Ḥanafī *fiqh* and the Mongol Conquest: ʿAbd Allāh b. Maḥmūd al-Mawṣilī's (d. 683/1284) *al-Mukhtār li-l-fatwā*

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This article examines a renowned work of Ḥanafī jurisprudence (*fiqh*), composed in 7th/13th-century Iraq, in light of the development of the Ḥanafī school of law (*madhhab*) from the pre-Mongol through the Mongol era. In the context of the profound and wide-ranging historical transformations that affected the central and eastern Islamic lands in the Mongol period, the paper will address questions relating to the development of the Ḥanafī *madhhab* in the transition from the "classical" to the "post-classical" period, using ʿAbd Allāh b. Maḥmūd al-Buldajī al-Mawṣilī's (d. 683/1284) *al-Mukhtār li-l-fatwā* as an anchor, rooted in Mongol Baghdad, to look both forwards and backwards.

Keywords: Ḥanafī fiqh*, primers (*mutūn*), epitomes (*mukhtaṣarāt*), commentaries (*shurūḥ*), Iraq, Mosul, Baghdad, Mongols, manuscripts, al-Mawṣilī, Transoxania, Khurasan*

Introduction

There are many areas of the history of Ḥanafī jurisprudence (*fiqh*) that are still in need of detailed scholarly attention. Indeed, our understanding of the historical development of the Ḥanafī school (*madhhab*) over the centuries, in doctrinal as much as institutional terms, remains rather sketchy. This is particularly so when it comes to the period of the 7th/13th and 8th/14th centuries, a time of profound transformation under the impact of the Mongol invasions, in both Central and Western Asia. It is a period that witnessed the composition of numerous works of importance for the Ḥanafī tradition, many of which, however, have remained entirely neglected in Western scholarship. Despite their significance for the articulation of Ḥanafī doctrine in this crucial period, works by jurists such as Ibn Māza Maḥmūd b. Aḥmad Burhān al-Dīn Ṣadr al-Sharīʿa (d. 616/1219), Ẓahīr al-Dīn al-Bukhārī (d. 619/1222), Maḥmūd b. Aḥmad al-Ḥaṣīrī (d. 636/1238), Ḥusām al-Dīn al-Akhsīkathī (d. 644/1247), Najm al-Dīn al-Ghazmīnī (d. 658/1260), and Jalāl al-Dīn al-Khabbāzī (d. 691/1291) still await detailed scholarly investigation.[1] They constitute Ḥanafism's *terra incognita* of the 7th/13th

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1 They form, among others, the corpus of texts investigated as part of the project "Hanafitische Jurisprudenz in Asien, 12.-15. Jhdt." funded by the Austrian Science Fund (FWF), Elise Richter grant no. V 943-G.

century, in spite of the important role they played in the constitution of the Ḥanafī canon, as it crystallized in the late medieval and early modern periods – a canon, which, in turn, laid the foundations for key debates of the modern age. The legal opinions of the scholars of this "middle period", as transmitted in the works of Ottoman, Tatar, and Mughal jurists, among others, thus formed the basis for the negotiation and articulation of Ḥanafī doctrine in the modern and contemporary period.

The large majority of jurists who contributed to the formation of this later, "post-classical" Ḥanafī canon were based in Central Asia. Indeed, it is the Bukharan "school" of Ḥanafism, as Murteza Bedir has called it, that is key to our understanding of the development of Ḥanafī *fiqh* in the immediate pre- and post-Mongol periods.[2] However, other centers of Ḥanafī learning also emerged at the time, such as Khwarazm and Anatolia. As Wilferd Madelung has shown, this was largely due to the westward migration of Central Asian scholars, both preceding and following the Mongol invasions.[3] Moreover, Ḥanafī scholarly production had continued in the heartlands of the soon-to-be-extinguished caliphate, in particular in *ʿIrāq al-ʿarab* and its capital, Baghdad. ʿAbd Allāh b. Maḥmūd al-Mawṣilī al-Buldajī's (d. 683/1284) *al-Mukhtār li-l-fatwā*, the work under investigation in this paper, is, in fact, a prime example of this Iraqi tradition of Ḥanafī scholarship.

In what follows, I will give a short overview of the history of the Ḥanafī *madhhab*, with the aim of situating al-Mawṣilī's *al-Mukhtār* in the wider institutional and discursive framework of Ḥanafism, historically. I will then introduce the author, as well as his work, in the context of 7th/13th-century Iraq (i.e., in its immediate pre- and post-Mongol conquest setting), paying particular attention to the history of the manuscript transmission of *al-Mukhtār* and its main commentary *al-Ikhtiyār*, likewise composed by al-Mawṣilī. By following the trajectory of Ḥanafī thought and practice preceding and subsequent to al-Mawṣilī – a trajectory which corresponds, chronologically, to that preceding and subsequent to the conquest of Baghdad, where Mawṣilī spent a significant part of his life – the paper aims to provide a first sketch of Ḥanafī scholarship in this crucial period of transition. In doing so, it attempts to map the lay of the land of Ḥanafī learning, in doctrinal and social terms, through the historical juncture of Mongol conquest and rule in Central and Western Asia in the 7th/13th century.

Overview of the History of the Ḥanafī madhhab *up until the Mongol Conquest*

In late classifications of Ḥanafī doctrine, al-Mawṣilī's *al-Mukhtār li-l-fatwā* is usually counted as among the so-called "six books" (*al-kutub al-sitta* or *al-mutūn al-sitta*, "the six texts") of the Ḥanafī *madhhab*.[4] These "six books" or "six texts" conventionally include: (i) al-Qudūrī's

2 Bedir, *Buhara Hukuk Okulu*.

3 Madelung, Westward migration.

4 See Özel, Hanefî Mezhebi, 22. The question of the genesis of the category of "six texts" (*al-mutūn al-sitta*) – as opposed to the better-known categories of "four" or "three" texts of the school respectively (see fn. 5, below) – forms part of a separate investigation of the larger project and will be addressed in a subsequent publication. The term *matn* is complicated, but, in this context, generally refers to a basic teaching text – one that would normally be supplied by a commentary (*sharḥ*) by later scholars or the author himself. A *matn* may be an epitome (*mukhtaṣar*) – and, indeed, most often is – but does not have to be so in all instances. This question, too, will be investigated further as part of the project. Regarding al-Mawṣilī's work,

(d. 428/1036) *al-Mukhtaṣar*, (ii) al-Marghīnānī's (d. 593/1196) *al-Hidāya*, (iii) al-Mawṣilī's (d. 683/1284) *Mukhtār*, (iv) Ibn Sāʿātī's (d. 694/1295) *Majmaʿ al-baḥrayn*, (v) Abū al-Barakāt al-Nasafī's (d. 710/1310) *Kanz al-daqāʾiq*, and (vi) Burhān al-Sharīʿa al-Maḥbūbī's (8th/14th century) *Wiqāyat al-riwāya*.[5] These were considered "the esteemed texts of the later authorities" (*al-mutūn al-muʿtabara min al-mutaʾakhkhirīn*), used for teaching and the transmission of school doctrine.[6]

Out of the six, al-Mawṣilī's *Mukhtār* and Ibn Sāʿātī's *Majmaʿ* both date to the 7th/13th century; moreover, both works originated in Iraq, the author of each having spent significant parts of his life in Baghdad (Ibn Sāʿātī was from Baghdad, while al-Mawṣilī moved there as an adult). Indeed, both held positions of authority among the Ḥanafī "guild" of the city: al-Mawṣilī as a teacher and *muftī* at the Mashhad of Abū Ḥanīfa, Ibn Sāʿātī engaged in the same activities at the Mustanṣiriyya madrasa.[7] Al-Mawṣilī's *al-Mukhtār* was composed a few decades before the Mongol conquest of the city, when al-Mawṣilī was still a young man; Ibn Sāʿātī's *Majmaʿ* dates to 690/1291, that is, some three decades after the fall of Baghdad.[8] The initial reception of both works thus falls within the immediate post-conquest period of the city; and both were to rise to special status as "esteemed books" of the *madhhab*, for teaching

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al-Mukhtār li-l-fatwā was, at times, alternatively titled *al-Mukhtār li-l-futyā* (i.e., sporting a variant of the singular *fatwā*), *al-Mukhtār li-l-fatāwā* (in the plural), *al-Mukhtār fī furūʿ al-ḥanafiyya*, *al-Mukhtār fi-l-furūʿ*, *al-Mukhtār fi-l-fiqh*, or simply *al-Mukhtār*. See, for instance, al-Majmaʿ al-malikī, *al-Fihris al-shāmil*, vol. 9, 180, and the listings of major library catalogs. For the meaning of the term *fatwā* in the context of Mawṣilī's work and that of others of the "genre", see below.

5 Classifications vary, however; in his didactic poem *ʿUqūd rasm al-muftī*, Ibn ʿĀbidīn (d. 1252/1836), for instance, adds two additional *mutūn* to this list: ʿUbayd Allāh b. Masʿūd al-Maḥbūbī's (d. 747/1346) *Nuqāya* (*Mukhtaṣar al-wiqāya*) and Ibrāhīm al-Ḥalabī's (d. 956/1549) *Multaqā al-abḥur*; see Calder, The *ʿUqūd Rasm al-Muftī*, 329. Next to the "six texts", a classification by "four texts" (*al-mutūn al-arbaʿa*) also exists. Indeed, the classification by four texts seems to precede the one by six historically. It usually comprises al-Mawṣilī's *Mukhtār*, Ibn Sāʿātī's *Majmaʿ al-baḥrayn*, al-Nasafī's *Kanz*, and Burhān al-Sharīʿa's *Wiqāya*, while excluding Qudūrī and Marghīnānī. See the entry on Mawṣilī in ʿAbd al-Ḥayy al-Laknawī (d. 1304/1886), *al-Fawāʾid*, 106-107; for a more detailed description of the hierarchy, see the excerpts from Kafawī's (d. 990/1582) *Katāʾib aʿlām al-akhyār* and Ibn Kamāl's (i.e. Kemālpaşazāde's) (d. 940/1534) *Ṭabaqāt al-fuqahāʾ* in Laknawī's *al-Nāfiʿ al-kabīr*, 8-11. Wael Hallaq has pointed to the great popularity of Ibn Kamāl's typology and its influence on the later Ḥanafī tradition. See Hallaq, *Authority, Continuity and Change*, 15, fn. 33. Finally, a third common classification of Ḥanafī foundational texts as comprised of "three" primers (*al-mutūn al-thalātha*) is at times juxtaposed to the one by "four". The three texts usually *exclude* al-Mawṣilī and Ibn Sāʿātī, conventionally comprising al-Qudūrī's *Mukhtaṣar*, al-Nasafī's *Kanz*, and Burhān al-Sharīʿa's *Wiqāya* instead. See Özel, Hanefî Mezhebi, 22, and Laknawī, *al-Nāfiʿ al-kabīr*, 23.

6 See Ibn ʿĀbidīn, *Radd al-muḥtār*, vol. 1, 77. Ibn ʿĀbidīn refers to both al-Mawṣilī (*ṣāḥib al-Mukhtār*) and Ibn Sāʿātī (*ṣāḥib al-Majmaʿ*) as among the "sixth class" (*al-ṭabaqa al-sādisa*) of Ḥanafī scholars of the "later period" (*al-mutaʾakhkhirīn*), who were considered to be "the class of followers, capable of distinguishing between the strongest, strong and weak [legal opinions], opinions representing the *ẓāhir al-madhhab* [based on the 'six books' of Muḥammad al-Shaybānī] and opinions based on so-called rare transmission" (*ṭabaqat al-muqallidīn al-qādirīn ʿalā al-tamyīz bayn al-aqwā wa-l-qawī wa-l-ḍaʿīf wa-ẓāhir al-madhhab wa nādir al-riwāya*).

7 For the concept of legal guilds, as first elaborated by Louis Massignon, see Makdisi, Guilds of law, 4-7. For the biography of al-Mawṣilī, see below. For Ibn Sāʿātī, see al-Qurashī, *al-Jawāhir*, vol. 1, ed. al-Ḥilw, 208-212; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 4; Laknawī, *al-Fawāʾid*, 26-27; Özel, *Hanefi Fıkıh Alimleri*, 116-117.

8 See al-Qurashī, *al-Jawāhir*, vol. 1, ed. al-Ḥilw, 211.

and reference purposes in the centuries after that – a position they kept until the modern period. Both texts thus represent good case studies for an examination of the production and transmission of Ḥanafī knowledge in the Mongol period.[9] Indeed, the tradition both works drew on was one that had been long established by the 7th/13th century: it was an elaborate and complex discursive tradition, embodied in the literature of *fiqh*, the first written articulations of which can be traced back to the late 2nd century/8th century.

The beginnings of the Ḥanafī *madhhab* go back to scholarly circles in Iraq in the mid-2nd/8th century. Following Joseph Schacht's work on the origins of Islamic jurisprudence, the *madhāhib* (lit. "ways of going") of early Muslim jurists have generally been understood to have emerged out of, and in their origins to embody, the doctrines of regionally circumscribed centers of legal learning, conventionally labeled "schools": Mālikī *fiqh* is thus understood to go back to the "school of Medina", Ḥanafī *fiqh* to that of Kufa (as was Zaydī and Imāmī, i.e., Twelver Shīʿī, *fiqh*), Ibāḍī *fiqh* to that of Baṣra, and so on.[10] Before long, these "regional schools" crystallized into "personal schools" around individual master jurists, such as Abū Ḥanīfa, the eponymous founder of the Ḥanafī *madhhab*.[11] While geographically discrete legal traditions can, indeed, be discerned in the earliest sources, the above picture has been revised and nuanced, in parts significantly, in recent decades.[12] With regard to the Ḥanafiyya, for instance, Christopher Melchert has convincingly argued that although Abū Ḥanīfa came from Kufa, his legal opinions and circle of followers developed in Baghdad, and that it is there that the beginnings of Ḥanafī thought and practice must ultimately be situated.[13]

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9 While al-Mawṣilī will function as the main anchor of our investigation, Ibn Sāʿātī may act as a useful comparative check against which to situate al-Mawṣilī's work, in broader perspective.

10 See, for instance, Schacht, *Introduction*, 28-36; Crone, *Roman, Provincial and Islamic Law*, 19-23. For a discussion of the term *madhhab*, see Melchert, *Formation*, xvi-xvii; Hallaq, *Origins and Evolution*, 150-153; Weiss, Madhhab in legal theory, 1-9; Al-Azem, *Rule-Formulation*, 2-4.

11 The idea that Abū Ḥanīfa should be seen as the "founder" of the Ḥanafī "school" involves not only a problematic backward projection, but also an indiscriminate condensation of what was ultimately a long-drawn-out and complex process, of the formation of a highly intricate discursive tradition. The tendency to condense and backward-project has not just been characteristic of modern Orientalist scholarship, however, but already features prominently in premodern accounts, on which 19th-century European scholarship depended. Thus, Christopher Melchert has convincingly argued that Western academic narratives of the formation of the schools of law were, in many ways, analogous to, if not based on, that first offered by Ibn Khaldūn in the *Muqaddima*, leading to a Mālikī bias that equated *ahl al-ḥadīth* with *ahl al-Ḥijāz* (hence leaving the puzzle of what to make of Iraqi traditionalism) and the downplaying of historical conflicts within the Muslim community at large and that of the *fuqahāʾ* in particular. See Melchert, *Formation*, xvii-xx.

12 See, for instance, Hallaq's critique, From regional to personal schools of law?; and *idem*, *Origins and Evolution*, 153-167; for a defense of Schacht, see El Shamsy, *Canonization*, 42; a good example for the elaboration and substantial refinement of some of Schacht's basic assumptions, see Melchert, Basra and Kufa, 173-194; for a general overview of the debate, see Powers, Schools of law, 41-55, as well as Sheibani *et al.*, Classical period, 412-423.

13 Thus, "the *Ṭabaqāt* of Ibn Saʿd shows that he considered the Ḥanafī school Baghdadi, not Kufan. *Kitāb al-Maʿrifa wa-l-tārīkh* of Fasawī shows that the Kufan background to Ḥanafī jurisprudence, together more generally with the identification of Kufa with *raʾy* and Medina with *ḥadīth*, emerged only later in the ninth century." See Melchert, How Ḥanafism came to originate in Kufa, 318. Cf. also his more recent revisiting of the topic in The early Ḥanafiyya, 23-45, where he restates the case that "Abū Ḥanīfa, Abū Yūsuf, and Muḥammad al-Shaybānī (d. 189/804-5) all seem to have done their most important work in Baghdad and [...] Kufan followers of theirs are practically impossible to find in early biographical dictionaries" (p. 24).

The first step in the articulation and demarcation of a discrete body of Ḥanafī school doctrine goes back to the literary activities of Abū Ḥanīfa's disciples, Abū Yūsuf (d. 182/795) and Muḥammad al-Shaybānī (d. 189/805).[14] As the Ḥanafī canon came to develop over the centuries, it was six works attributed to Muḥammad al-Shaybānī, in particular, that came to hold a place of special importance in the wider tradition.[15] These were: (i) *al-Mabsūṭ* (*Kitāb al-aṣl*), (ii) *al-Jāmiʿ al-kabīr*, (iii) *al-Jāmiʿ al-ṣaghīr*, (iv) *al-Siyar al-kabīr*, (v) *al-Siyar al-ṣaghīr*, and (vi) *al-Ziyādāt*. For later Ḥanafīs, these works comprised the so-called *ẓāhir al-riwāya* of the *madhhab*. Conventionally also labeled *ẓāhir al-madhhab*, this technical term came to denote the corpus of authoritative legal positions, attested through uninterrupted and faultless chains of transmission, as presented in the six works attributed to al-Shaybānī and understood to represent the foundation of the *madhhab*'s binding precedent.[16] In the later tradition, they were juxtaposed to positions transmitted as *nawādir*, that is, opinions handed down through single *isnād*s (and therefore less authoritative) in (other) works, also attributed to al-Shaybānī: (i) *al-Kaysāniyyāt*, (ii) *al-Raqiyyāt*, (iii) *al-Jurjāniyyāt*, and (iv) *al-Hārūniyyāt*.[17]

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14 For Abū Yūsuf, see al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 611-613; Wheeler, Abū Yūsuf; Öğüt, Ebû Yûsuf; and Sezgin, *Arabisches Schrifttum*, vol. 1, 419-421. For Muḥammad al-Shaybānī, see al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 122-125; Chaumont, al-Shaybānī, 405-407; Taş and Özşenel, Şeybânî, 38-43; Sezgin, *Arabisches Schrifttum*, vol. 1, 421-433. The earliest generation of followers of Abū Ḥanīfa moreover included figures such as Zufar b. al-Hudhayl (d. 158/775), who was mainly active in Baṣra, Dāwūd al-Ṭāʾī (d. 165/781), Abū Muṭīʿ al-Balkhī (d. 199/814), Asad b. ʿAmr (d. 190/806), Ḥasan b. Ziyād al-Luʾluʾī (d. 204/819). See Schacht, Abū Ḥanīfa al-Nuʿmān, 124. Of these, Zufar and Ḥasan b. Ziyād are usually considered the most significant in the later tradition, ranking among the first "class" (Ar. *ṭabaqa*) of Ḥanafī *fuqahāʾ* in the biographical dictionaries, alongside Abū Yūsuf and Muḥammad al-Shaybānī. See for instance, Flügel, *Classen*, 281-286.

15 The notion of a "canon" and historical processes of canonization have begun to receive more pronounced scholarly attention in the field of Islamic studies in the last few decades. In the case of Islamic jurisprudence (*fiqh*), and the Ḥanafī tradition, in particular, see Brannon M. Wheeler, *Applying the Canon*. In his work on the "birth of classical Islamic law" in the 2nd/8th and 3rd/9th centuries, Ahmed El Shamsy has emphasized the fact that "canonization transcends the mere codification of sacred texts in fixed textual form and focuses instead on the relationship of the Muslim community to these texts as sources of norms". See El Shamsy, *Canonization*, 4. Eirik Hovden's project on canonization and codification in Islamic law (CanCode) at the University of Bergen has emphasized crucial underlying processes of selection, validation, and authorization of jurisprudential knowledge in a variety of historical settings (early modern Yemen, modern East Africa, contemporary Egypt, Israel/Palestine, and Europe), to illustrate Islamic legal change at work. Moreover, Norbert Oberauer's recent survey of Shāfiʿī doctrine on the question of commercial partnership highlights the "stabilizing" function of canonization in the formation of the *madhāhib* as "distinct networks of intertextual references". See Oberauer, Canonization, 123.

16 For the best discussions to date of the term *ẓāhir al-riwāya*, see Younas, Authority, 58-122, and Al-Azem, *Rule-Formulation*, 151-155.

17 Al-Shaybānī's *al-Amālī* and *al-Mujarrad* are often added to this list; sometimes, in fact, *all* works of Muḥammad al-Shaybānī (save the six ones that constitute the *ẓāhir al-madhhab*) are considered to belong to the category of the *nawādir*. Cf., for instance, Nadwi, Review of *Islamic Legal Interpretation*, 59: "In fact, the term [*nādir al-riwāya*] was used in Ḥanafī *fiqh* in contradistinction to *Ẓāhir al-riwāya* which specifically meant citations (rather than 'views') from any of Imām Muḥammad b. Ḥasan al-Shaybānī's six books […]. *Nādir al-riwāya* specifically meant citations from any other of his books." Talal Al-Azem has argued that "the defining of the process of *tarjīḥ al-riwāyāt* as requiring knowledge of a hierarchy of works (as opposed to the oral or written transmission of individual legal opinions) – the '*kutub ẓāhir al-riwāya*' versus the '*kutub al-nawādir*' and the '*wāqiʿāt*' – was a matter that apparently developed, or was only made explicit, at a historical juncture following Qāḍīkhān", i.e., in or after the 6th/12th century. See Al-Azem, *Rule-Formulation*, 151-152. Related to these, the concepts of *wāqiʿāt*, *nawāzil*, and *fatāwā* are likewise in need of detailed study.

Having originated in Iraq, Ḥanafī doctrine (or, perhaps more accurately, the teachings of Abū Ḥanīfa and his earliest disciples) soon spread to other regions of the empire, both east and west. As Wilferd Madelung has shown, this process had already started during Abū Ḥanīfa's lifetime.[18] Nurit Tsafrir has detailed the early spread of the Ḥanafiyya not only in Iraq, but also in western Iran, the Jazira, Syria, Egypt, and the Maghrib, pointing out that "at the beginning of this process, in the second half of the second century/768-815, we can discern the existence and spread of Ḥanafī material – traditions with Ḥanafī chains of transmission, or legal material carrying the authority of Abū Ḥanīfa or his close pupils – more clearly than the actual existence of Ḥanafīs or Ḥanafī communities".[19] These communities would, however, gradually emerge. In fact, Ḥanafī doctrine itself would take time to develop, as scholars of varying backgrounds debated the positions of the "great *imām*" and his followers. The picture was thus a dynamic one: we should not think of a stable and fully formed doctrine spreading to different locations, but of a set of positions developing *as* they spread; it was through spreading in the particular way they did that the early theological and legal positions of Abū Ḥanīfa and his disciples came to coagulate into Ḥanafī "doctrine", that is, a coherent and agreed upon set of norms and methods for justifying or deriving them.

We have indications of Ḥanafī scholars and/or communities in various locations in Khurasan and Transoxania from relatively early on. Thus, from the late 2nd/8th century, for instance, *qāḍī*s in Balkh were exclusively Ḥanafī.[20] Indeed, "Balkh became the first major center of the Ḥanafiyya in the eastern Islamic world", as Madelung has shown.[21] This was due, in part, to the popularity of Murjiʾī teachings there (and *despite* the fact that the city seems to have been strongly opposed to the ʿAbbāsid cause).[22] Ḥanafī scholars also established themselves in other towns in eastern Khurasan and Transoxania, such as Marw, Tirmidh, and Juzjān, although without achieving the same sort of preeminence as in Balkh.[23]

During the Sāmānid period, from the late 3rd/9th through the 4th/10th century, Bukhara and Samarqand emerged as leading centers of eastern Ḥanafī learning – a position of predominance they would keep for more than half a millennium, in fact, surpassed initially only

18 Madelung, Early Murjiʾa, 34-38, focusing, in particular, on the case of Balkh; cf. also Madelung, Westward migration, 42.

19 Tsafrir, *History*, 116.

20 Madelung, Early Murjiʾa, 37.

21 Madelung, Westward migration, 42.

22 Madelung, Early Murjiʾa, 38. As we shall see below, the Ḥanafīs came to be closely associated with ʿAbbāsid rule in Baghdad. So, this early opposition seems, at first sight, counterintuitive, although Madelung explains it cogently in the context of local and regional politics. Regarding the connection between early Ḥanafīs and the Murjiʾa, it must be remembered that Abū Ḥanīfa was the most prominent defender of the doctrine of *irjāʾ* in Iraq at the time. The early Ḥanafiyya was considered a theological "*madhhab*" as much as a jurisprudential one. Indeed, the boundaries between the two fields were not as sharply drawn as they would be in later periods. Thus, *fiqh* meant not just legal "understanding", but also understanding in matters of belief, viz. theology. It is indicative that the earliest Islamic creeds – "Ḥanafī" ones, in fact – carried the title *fiqh*: *al-Fiqh al-akbar*, *al-Fiqh al-aswaṭ*, etc. Cf. Goldziher [Schacht], Fiḳh, 887: "fiḳh was used for religious science in general". For the later theological development and association of the Ḥanafiyya with Muʿtazilism, traditionalism and, eventually Māturīdism, see Madelung, Spread of Māturīdism.

23 Madelung, Early Murjiʾa, 38.

by Baghdad (until around the mid-5th/11th century) and only later supplanted by Istanbul in the early modern period. Apart from Samarqand and Bukhara, Khwarazm likewise emerged as an important hub of Ḥanafism in the 4th/10th and 5th/11th centuries, adding to the vibrant communities of Ḥanafī thought in the east at the time. As Madelung explains, "these local schools all developed and maintained their own distinct identity, though certainly not in complete isolation […]. As a group, they formed a tradition of eastern Ḥanafism as distinct from the traditions of Iraq, western Iran and other schools in the central provinces of the Islamic world."[24] Eyyup Said Kaya has likewise argued for the distinct character of the main regional "networks", as he calls them, represented by the traditions of Khurasan (centered on Balkh), Transoxania (centered on Bukhara/Samarqand), and Iraq (centered on Baghdad).[25]

It was Baghdad, however, the capital of the ʿAbbāsid caliphate, where Abū Ḥanīfa had spent his final years, and where he was buried, that functioned as the main seat of Ḥanafī learning until the 5th/11th century. As the home of the ʿAbbāsids and foremost "metropolis of Islam", the city attracted scholars from all the major (and minor) theological and legal schools flourishing at the time.[26] Baghdad was thus not only a center of Ḥanafism, but also of Shāfiʿism and Ḥanbalism – the relationship between them being marked, more often than not, by competition and antagonism, at times even violent.[27] The Ḥanafiyya was notably favored by the ʿAbbāsids.[28] Indeed, ʿAbbāsid support can also explain how the school came to spread into Khurasan and Transoxania to begin with, according to Christopher Melchert.[29]

Some of the most prominent Ḥanafīs of the 2nd/8th, 3rd/9th, and 4th/10th centuries lived and worked in Baghdad: from Abū Yūsuf (d. 182/798) and Muḥammad al-Shaybānī (d. 189/805) in the 2nd/8th century, Muḥammad Ibn Shujāʿ al-Thaljī (d. 266/880) and Abū Bakr al-Khaṣṣāf (d. 261/874) in the 3rd/9th century, to Abū Ḥasan al-Karkhī (d. 340/952) and Abū Bakr al-Jaṣṣāṣ

24 Madelung, Westward migration, 42.

25 Kaya, Continuity and change, 27-28.

26 Madelung, Westward migration, 42.

27 The association of a given legal school with a given theological school was in some cases more straightforward than in others. Thus, Shāfiʿism and Ashʿarism are usually considered to go hand in hand; although there *were* Shāfiʿī opponents to Ashʿarism, this was not a widespread phenomenon. Likewise in the case of Ḥanbalism, which can be seen as *both* a legal school and a theological one (albeit one hostile to theological speculation and, thus, disinclined to acknowledge as being engaged in *kalām* at all). In the case of Ḥanafism, the matter was more complicated. Indeed, while Ḥanafism was often associated with the Muʿtazila (or, rather, a large majority of Muʿtazilites embraced Ḥanafism), there also existed substantial numbers of Murjiʾite Ḥanafīs and traditionalist ones.

28 Tsafrir, *History*, 20-21 and 117-118, speaks of "a policy with broader aims". The issue was complex, however, as ʿAbbāsid support extended to traditionalist Ḥanafīs in some contexts and rationalist ones in others (i.e., supporting different camps at different times, in different contexts); see Melchert, Religious policies. For Hārūn al-Rashīd's "codification project", see Jokisch, *Islamic Imperial Law*. For the way Ḥanafī jurists themselves would come to articulate, on a normative level, the proper relationship between judges and the ruler, see Tillier, Judicial authority, 128-130.

29 Melchert, Spread of Ḥanafism, 22.

(d. 370/981) in the 4th/10th century.[30] The towering figure of the 5th/11th century, al-Qudūrī (d. 428/1037), likewise came from, lived in, and died in Baghdad.[31]

One of the main questions regarding the development of Ḥanafī doctrine in this period pertains to the relationship between eastern Ḥanafism, as represented by the schools of Balkh, Bukhara, and Samarqand, and the tradition(s) of the central lands, that is, Iraq, and Baghdad, in particular.[32] As Madelung has argued, the Central Asian tradition seems to have made little impact on Baghdad initially, that is, from the early 3rd/9th to roughly the mid-5th/11th century, when the picture began to change.[33] We thus have, at first, different strands of Ḥanafī thought develop *in parallel* – strands that would be drawn on by Ḥanafī scholars of subsequent centuries, in diverse and intricate ways.[34]

By the middle of the 5th/11th century, a decisive change would take place, however. With the expansion of the Seljuq Turks from Central Asia into the core regions of the ʿAbbāsid empire, most notably Iraq, the center of gravity of the Ḥanafī school shifted as well. It shifted eastwards at first, although the overall change ultimately entailed also a westward migration of scholars *from* the east, leading to the dissemination of eastern Ḥanafī doctrine in the central Islamic lands and the fast rise to prominence of the traditions of Transoxania there – traditions that had, until then, been largely ignored.

The Oghuz Turks, of whom the Seljuqs were part, had been converted to Islam in the 4th/10th century. They strongly favored the Transoxanian Ḥanafī tradition, identifying Islamic orthodoxy with it, in fact, and patronizing eastern Ḥanafī scholars, who represented this tradition.[35] The Seljuqs thus actively supported Transoxanian *fuqahāʾ*, employing them as advisors, taking them with them and appointing them to key posts "as *qāḍī*s, preachers

30 For Abū Yūsuf and Muḥammad al-Shaybānī, see fn. 14 above. For al-Thaljī, see al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 173-175; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 41; Laknawī, *al-Fawāʾid*, 171-172, and Kallek, İbnü's-Selcî, 203-204. For Khaṣṣāf, see al-Qurashī, *al-Jawāhir*, vol. 1, ed. al-Ḥilw, 230-231; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 5; Laknawī, *al-Fawāʾid*, 29-30. For Karkhī, see al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 493-494; Laknawī, *al-Fawāʾid*, 108-109. For Jaṣṣāṣ, see al-Qurashī, *al-Jawāhir*, vol. 1, ed. al-Ḥilw, 220-224; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 4; Laknawī, *al-Fawāʾid*, 27-28.

31 See al-Qurashī, *al-Jawāhir*, vol. 1, ed. al-Ḥilw, 247-250; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 5; Laknawī, *al-Fawāʾid*, 30-31; Al-Azem, *Rule-Formulation*, 23-31. Yaʿakov Meron has argued that al-Qudūrī's work represents the beginning of the "classical" period of Islamic jurisprudence. See Meron, Development of legal thought, 78.

32 Tsafrir, *Collective Liability*, offers a detailed discussion in chapter 8, extending the work of Madelung and others substantially.

33 Madelung, Westward migration, 42.

34 It is in the context of these parallel strands of the tradition that an important stage of the doctrinal and institutional development of the *madhhab* as a whole took place, however. As Said Kaya has argued, it was in the 4th/10th century that "juristic activity [...] entered a different stage", reminding us that it was in this period that the first epitomes (*mukhtaṣarāt*) and commentaries (*shurūḥ*) of the school were written, the first works of "general principles" (*qawāʾid*), the first *masānid* (i.e., works of *ḥadīth* for legal purposes), and the first works of specifically Ḥanafī legal hermeneutics (*uṣūl al-fiqh*). More so, it was also in this period that "for the first time some jurists were labeled as leaders of Hanafi scholars of their time", indicating a corresponding formalization on the social and institutional level. See Kaya, Continuity and change, 26-27. That all of this happened at a time when there were at least three distinct strands of the tradition developing *in parallel* is important to keep in mind.

35 Madelung, Westward migration, 43.

and teachers, preferring them to local Ḥanafī scholars where those were available".[36] The period witnessed the endowment of numerous Ḥanafī madrasas in Iraq and other regions, often with the explicit aim of supporting a particularly distinguished Ḥanafī scholar from the east. The patronage thus extended to Transoxanian Ḥanafīs "encouraged a steady stream of migration from Central Asia to western Iran, Iraq, Syria, Egypt and Anatolia during the Seljūq and post-Seljūq age".[37]

The significant shift brought on by the Seljuq expansion and the westward migration of Ḥanafī scholars and their works from the east to the central Islamic lands can also be observed on the level of doctrine. We thus begin to find an increased valorization of a hitherto neglected regional tradition in the scholarly milieus of the heartlands of the empire. The most prominent example embodying this move to center stage of Transoxanian Ḥanafism is the work of Shams al-Aʾimma Muḥammad b. Aḥmad al-Sarakhsī, who died sometime around the turn of the 5th/11th to the 6th/12th century (ca. 490/1096 or 500/1106). Al-Sarakhsī was heir to the Transoxanian tradition; born in Sarakhs, in what today is the border region of Iran and Turkmenistan, al-Sarakhsī studied with Shams al-Aʾimma al-Ḥalwānī (d. 448/1056) in Bukhara and spent many years in prison in Ūzjand (Özkent), where he composed several works, including large parts of his magisterial *al-Mabsūṭ*.[38] Subsequent to his release and rehabilitation and the renewed honors bestowed upon him, al-Sarakhsī died in Farghāna around the turn of the 6th/12th century. His works, however, would rise to fame not only in the east, but also in the "two Iraqs" (western Iran and Iraq), Syria, Anatolia, and, later, Egypt.

Al-Sarakhsī's *al-Mabsūṭ*, fundamentally a commentary on al-Ḥākim al-Shahīd al-Marwazī's (d. 334/945) *al-Kāfī*, constitutes a veritable *summa* of the "branches" (*furūʿ*) of Ḥanafī jurisprudence. As Norman Calder has argued, the work entailed a substantial reorganization and development of earlier Ḥanafī doctrine in light of the local Transoxanian tradition, on which al-Sarakhsī drew extensively.[39] The broad reception of *al-Mabsūṭ* by Ḥanafīs in regions other than the east is illustrative of the rise in esteem of the Transoxanian tradition

36 Madelung, Westward migration, 43.

37 Madelung, Westward migration, 43.

38 For al-Sarakhsī's life, see al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 78-82; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 38-39; Laknawī, *al-Fawāʾid*, 158-159; Heffening, al-Sarakhsī, 169-170; Calder, al-Sarakhsī. Many aspects of al-Sarakhsi's biography, including the reason for and length of his imprisonment, remain unclear. For a detailed discussion of this episode, in light of the context of the political history of Karakhanid rule in Ūzjand/Özkent, see Hamîdullah, Serahsî, 545. It must also be pointed out that the *nisba* "Sarakhsī" pertains to various Ḥanafī *fuqahāʾ* besides Shams al-Aʾimma, thus making for possible confusion in the literature. This is the case, for instance, in relation to the relatively less prominent Raḍiyy al-Dīn al-Sarakhsī (d. 564/1155), author of *al-Muḥīṭ al-raḍawī*, and its abridgments, *al-Wasīṭ* and *al-Wajīz*. See Brockelmann, *GAL*, vol. 1, p. 463, no. 375; Madelung, Spread of Māturīdism, 153-154; *idem*, Westward migration, 49. Raḍiyy al-Dīn taught in Aleppo in the early 6th/12th century and seems to be the "Sarakhsī" intended by Yaʿakov Meron in his discussion of classical Ḥanafīs in Ḥamdānid Syria. Meron, however, conflates Raḍiyy al-Dīn and Shams al-Aʾimma, stating that "Sarakhsī lectured at the 'Ḥalâwiyya' in Aleppo, and later, towards the end of his life, found himself [in] his native country, Fargana, a province of Transoxania, in Central Asia, where he underwent his legendary soujourn in prison". See Meron, Development of legal thought, 87. This "surprising" fact can quite easily be explained though, as a simple case of confusion (and conflation) of two very distinct Sarakhsīs.

39 See Calder, al-Sarakhsī.

at the time. More than that, al-Sarakhsī's work would prove to be of lasting influence on the development of Ḥanafī *fiqh* as a whole, well into the modern period.[40]

In addition, it was al-Sarakhsī, together with his teacher, Shams al-Aʾimma al-Ḥalwānī, who, according to Talal Al-Azem, "signal[ed] the true establishment of [the] guild model in Transoxania, heralding a new phase in the history of the Ḥanafī madhhab".[41] Thus on an institutional level, too, the shift "westwards" marked a new departure. Indeed, the significance of the transition brought about by the Seljuq expansion cannot be overestimated, both doctrinally *and* institutionally. As Al-Azem has shown, "[the] intellectual descendants [of al-Ḥalwānī and al-Sarakhsī], effectively *defined* the history of the madhhab forever after them, to the near exclusion of contemporary jurists from other geographical areas".[42] According to Al-Azem, this holds true even for branches of the Transoxanian tradition other than that of al-Sarakhsī, which the latter would come to supplant. It was thus through al-Sarakhsī "that the juristic chains of transmission of nearly all the major Transoxanian jurists [...] of the next three hundred years explicitly pass".[43] In particular, it was the *isnād*s of the three main Transoxanian Ḥanafī scholarly dynasties, the Ūzjandīs, Burhānīs, and Maḥbūbīs, that all go back to al-Sarakhsī.[44]

Yet we still do not understand many aspects of the interaction between the Iraqi tradition and that of al-Sarakhsī and his successors as it developed in Transoxania, western Iran, Anatolia, and ultimately Iraq itself. Indeed, the significance of various centers of Ḥanafī learning, as they emerged in the wake of Seljuq patronage in Western Asia, is still in need of critical scholarly investigation. In Syria, for instance, both Damascus and Aleppo began to function as important regional centers of Ḥanafism in the Seljuq and subsequent Zangid period.[45] Centered around newly established madrasas, such as the Ḥalāwiyya in Aleppo, built by Nūr al-Dīn Zangī in 543/1148 (and exemplifying Zangid efforts to promote Sunnism in the capital of the formerly Shiʿite Ḥamdānid realm), Ḥanafism in the Transoxanian tradition in Western Asia in the 6th/12th century is probably best embodied in the life and work of Abū Bakr ʿAlāʾ al-Dīn al-Kāsānī (d. 587/1189), son-in-law of the preeminent Māturīdī theologian and Ḥanafī *faqīh* ʿAlāʾ al-Dīn al-Samarqandī (d. 539/1144).[46] Al-Kāsānī's *summa* of substantive

40 Murteza Bedir, for instance, emphasizes the place of al-Sarakhsī's *al-Mabsūṭ* in the context of the issuing of *fatwā*s and legal interpretation more broadly in Iraq and Egypt, as well as Transoxania. See Bedir, *Buhara Hukuk Okulu*, 94.

41 Al-Azem, *Rule-Formulation*, 67.

42 Al-Azem, *Rule-Formulation*, 67.

43 Al-Azem, *Rule-Formulation*, 67.

44 Al-Azem, *Rule-Formulation*, 68.

45 Madelung, Spread of Māturīdism, 146-156.

46 Both father and son-in-law lived, studied, and taught, first in Transoxania, then in Anatolia (Konya) and ultimately in northern Syria (Aleppo). For ʿAlāʾ al-Dīn al-Samarqandī, see al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 18; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 44; al-Laknawī, *al-Fawāʾid*, 158-159. For Kāsānī, see al-Qurashī, *al-Jawāhir*, vol. 4, ed. al-Ḥilw, 25-28; al-Laknawī, *al-Fawāʾid*, 53. For the Syrian context, and its importance for the development of Ḥanafī doctrine, see Meron, Development of legal thought, 86-89; as well as Madelung, Spread of Māturīdism, 154. Clarifying a possible confusion regarding ʿAlāʾ al-Dīn al-Samarqandī and a lesser-known namesake of his, see Al-Azem, *Rule-Formulation*, 232, fn. 2. For the "theological turn" in Transoxanian Ḥanafism, represented, among others, by ʿAlāʾ al-Dīn al-Samarqandī, see Correa, Taking a theological turn, in particular 115-118.

law, *Badāʾiʿ al-ṣanāʾiʿ*, conceived of as a commentary on his father-in-law's *Tuḥfat al-fuqahāʾ*, but going well beyond the latter in content, arrangement, and overall approach, represents a truly encyclopedic tour de force of Ḥanafī scholarship of all times.[47]

Indeed, the 6th/12th century was a truly fertile one for the Ḥanafī tradition, witnessing the most vigorous exploration and systematization of substantive doctrine in the works of pre-Mongol Ḥanafī *fuqahāʾ*. It was, moreover, a period that saw the production of works of lasting influence – works that were to shape the subsequent tradition of Ḥanafism in Western, Central, and South Asia well into modern times. Apart from scholars such as al-Sarakhsī and al-Kāsānī, there are a number of further figures epitomizing this "classical" era that need to be mentioned here in light of their lasting impact on the development of the tradition: Ḥusām al-Dīn ʿUmar b. ʿAbd al-ʿAzīz Ibn Māza (d. 536/1141), also known as al-Ṣadr al-Shahīd or Burhān al-Aʾimma, whose *Kitāb al-wāqiʿāt* served as an important source for the preservation of early Ḥanafī legal opinions;[48] Fakhr al-Dīn Ḥasan b. Manṣur al-Ūzjandī al-Farghānī, better known as Qāḍīkhān (d. 592/1196), author of the influential *Fatāwā Qāḍīkhān*, which would rise to particular prominence and popularity on the Indian subcontinent;[49] and, last but not least, Burhān al-Dīn Abū al-Ḥasan ʿAlī b. Abī Bakr al-Marghīnānī (d. 593/1197), whose *Hidāya* is probably the most widely disseminated and commented upon work of Ḥanafī *furūʿ al-fiqh* of all time.[50]

This is the larger context in which al-Mawṣilī's work must be understood: a high point of scholarly activity characterizing the Ḥanafī tradition of the 5th/11th and 6th/12th centuries – no stagnation, decline, or decadence, as previous generations of Western scholars

47 No comprehensive study of al-Kāsānī's *Badāʾiʿ al-ṣanāʾiʿ* has been carried out to date. In fact, despite the monumental achievement represented by the work, it did not become object to an extensive commentarial tradition. Rather, it seems to have fallen into relative neglect in the centuries following al-Kāsānī's death, only to be resurrected in the early 20th century. Thus, de Bellefonds states: "The appearance at the beginning of [the 20th] century (1328/1909) of the first edition of the *Badāʾiʿ* quickly gave rise to a real excitement over this work amongst contemporary jurists, and it can be said that the teaching of Ḥanafī law became then completely polarised around it." De Bellefonds and Heffening, al-Kāsānī, 690. Al-Kāsānī's *Badāʾiʿ al-ṣanāʾiʿ* thus represents a significant example of the broader phenomenon of "the revival of works that had fallen into oblivion", so astutely identified and traced by Ahmed El Shamsy in *Rediscovering the Islamic Classics*. For the quote, see p. 145, although the case of al-Kāsānī does not feature in El Shamsy's overall account.

48 See Tsafrir, *Collective Liability*, 113. For al-Ṣadr al-Shahīd's life and works, see al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 647-670; and Laknawī, *al-Fawāʾid*, 242. Mention should also be made here of Abū al-Fatḥ ʿAbd al-Rashīd al-Walwālijī (d. after 540/1146), a contemporary of al-Ṣadr al-Shahīd's whose *al-Fatāwā* were likewise of significance in "bringing together Iraqī Ḥanafī law and the legal opinions of eastern Iranian Ḥanafīs" (the latter at times differing considerably from the former). See Tsafrir, *Collective Liability*, 87-89.

49 For Qāḍīkhān's life, see al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 93-94; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 16; Laknawī, *al-Fawāʾid*, 64-65; Özel, Kādihân, 121-123; Juynboll and de Bellefonds, Ḳāḍī Khān, 377.

50 Cf. Brockelmann, *GAL*, vol. 1, 466-469, and *GAL*, Supplement I, 644-649; Kallek, el-Hidâye, 471-473. Al-Azem calls *al-Hidāya* "perhaps the single most famous textbook of Ḥanafī *fiqh*". See his *Rule-Formulation*, 16. M. Qasim Zaman has highlighted its place among the "revered texts of the curriculum" of contemporary Muslim madrasa education, having served "for centuries […] as the cornerstone of legal studies in South Asian madrasas". See Zaman, Tradition and authority, 63-64 For its continued use in contemporary *sharīʿa* courts, such as those of the Taliban in Afghanistan, see Baczko, *La Guerre par le droit*, 214-215. For Marghīnānī's life, see al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 627-629; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 31; Laknawī, *al-Fawāʾid*, 141-144.

would have it. Instead, the period immediately preceding al-Mawṣilī witnessed continuing adjustment, substantial and formal change, and new ways of systematizing Ḥanafī learning – all manifesting themselves in vigorous literary activity, despite the political upheaval of the time, that is, the immediate pre-Mongol period. It was this larger process that al-Mawṣilī was part of, even though the exact ways in which the various strands of the Ḥanafī tradition, as they developed and interacted at the time (in the works of, say, al-Mawṣilī's teachers and contemporaries), still need to be investigated.[51]

Life and Work of al-Mawṣilī (d. 683/1284)

ʿAbd Allāh b. Maḥmūd b. Mawdūd Abū al-Faḍl al-Mawṣilī al-Buldajī (or Baldijī) was born in the year 599/1203, in the city of Mosul, in northern Iraq, in the province of *al-Jazīra*, that is, Upper Mesopotamia.[52] His city of birth, Mosul, which al-Yāqūt (d. 626/1229) famously called "the gate to Iraq and the key to Khurasan" (*bāb al-ʿirāq wa-miftāḥ khurāsān*) can be seen as symbolic in several ways.[53] As the "gateway" to the east, and entrance point to the southern and western Islamic lands (depending on one's vantage point and direction), Mosul was, indeed, a key center of the Muslim *ecumene* of the late ʿAbbāsid period, economically, culturally, and politically speaking. Located in northern Mesopotamia, where major lines of trade, learning, and cultural exchange converged, at the intersection between Syria, Anatolia, Iraq, and Iran, Mosul straddled various cultural and political spheres – spheres that are reflected in al-Mawṣilī life and work as well. Bringing together and channeling the pre-Mongol Ḥanafī traditions of Iraq, Khurasan, and Transoxania, al-Mawṣilī would himself become a gateway of sorts, between east and west, his legacy representing a significant nexus in the history of the Ḥanafī *madhhab* at the transition into the Mongol period.

Early 7th/13th-century Mosul was ruled by the Zangids. Following two sieges of the city by Ṣalāḥ al-Dīn, in 576/1182 and 579/1185, however, the rulers of the city officially recognized the authority of the Ayyubids. Ernst Honigmann described the political situation in Mosul at the time as follows: "From 607/1210-11 [...] Badr al-Dīn Luʾluʾ ruled over al-Mawṣil

51 Another figure to be investigated in this context is Burhān al-Dīn Maḥmūd b. Aḥmad b. ʿAbd al-ʿAzīz al-Bukhārī al-Marghīnānī (d. 616/1219), whose work *al-Muḥīt*, commonly referred to as *al-Muḥīt al-burhānī*, would be a much-quoted source for later Ḥanafī authors of the premodern and early modern period.

52 The main sources for al-Mawṣilī's life and work are Ibn al-Fuwaṭī, *Majmaʿ al-ādāb*, vol. 4, ed. al-Kāẓim, 440-441; Ibn Rāfiʿ al-Sallāmī, *Muntakhab*, ed. al-ʿAzāwī, 61-63; al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 349-350; Ibn Ḥabīb al-Ḥalabī, *Tadhkira*, vol. 1, ed. Amīn, 90; Ibn Taghrībirdī, *al-Manhal al-ṣāfī*, vol. 7, ed. Amīn, 122-124; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 23; Ṭāshkūbrīzāde (Ṭāşköprüzāde), *Miftāḥ al-saʿāda*, vol. 2, 255; al-Tamīmī, *al-Ṭabaqāt*, vol. 4, ed. al-Ḥilw, 239; Ḥājjī Khalīfa (Kātib Çelebī), *Kashf al-ẓunūn*, vol. 3, ed. İhsanoğlu and Marouf, 184, and vol. 6, ed. İhsanoğlu and Marouf, 321-322; al-Ḥurr al-ʿĀmilī, *Amal al-āmil*, vol. 2, 164; al-Afandī, *Riyāḍ al-ʿulamāʾ*, vol. 3, ed. al-Husaynī, 135; Laknawī, *al-Fawāʾid*, 106-107. Bio-bibliographic entries on al-Mawṣilī and his works can also be found in the main reference works of the past century: al-Baghdādī (Bağdatlı), *Hadiyyat al-ʿārifīn*, vol. 1, ed. Bilge and İnal, 462; Brockelmann, *GAL*, vol. 1, 476, and GAL, Supplement I, 657; al-Ziriklī, *al-Aʿlām*, vol. 4, 135-136; Kahhāla, *Muʿjam al-muʾallifīn*, vol. 2, 295-296; Ṣāliḥiyya, *al-Muʿjam al-shāmil*, vol. 5, 191-192; al-Subḥānī, *Mawsūʿa*, vol. 7, 145-146; Yayalı, Mevsilî, 487-488; Özel, *Hanefi Fıkıh Alimleri*, 113-114. For a discussion of the vocalization and meaning of the *nisba* al-Buldajī, see the introduction of Bakdāsh in al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 9-10.

53 See Wüstenfeld (ed.), *Jacut's geographisches Wörterbuch*, vol. 4, 673.

first as vizier of the last Zangids and from 631/1234 as an independent ruler. In 642/1244 he submitted to Hūlāgū and accompanied him on his campaigns, so that al-Mawṣil was spared the usual sacking. When, however, his son al-Malik al-Ṣāliḥ Ismāʿīl joined Baybars against the Mongols, the town was plundered in 660/1261-1262."[54] This was the year al-Mawṣilī is said to have moved to Baghdad, according to some of the biographical sources, although he had probably already spent some time there before that.

Born into a family of local Ḥanafī *fuqahāʾ*, the young ʿAbd Allāh first studied with his father, Shihāb al-Dīn Abū al-Thanāʾ Maḥmūd, a Ḥanafī jurist of eminence.[55] Abū al-Thanāʾ also instructed ʿAbd Allāh's three brothers, ʿAbd al-Dāʾim, ʿAbd al-Karīm, and ʿAbd al-ʿAzīz, all of whom were to become prominent *fuqahāʾ* in their own right.[56]

From Mosul, ʿAbd Allāh is reported to have gone on to study in Damascus and Baghdad, although the sources do not allow us to establish a precise chronology of his travels and scholarly activities. Indeed, al-Mawṣilī seems to have moved back and forth between Mosul, Baghdad, Damascus, and Kufa, as Sāʾid Bakdāsh has maintained.[57] Ibn Taghrībirdī (d. 874/1470) provides an extensive list of figures on the authority of which al-Mawṣilī transmitted ḥadīth, based on an account by al-Ḥāfiẓ al-Dimyāṭī (d. 705/1305).[58] The list does not

54 Honigmann, al-Mawṣil, 900, citing van Berchem, Monuments et inscriptions, 197-210.

55 al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 452; cf. also Ibn Kathīr, *al-Bidāya wa-l-nihāya*, vol. 13, 116. The honorific "Shihāb al-Dīn" is used at times for ʿAbd Allāh himself, rather than for his father. Ibn Kathīr refers to the latter as Abū Muḥammad rather than Abū a-Thanāʾ, but this seems to be an error. According to Ibn Kathīr, the father "had a madrasa in Mosul which was known by him" (*lahu bihā madrasa tuʿraf bihi*). A couple of accounts of al-Mawṣilī's life refer to him as having studied at a madrasa in Mosul called al-Madrasa al-ṣārimiyya. See Ibn Rāfiʿ al-Sallāmī (d. 774/1372), *Muntakhab*, ed. al-ʿAzāwī, 61; Ibn Taghrībirdī, *al-Manhal al-ṣāfī*, vol. 7, ed. Amīn, 123. In both cases the mention of a madrasa by this name goes back to al-Ḥāfiẓ al-Dimyāṭī (for him, see below). No madrasa called Ṣārimiyya can be found in sources pertinent to Mosul, however, as Ismāʿīl Ḥaqqī Faraj al-Mawṣilī has argued in *al-Āthār wa-l-mabānī*, 93, fn. 1. The name is attested, however, in the context of a Shāfiʿī madrasa in Damascus. See al-Dimashqī, *al-Dāris fī tārīkh al-madāris*, vol. 1, 246-250. Since ʿAbd Allāh spent some time studying in Damascus the confusion might have arisen thus.

56 For ʿAbd al-Dāʾim, see al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 372. For ʿAbd al-Karīm, who taught not only in Mosul, but also at the shrine of Abū Ḥanīfa in Baghdad, like ʿAbd Allāh, see al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 453; al-Tamīmī, *al-Ṭabaqāt*, vol. 4, ed. al-Ḥilw, 377-378. For ʿAbd al-ʿAzīz, who became *qāḍī* in Mosul, see al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 433; al-Tamīmī, *al-Ṭabaqāt*, vol. 4., ed. al-Ḥilw, 355. The brother of Abū al-Thanāʾ, Masʿūd b. Mawdūd, is likewise found in al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 476.

57 Al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 13. Bakdāsh mentions Kufa, although al-Mawṣilī's appointment to the judgeship there happened later in life, when he was already well established in Baghdad.

58 Ibn Taghrībirdī, *al-Manhal al-ṣāfī*, vol. 7, ed. Amīn, 123-124. For al-Dimyāṭī, who is said to have studied with al-Mawṣilī (and whose students, in turn, included prominent figures, such as al-Mizzī, al-Dhahabī and al-Subkī), see Georges Vajda, *Le Dictionnaire des autorités*, 11-18. The sources usually speak of the act of audition (*samāʿ*), i.e., the oral transmission of a particular text from teacher to student, a process by which the latter "heard" it from the former. In what follows, I use the terms "teachers" and "students" respectively for those who transmitted, by reciting or reading a given text, on the one hand, and those who received that text, by listening to, or "hearing" it, on the other. When I say that al-Mawṣilī "studied" with a given scholar, or that a given scholar "studied" with him, I thus often translate the Arabic *samiʿa ʿalā* (though not always). What needs to be remembered in this context is that the English verb "to study with" (or the noun "student") usually implies a more long-term association than a single "audition". Using the English term "auditor" for *sāmiʿ* seems unsatisfactory in this context, however, for a number of reasons, including that it might convey an unwarranted sense of lack of commitment on the part of the auditor.

offer us any indications as to *when* al-Mawṣilī might have studied or received a particular text from a given scholar. It does give us useful hints, however, as to *where* he encountered particular teachers (Mosul and Baghdad, for instance, are cited explicitly in connection with certain figures). Moreover, al-Dimyāṭī's list identifies the origins of several of the authorities from whom al-Mawṣilī received permission to transmit, such as a group of scholars from Khurasan. As to *which* texts he heard from them, the list gives no indication.

In fact, most of the biographical sources we have for al-Mawṣilī remain silent on the sort of works he studied and heard. The one exception is the earliest account of his life: Ibn al-Fuwaṭī's (d. 723/1323) entry on al-Mawṣilī in *Majmaʿ al-ādāb*. In it, Ibn al-Fuwaṭī, the famous historian and long-time librarian of Baghdad's Mustanṣiriyya library, refers to al-Mawṣilī as "our teacher" (*shaykh*), reporting to have heard an important work in the field of ḥadīth transmitted by him. It is worth looking at Ibn al-Fuwaṭī's account in full:

> Majd al-Dīn Abū al-Faḍl ʿAbd Allāh b. Shihāb al-Dīn Abī al-Thanāʾ Maḥmūd b. Mawdūd b. Buldajī – who came to live in Baghdad (*nazīl baghdād*) – the Mawṣilī, the judge (*qāḍī*), the ḥadīth transmitter (*al-muḥaddith*), the professor (*al-mudarris*).[59]
>
> Our teacher (*shaykh*), the *imām*, the scholar, the jurist, the judge arrived in Baghdad in the year 660 and acted as a witness with the judge of judges (*qāḍī al-quḍāt*) ʿIzz al-Dīn al-Zanjānī in the year 673. He was appointed to the judgeship of Kufa and its districts. Subsequently, he was entrusted with teaching at the Mashhad of Imām Abū Ḥanīfa, which is what he did until he died.
>
> He transmitted widely (*kāna wāsiʿ al-riwāya*, i.e., he transmitted a large number of texts, in various recensions), was characterized by understanding and knowledge, erudite in the branches of the law (i.e. in *furūʿ al-fiqh*, substantive doctrine) and in legal hermeneutics (*uṣūl al-fiqh*), and he had memorized a great deal.
>
> We heard from him (*samiʿnā ʿalayh*) the book *Jāmiʿ al-uṣūl fī aḥādīth al-rasūl*, in his [i.e., al-Mawṣilī's] transmission (*bi-riwāyatih*), on the authority of its author, al-Mubārak b. al-Athīr, on whose authority al-Mawṣilī transmitted it, as well as on the authority of [al-Mubārak's] two brothers, ʿIzz al-Dīn ʿAlī and Ḍiyāʾ al-Dīn Naṣr Allāh.
>
> He [al-Mawṣilī] had heard the *Ṣaḥīḥ* of Bukhārī from Abū al-Ḥasan ʿAlī b. Rūzbeh and Abū Bakr Mismār b. al-ʿUways;[60] the sermons of Ibn Nubāta (*al-khuṭab al-nubātiyya*) from ʿUmar b. Ṭabarzad; and the *Nahj al-balāgha* from the Naqīb Kamāl al-Dīn Ḥaydar b. Muḥammad b. Zayd.
>
> He traveled to Damascus (lit. Syria, *al-Shām*) and transmitted from (*rawā ʿan*) a group [of scholars from there].
>
> He is the author of a composition (*taṣnīf*) and he wrote [it] in his own hand, with permission, a long time ago (*wa-kataba khaṭṭah bi-l-ijāza qadīman*) (?).
>
> The following [scholars] gave him permission (*ajāza lahu*) to transmit on their behalf: Ibn al-Ṣaffār, al-Raḍiyy al-Ṭūsī, Ibn al-Samʿānī, Zaynab bt. al-Shaʿrī, and others.

59 George Makdisi has argued that both the term *mudarris* and the term *shaykh* were "used to designate the holders of the topmost teaching level. Mudarris, when used *without a complement*, designated the professor of law; whereas shaikh was generally used for professors of all other fields [...]." See *idem*, *Rise of Colleges*, 153.

60 The printed edition reads Mismār b. al-ʿArīs. ʿArīs is a corruption of ʿUways, however. See al-Dhahabī, *Siyar*, vol. 22, ed. Arnaʾūṭ, 154-155.

> He was born in Mosul at the end of Shawwāl 599. He died in Muḥarram 683 and was buried at the shrine of Imām Abū Ḥanīfa, may God have mercy on him.[61]

Ibn al-Fuwaṭī's entry is significant for a number of reasons. It situates al-Mawṣilī at the center of Baghdad's intellectual life immediately following the Mongol conquest of the city in 656/1258, giving important details as to the kinds of works al-Mawṣilī studied and taught over the course of his life. It is noteworthy that Ibn al-Fuwaṭī places al-Mawṣilī in a network of scholars not exclusively or even predominantly Ḥanafī. Moreover, al-Mawṣilī's role as *faqīh* and *muftī* seems secondary; while his judgeship of Kufa and, before that, his role as a witness to the *qāḍī al-quḍāt* of Baghdad are mentioned, the extent of al-Mawṣilī's contribution to the field of *fiqh* is not obvious. Except for a very general statement that al-Mawṣilī was knowledgeable in both the *furūʿ* and *uṣūl*, we have no indication of the impact his work would ultimately have (and we know from al-Mawṣilī himself that, already during his lifetime, the *Mukhtār* was widely sought). Except for a cryptic reference to a "composition", no works of al-Mawṣilī's are, in fact, mentioned; nor are any texts he studied or transmitted in the discipline of *fiqh* itself, for that matter. The only hint that al-Mawṣilī must have been a serious authority in the field is the mention of his appointment as *mudarris* at the Mashhad of Abū Ḥanīfa towards the end of his life.

Instead of presenting a picture of al-Mawṣilī as a jurist first and foremost, al-Fuwaṭī presents him as a pious *muḥaddith* instead. Thus, we are told that al-Mawṣilī transmitted Ibn al-Athīr's (d. 606/1210) *Jāmiʿ al-uṣūl*, a major ḥadīth collection, which consolidated materials from the *Ṣaḥīḥayn* of Bukhārī and Muslim with the works of Abū Dāʾūd, al-Nasāʾī, al-Tirmidhī, and Mālik: "a huge, multivolume work", that "became a much-used standard reference work", in the field of ḥadīth.[62] The great popularity of Ibn al-Athīr's *Jāmiʿ al-uṣūl* in the Mongol period is illustrated, for instance, in the story of Rashīd al-Dīn (d. 718/1318), the famous vizier of Ilkhan Ghazan, ordering a copy of the work "to be placed in the mosque he endowed as a counterpart to the Quran".[63]

Next to this "counterpart of the Quran", Ibn al-Fuwaṭī mentions by name three other works al-Mawṣilī heard from particular authorities: (i) al-Bukhārī's (d. 256/870) *Ṣaḥīḥ*;[64] (ii)

61 Ibn al-Fuwaṭī, *Majmaʿ al-ādāb*, vol. 4, ed. al-Kāẓim, 440-441.

62 Cf. Brown, *Hadith*, 57; and Rosenthal, Ibn al-Athīr, 723.

63 Brown, *Hadith*, 57. It might be significant that Ibn al-Athīr and his family hailed from Mosul, much like al-Mawṣilī and his. The parallel of multiple brothers engaged in scholarly activities in both cases (Majd al-Dīn, the more famous ʿIzz al-Dīn, and Ḍiyāʾ al-Dīn in the case of the Ibn al-Athīr family vs. ʿAbd Allāh, ʿAbd al-Karīm, and ʿAbd al-Dāʾim in case of the Mawṣilīs) is likewise of note, albeit coincidental.

64 According to Ibn al-Fuwaṭī, the two scholars al-Mawṣilī heard it from were Abū al-Ḥasan ʿAlī b. Rūzbeh (d. 633/1236) and Abū Bakr Mismār b. ʿUways (619/1222). For the former, see al-Dhahabī, *Siyar*, vol. 22, ed. Arnaʾūṭ, 387; for the latter, see Ibn al-Fuwaṭī, *Majmaʿ al-ādāb*, vol. 1, ed. al-Kāẓim, 485-486; al-Dhahabī, *Siyar*, vol. 22, ed. Arnaʾūṭ, 154-155.

the sermons (*khuṭab*) of Ibn Nubāta (d. 374/984);[65] and (iii) the *Nahj al-balāgha*.[66] This was pious stock material: the most important Sunnī ḥadīth collection, a popular collection of sermons, exhorting believers to fear God, observe His commands and call for His help and mercy, and the hugely influential collection of sayings, speeches, and letters of ʿAlī b. Abī Ṭālib (d. 40/661), the son-in-law of the Prophet Muḥammad and first *imām* of the Shīʿa.

That al-Mawṣilī would have studied the *Nahj al-balāgha*, in particular, and that he would have done so with the Twelver Shīʿī Naqīb of Mosul, Abū al-Futūḥ Kamāl al-Dīn Ḥaydar, to boot, certainly deserves our attention. Compiled by the Imāmī scholar and poet al-Sharīf al-Raḍī (d. 406/1015) in Baghdad at the turn of the 5th century AH (400/1010), the *Nahj al-balāgha* was revered not only by Shīʿī Muslims, but also by Sunnīs and Arab Christians, as Tahera Qutbuddin has pointed out.[67] The most prominent commentary on it, composed during al-Mawṣilī's lifetime, in fact, and also in Baghdad – Ibn Abī al-Ḥadīd's (d. c. 656/1258) *Sharḥ Nahj al-balāgha* – demonstrates the importance of the work in the context of the intellectual milieu of the city in the immediate pre-Mongol period. That al-Mawṣilī would have studied it in the first place, and with the Twelver Shīʿī Naqīb of Mosul, Kamāl al-Dīn Ḥaydar b. Muḥammad, also known as al-Sayyid al-Murtaḍā, is indicative of the fact that denominational boundaries were not an obstacle to learning – neither in Baghdad, nor in Mosul at the time.[68] Indeed, Sunnī scholars might "hear" Shīʿī texts from Shīʿī authorities and vice versa, and al-Mawṣilī was no exception to that.

To give an example of a prominent Shīʿī student of al-Mawṣilī, for instance, we might take Ghiyāth al-Dīn ʿAbd al-Karīm Ibn Ṭāʾūs (d. 693/1294). ʿAbd al-Karīm was the nephew of the more prominent Raḍī al-Dīn ʿAlī b. Mūsā (d. 664/1266), of the distinguished Ibn Ṭāʾūs family

65 These are exhortatory sermons in elaborate *sajʿ*, composed by Abū Yaḥyā ʿAbd al-Raḥīm b. Muḥammad b. Ismāʿīl al-Ḥudhakī al-Fāriqī (i.e., from Mayyāfāriqīn in northern Mesopotamia), not to be confused with the (less pious) Jamāl al-Dīn Ibn Nubāta al-Miṣrī, a later descendant of al-Khaṭīb ʿAbd al-Raḥīm, who lived in 14th-century Mamluk Cairo. For the latter, see Bauer, *Kultur der Ambiguität*, 324-339. With regard to the former, Marius Canard explains that his sermons "can be divided into three sections: (1) praise of God and prayer for the Prophet; (2) exhortation to fear God and the Last Judgement and to observe the moral and religious laws, in particular the obligation of the *djihād*; (3) petition for God's help and blessing […]. In addition, […] he often composed sermons for political occasions. His most famous sermons, the *khuṭab djihādiyya*, were written to exhort the population […] in the war against the Byzantines, and they aroused great enthusiasm." Canard also points out that the sermons "were collected and arranged together with some sermons by [Ibn Nubāta's] son Abū Ṭāhir Muḥammad (*ca*. 390/999) and by his grandson Abū 'l-Faradj (*ca*. 420/1029) […] in about 629/1223", i.e., not long before al-Mawṣilī must have "heard" them from ʿUmar b. Ṭabarzad. See Canard, Ibn Nubāta, 900. For Ibn Ṭabarzad (d. 607/1210), from whom al-Mawṣilī transmitted the *Khuṭab*, see Ibn Kathīr, *al-Bidāya wa-l-nihāya*, vol. 13, 61; al-Ziriklī, *al-Aʿlām*, vol. 5, 61.

66 See below.

67 Qutbuddin, Nahj al-balāgha.

68 For al-Sayyid al-Murtaḍā Kamāl al-Dīn Abū al-Futūḥ Ḥaydar b. Muḥammad al-Ḥusaynī al-Mawṣilī, who was a student of Ibn Shahrāshūb, one of the most prominent Twelver Shīʿī scholars of the 6th/12th century, see al-Amīn al-ʿĀmilī, *Aʿyān al-shīʿa*, vol. 6, ed. al-Amīn, 275-276, citing al-Ḥurr al-ʿĀmilī and al-Afandī al-Iṣfahānī; al-Subḥānī, *Mawsūʿa*, vol. 7, 76, no. 4143. Mosul, it must be remembered, had been ruled by the Ḥamdānids, a Shīʿite dynasty, before the Seljuq conquest and subsequent Zangid and Ayyubid rule, which led to an increasing "Sunnitization" of the city.

of Twelver Shīʿī sayyids of al-Ḥilla and Baghdad.[69] Having spent his youth in Ḥilla, ʿAbd al-Karīm came to Baghdad to pursue his studies of *fiqh*, among other disciplines, although he is said to have also been a poet and littérateur. His teachers (in both Ḥilla and Baghdad) included not only his famous uncle and father, Raḍī al-Dīn and Jamāl al-Dīn Ibn Ṭāʾūs (d. 673/1274), respectively, but also other Shīʿī luminaries, such as al-Muḥaqqiq al-Ḥillī (d. 676/1277), Naṣīr al-Dīn al-Ṭūsī (d. 672/1274), and Ibn Juhaym al-Ḥillī (fl. 7th/13th century).[70] al-Mawṣilī was thus in illustrious company as ʿAbd al-Karīm's teacher and the fact that ʿAbd al-Karīm studied with him probably explains (at least in part) why al-Mawṣilī would appear in later Shīʿī *ṭabaqāt* literature, such as al-Ḥurr al-ʿĀmilī's *Amal al-ʿāmil*.

Al-Mawṣilī also features in that literature as a transmitter of *Nahj al-balāgha*. For instance, ʿAbd Allāh b. ʿĪsā al-Afandī al-Iṣfahānī (d. 1130/1718), a late contemporary and associate of the great ʿAllāma al-Majlisī al-thānī (d. 1111/1699), presents in his biographical dictionary *Riyāḍ al-ʿulamāʾ* a chain of transmission featuring al-Mawṣilī as having passed the text of *Nahj al-balāgha* on to a 6th/12th-century Bahraini Twelver Shīʿī traditionist, jurist, and theologian of note: Kamāl al-Dīn Maytham b. ʿAlī b. Maytham al-Baḥrānī (d. 681/1282).[71] Maytham, an exponent of what Ali al-Oraibi has called "the theosophical school" of Bahrain, not only "[expressed] admiration for certain Sunnī theologians", but "quotes Sunnī traditions, to the extent that it is said in Shīʿī circles that while the Sunnī Ibn Abī al Ḥadīd can be mistaken for an Imāmī, the Imāmī Maytham can be mistaken for a Sunnī!"[72]

Such Twelver Shīʿī–Sunnī connections were not unusual. In the later Ḥanafī tradition, however, they disappear from view. Certainly so in the case of al-Mawṣilī: from Ibn al-Wafāʾ al-Qurashī in the late 8th/14th century onwards, entries on al-Mawṣilī in Ḥanafī *ṭabaqāt* no longer mention any of his Twelver Shīʿī students or teachers, nor his transmission of the *Nahj al-balāgha* for that matter. This is significant; we wouldn't know of al-Mawṣilī's Twelver Shīʿī associates, or the wider scholarly context, from any of the main biographical sources of the Ḥanafī tradition: al-Qurashī, Ibn Quṭlūbughā, Taşköprüzade, al-Tamīmī al-Ghazzī, and Laknawī simply do not mention them.

In the context of al-Mawṣilī's own time and place, however, as well as in the immediate aftermath of his life, his Twelver Shīʿī teachers and students seem to have gone without need for further comment. Sectarian attachments, indeed, seem to have been of secondary importance in the transmission of certain kinds of knowledge. What was clearly more important were a scholar's regional and local connections. Thus, the man who transmitted the *Nahj* to al-Mawṣilī, Kamāl al-Dīn Ḥaydar, was likewise a "Mawṣilī"; indeed, Kamāl al-Dīn Ḥaydar is referred to by that *nisba* in several of the sources. ʿAbd Allāh b. Maḥmūd – that is, "our" Mawṣilī – might in fact have heard *Nahj al-balāgha* from Kamāl al-Dīn in Mosul itself, rather than in Baghdad. We cannot know this for certain, as the few sources available to us

69 See al-Ḥurr al-ʿĀmilī, *Amal al-āmil*, vol. 2, 164; al-Afandī al-Iṣfahānī, *Riyāḍ al-ʿulamāʾ*, vol. 3, ed. al-Husaynī, 247-248. For ʿAbd al-Karīm, in relation to Raḍī al-Dīn, see Kohlberg, *Medieval Muslim Scholar*, 15, fn. 108, and p. 170.

70 Al-Subḥānī, *Mawsūʿa*, vol. 7, 123.

71 See al-Afandī, *Riyāḍ al-ʿulamāʾ* vol. 3, ed. al-Husaynī, 248.

72 Al-Oraibi, Rationalism in the school of Bahrain, 333, fn. 5; cf. also al-Oraibi, *Shīʿī Renaissance*, 52 and 162.

explicitly citing texts al-Mawṣilī heard and transmitted remain silent as to where he received and taught them. Even if "our" Mawṣilī read the *Nahj* with Kamāl al-Dīn Ḥaydar in Baghdad, the reason he would have sought the latter's company and instruction there in the first place might very well have been their common Mawṣilī background, shared scholarly circles, and Mawṣilī acquaintances.[73]

With regard to the question of the development of the biographical tradition, there are two more students of al-Mawṣilī that are of significance for our understanding of the standard account of his life, as it came to crystallize in the mainstream sources. Ibn al-Fuwaṭī does not mention them, but their reports would – in one form or another – provide the basis for nearly all subsequent accounts of al-Mawṣilī's life, in Ḥanafī *ṭabaqāt* from al-Qurashī to al-Laknawī. They are Abū al-ʿAlāʾ al-Faraḍī (d. 700/1301) and al-Ḥāfiẓ al-Dimyāṭī (d. 705/1306).[74] Said to have studied with al-Mawṣilī, they do not appear in Ibn al-Fuwaṭī, but in the second earliest source on al-Mawṣilī available to us, a selection of biographical entries from Ibn Rāfiʿ al-Sallāmī's (d. 774/1372) continuation (*dhayl*) of Ibn al-Najjār al-Baghdādī's (d. 643/1245) history of Baghdad entitled *Taʾrīkh li-madīnat al-salām*, which, in its turn, was a continuation of al-Khaṭīb al-Baghdādī's (d. 463/1071) monumental history of the city.[75]

Although a Shāfiʿī, al-Dimyāṭī came to hear al-Mawṣilī, possibly in Damascus, maybe in Baghdad – we do not know. Nor do we know which works he would have heard from al-Mawṣilī, but it was presumably in the field of ḥadīth rather than in *fiqh*. Al-Dimyāṭī provides an extensive list of al-Mawṣilī's teachers that both Ibn Rāfiʿ al-Sallāmī and Ibn al-Taghrībirdī cite. It provides some interesting insights into al-Mawṣilī's scholarly pedigree:

> Al-Dimyāṭī [...] said: al-Ḥanafī [i.e., al-Mawṣilī was a Ḥanafī]; his *laqab* is Majd al-Dīn, son of the *imām* Shihāb al-Dīn, the *muftī*.
> He studied (*samiʿa*) in *al-madrasa al-Ṣārimiyya* [...] with ʿUmar b. Muḥammad Ibn Ṭabarzad and Mismār b. ʿUmar b. ʿUways al-Nayyār the *Akhlāq ḥamalat al-Qurʾān* of al-Ajurrī; and with his father Maḥmūd [...].
> And in Baghdad with Abū al-Faraj Muḥammad b. ʿAbd al-Raḥmān [b. Abī al-ʿIzz al-Wāsiṭī] and Abū al-Ḥasan ʿAlī b. Abī Bakr b. Rūzbeh [al-Qalānisī] the *Ṣaḥīḥ* of Bukhārī; and with the Shaykh Shihāb al-Dīn ʿUmar b. Muḥammad al-Suhrawardī, Abū al-Munajjā ʿAbd Allāh b. ʿUmar b. al-Lattī, Naṣr b. ʿAbd al-Razzāq al-Jīlī, and ʿUthmān b. Ibrāhīm al-Sabtī.

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73 The common Mawṣilī background with the Ibn al-Athīr brothers is another case in point. Likewise, Abū Bakr Mismār b. al-ʿUways, from whom al-Mawṣilī heard Bukhārī's *Ṣaḥīḥ*, see above, fn. 64, was a Baghdadi scholar who settled and died in Mosul. Ibn Ṭabarzad, another Baghdadi, likewise spent significant time in Mosul, although he might have encountered al-Mawṣilī in Damascus.

74 For al-Faraḍī, see al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 453-457; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 52; Laknawī, *al-Fawāʾid*, 210-211. For al-Dimyāṭī, see above, fn. 58.

75 Assembled by Taqī al-Dīn al-Fāsī (d. 832/1429) and entitled *Muntakhab al-mukhtār* in the 1938 Baghdad edition by ʿAbbās al-ʿAzzāwī, the selection constitutes a veritable "Who's who" of Baghdādī *ʿulamāʾ* up to the 8th/14th century. For Ibn al-Rāfiʿ al-Sallāmī, see al-Ziriklī, *al-Aʿlām*, vol. 6, 124; for al-Fāsī, best known for his history of his hometown Mecca, see Rosenthal, al-Fāsī, 828-829. Ibn Rāfiʿ al-Sallāmī, who like al-Ḥāfiẓ al-Dimyāṭī came from Egypt and settled in Damascus, was a student of the latter there. It is, hence, not surprising to find al-Dimyāṭī as a source on al-Mawṣilī cited by Ibn Rāfiʿ al-Sallāmī.

> A group of Khurasanis (*jamāʿa min ahl Khurāsān*) gave him permission [to transmit on their authority] (*ajāza lahu*), among them al-Muʾayyad b. Muḥammad al-Ṭūsī, Abū Bakr al-Qāsim b. ʿAbd Allāh al-Farāwī b. al-Ṣaffār, Abū al-Muẓaffar ʿAbd al-Raḥīm b. Abī Saʿd ʿAbd al-Karīm b. al-Samʿānī, and Zaynab al-Shaʿriyya.
> And from Baghdad [scholars who gave him permission to transmit on their authority included]: ʿAbd al-ʿAzīz b. al-Akhḍar, ʿAbd al-Wahhāb b. Sukayna, and Ḥanbal [b. ʿAbd Allāh b. Faraj al-Ruṣāfī].
> And from Mosul: the author of *Jāmiʿ al-uṣūl*, al-Mubārak [Ibn al-Athīr].
> He [i.e., al-Mawṣilī] transmitted many ḥadīth (*wa-ḥaddatha kathīran*, he transmitted a great deal in the field of ḥadīth) [...].[76]

The figures listed here are not cited in their capacity as Ḥanafī *fuqahāʾ*; they are cited in their capacity as ḥadīth transmitters (*muḥaddithūn*) and we can assume that the texts al-Mawṣilī received permission to transmit from them were collections of ḥadīth. It is noteworthy in this regard that although al-Dimyāṭī would be cited by later Ḥanafī sources, such as al-Qurashī and al-Tamīmī, the list itself would no longer be quoted by them. In fact, all mention of particular authorities al-Mawṣilī studied with would be discarded in the Ḥanafī biographical tradition, the one exception being Ibn Ṭabarzad. The latter, indeed, is the only teacher of al-Mawṣilī's, other than his father, explicitly named by al-Qurashī, Ibn Quṭlūbughā, and al-Tamīmī.[77]

The role of al-Mawṣilī as a transmitter of ḥadīth is significant, including in relation to his role as *faqīh*. Indeed, like a good number of post-classical Ḥanafī jurists, al-Mawṣilī might be seen as representative of a traditionalist current in the Ḥanafī *madhhab*, the nature and function of which has so far eluded our attention. It is only by looking more closely at al-Mawṣilī's works and their impact that we are able to gain a better understanding of that current and its importance for the development of Ḥanafī *fiqh* in the post-classical period.

As for Abū al-ʿAlāʾ al-Faraḍī, the other student of al-Mawṣilī's who is invariably quoted in Ḥanafī sources and more often than not verbatim, it is he who provides what eventually became the standard account of al-Mawṣilī's life:

> He [i.e., al-Mawṣilī] was born in Mosul, on a Friday, at the end of Shawwāl, in the year 599. He was a teacher, jurist, scholar, a distinguished man of learning, a professor – very knowledgeable in the *madhhab*. He was appointed to the judgeship of Kufa, then dismissed. He returned to Baghdad, where he was made professor at the Mashhad of Imām Abū Ḥanīfa,

76 Ibn Rāfiʿ al-Sallāmī, *Muntakhab*, ed. al-ʿAzāwī, 61-62.

77 See al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 349; Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 23; al-Tamīmī, *al-Ṭabaqāt*, vol. 4, ed. al-Ḥilw, 239. For Ibn Ṭabarzad, see above, fn. 65. Laknawī does not mention Ibn Ṭabarzad; he instead mentions Jamāl al-Dīn Maḥmūd al-Ḥaṣīrī al-Bukhārī, a prominent Ḥanafī *faqīh* with whom al-Mawṣilī studied in Damascus; see Laknawī, *al-Fawāʾid*, 106. Jamāl al-Dīn al-Ḥaṣīrī should not be confused with Sarakhsī's student of the same *nisba*, Muḥammad b. Ibrāhīm al-Ḥaṣīrī. Apart from Abū al-Thanāʾ, Ibn Ṭabarzad, and al-Ḥaṣīrī, the biographical tradition remains silent on the authorities al-Mawṣilī studied with or transmitted from, which is significant. Only Ibn Rāfiʿ al-Sallāmī and Ibn Taghrībirdī provide al-Dimyāṭī's list, which is essentially one of ḥadīth transmitters. We thus know very little about al-Mawṣilī's teachers in *fiqh*.

> may God be pleased with him. He did not cease to issue legal opinions and teach until he died in Baghdad on the morning of Saturday, the 19th of Muḥarram of the year 683.[78]

The sources usually also report that al-Mawṣilī composed a number of works, although there is no unanimity as to exactly how many. Ibn al-Fuwaṭī speaks of one composition (*taṣnīf*), without giving a title. Ibn Rāfiʿ al-Sallāmī lists five works by name: (i) *al-Mukhtār li-l-fatwā*, (ii) *al-Ikhtiyār li-taʿlīl al-mukhtār*, (iii) *al-Mushtamila ʿalā masāʾil al-Mukhtaṣar*, (iv) *Masʾalat ghusl al-rijl*, and (v) *Masʾalat jawāz qirāʾat al-qurʾān ʿind al-qubūr*.[79] Al-Qurashī lists the first three of these, as do Ibn Quṭlūbughā and al-Tamīmī. Ibn Taghrībirdī likewise lists *al-Mukhtār*, *al-Ikhtiyār*, and *al-Mushtamil*, adding that al-Mawṣilī was also the author of "several other writings" (*wa-lahu ʿiddat taṣānīf ukhrā*).[80]

Of all of these, extant manuscript copies exist in great numbers for *al-Mukhtār* and *al-Ikhtiyār*.[81] As for *al-Mushtamila*, or *al-Mushtamil* as it is more often called, two manuscript copies seem to have survived: one in Istanbul and one in Mecca.[82] The two works mentioned by Ibn Rāfiʿ al-Sallāmī entitled *Masʾalat ghusl al-rijl* and *Masʾalat jawāz qirāʾat al-qurʾān ʿind al-qubūr* might have been *masāʾil* of the *Mushtamil*, however, which for some reason or other Ibn Rāfiʿ al-Sallāmī referred to separately in his entry; they might not have been considered to constitute separate, stand-alone books by other authorities, but we can only speculate. Kātib Çelebī moreover mentions a commentary by al-Mawṣilī on Muḥammad al-Shaybānī's *al-Jāmiʿ al-kabīr*. No such work seems to have survived, however.[83]

A Work of Lasting Impact: al-Mukhtār li-l-fatwā

The two main works that al-Mawṣilī would come to be known for are *al-Mukhtār li-l-fatwā* and *al-Ikhtiyār li-taʿlīl al-mukhtār*, the latter being an auto-commentary on the former.[84] Both works are extant in numerous manuscript copies, the earliest dating back to the 7th/13th

78 Ibn Taghrībirdī, *al-Manhal al-ṣāfī*, vol. 7, ed. Amīn, 122-123; with some variation in Ibn Rāfiʿ al-Sallāmī, *Muntakhab*, ed. al-ʿAzāwī, 62; almost verbatim in al-Qurashī, *al-Jawāhir*, vol. 2, ed. al-Ḥilw, 349-350; without attribution to al-Faraḍī partly in Ibn Quṭlūbughā, *Tāj*, ed. Flügel, 23; likewise in al-Tamīmī, *Ṭabaqāt*, vol. 4, ed. al-Ḥilw, 239; and, again, verbatim, albeit without attribution to al-Faraḍī in Laknawī, *al-Fawāʾid*, 106-107.

79 Ibn Rāfiʿ al-Sallāmī, *Muntakhab*, ed. al-ʿAzāwī, 62.

80 Ibn Taghrībirdī, *al-Manhal al-ṣāfī*, vol. 7, ed. Amīn, 124.

81 Brockelmann, *GAL*, vol. 1, 476, and Supplement I, 657; al-Majmaʿ al-malikī, *al-Fihris al-shāmil*, vol. 1, 245-256; vol. 9, 180-194; and vol. 12, 373; Şeşen, *Mukhtārāt*, 23.

82 See al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 23-24. Brockelmann refers to the Yeni Cami 534 copy as *Kitāb al-fawāʾid*, which is, indeed, the title given: *al-Fawāʾid al-mushtamila ʿalā al-mukhtaṣar wa-l-takmila*; see *GAL*, vol. 1, 476. Most of the biographical sources that mention this work refer to it however as *al-Mushtamil ʿalā masāʾil al-mukhtaṣar* – the *mukhtaṣar* in question being that of al-Qudūrī.

83 Ḥājjī Khalīfa (Kātib Çelebī), *Kashf al-ẓunūn*, vol. 3, ed. İhsanoğlu and Marouf, 184.

84 The commentary is sometimes also referred to as *ʿIlal al-masāʾil wa-maʿānīhā*, owing to the fact that it was conceived of as explaining the reasons (*ʿilal*, sg. *ʿilla*) and meanings (*maʿānī*, sg. *maʿnā*) underlying particular legal rules. See, for instance, al-Andarpatī, *al-Fatāwā al-tātārkhāniyya*, vol. 1, ed. al-Qāsimī, 174.

century.[85] Both would have a lasting impact on the Ḥanafī *madhhab*, the *Mukhtār* being considered one of the basic primers for the transmission of Ḥanafī school doctrine.[86]

According to al-Mawṣilī's comments in the introduction to *al-Ikhtiyār*, he composed *al-Mukhtār* in the prime of his youth. The work seems to have gained popularity quickly, being passed from hand to hand, to such an extent that al-Mawṣilī was asked to compose a commentary on it, to elucidate it. It is worthwhile considering his introduction to *al-Ikhtiyār*, as it gives us some indications for his reasons for his writing *al-Mukhtār*, as well as for the earliest phase of the text's transmission:

> In the prime of my youth, I had composed an epitome (*mukhtaṣar*) in jurisprudence for some beginning students (*baʿḍ al-mubtadiʾīn*) from among my companions (*aṣḥābī*, i.e., fellow Ḥanafīs). I called it "The select positions for issuing formal legal opinions" (*al-Mukhtār li-l-fatwā*). In it, I chose the positions of Imām Abū Ḥanīfa, may God have mercy on him, since he was the first and the most appropriate. So when the hands of scholars passed it on, one after the other, and some jurists busied themselves with it, they asked me to expound on it by way of a commentary (*sharḥ*), in which I should indicate the underlying reasons of the legal issues presented in the book and their meanings [...][87]

Al-Mawṣilī explains that *al-Mukhtār* is a *mukhtaṣar*, that is, a particular kind of legal work, presenting the doctrine of the Ḥanafī *madhhab* in concise and summary fashion. According to Mohammad Fadel, the genre of the *mukhtaṣar* arose out of a need and desire on the part of the jurists to tame the sea of divergent juridical opinion, by creating uniform (i.e., practicable) rules. Limiting the tendency to indeterminacy which characterizes Islamic jurisprudential discourse, the *mukhtaṣar* thus came to represent the "authoritative collection of a school's legal doctrine".[88] In the context of the Ḥanafiyya, the emergence of the *mukhtaṣar* can be traced to at least the 4th/10th century: the earliest epitomes of Ḥanafī *fiqh* are Aḥmad b. Muḥammad al-Ṭaḥāwī's (d. 321/933) *Mukhtaṣar*, Abū al-Ḥasan al-Karkhī's (d. 340/952) *Mukhtaṣar*, and Muḥammad b. Muḥammad al-Ḥākim al-Shahīd al-Marwazī's (d. 334/ 945) *al-Kāfī*. The best-known and most "classical" example of the genre dates to the first half of the 5th/11th century: al-Qudūrī's (428/1037) *Mukhtaṣar*, the epitome *par excellence* of Ḥanafī doctrine.[89]

Subsequent to al-Qudūrī, the production of Ḥanafī *mukhtaṣarāt* saw roughly 150 years of a lull, until the composition of ʿAlī b. Abī Bakr al-Marghīnānī's (d. 593/1197) *Bidāyat al-mubtadiʾ*, the commentary upon which, likewise composed by al-Marghīnānī, would rise to fame as the most prominent Ḥanafī texts of all time, namely *al-Hidāya*.[90] Although somewhat less

85 See above, fn. 82.

86 See above, fn. 4.

87 al-Mawṣilī, *al-Ikhtiyār*, ed. Arnaʾūṭ, 36.

88 Fadel, Social logic of *Taqlīd*, 193 and 197.

89 *Mukhtaṣarāt* were not immune from change over time, of course, but we still know far too little about the ways in which they evolved in both form and content to make any definite statements regarding the history of the genre.

90 See above, fn. 50.

prominent than al-Marghīnānī's *Bidāya* and *Hidāya*, al-Mawṣilī's *Mukhtār* – dating from about half a century after Marghīnānī's works – is comparable in the way its commentary, *al-Ikhtiyār*, was ultimately intertwined with the base text to such an extent that the former would usually not be consulted independently of the latter.

In his introduction to *al-Mukhtār*, written after the completion of the main text, but before the addition of letter signs to indicate divergences of scholarly opinion, al-Mawṣilī explains his reasons for composing the work:

> Someone whom I had the obligation to answer asked me to bring together an epitome (*mukhtaṣar*) for him in the jurisprudence (*fiqh*) of the *madhhab* of the greatest Imām, Abū Ḥanīfa al-Nuʿmān, may God be pleased with him. [They asked me to do so by] limiting myself in it to his [i.e., Abū Ḥanīfa's] positions, so that it [i.e., the epitome] may be used in the issuance of legal opinions. So I composed this epitome for him, as he had asked and envisioned, and I called it "the select positions for the issuing of formal legal opinions" (*al-mukhtār li-l-fatwā*), because the positions [presented in the work] were chosen by the majority of jurists [of the *madhhab*] (*ikhtārahu akthar al-fuqahāʾ*) and agreed upon. When a group of jurists had memorized it, it became well known; word of it spread among [our fellow Ḥanafīs] and it became widely disseminated. When this happened, one of the noble sons of the offspring of my brother asked me to add signs to [the text] by which the legal positions of the rest of the jurists [other than Abū Ḥanīfa] could be known, so that the benefit [of the work] might increase and its usefulness be comprehensive. I answered his demand, hurriedly embarking to fulfill his desire [...][91]

Whether or not we are confronted with a rhetorical trope in al-Mawṣilī's statement of having been asked to compose this work by someone he could not refuse is ultimately immaterial. What is significant is that he declares that he had to *limit* himself to the positions of Abū Ḥanīfa, since these were most appropriate for the issuance of formal legal opinions. The exclusive focus on Abū Ḥanīfa (i.e., to the exclusion of the opinions of other early Ḥanafī authorities) seems new and indicative of a key trend arising at the time. Indeed, al-Qudūrī, in his *Mukhtaṣar*, still presented the positions of Abū Ḥanīfa's disciples, Abū Yūsuf and Muḥammad al-Shaybānī, as very much on par with those of their teacher. There is no sense of a priority given to Abū Ḥanīfa in al-Qudūrī, a point that would decidedly change with al-Mawṣilī and the subsequent Ḥanafī tradition.[92]

That dissenting opinions were not irrelevant to al-Mawṣilī either is clear in the demand to indicate "the legal positions of the rest of the jurists".[93] Indeed, one of the most striking features of the manuscript tradition of *al-Mukhtār* are the letter marks, usually in red or another color, highlighting divergent positions from those of Abū Ḥanīfa, that is, instances of disagreement between Abū Ḥanīfa's position and that of, say, al-Shāfiʿī, as much as

91 Al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 85-86.

92 I hope to show this in more detail in a forthcoming publication.

93 Al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 86.

disagreement between Abū Ḥanīfa and Abū Yūsuf, Muḥammad al-Shaybānī, Zufar, or other early authorities of the Ḥanafiyya.[94]

Textual History of al-Mukhtār *and its Commentary* al-Ikhtiyār

More than two hundred manuscript copies of *al-Mukhtār li-l-fatwā* are recorded in the catalogs of the main Islamic manuscript collections of the Middle East, Central Asia, Europe, and North America.[95] The earliest of these dates to al-Mawṣilī's lifetime: copied in Baghdad in 678/1279 (i.e., five years before al-Mawṣilī's death), it is held in the Turkish National Library in Ankara and comprises 92 folios.[96] The colophon of this manuscript reads as follows:

> The writing [of this book] was completed, praise be to God and for the good success [He has granted], by the weak servant [of God], in need of his Lord's mercy and forgiveness, ʿAlī b. Muḥammad b. ʿUmar al-Murshid al-Nūshābādī, in the protected city, the House of Peace, Baghdad, in the madrasa built and known as al-Tutushiyya – may God fill the grave of the one who built it with light – and that [i.e., the completion of the manuscript happened] in the final tenth of the month of Rabīʿ al-Awwal in the year 678. God is our reckoning and the greatest of guardians. There is no power and no strength but in God, the High, the Great: May the prayer of God be upon Muḥammad, his family, and his companions, the pure ones.[97]

The copyist, ʿAlī b. Muḥammad b. ʿUmar Ibn al-Murshid al-Nūshābādī is not known from the sources. His father, Muḥammad b. ʿUmar b. al-Murshid al-Nūshābādī al-Bukhārī, however features in various Ḥanafī biographical dictionaries as the author of several works of Ḥanafī *fiqh*, including a summary of al-Qudūrī's *Mukhtaṣar* and a work on *uṣūl*, entitled *Kashf al-asrār*.[98] According to the sources, Ẓahīr al-Dīn Abū al-Muẓaffar, as al-Nūshābādī senior was also known, studied with Shams al-Aʾimma Muḥammad b. ʿAbd al-Sattār al-Kardarī (d.

94 The Ḥanafiyya is often said to be characterized by a greater degree of internal heterogeneity than other legal schools. See, for instance, Heffening [Schacht], Ḥanafiyya, 163 ("[…] the uniform character of the doctrine is much less pronounced in the Ḥanafī *madhhab* than in the other schools"). Indeed, we find many instances of *khilāf* indicated in the text of *al-Mukhtār*. In most cases, however the disagreement is one between Abū Ḥanīfa and al-Shāfiʿī. The marks were not, however, universally supplied in all the manuscripts. Numerous manuscript copies of *al-Mukhtār* exist that lack them.

95 Al-Majmaʿ al-malikī, *al-Fihris al-shāmil*, vol. 9, 180-194, lists 199 manuscript copies. This list is not complete, however. Browsing the catalogs of the main Islamic manuscript collections in Turkey, Europe, and North America alone brings out a whole range of copies not included in *al-Fihris al-shāmil*. A comprehensive count would need to be carried out, but goes beyond the confines of this paper.

96 Milli Kütüphane, Ankara, Çankırı İl Halk Kütüphanesinin Koleksyionu, Demirbaş No. 18 Hk 96, DVD No. 1560 (henceforth Çankırı 18 Hk 96).

97 Çankırı 18 Hk 96, fol. 92r: *tamma al-kitāb bi-ḥamd illāh wa-ḥusn tawfīqih ʿalā yad al-ʿabd al-ḍaʿīf al-muftaqir ilā raḥmat rabbih wa-ghufrānih ʿAlī b. Muḥammad b. ʿUmar b. al-Murshid al-Nūshābādī bi-maḥrūsat dār al-salām baghdād fi-l-madrasa al-maʿmūra al-maʿrūfa bi-l-tutushiyya nawwara allāhu ḍarīḥ munshiʾihā wa-dhālika fi-l-ʿushr al-ākhir min shahr rabīʿ al-awwal fī sanat thamāniwa-sabʿīn wa-sitt-māʾia, wa-ḥasbunā allāh wa-naʿīm al-wakīl, wa-lā ḥawl wa-lā quwwa illā bi-llāh al-ʿalīy al-ʿaẓīm, wa-ṣallā allāh ʿalā muḥammad wa-ālihi wa-ṣaḥbihi al-ṭāhirīn*.

98 Al-Qurashī, *al-Jawāhir*, vol. 3, ed. al-Ḥilw, 290; Ibn Quṭlūbughā, *Tāj*, ed. Muḥammad Khayr Ramaḍān Yūsuf, 272 (al-Nūjābādī); Laknawī, *al-Fawāʾid*, 183 (al-Nūḥābādhī); al-Ziriklī, *al-Aʿlām*, vol. 6, 313.

642/1244) in Bukhara, as well as with Muḥammad b. Muḥammad Ḥusām al-Dīn al-Akhsīkathī (d. 644/1247), before going to Damascus and eventually settling in Baghdad, where he is reported to have acted as *imām* of the Mustanṣiriyya mosque. Al-Mawṣilī's younger contemporary Ibn Sāʿātī is supposed to have studied with him, as did al-Mawṣilī's student Abū al-ʿAlāʾ al-Faraḍī. Al-Nūshābādī (or Nūshābādhī, as the *nisba* is also rendered) is said to have died in the year 668, that is ten years before his son ʿAlī would copy al-Mawṣilī's *al-Mukhtār* in Baghdad's Tutushiyya madrasa. As for al-Tutushiyya, it was founded by the Seljuq emir Abū Saʿīd Tāj al-Dawla Tutush (d. 487/1094), the son of Alp Arslan and brother of Mālik Shāh. Located near the more famous Niẓāmiyya madrasa, it was one of the colleges, which, according to ʿAbd al-ʿAzīz al-Dūrī, resumed work after the conquest of the city by the Mongols fairly quickly, next to al-Mustanṣiriyya, al-Bashīriyya, and Madrasat al-aṣḥāb.[99]

On the margin of the manuscript, next to the colophon, there is a collation note, which reads as follows:

> The owner (*ṣāḥib*) of this copy, the jurist and scholar, ʿIzz al-Dīn Jamāl al-Fuqahāʾ ʿAlī b. Muḥammad b. ʿUmar b. al-Murshid al-Nūshābādhī, may God Almighty grant him success for what would please Him, by Muḥammad and his family, collated this copy and its glosses with the original, in his own hand. It was thus corrected, to the extent that he was able to. Written by the poor one [...] on the ninth of Jumādā II of the year 678, in the protected city, Baghdad. Praise be to God [...][100]

Thus, from the last *ʿushr* of the month of Rabīʿ I to the ninth day of Jumādā II 678 AH, ʿAlī b. Muḥammad al-Nūshābādī took just over two months and a half to collate his copy of al-Mawṣilī's *al-Mukhtār*.[101] The manuscript is replete with marginal glosses in al-Nūshābādī's hand, bearing witness to the process of collation. Indeed, we find innumerous textual corrections of different sorts, from the very first folio to the last, warranting a degree of scholarly attention that goes beyond the scope of this paper.[102]

The first extant manuscript copies of *al-Ikhtiyār*, al-Mawṣilī's commentary on *al-Mukhtār*, date to exactly fifteen years after this earliest copy of *al-Mukhtār*. This is some ten years after the death of al-Mawṣilī himself. We have two manuscript copies of *al-Ikhtiyār* dated to

99 al-Dūrī, Baghdad, 40.

100 Çankırı 18 Hk 96, fol. 92r: *qābala hādhihi al-nuskha bi-ḥawāshīhā ṣāḥibuhā al-faqīh al-ʿālim ʿizz al-dīn jamāl al-fuqahāʾ ʿAlī b. Muḥammad b. ʿUmar b. al-Murshid al-Nūshābādhī, waffaqahu allāh taʿāla li-mā yurḍīhi bi-muḥammad wa-ālihi, bi-nuskhat al-aṣl bi-yadī, fa-ṣuḥḥat bi-qadr al-imkān, katabahu al-faqīr* [...] *fī tāsiʿ jumādā al-ākhira sanat thamān wa-sabaʿīn wa-sitt-māʾia, bi-maḥrūsa baghdād, wa-l-ḥamdu li-llāh* [...].

101 While in the colophon the *nisba* Nūshābādī is spelt with a *dāl* (i.e. dotless, Ar. *muhmal*), the collation note clearly shows a *dhāl* (i.e. with a diacritical point, Ar. *muʿjam*), thus reading Nūshābādhī. For the different renderings of the *nisba* in the biographical literature, see fn. 98.

102 Examples of marginal glosses and correction abound: on fol. 1v the *ḥamdala*, for instance, has a sign of *saqṭa* next to it, indicating that part of the phrase, here given in square brackets, was initially dropped by mistake: *ashhadu anna lā ilāha* [*illā huwa*]. A little further down, on the same folio, an *ʿaṭfa* (i.e., the *signe-de-renvoi* for omissions, often in the form of a curved line) is found next to *fa-jaʿaltu lahu* [*hādhā*] *al-mukhtaṣar*. A comprehensive investigation of these marginal glosses is beyond the scope of this paper, but their ubiquity and potential significance for our understanding of scribal practices, generally, and the (juristic) content of texts such *al-Mukhtār*, in particular, should be duly noted.

693/1292 – one held in Cairo's al-Azhar library, the other at the Chester Beatty Collection in Dublin.[103] From the colophon of the Chester Beatty copy of *al-Ikhtiyār*, we are able to gain additional information regarding the textual history of both *al-Ikhtiyār* and *al-Mukhtār*. The copyist – a man by the name of Muḥammad b. Ibrāhīm al-Rūmī – not only gives the date of his own copy, but also the date al-Mawṣilī had initially completed the text: Friday, 17 Jumādā II 653, which corresponds to 31 July 1255.[104] This was exactly two years and seven months before the Mongol attack on Baghdad. How much before that the base text of *al-Mukhtār* itself was composed remains subject to speculation. The Chester Beatty colophon provides us, at least, with a *terminus ante quem*, but since al-Mawṣilī declared that he wrote the *mukhtaṣar* in the "prime of his youth", *al-Mukhtār* seems more likely to have been composed sometime in the 1220s or 1230s.

As for the reception of both texts, it was immediate: apart from the 678/1279 copy of *al-Mukhtār*, chronologically, the next two extant copies date to 700/1300 (held in Baghdad and Berlin), followed by a copy from 706/1307 (held at Yale), one from 710/1310 (Ankara), then 742/1341 (Topkapı), 760/1358 (Cairo University), 764/1363 (Istanbul), 767/1365 (Mosul), 784/1382 (Ankara), 788/1386 (Dublin), and 790/1389 (Cairo, Dār al-kutub). Together with one more copy cataloged as dating from the 8th/14th century (held in Aleppo), that makes at least thirteen manuscript copies of *al-Mukhtār* dated to the 8th/14th century – a considerable number, by any count. Beyond that – that is, from the 8th/14th until the 19th century – the authors of *al-Fihris al-shāmil* count another 186 manuscript copies of the work.

Regarding *al-Ikhtiyār* the situation is similar: *al-Fihris al-shāmil* lists a total of 157 manuscript copies, the earliest of which dates to 693/1292 (Dublin), followed by at least eleven copies from the 8th/14th century: 710/1310 (Mosul), 731/1330 (Baghdad), 736/1335 (Beirut), 742/1341 (Leiden), 742/1341 (Leiden), 758/1357 (Princeton), 762/1360 (Istanbul), 777/1375 (Cairo), 787 /1384 (Ankara), 791/1388 (Baghdad), and one more undated copy cataloged as being from the 8th/14th century (Topkapı). Beyond that, at least thirty-four manuscript copies of *al-Ikhtiyār* date to the 9th/15th century, sixteen to the 10th/16th century, and so on, up to the 19th century.

Judging by these numbers, we seem to be confronted with a very popular work.[105] Apart from copies of the text itself, commentaries (*shurūḥ*) on it can likewise tell us a great deal about the reception of a work such as *al-Mukhtār*. Now, we have seen the wide dissemination of *al-Ikhtiyār*, the most important commentary (*sharḥ*) on *al-Mukhtār*, which was copied almost as often as *al-Mukhtār* by itself. Next to it, the 11th/17th-century Ottoman biographical encyclopedia of the sciences by Kātib Çelebī (d. 1068/1657), *Kashf al-ẓunūn*, lists at least eleven other commentaries on *al-Mukhtār*. Sāʾid Bakdāsh adds to these another five in the

103 Al-Majmaʿ al-malikī, *al-Fihris al-shāmil*, vol. 1, 245; Arberry, *Handlist*, vol. 7, 113, no. 5370.

104 Al-Mawṣilī, *al-Ikhtiyār*, ed. Arnaʾūṭ, 23: *wa-kāna firāgh muʾallifih minhu yawm al-jumʿa sābiʿ ʿashar min jumādā al-ākhira, sanat thalāth wa-khamsīn wa-sittmāʾia*.

105 Printed copies, such as the 1355/1936 edition of *al-Ikhtiyār* by Maḥmūd Abū Daqīqa published by al-Bābī al-Ḥalabī in Cairo, are relatively late, compared to other "classics" of the school – a fact that might tell us something about the attitude of modernist Muslims toward works of "decadence" (*inḥiṭāṭ*), of which *al-Mukhtār* may have counted as one.

introduction to his edition of *al-Mukhtār*, making for a total of seventeen commentaries at least.[106] Some of these are known by citation only, others are extant, but unedited;[107] some of them cover particular "books" of *al-Mukhtār* only, such Zayn al-Dīn Abū Muḥammad al-ʿAynī's (d. 893/1488) *Sharḥ kitāb al-farāʾiḍ min al-Mukhtār*;[108] the greatest part of them, however, expound upon the entire text.

The most important of these (but also still unedited) is Çivizāde Muḥyī al-Dīn Meḥmed Efendī's (d. 954/1547) *al-Īthār li-ḥall al-Mukhtār*. Çivizāde, who rose through the upper echelons of the Ottoman learned hierarchy to become judge of Cairo, chief judge (*qāḍī ʿasker*) of Rumelia, then Anatolia, and, ultimately, *shaykh al-islām* of the empire – the highest possible official position for an Ottoman jurist at the time – was known for his vociferous criticism of a range of Ottoman state practices, such as the cash *waqf*.[109] Çivizāde's composition of a commentary on al-Mawṣilī's *al-Mukhtār* is an indication of the value attributed to it, as commentaries by prominent *ʿulamāʾ* were often prestige projects on texts of extremely widespread dissemination. This was most often the case for the Qurʾān, as works of *tafsīr* offered high-ranking *ʿulamāʾ* the opportunity to leave a lasting learned legacy. However, commentaries on particular ḥadīth collections or teaching texts (*mutūn*) in logic or jurisprudence were likewise popular.

That *al-Mukhtār* began to be used as a teaching text is illustrated by the fact that a versified commentary (*manẓūma*) was produced on it, too – a clear indication that the text was supposed to be memorized.[110] Moreover, specific aspects of the text would draw the attention of scholars, such as al-Mawṣilī's use of *ḥadīth* in *al-Ikhtiyār* to illustrate particular legal positions presented in *al-Mukhtār*. Thus, Ibn Quṭlūbughā would compose an entire work devoted to al-Mawṣilī's choice of *ḥadīth* to explain the underlying reasons (*ʿilal*, sg. *ʿilla*) for the positions of Abū Ḥanīfa, entitled *al-Taʿrīf wa-l-ikhbār bi-takhrīj aḥādīth al-ikhtiyār*.[111]

The question of why *al-Mukhtār* would rise to such success cannot be answered in simple terms. On the one hand, the text seems to have fulfilled a particular need at the time. Thus, al-Mawṣilī insists that his intention was to satisfy a particular request, to present the positions of the *madhhab*, as embodied in the legal opinions of Imām Abū Ḥanīfa alone, in succinct fashion for beginners. And, to be sure, *al-Mukhtār* would rise to prominence as one of the basic primers (*mutūn*) of the Ḥanafī school in doing exactly that. The move to an exclusive focus on Abū Ḥanīfa as the source of the *madhhab*'s binding precedent for the issuance of formal legal opinions (*fatwā*s) is central in this regard and might constitute one

106 See al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 25-34.

107 Among the extant but unedited works is a *Sharḥ* by a certain Khaṭṭāb b. Abī al-Qāsim al-Qaraḥiṣārī al-Rūmī (d. 730/1330), who in great likelihood was a student of al-Mawṣilī's and is said to have also composed a *Sharḥ* on Abū al-Barakāt al-Nasafī's *Kanz al-daqāʾiq*, as well as on the latter's *al-Manār fī uṣūl al-fiqh*. See al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 27-28. Some citations in Ḥājjī Khalīfa seem spurious, such as the mention of Zaylāʿī as an author of a *Sharḥ* on *al-Mukhtār*.

108 Not to be confused with the more famous and slightly older Badr al-Dīn (Tr. Bedreddin) al-ʿAynī (d. 855/1455).

109 See Mandaville, Usurious piety, 297-301.

110 See Tāj al-Dīn ʿAbd Allāh b. ʿAlī al-Sinjārī's (d. 800/1398) *Naẓm al-mukhtār*, as cited in al-Mawṣilī, *al-Mukhtār*, ed. Bakdāsh, 30.

111 See Ibn Quṭlūbughā, *al-Taʿrīf*, ed. Yaʿqūbī.

of the defining features of post-classical Ḥanafī *fiqh*, as it took shape in the Mongol and post-Mongol period.

In terms of content, *al-Mukhtār* covers the entire gamut of the "branches" (*furūʿ*) of substantive doctrine in fairly conventional thematic arrangement: from ritual law (purity, prayer, etc.), commercial law (sales, pre-emption, rental, etc.), court procedure, personal status law (marriage, divorce, etc.), and criminal law (e.g. torts), to the law of succession and inheritance.[112]

On the basis of an examination and comparison of the sections on fornication (*zinā*) in various works of Ḥanafī *fiqh*, Norman Calder argued that al-Mawṣilī in fact closely followed the selections and summaries of al-Qudūrī's *Mukhtaṣar*, often verbatim.[113] According to Calder, "the changes that Mawṣilī introduced to his text demonstrate, in part, a search for greater precision and refinement of expression; in part, an extension of detail".[114] Both al-Qudūrī and al-Mawṣilī in this sense represent "attempt[s] to summarise and clarify the principles behind a larger and less organized bundle of rules contained in the foundational texts of the Ḥanafī tradition".[115] However, whether it is really not possible to "discover any reference to the legal or penal practice of their time or any intermediate time", as Calder maintains, remains open to debate. The effort to do so has, so far, barely been made. Indeed, as this paper has tried to argue, it should prove fruitful to try to situate works of *fiqh* in their actual historical context, to see if such references might not, after all, be found.

The Ḥanafī madhhab *of the Post-classical, viz. Mongol, Period*

Returning to the history of the Ḥanafī *madhhab*, we may observe, in the period of al-Mawṣilī and the century subsequent to him, a trend to (or, rather, a distinct moment of) "epitomization" of school doctrine: the desire to state the principal positions of the *madhhab* in succinct and unambiguous fashion – a desire which found expression in the production of texts (*mukhtaṣarāt*/*mutūn*) of enduring influence. Certainly, it is not by coincidence that four of the most fundamental primers of the Ḥanafī school were composed in this very period: al-Mawṣilī's *al-Mukhtār*, Ibn Sāʿātī's *Majmaʿ al-baḥrayn*, Abū al-Barakāt al-Nasafī's *Kanz al-daqāʾiq*, and Burhān al-Sharīʿa al-Maḥbūbī's *Wiqāyat al-riwāya*.

Moreover, the fact that the binding precedent of the school itself would, ever increasingly, come to be identified with, and limited to, the positions of Abū Ḥanīfa (to the exclusion of those of his disciples) is a feature of the period that needs to be studied in much more systematic fashion. Together with the phenomenon of the production of epitomes, the increasing

112 The "books" of *al-Mukhtār* are arranged as follows: *al-ṭahāra – al-ṣalāt – al-zakāt – al-ṣawm – al-ḥajj – al-buyūʿ - al-shufʿa – al-ijāra – al-rahn – al-qisma – adab al-qāḍī - al-ḥajr – al-maʾdhūn – al-ikrāh – al-daʿwā – al-iqrār – al-shahādāt – al-wakāla – al-kafāla – al-ḥawāla – al-ṣulḥ – al-sharika – al-muḍāraba – al-wadīʿa – al-laqīṭ - al-luqṭa – al-ābiq – al-mafqūd – al-khunthā – al-waqf – al-hiba – al-ʿāriya – al-ghaṣb – iḥyāʾ al-mawāt – al-shirb – al-muzāraʿa – al-musāqāt – al-nikāḥ – al-riḍāʿ – al-ṭalāq – al-ẓihār – al-liʿān – al-ʿitq – al-mukātab – al-walāʾ – al-aymān – al-ḥudūd – al-ashriba – al-sariqa – al-siyar – al-karāhiyya – al-ṣayd – al-dhabāʾiḥ – al-aḍḥiya – al-jināyāt – al-diyāt – al-waṣāyā – al-farāʾiḍ.*

113 Calder, Ḥanafī law on fornication, 24.

114 Calder, Ḥanafī law on fornication, 28.

115 Calder, Ḥanafī law on fornication, 28.

focus on the "great *Imām*" is thus key to our understanding of the historical development of the *madhhab* in the Mongol era.

The 7th/13th and 8th/14th centuries – that is, the period straddling the Mongol invasion and subsequent Mongol rule over the eastern and central lands of the Islamic ecumene – largely corresponds to what Talal Al-Azem has identified and labeled as the "period of *taṣḥīḥ*" in Ḥanafī *fiqh*: the period of "reviewing, correcting and emending the legal rules formulated by preceding jurists of *tarjīḥ*".[116] As opposed to the "rule-formulation" of earlier centuries, this age of "rule-review", as Al-Azem calls it, entailed the affirmation as "correct" of opinions previously chosen as binding (or, alternatively, their rejection and the concomitant presentation of dissenting opinions, in case of disagreement).[117] Al-Mawṣilī, Ibn Sāʿātī, Abū al-Barakāt al-Nasafī, and Burhān al-Sharīʿa al-Maḥbūbī all fall squarely within that framework.[118] Approaches such as Al-Azem's, when brought into conversation with case studies focused on individual jurists and their works, and comparative investigations of circumscribed topics from the large field of positive law, such as Calder's, can give us a much better sense of the historical development of the Ḥanafī *madhhab* at this crucial period of transition.

In the time that followed the Mongols, a great deal of commentarial activity upon the texts produced in the 7th/13th and 8th/14th centuries can be discerned. Indeed, the works composed at the time would continue to be studied until the modern period. New handbooks, primers, and abridgments also arose, as well as numerous commentaries upon them.[119] However, the four *mutūn* of the Mongol period, together with al-Qudūrī's *Mukhtaṣar* and al-Marghīnānī's *Hidāya*, would in many ways continue to constitute the mainstay for teaching and reference in the Ḥanafī school well into the 20th century.[120]

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116 Al-Azem, *Rule-Formulation*, 77.

117 Al-Azem, *Rule-Formulation*, 84.

118 Although Al-Azem points out that "the dominant activity by which each period was characterized was not necessarily confined to that period alone", his periodization on the basis of Ḥanafī "typologies" of jurists is compelling. The same goes for his analysis of historical patterns of geographic distribution and movement of Ḥanafī jurists, in particular his emphasis on the "central role eastern scholars, and especially the Bukharans, played in the development of the *madhhab* of the post-classical period"; Al-Azem, *Rule-Formulation*, 92.

119 Thus, in the 9th/15th century, the Ottoman jurist Mollā Khusraw (Tr. Hüsrev; d. 885/1480) composed *Durar al-ḥukkām fī sharḥ ghurar al-aḥkām*, which gave rise to a host of commentaries, including the influential *Ghunyat dhawī al-iḥkām* of al-Ḥasan b. ʿAmmār al-Shurunbulālī (d. 1069/1659). Likewise, a century later, Muḥammad b. ʿAbd Allāh al-Timurtāshī's (d. 1006/1598) *Tanwīr al-abṣār wa-jāmiʿ al-biḥār*, a concise handbook for the use of jurisconsults and judges, spawned numerous commentaries, among which featured, most prominently, al-Haṣkafī's (d. 1088/1677) *al-Durr al-mukhtār*, which, in turn, formed the basis for Ibn ʿĀbidīn's (d. 1252/1836) seminal *Radd al-muḥtār*. Finally, among the key texts of the early modern period, Ibrahīm al-Ḥalabī's (d. 956/1549) *Multaqā al-abḥur* would rise to become what was, arguably, the most popular primer of Ḥanafī substantive doctrine in the Ottoman Empire. Based on al-Qudūrī's *Mukhtaṣar*, al-Mawṣilī's *Mukhtār*, al-Nasafī's *Kanz al-daqāʾiq*, and Burhān al-Sharīʿa al-Maḥbūbī's *Wiqāyat al-riwāya*, it constituted a sort of "*mukhtaṣar* of *mukhtaṣar*s" of the Ottoman Ḥanafī tradition and is a good example for the fact that the drive to epitomize was in no way restricted to the periods under investigation here.

120 Cf. Samy Ayoub, *Law, Empire and the Sultan*, 36: "The legal works *Kanz al-Daqāʾiq*, *al-Wiqāya*, *al-Mukhtār*, and *Majmaʿ al-baḥrayn* are the particularly prominent texts to which late Ḥanafīs dedicated specialized commentaries and on which they relied heavily in their legal scholarship."

In terms of the *longue durée* development of the *madhhab*, the 6th/12th-8th/14th centuries were a period of significant consolidation, systematization, and refinement. On a doctrinal level, this process was seemingly unaffected by Mongol conquest and rule though. There was certainly no rupture; if anything, we may observe a hunkering down. How can this be explained? Norman Calder, for instance, believed that Ḥanafī *fiqh*, much like the *fiqh* of any other of the schools, essentially constituted a "self-referential" literary tradition, impervious to the vagaries of history. And, indeed, in reading the texts under consideration in this article, one would not get a sense of the enormous political, social, and cultural transformations of the Mongol period at all; upheaval and change are left shut out entirely. We are confronted with continuity instead, in the immediate as much as in the long-term aftermath of the conquests.

And, yet, the potential *longue durée* impact of Mongol rule on Ḥanafī jurisprudence has inspired scholarship in the field in recent years. Thus, Guy Burak, for instance, speaks of a "second formation of Islamic Law" in the post-Mongol context, arguing that the period witnessed the emergence of a new kind of relationship between the "state" (or "sovereign") and jurists' law (*viz. fiqh*), as embodied in the Ḥanafī *madhhab*, not only in the Ottoman Empire, but also in various other parts of the Islamic east – in Central Asia, as much as Mughal India. The development of new legal hierarchies, the rise of notions of dynastic law and, with them, the establishment of "state *madhhabs*", such as that of the Ḥanafiyya in the Ottoman Empire, thus characterized the legal landscape of the polities of the early modern Islamic world.

Of course, the category "post-Mongol" may ultimately be too vague to function as a meaningful determinant of difference when it comes to describing and analyzing the substantial development of a largely "self-referential" tradition, such as that of *fiqh*. The truth is that we have of a large amount of source material when it comes to Ḥanafī jurisprudential literature of the post-classical period – material that has barely begun to be studied and, if so, only within the seemingly immutable and decidedly ahistorical category of "premodernity". What is needed, to show the distinctions of premodernity in all their complexity, is the detailed study of texts – careful, close reading, comparison, and juxtaposition of individual texts – to see the broad outlines of the larger tradition of Ḥanafī *fiqh*, as it evolved over time (and not impervious to history).[121] The aim of this article has been to introduce al-Mawṣilī's *al-Mukhtār* as an important source to illustrate the history of post-classical Ḥanafī jurisprudence as a productive field of exploration: a probing into a source and into a topic that are both, ultimately, in need of much further investigation.

Acknowledgments

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121 An example of such is Samy Ayoub's impressive chapter on Ibn Nujaym in *Law, Empire, and the Sultan*, 31-63.

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