-Anṣāb*, 2, p. 241) reports that the family came to Alexandria with ʿAbd Raḥmān's great-grandfather, Aʿyan, perhaps at the end of the 1st/7th century. ʿAbd al-Raḥmān's record of Egypt's conquest is silent on the matter of his own family's involvement; therefore it may be assumed that they played no significant role. See Jonathan Brockopp, *Early Mālikī Law*, p. 10-11.

42. For Yaʿqūb, see al-Suyūṭī, *Ḥusn al-Muḥāḍara*, 1, p. 284.

43. ʿAbd al-Raḥmān Ibn ʿAbd al-Ḥakam, *Futūḥ Miṣr*, p. 42.

44. Kindī, *Kitâb el umarâ*, 36; Kennedy, "Egypt as a Province", p. 69. The governor at the time was Muʿāwiya's cousin, ʿUtba b. Abī Sufyān, who also maintained a garrison of some 12,000 troops in Alexandria.

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were generally merchants who engaged in religious discussions in their spare time. Alexandria would have attracted them with extensive opportunities for international and local trade – something the Ibn ʿAbd al-Ḥakam family apparently excelled at, for by ʿAbd al-Raḥmān's time they were very wealthy. In the first Islamic century, Alexandria was far and away still the most important commercial city of the land and, despite ongoing military disputes with Byzantium, it must have continued its role as Egypt's main entrepôt.

Second, the *scriptoria* located in Alexandria and many smaller cities, established a cultural precedent for a class of local legal experts who worked with sophisticated Greek and Coptic texts. While we have no evidence of converts or scribes involved in anything approaching the kind of translation movement that was active in Syria and Iraq, legal texts in Greek and Coptic, including vocabulary from Byzantine administrative notions, continue to be produced by scribes through the eighth century.[45] Some papyri contain direct evidence of scribes fluent in both Coptic and Greek, so it seems reasonable to suggest that the bi-lingual Arabic/Greek papyri we have from the Umayyad period may also have been written by single scribes. However, any cross-cultural influence, in my view, must have been general and not specific. In other words, there seems scant evidence that specific laws or even forms of reasoning crossed over from Roman provincial law into Islamic law,[46] but the very notion of professional scholars and teaching institutions could have been suggested by the Christian scholarly communities of Alexandria and elsewhere.

The presence of important hadith scholars, the cultural environment, the independent sources of wealth and the family connections to key Egyptian scholars all point to Alexandria playing a significant role in early Islamic jurisprudence, but it must be admitted that we have no firm evidence of an ancient school of Islamic law in Alexandria. As with all other early centers of Islamic law, nothing remains of the few "books" ascribed to the many scholars active before 775.[47] In fact, from the evidence we possess, it seems safe to suggest that "book" is an inaccurate translation of *kitāb* during this period.[48] These earliest writings appear to have been little more than lists of hadiths, perhaps organized along legal categories. A second reason for our lack of evidence is the fact that Alexandria inevitably waned in importance as the role of Fusṭāṭ grew, and by the time the Ibn ʿAbd al-Ḥakam family moved away, Alexandria was no longer the most important urban conglomerate in the province.

45. Schiller, *Ten Coptic Legal Texts*, p. 5.

46. Contra Crone's thesis in *Roman, Provincial and Islamic Law*, Motzki ("Role of non-Arab converts") demonstrates that converts were not the majority of early *fuqahāʾ*. Wael Hallaq (*Origins and Evolution*) presents further evidence of legal notions developed from Arab precedent. In the opposite direction, Schiller notes no influence of Islamic legal notions on the contracts he analyzes from the 8th century (*Ten Coptic Legal Texts*, p. 5).

47. For an overview, of these scholars see Suyūṭī, *Ḥusn al-Muḥāḍara*. Note in particular the importance of Bukayr b. ʿAbd Allāh al-Ašağğ (d. 120/737) and ʿAmr b. al-Ḥāriṯ (d. 148/765), both of whom moved from Medina to Egypt. For Bukayr, see Muranyi, *ʿAbd Allāh b. Wahb*, 101 and for ʿAmr, see Khoury, *Abd-Allāh Ibn-Lahīʿa*, p. 131-132.

48. Khairy, *Abd-Allāh Ibn-Lahīʿa*, p. 119-120.

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(775–830) Early Teaching of Islamic law; First Texts

In the space of little more than a generation, a revolution occurred in Fusṭāṭ. The "ancient mosque" was enlarged several times since ʿAmr's death, significantly by the energetic Umayyad governor Qurra b. Šarīk in 92/710, who also placed therein the *bayt al-māl;* by 133/751 the mosque was several times its original size. In 212/827, the then governor, ʿAbd Allāh b. Ṭāhir, doubled it yet again, making it a significant building with a large open courtyard surrounded by a sea of pillars.[49] This architectural evolution helped to make Fusṭāṭ the true capital of Egypt, and it was accompanied by changes in Fusṭāṭ's scholarly community. Like ʿAmr's original mosque, our earliest surviving texts are rudimentary: lists of hadiths and a few comments on legal theory. These fragments do not even appear to be arranged according to specific chapters of Islamic law, despite the fact that contemporary texts from Medina were so organized. In contrast, scholars by the end of this period, e.g. Ašhab b. ʿAbd al-ʿAziz and ʿAbd Allāh b. ʿAbd al-Ḥakam, were producing texts of remarkable sophistication. Simultaneously, a teaching institution had developed to the point that these texts were passed on intact, from one generation to the next. The speed with which we move from simple lists of hadiths to mature texts of law is astonishing. While these Egyptian scholars were clearly influenced by texts developed in Iraq, Syria and the Ḥiǧāz, they also improved upon these texts, directly affecting the way law was written and understood throughout the Islamic world. From Egypt comes our first datable example of a legal compendium, our first legal commentaries, and perhaps also our first book of legal theory and our first examples of *iḫtilāf* literature. These texts, which I will discuss below, were fundamental for the further development of the Mālikī, Šāfiʿī and even Ḥanafī schools.

This phenomenal change wants explanation. One solution has been simply to re-date Egyptian texts to a later period, to argue that they are pseudepigrapha and cannot have been produced at such an early date.[50] The attractiveness of this response is that it allows for a single schema of literary development that covers all texts produced in the Muslim world of that time. In this schema, advanced legal texts, such as compendia and theory of law, could only be produced after foundational material (Qur'an, hadith and juristic dicta) had been collected, organized, and analyzed. This organizational theory requires the re-dating of many texts, and it is possible in areas like Iraq, for which we have few manuscripts dating from the earliest Islamic centuries. Calder pointed out, for example, that the earliest "substantial manuscript edition" for al-Shaybānī's *Kitāb al-Aṣl* was written five centuries after al-Shaybānī's death,[51] leaving plenty of opportunity for students to manipulate the original text, if there was one. Fundamentally, however, Calder's arguments were based on the silence of the manuscripts, and in the case of those texts (such as al-Šāfiʿī's *Risāla*) where small fragments seemed to derive

49. Corbett, "History", p. 772-775.
50. Calder, *Studies*.
51. *Ibid.*, p. 39; an earlier fragment from the fourth century exists in the library of al-Azhar, however (Sezgin, *Geschichte*, p. 422).

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from earlier periods,[52] he could dismiss those fragments as the possible detritus of the process by which students' notes became fixed texts. In the past few years, however, Miklos Muranyi and others have uncovered a vast trove of manuscripts from Egypt and North Africa that provide physical evidence of a literary development very different from the one that Calder imagined: substantial fragments from the works of ʿAbd al-ʿAzīz b. ʿAbd Allāh al-Mājišūn (d. 164/780-781) are dated to before 769, with the manuscript witnesses completed before 888;[53] a recension of Mālik's *Muwaṭṭaʾ* dated to the lifetime of Saḥnūn b. Saʿīd (d. 240/854);[54] a Qurʾānic *tafsīr* from the late second century and another from the almost unknown writings of Qāḍī Ismāʿīl (d. 282/895); large fragments from the writings of Ašhab b. ʿAbd al-ʿAzīz on ancient parchment.[55] My own work on ʿAbd Allāh b. ʿAbd al-Ḥakam has used the survival of multiple manuscript witnesses to prove that his texts were written and fixed (i.e. passed on to students intact) within his lifetime, probably around 200/815.

The quality of evidence from Egypt and North Africa is therefore substantially different than the evidence from other scholarly centers. Calder may still be right about texts attributed to al-Shaybānī and about the whole development of law in Iraq, but if he was right, then Egyptian scholars developed their perception of a written text and its uses decades in advance of other centers for the study of Islamic law and it may be that Egyptian scholars influenced the development in these other centers. We have, for example, numerous references to personal libraries and to the importance of scholars' homes as sites of study in Fusṭāṭ. First, Ibn Lahīʿa, though not considered by later generations to have been a trustworthy narrator of Prophetic hadith, possessed a considerable collection of writings such that the burning of his house in 170/786 is remembered in the sources as a tragedy.[56] When ʿAbd Allāh b. Wahb died in 197/812, his books were sold so that his heirs could get the proceedings; they fetched at least 300 dinars.[57] Likewise, ʿAbd Allāh b. ʿAbd al-Ḥakam's house was a known place of study in Fusṭāṭ; in 198/814 al-Šāfiʿī stayed there when he arrived in Egypt and over the next six years returned on occasion to make use of Ibn ʿAbd al-Ḥakam's collection of Mālik's writings.[58]

Whereas the history of legal development in other centers is dependent on speculation, the survival of, for example, Ibn Lahīʿa's hadiths on papyrus and parchment fragments over

52. Almost twenty years ago, Calder argued that the *Risāla* should be dated to the mid-fourth century (*Studies*, p. 223-238); at the same time Wael Hallaq ("Was al-Shafii?") presented evidence that the *Risāla* was ignored for over a century after it was written but concluded that it was, in fact, written by al-Šāfiʿī. In the introduction to his edition, A.M. Shākir argued for the authenticity of the manuscript tradition, but while one fragment of 60 folios may date to the third/ninth century, complete manuscripts are only available from much later (Sezgin, *Geschichte*, p. 488). This, along with the fact that the text has internal inconsistencies, opens the door to criticism from Calder and others.

53. Muranyi, *Beiträge*, p. 53-54 and Muranyi, *Ein altes Fragment*, p. 10.

54. Muranyi, *Beiträge*, p. 8. This is the recension by ʿAlī b. Ziyād al-Tūnisī (d. 183/799). Muranyi calls the date of 288 on the manuscript a secondary transmission.

55. *Ibid.*

56. Khoury, *Abd-Allāh Ibn-Lahīʿa*, and Rosenthal "Ibn Lahīʿa", 3, p. 853.

57. Brockopp, *Early Mālikī Law*, 27n.

58. *Ibid.*, p. 27-31.

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1000 years old allows us to map out the development of writing in Egypt with great confidence. Khoury's edition and study of a papyrus role located in Heidelberg reveals a seemingly haphazard collection of hadiths as transmitted to his students. But this is only one view of Ibn Lahīʿa; a manuscript attributed to ʿAbd Allāh b. Wahb, and produced in North Africa at about the same time the papyrus role was written, also preserves many hadiths of Ibn Lahī'a, but these are organized into the familiar chapters of Islamic law and set alongside relevant hadith from Mālik, al-Layṯ b. Saʿd and other sources. Comparing these two texts illuminates the art of collecting and organizing hadiths, a task that required effort and creativity, and that was fundamental to the development of Islamic law as a system (preceding Bukhārī's collection by a century). For example, in Ibn Wahb's section on the person who commits a grave crime and then escapes punishment by fleeing into enemy territory, he quotes various hadiths (on the authority of al-Layṯ b. Saʿd and others) as one would expect, but then proceeds to explain the meaning of these hadiths for the subject of law at hand, demonstrating sophisticated thought on the legal reasoning behind his choice of sources.[59]

At the same time that these hadith texts were being compiled in Egypt, other scholars were focused more heavily on legal judgments (*qawl/aqwāl* or dicta). The famous *Mudawwana* of Saḥnūn reflects the collection of such dicta, primarily by ʿAbd al-Raḥmān b. al-Qāsim (d. 191/806), though other authorities are also mentioned.[60] Here again, we have extraordinary manuscript material that offers direct evidence of the robust study of law in Egypt and North Africa. In this case, not only do we have fragments of Saḥnūn's *Mudawwana* dated six years before his death, we also have an ancient fragment of Ibn al-Qāsim's own collection of dicta, recently discovered by Miklos Muranyi.[61] Juristic dicta represent an alternative form of legal authority, one dependent on the experience and knowledge of the jurist as opposed to his recollection of the Prophet's words and deeds. Unlike hadith, however, which must be interpreted to yield their legally relevant points, dicta speak directly to the legal problem at hand. As with scholarship on hadith at this time, it seems that dicta were also collected elsewhere in the Islamic world, but the manuscript evidence for this activity in Egypt is nonpareil.

Our first truly innovative text from Egypt comes at the end of the eighth century, with the first compendia of law produced by ʿAbd Allāh b. ʿAbd al-Ḥakam. On their own, collections of juristic dicta can be seen as simply substituting one authority (the jurists) for another (the prophet); therefore, the fact that ʿAbd Allāh b. ʿAbd al-Ḥakam collected these dicta, epitomized them, and created thereby the earliest compendia of Islamic law, with almost no reference to hadith or Qur'ān, is an especially innovative act.[62] Calder would have agreed

59. Muranyi, *ʿAbd Allāh b. Wahb*, p. 320-321. It must be admitted, however, that the attribution of these remarks in the text is ambiguous and that they may actually stem from Ibn Wahb's student, Yūnus b. ʿAbd al-Aʿlā (d. 264/877); see *ibid*., p. 83.

60. Brockopp, "Sahnūn b. Saʿīd", forthcoming.

61. For a photograph and partial edition of this fragment, see Brockopp, "Saḥnūn's *Mudawwana*", forthcoming; for Ibn al-Qāsim's text, see Muranyi, "A unique manuscript".

62. Brockopp, *Early Mālikī Law*, p. 66-114. I am grateful to the anonymous reviewer who suggested that al-Shaybānī's texts, *al-Jāmiʿ al-saġīr* and *al-Jāmiʿ al-kabīr*, ought also to be considered among the earliest

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that compendia are a clear example of a juristic community so self-possessed that it is ready to summarize the essential elements of law, but he did not think they were produced until the tenth century. In contrast, not only can we prove that Ibn ʿAbd al-Ḥakam's compendia were written within his lifetime, but he was also able to outline the whole system of Islamic law based solely on the authority of the living community itself. Ibn ʿAbd al-Ḥakam's *Minor Compendium* is particularly surprising because it reduces the Islamic law to a mere fifty-six manuscript pages. Consider, for example, this excerpt from his chapter on funeral rites:

> There are no prayers over the martyr, nor is he washed. He is buried with his clothes [as they were] when he died and was killed on the battlefield. But if he was carried [off the battlefield] and lived and then died afterwards, he is washed and prayed over. For the washing of the dead there is no known divine decree nor is it specifically allowed. Rather, washing of the dead is a purification. [The body] is washed and purified three times or five times with water and the ground leaves of the lote-tree and lastly with camphor […]. His clothes are removed and his genitals are covered. It is not required [to wash] the genitals by hand, but rather with a cloth upon them. A woman is washed by her husband and a man is washed by his wife. A full ablution of the one who washes the dead is preferred in our opinion. There is no divine decree concerning the shrouding of the dead, but we prefer a soft cloth. There is no problem with shrouding [the corpse] with that which they are wearing, nor is there any fault in embalming the corpse with musk, amber or camphor. Shrouding and embalming [are paid for] from the [deceased's] assets.[63]

This extraordinary text, written in beautifully clear Arabic, is absolutely concise. The instructions here could easily be followed and implemented on the spot and the book must have been useful in the teaching, application and propagation of Islamic law. However, Ibn ʿAbd al-Ḥakam twice explicitly states that particular laws are not based on divine decree (*ḥadd*), demonstrating both a respect for divine sources while also emphasizing their limitations. It may seem odd, therefore, that al-Šāfiʿī's *Risāla*, a document that eloquently defends hadith and Qur'ān as the best sources of law, could have been produced in this environment, indeed under Ibn ʿAbd al-Ḥakam's roof. The dissonance of content would seem to support ascribing the *Risāla* to a later period, as would the compository nature of the received text. In fact, however, I believe that the text stems from al-Šāfiʿī, and that a necessary condition for al-Šāfiʿī to produce such a text was precisely the sort of intellectual community that was present in Fusṭāṭ. After all, part of the *Risāla* is in the form of a disputation, the subject of

compendia. I do not agree, however, that these texts approach the sophistication of Ibn ʿAbd al-Ḥakam's text. Moreover, the presumption that they were, in fact, written by al-Shaybānī is speculation, compared with the solid evidence we have for Ibn ʿAbd al-Ḥakam's authorship of his *Compendia*. Both *al-Jāmiʿ al-saġīr* and *al-Jāmiʿ al-kabīr* are based on manuscripts much later than we have for Ibn ʿAbd al-Ḥakam's *Compendia* and they show clear signs of compilation by later generations of students. For discussion of the controversies that attend the dating of these texts, see Brockopp, "The *Minor Compendium*".

63. MS Kairouan, folio 9b.

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which must have been familiar to the residents of Fusṭāṭ during this period as exemplified by other polemical texts that have been preserved.[64]

It is tempting to explain these Egyptian innovations in legal writing as an example of influence from those Byzantine legal texts that accomplish similar purposes, Justinian's *Digests* and *Institutions*. As mentioned above, however, there is little evidence to support any such direct transfer of Roman legal notions into Islamic law or even into Coptic law. I would suggest, rather, that the influence was far more subtle. To begin with, it took centuries for Islamic law to replace the application of local legal norms, a process that naturally resulted in the accepting of some local customs and the rejection of others. It is easy to imagine, for example, that Ibn ʿAbd al-Ḥakam's discussion of "embalming the corpse with musk, amber or camphor" arose from local Egyptian practices rather than from any example of the Prophet. As Islamic legal institutions developed, there was a need for compendia, as found in all sophisticated legal systems. The existence of Byzantine and Coptic legal institutions in Egypt, with their long-standing history of scholarship, may not have directly influenced Ibn ʿAbd al-Ḥakam and al-Šāfiʿī, but they must have provided a template for asserting the new sort of authority that the compendia and the *Risāla* represented. Both these texts presume a powerfully influential scholarly community. In the compendia, the explicit example of the Prophet and of the pious ancestors is effaced, while in the *Risāla* they are subjected to an interpretive scheme that only the scholarly elite can manage.[65] The power of these texts was enhanced by the fact that Fusṭāṭ also offered the first example of an educational institution that supported a genuine book culture in the Islamic world, as I will discuss below.

(830–900) Mature Period: Commentaries and Development

By the death of ʿAbd Allāh b. ʿAbd al-Ḥakam in 214/829 a substantial body of legal writing had been produced in Egypt and a scholarly community devoted to the preservation of these texts and their elaboration had been institutionalized. In other words, by the early ninth century there is evidence not only of writings, but of books: texts that are composed in a single redactional effort and then transmitted, intact, by students. Ibn ʿAbd al-Ḥakam's two compendia are the only texts from this period for which we have multiple manuscript witnesses, and so therefore can prove the stability of their early transmission, but they suggest that other texts may have been books as well, though this cannot yet be proven in the same way.[66]

64. Hallaq's evidence that the *Risāla* was not discussed for 100 years after its production ("Was al-Shafi'i the master architect?") could also suggest that it took that long for an equivalently sophisticated scholarly community to be established outside of Egypt.

65. For a further discussion of the implications for textual authority, see Brockopp, "Competing Theories".

66. Thus far, early texts are either based on late manuscripts, written centuries after the fact, or on a single unique manuscript of great age. The few cases where we do have multiple old manuscripts of the same text (such as the *Muwaṭṭa'* and the *Mudawwana*) indicate that these texts were subject to school activity for generations after the death of the authors. In the case of the *Muwaṭṭa',* this resulted in numerous, variant, editions, while a single authoritative version was eventually established for the *Mudawwana*.

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Once a book is fixed, it is no longer possible to use it in the way that Ibn Wahb incorporated the writings of Ibn Lahīʿa and others to produce his own texts. Rather, scholars reacted to fixed texts with commentary (*šarḥ*). While commentaries on the Qur'ān (also a fixed text) had arisen by this time, the additions to Ibn ʿAbd al-Ḥakam's *Minor Compendium* by Abu ʿAbd Allāh Muḥammad al-Barqī (d. 249/863) appears to be the first example of a legal commentary. Al-Barqī's commentary takes the form of interlinear responses to Ibn ʿAbd al-Ḥakam's text, noting the positions of several other legal authorities in contrast to those of Ibn ʿAbd al-Ḥakam. In other words, it records juristic dispute, or *iḫtilāf*, and antedates by more than a generation what Schacht thought was the earliest example of this literature, the *iḫtilāf* of Abū Ǧaʿfar Aḥmad al-Ṭaḥāwī (d. 321/933), which not incidentally was also produced in Egypt.[67]

To summarize, Kūfa and Medina trump Egypt in terms of hadith scholarship and perhaps also the earliest collections of hadith. But in virtually every other genre of legal writing, Egypt has not only the older ascribed texts but also the oldest manuscript witnesses to those texts. Moreover, at the same time that these innovative genres of legal writing were being developed, scholars continued to produce ever more complicated collections of hadith and juristic dicta (*al-Umm*, *al-Mudawwana*). These second-order texts pushed legal thinking to its limits, advancing the project of Islamic law; their authors were no longer interested in the first-order questions that had exercised Ibn Lahīʿa, Mālik and al-Māǧišūn.[68]

If the fact that Egypt produced seminal works for the early schools of the Mālikīs, Šāfiʿī's and Ḥanafīs seems surprising, that is only because later texts draw lines between these schools that are far too distinct. Closer attention demonstrates that compilers of biographical dictionaries were hard pressed, for example, to classify Muḥammad b. ʿAbd al-Ḥakam, Asad b. al-Furāt or al-Muzanī by school affiliation. Muḥammad and al-Muzanī were both among al-Šāfiʿī's most famous students, but Muḥammad also studied with Mālik's greatest students in Egypt and passed on the works of his own father. Al-Muzanī, in contrast, seems to have developed independent ideas, building on al-Šāfiʿī rather than merely passing on his writings. Asad made a grand tour of all the Egyptian authorities, and transmitted their works, yet some authorities persisted in calling him a Ḥanafī.[69]

The situation is even more complex when we consider personal connections. As mentioned above, when al-Šāfiʿī fled to Egypt from Baghdad, he stayed in the Ibn ʿAbd al-Ḥakam household and made use of their library. But his famous tomb in the Qarāfa cemetery of Cairo was also built on land that belonged to the Ibn ʿAbd al-Ḥakam family and to this day a cenotaph

67. My thanks to the anonymous reader who correctly pointed out that there are any of a number of other texts that might claim to be early examples of the *iḫtilāf* genre. My purpose here is only to point out the existence of al-Barqī's very early text as an example of legal commentary, not to order the various claimants to the title of first *iḫtilāf* text. Not only is each *iḫtilāf* text based on vastly different manuscript foundations, they also differ widely in content, with many of the earliest texts concerning only a few areas of law and not the full range of law found in both al-Barqī's and al-Ṭaḥāwī's texts.

68. For a definition of first-, second-, and third-order legal texts, see Brockopp, "Sahnūn's *Mudawwana*", forthcoming).

69. Brockopp, "Asad b. al-Furāt".

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in that tomb is dedicated to one "ʿAbd Allāh b. Muḥammad b. al-Ḥakam".[70] Al-Ṭaḥāwī (mentioned above), was the most famous Ḥanafī of his day, yet he was the nephew of al-Muzanī, who again was one of al-Šāfiʿī's most celebrated students. The fact is that school affiliations in this period were fluid, if they existed at all. As one would expect for a true regional school, Egypt in the ninth century was a site for all the major trends in contemporary discussions of Islamic law, and the school loyalties of this period described by the compilers of biographical dictionaries were based as much on their retrospective view of history as on any reality in Egypt.

Perspective: Egypt's Influence on the Rest of the Empire

Egyptian scholars, from the earliest generations through the mid-ninth century, are routinely lumped in with the ancient school of Medina. On the one hand, this is reasonable, given the importance of the ancient school of Medina and the significant communication between these two centers. On the other hand, Egypt seems to suffer in this comparison due to the overwhelming success of Mālik b. Anas and his followers. Scholars, such as al-Layṯ b. Sad and Ibn Wahb, who traveled to Medina are understood as promoting Medinan jurisprudence, while scholars, such as Bukayr b. ʿAbd Allāh al-Ašağğ (d. 120/737) and ʿAmr b. al-Ḥārith (d. 148/765), who moved to Egypt from Medina are understood as bringing Medinan jurisprudence with them. The prejudices of classical texts also affect modern researchers, leading Joseph Schacht to describe the Medinan scholar Abū Muṣʿab al-Zuhrī's text as the earliest compendium of law,[71] ignoring that of ʿAbd Allāh b. ʿAbd al-Ḥakam. In other words, Egypt in these accounts is always the recipient and never the source of jurisprudence. The lack of an ancient school of law in Egypt is therefore, in part, a self-fulfilling prophecy, but modern scholars need not repeat the accounts found in the biographical dictionaries.

Analysis of the surviving texts, especially from al-Layth, Ašhab, Ibn Wahb and ʿAbd Allāh b. ʿAbd al-Ḥakam, demonstrates these early Egyptian thinkers to have been remarkably independent and creative. They responded to Mālik, al-Mağišūn and other Ḥiğāzī scholars, but extended and developed their writings as well. The classification of Egyptian scholars as Mālikī or Medinan must be regarded as a literary convention, one that seeks to draw genealogical lines of authority and influence. But when we look more closely at the manuscript evidence, it seems reasonable to suggest that Egyptian scholars had an influence on the development of Medinan jurisprudence, at least to the extent that Medina influenced Egypt.

The role of Egypt in the further establishment of the Mālikī and Šāfiʿī schools in Africa is indisputable. Surviving manuscripts clearly demonstrate that North African and Andalusian libraries were filled with their texts, and that these continued to be studied for centuries. Further, Saḥnūn's *Mudawwana,* arguably the foundational text for African Mālikism, is dependent almost exclusively on Egyptian interpretations of Mālik's dicta, and two key Māliki scholars of the tenth century, Ibn Abī Zayd al-Qayrawānī (from Qayrawān) and Abū Bakr al-Abharī

70. Brockopp, *Early Mālikī Law,* p. 48-49.
71. Schacht, "On Abū Muṣʿab".

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(from Baghdad), were still making commentaries on Egyptian texts. Likewise, the Šāfiʿī school continued to develop and comment on the writings of al-Šāfiʿī's main Egyptian students.

Because of political changes, Egypt did not continue to produce high caliber scholarship, but this should not detract from the very real accomplishments of the ninth century. Egypt's contribution to early Islamic law was profound, and it may rightfully be called the birthplace of both the Šāfiʿī and Mālikī schools, the two major schools of African Islam. Reconstructing the contribution of this independent-minded province clarifies the early development of Islamic law and also suggests that the central role ascribed to Medina and Kūfa ignores the extent to which Egyptian scholars, and probably also scholars from other provinces, influenced the development of Islamic law.

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