more concerned with Avicenna's logic, semantics, and modes of argumentation, while the Safavid thinkers remained primarily concerned with the reality of his metaphysics. And the latter reverts to ʿAbduh in the nineteenth century through Jamāl al-Dīn al-Afghānī, trained as he was in the Shiʿi seminaries. The irony of Wisnovsky's conclusion is that the rupture of the new learning in the colonial period may have reinvigorated the metaphysical turn of Avicenna that had been cherished in Iran.

It is hard to quibble with the merits of this volume, and readers interested in Islamic thought, and in particular Islamic philosophy, as well as historians of philosophers will profit from a careful reading, using it to map out possible research trajectories. There are lacunae. I would like to have seen an engagement with the question of non-propositional thought in Avicenna and what Neoplatonic mysticism in an Arabic idiom might mean. His exegetical and more "religious" writings and their philosophical significance also bear scrutiny. And then there is the mathematical and scientific thought—not least in the light of current work being undertaken on Samarqand and the reception of Avicenna's philosophy and Avicennan science by Ihsan Fazlioğlu and his students in Turkey. The volume could have done more to indicate the major contributions of scholars working today in Turkey and Iran on Avicenna—his actual corpus as well as the rich commentary traditions of the post-classical period. But this is not supposed to be a definitive map of Islamic intellectual history and it would be unfair to expect that. Nevertheless, the course of philosophy begins and remained focused on Avicenna—and this is why anyone interested in Islamic intellectual history will have to read this book.

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Islamic Law in Theory: Studies on Jurisprudence in Honor of Bernard Weiss. Edited by A. Kevin Reinhart and Robert Gleave. Studies on Islamic Law and Society, vol. 37. Leiden: Brill, 2014. Pp. xx + 370. $181, €140.

This festschrift cum workshop volume (2008) begins with the editors' introduction (pp. 1–16), which links the contributions to the groundbreaking scholarship of Bernard Weiss, and follows with thirteen chapters in four main sections: Law and Reason, Law and Religion, Law and Language, and Law: Diversity and Authority. The large tome and the limited space of the review are incompatible; I therefore apologize in advance for not sharing the word count fairly among the contributors but for picking out the chapters that align the closest with my focus.

Ahmed El Shamsy's first chapter explores the question of whether Muʿtazilī ethics provided conceptual tools for legal reasoning (p. 19). He examined two early tenth-century works of Shāfiʿī legal theory—*al-Aqsām wa-l-khiṣāl* by the little-known Abū Bakr Aḥmad b. ʿUmar b. Yūsuf al-Khaffāf and *Maḥāsin al-sharīʿa* by al-Qaffāl al-Shāshī (d. 365/976). Despite the centrality of the notion that the sacred law promotes "human benefit" (*maṣlaḥa*), El Shamsy cautions that *maṣlaḥa*, which was justified by God's wisdom (*ḥikma*), had not by that time been mobilized as a practical tool of analogical reasoning (pp. 24–25). According to El Shamsy, al-Qaffāl and other early Shāfiʿīs drew a distinction between the specific causes of legal rules and the overall purpose of the law. They treated legal causes as arbitrary signs that therefore could not be used in analogical reasoning (p. 28). Not until the rise of Ashʿarism did the theory of *maṣlaḥa* become more practical in lawmaking. One could postulate that al-Ghazālī (d. 505/1111)—whose argument in *al-Mustaṣfā min ʿilm al-uṣūl* (ed. Medina, 1992, 2: 502) against the anti-*maṣlaḥa* opponents was that his theory was based on the Quran, Sunna, and *qiyās*—*textualized* the theory of *maṣlaḥa*, bringing it in conformity with Ashʿarism.

Éric Chaumont follows in chapter two along the same lines, arguing that George Makdisi and Henri Laoust overestimated the influence on Sunnism of traditionalism, especially that of the Ḥanbalīs of Baghdad of the eleventh century (p. 39). The traditionalists, in his view, were no more than "an empty shell" (*une coquille vide*). Like salafis today, they were activists who were both intellectually and spiritually depraved (p. 40). *Pace* Laoust and Makdisi, Chaumont contends that Abū Isḥāq

al-Shīrāzī's (d. 476/1083) legal-theoretical work was influenced by Ashʿarism, as well as Muʿtazilism, rather than traditionalism—which he calls *salafisme*, contra Henri Lauzière's argument (*IJMES* 42,3 [2010]: 369–89) that salafism as a conceptual category does not emerge until the twentieth century. To sustain his claim, Chaumont argues, through an exploration of the concept of *wajh al-ḥikma* (*sagesse*), that al-Shīrāzī's *kalām* works clearly follow Ashʿarī theology that it is God's will (*irāda*) rather than *maṣlaḥa* that drives the law, but his *uṣūl* is influenced by Muʿtazilism (p. 40). Al-Shīrāzī's interlocutors were not the "salafis," but rather the Muʿtazilīs and anthropomorphists. This suggests to Chaumont that the Ḥanbalīs did not have a legal methodology (*uṣūl*) (*pace* Scott Lucas, in *ILS* 13,3 [2006]: 289–324). Chaumont adds that the term *wajh al-ḥikma* is incompatible with strict Ashʿarī voluntarism with respect to the purpose of God's law, which is an overarching, higher cause that goes beyond the legal cause (*ʿilla*). He concludes that the development of the concept of *maṣlaḥa*, often wrongly attributed to al-Ghazālī, has its rightful provenance in Muʿtazilism. In his view, the dominance of the debate over *maqāṣid al-sharīʿa* in contemporary Islamic legal theory is *tout court* the disguised triumph of Muʿtazilism over Ashʿarism (p. 52).

Both chapters raise a number of questions that warrant further research: Was the entire tenth-century Shāfiʿī discussion merely theoretical, designed to counter anti-religious and antinomian tendencies rather than to valorize practical analogical reasoning against the attacks of the opponents of *qiyās* such as al-Naẓẓām (d. 221/836), who held that the rules of the Sharia are arbitrary? What are the structural reasons that required the importation of elements of Muʿtazilī rationality in eleventh-century Shāfiʿism to be mobilized in the practical creation of law? Might we assume that there was a need among jurists to justify the use of what later came to be known as "unattested benefit" (*al-maṣlaḥa al-mursala*) in the expansion of the law?

El Shamsy suggests that the tenth-century concept of *maṣlaḥa* was not mobilized to create law but to counter theological polemics. This is plausible given the fact that unattested benefit, appearing under different names (*istiḥsān*, *istiṣlāḥ*, *raʾy*), has always been used to make law, and therefore the utilization of an inchoate concept of benefit could continue in actual lawmaking without a coherent practical theory. The need for a theory must have emerged during the consolidation and systematization of Islamic law in the tenth to eleventh centuries, when al-Shāfiʿī was understood by later members of his school to have used unattested *maṣlaḥa* himself. This *maṣlaḥa* was then textualized by al-Ghazālī through an inductive process to make it palatable to Ashʿarī sensibilities. In my view, al-Ghazālī's textualization should be seen as a validation of an earlier utilization of an under-theorized, thin concept of benefit in the derivation of legal rules among early Shāfiʿīs, including the eponym. In the course of this process of validation, later Shāfiʿī jurists often back-projected their own concept of *maṣlaḥa* onto al-Shāfiʿī's legal reasoning (al-Juwaynī, *al-Burhān*, ed. al-Dīb, 1978, 2: 1114, 1337–38; al-Ghazālī, *Mustaṣfā*, 2: 496–503).

In chapter four, Mohammad Fadel examines the legal frameworks endowing the layperson with moral agency. He discusses the distinction made by Bernard Weiss between a *mujtahid-mufti*, who seeks a probative opinion on a point of law (*dalīl khāṣṣ*, "a detailed proof," to Ibn Taymiyya), and a *mujtahid-muqallid*, i.e., one who tries to reach a sound opinion about who is qualified to interpret the law (*dalīl ʿāmm*, a "general proof," to Ibn Taymiyya, *al-Ikhtiyārāt al-fiqhiyya*, ed. al-Fiqī, 1950, 332–33). Fadel discusses the situation in which a layperson (*muqallid*) is faced with juristic disagreement—legal pluralism—challenging us to think beyond the epistemological paradigm and focus instead on the role of the psycho-social relationship of trust between the layperson and the jurist: which *mujtahid* does the *muqallid* follow in this case? The imposition by al-Ghazālī and al-Shāṭibī of an obligation on the *muqallid* to weigh evidence (*tarjīḥ*) (based on general rather than detailed proof, that is, a character assessment of the jurist as opposed to actual evidence) suggests to Fadel a concern with the moral integrity of the individual Muslim, whereas al-Qarāfī's (d. 684/1285) license to *muqallid*s to shop for fatwas assumes that legal obligation is tied to accruing benefit to the actor (pp. 117–18).

It is striking that al-Ghazālī and al-Shāṭibī were willing to theorize practical, creative *maṣlaḥa* but were averse to forum selection. In my view, most forum selection comprises pragmatic benefits to the subject of the law as an individual (such as the notarization of some contracts only permissible under one of the schools), whereas *maṣlaḥa* is often associated with communal benefit (such as the jurists' creation of new rules to achieve a social good). Al-Ghazālī had little faith in the layperson's pragmatic

choices. Although he allowed that the law was rationally created by jurists (despite his argument for textual induction to justify *maṣlaḥa*), he did not allow the layperson to choose based on the legal result. This much is clear in al-Ghazālī's language when he likened the laity to animals (*bahā'im*) and children (*ṣibyān*) unbridled by the divine law. Since a central authority that could impose one of the four Sunni schools' positions was lacking, al-Ghazālī grudgingly accepted a role for the layperson, but he made it clear that the role was restricted to choosing the "better" jurist (*al-Mustaṣfā*, 4: 154–55), thus granting the layperson limited moral agency.

Al-Qarāfī's pragmatic forum-shopping position does not necessarily assume the law's rationality. His reasoning was premised on the common fallibilist assumption that the one correct truth is usually unknowable and therefore the views of all four Sunni schools are equally valid. This is more a question of probability and epistemology. Fadel's intervention adds a psychological layer to the *tarjīḥ* (general proof) position by contending that a better way to frame the relationship between the *muqallid* and the *mujtahid* is one of trust—the *muqallid*'s choices are then inspired by an interpersonal psychological state that transcends epistemology. As Fadel acknowledges, however, this notion of trust does not hold under the forum-shopping position. In my view, Fadel's objective of endowing the *muqallid* with agency in the creation of moral obligation can be boosted, albeit on epistemological rather than psychological grounds, if we also consider the approach to legal pluralism advocated by Ẓāhirīs and traditionalists (detailed proof *tarjīḥ*). This position is a later articulation of the legal thinking of some of the early Muʿtazilīs of Baghdad, who required laypeople to seek evidence and examine it themselves (*al-naẓar wa-ṭalab al-dalīl*: al-Ghazālī, *al-Mustaṣfā*, 4: 42–43). We see this notion in the work of al-Juwaynī's contemporary, Ibn Ḥazm (d. 456/1063; *al-Iḥkām*, ed. Shākir, Beirut, 1979, 6: 151–52), who argues that everyone should perform *ijtihād* according to his ability. The *muqallid*'s obligation is to insure that a fatwa has a textual basis. Similarly, the Ḥanbalī jurist Ibn Taymiyya (d. 728/1328; *al-Ikhtiyārāt*, 332–36) argued that people's ability to choose one opinion over another (detailed proof *tarjīḥ*) through a direct assessment of the evidence itself was in fact easier than identifying which jurist was more knowledgeable or pious, and for al-Shawkānī (d. 1839; *al-Qawl al-mufīd*, Cairo, 1928, 13–14), verifying the proofs underlying legal views was within the reach of the laity. The layperson assumes a weightier moral agency here.

I skip to chapter eight in which Paul Powers discusses the premodern jurists' understanding of the nature of language. The competing theories of language, whether natural or arbitrary, eventually gave rise to the predominant juristic view that speaking does not involve assigning meanings to words but rather using vocables that have already been assigned meanings beforehand (p. 203). Powers notes that despite the richness of the theory of language in Islamic legal theory, there is no parallel theory of action. He therefore introduces the distinction between "act types" (any action such as whistling) and "act tokens" (an "act type" performed by a particular person at a particular time) into Islamic jurisprudence (pp. 209–10). *Fiqh* books have either a "foundationalist" bent to action, which assumes a strong link between actions and intentions, or a "formalist" bent, which disregards human intentions and subjectivity, "instead treating the objective components of an action as fully definitive" (p. 220). The premodern understanding of language was that God's intentions were known through language deciphered by specialists who connected these intentions to human actions through a context-sensitive process of consideration of the details of each action. Language was a "rock-solid code in which meaning was established in a once-and-for-all moment of authorial intent, an objective fact" (pp. 225–26). Here Powers agrees with Wael Hallaq that premodern Islamic law was understood to be a difficult, highly disciplined, and context-sensitive process undertaken by specialists—a theory on which Hallaq has partly built his contention that the Sharia met its demise in the modern period (p. 225).

Modernity changed this view of language in two ways, Powers maintains: (1) it brought with it an anti-clerical ("salafi") position against the specialization of religious knowledge, and (2) it generated a new subjectivist and relativist view of language. With respect to the first point of rupture, in my view the differences over the specialization of religious knowledge do not perfectly map onto legal-theoretical differences over questions of language and the theory of action that Powers skillfully constructs. Further, the ideational ancestors of modern salafism (especially with respect to the unmooring of religious specialization) can be found as early as the formative period of Islamic law. On the second point of rupture, I agree that "modern Muslims seem to be moving in the direction of seeing language

as considerably less solid, far more subjective—a set of meanings to be encountered in the fluid, contextualized subjectivity of the individual believer" (p. 226). A good example is the resistance of some modern reformers to the authoritarianism of authorial intent, such as Amina Wadud and Asma Barlas (or Omid Safi and his "progressive Muslim" movement, as Powers suggests, p. 227), rather than more conventional approaches to legal reform using *maṣlaḥa* and *ḍarūra*, necessity (p. 226 n. 83)—for the use of *maṣlaḥa* and *ḍarūra* does not demonstrably involve a different view of language and it was mobilized in premodern Islamic jurisprudence more extensively than legal historians have realized. The assumption about the centrality of a less subjectivist hermeneutic prior to the nineteenth century is challenged by extra-linguistic (albeit not extra-hermeneutic) ways in which jurists provided context-sensitive solutions to legal problems by relying on de-*uṣūl*ized and subjectivist arguments and concepts such as abrogation, *maṣlaḥa*, or *ḍarūra* to justify departures from the rigor of legal hermeneutics. On this, both pre- and post-nineteenth-century jurists are only different in degree (see my *Pragmatism in Islamic Law*, Syracuse, 2015, 8, 11, 69, 80). The work of Behnam Sadeghi on women's prayers (Cambridge, 2013, esp. pp. 76–104) shows that changes were made in premodern jurisprudence subjectively by jurists without using the medium of language in the way the ideal doctrine of legal theorists would have us believe. Powers, however, seems in agreement, rightly cautioning against a sweeping mischaracterization of the premodern view of language: "Certainly, the dominant pre-modern view of language, and the legal theory that rested on it, may have been more theory than fact, masking the extent to which jurists' positions were products of history, not pristine discourse floating above it all" (p. 227). Powers's discussion of modernity's democratization of knowledge speaks to Fadel's argument with respect to endowing the individual Muslim with greater moral agency against clerical authority.

In chapter eleven, Joseph Lowry takes up Stanley Fish's concept of interpretive communities. He attests that premodern Islamic legal theory seems postmodern due to a number of features it shares with Fish's theory, namely, recognition that legal interpretation is central to law; reliance on Arabic literary theory; assessment of the linguistic limits of communication (an implicit critique of formalism); insistence on the provisional nature of interpretation; and theorization of legal pluralism (p. 285). Lowry cautions that there are important differences, including the fact that premodern *uṣūl* was partly formalistic, elitist, and devoid of the social concerns of postmodernism (pp. 289–90), but that despite these differences it is necessary to explore the surface congruencies. Lowry points to Fish's view that the text does not stand outside the presuppositions and assumptions of its readers, yet it is the interpretive communities rather than the text itself that impose hermeneutic constraints (pp. 292–24), and he makes two main arguments about Islamic legal theory that intersect with Fish's theory: (1) Muslim legal theorists did not reject formalism but they expressed concerns about the limits of language, and (2) some overlaps with Fish's concept of interpretive communities can be found in the juristic views of both consensus and legal disagreement. Lowry shows that many jurists disallowed the expansion or reduction of juristic disagreement (*khilāf*), giving not only consensus but also *khilāf* a precedential value. He concludes: "The fact that these *uṣūl al-fiqh* authors considered *khilāf* [. . .] to be valid law presents a striking congruence with Fish's account of interpretive disagreement, important differences notwithstanding" (p. 313). Speaking to Powers's discussion of the modern democratization of knowledge, Lowry's comparison between the predominant premodern Islamic theory of hermeneutics and Fish's theory of interpretive communities offers a historical challenge to the anti-clerical, anti-communal view of interpretation adopted by modern salafis.

In chapter twelve, Rudolph Peters explores legal pluralism in the Dakhla Oasis in Ottoman Egypt, where a Shāfiʿī population often used Shāfiʿī doctrine under a Ḥanafī judicial bureaucracy. Citing Ibn Nujaym and al-Ḥamawī, Peters argues that the judgments of non-Ḥanafīs were allowed to stand unless they violated Ḥanafī interpretation (p. 322), which raises the following question: Did the mainstream juristic attitude of Ottoman jurists equate uncertainty about where truth lies in cases of juristic disagreement with the reality of disagreement among the Sunni schools? In other words, was the presence of disagreement itself evidence that truth was unknowable (recall the fallabilist position of the unknowability of the one correct truth discussed above)? I have found that Ottoman Ḥanafī judges rarely overruled or refused to rubberstamp the decisions of other judges. There was always a limited number of points of law that the Ḥanafīs refused to rubberstamp despite being supported by other schools. These cases, which were almost always related to public order or legal procedure, were often listed as judicial

decrees and were presented under the rubric of *siyāsa*, rather than a hermeneutic interference with legal pluralism. Peters's list of rules that were rejected by the Ottoman Ḥanafī establishment confirms my contention. It includes: (1) capital sentences based on *qasāma*; (2) allowing capital sentences to stand despite a female heir's waiving of her right to demand retribution; (3) sentences based on the testimony of one witness and an oath; and (4) sentences regarding a triple repudiation given in one session (p. 322). The first two examples fall under criminal law (the archetypal case of public order), while the third is a question of legal procedure—one against Ottoman Ḥanafī *ordre public*, according to Peters (p. 324). One can assume that the fourth example about triple divorce was rejected because it was a minority position within the Ḥanbalī school. That would make sense since by the Ottoman period judges were required to adjudicate on the basis of dominant positions within the schools. In his examination of Dakhla, Peters rightly cautions that we must not exaggerate the practical importance of the quadruple system, as it functioned only in a few big cities (p. 323). Despite finding pragmatic choices of forum in his sample, Peters convincingly argues that in some cases the forum-shopping explanation for the choice of a non-Ḥanafī judge does not stand, giving way instead to more mundane explanations, such as the vacancy of the deputyship of a particular school requiring it (pp. 324–25).

For the study of Islamic legal theory, and even for important insights into Islamic legal practice, this tome offers many invaluable contributions—including those of necessity left undescribed here. Providing a thoughtful reflection on Bernard Weiss's scholarship and posing relevant questions that will be grappled with for years to come, it is an indispensable resource for students of Islamic law.

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Zayd. By David S. Powers. Divinations: Rereading Late Ancient Religion. Philadelphia: University of Pennsylvania Press, 2014. Pp x + 175. $55, £36.

Zayd b. Ḥāritha should have been one of the household names of early Islam. The only companion of the Prophet to be mentioned by name in the Quran, the Prophet's adoptive son, and the first adult male to embrace Islam—you would expect him to be up there with Abū Bakr, ʿUmar, ʿAlī, and the other well-known close companions. Yet few non-specialists will have heard of him. Those who do will most likely connect him to the memorable and controversial story of how Muḥammad accidentally came to see the wife of a companion in a state of undress and fell in love with her, upon which said companion divorced her to allow Muḥammad to take her as his wife. That selfless companion was Zayd. However, there are many more and important aspects to the life of this unobtrusive figure, and David Powers has set out to show the importance of why he has not been paid more attention.

The topic is linked to Powers's lifelong interest in historicizing Islamic inheritance law, to which belongs the question of what do adopted children inherit? The short answer is nothing, since there is no adoption in Islam. God abolished it in Q 33:4–6, and Zayd is central to the story behind this abolition. Powers discussed this issue in his monograph *Muḥammad Is Not the Father of Any of Your Men* in 2009 (see the review in *JAOS* 131 [2011]: 171–73). The present book takes up his argument, situating the story of Zayd in a wider literary tradition of father-son relationships in biblical and Jewish sources.

The book begins with the traditional narration of the story as we find it in the *sīra* biographies of Muḥammad: a member of the north Arabian Kinda tribe, the youngster Zayd b. Ḥāritha was captured by raiders and sold as a slave in Mecca, where Muḥammad's wife Khadīja bought him and gave him to her husband as a wedding present. Muḥammad took a liking to Zayd, freed him, and adopted him as his son: "I am his heir and he is mine." As part of the household, Zayd was the first to hear and accept Muḥammad's revelation after Khadīja and his foster brother ʿAlī (then still a child). After the *hijra* to Medina, Zayd took part in many campaigns and became a respected war leader. Then came the well-known episode of Zayd's wife Zaynab, referred to in Q 33:37, where God chides Muḥammad for fearing the people's prattle rather than God's will that Zayd's former wife was meant for him—this is where Zayd is named. Immediately following this event, however, and before Muḥammad married