

belonging to the school's authentic narrations (*zāhir al-riwāya*).³ Using the legal devices of necessity (*ḍarūra*), customary practice (*urf*), change of time (*ikhtilāf ʿaṣr wa-zamān*), and widespread communal necessity (*ʿumūm al-balwā*), Ibn ʿĀbidīn was able to justify fundamental departures from *zāhir al-riwāya* in many Ḥanafī doctrines, transforming the classical opinion of the school. In order to justify the new opinions, Ibn ʿĀbidīn invoked the authority of Abū Ḥanīfa: "Were [he] here, he would say the same [on this issue]."⁴ Therefore, despite its distinctive characteristics and unique positions, the *mutaʿakhhirūn* tradition also represented continuity within the Ḥanafī tradition through the pre-Tanzimat period in the Ottoman Empire. The reformulations of the late Ḥanafīs were not just temporary strategies; rather, they made use of built-in mechanisms to re-interpret the *madhhab* in changing times and to keep it relevant to the evolving social, political, and economic circumstances.

Furthermore, Ibn ʿĀbidīn, like his predecessors, granted a role for the Ottoman sultan in the process of lawmaking. He thus affirmed the seventeenth- and eighteenth-century Ḥanafī embrace of sultanic authority in the Ḥanafī tradition. This embrace is evident in the probative value and authority attributed to the sultan's orders and edicts in the legal discourse of the *mutaʿakhhirūn*. Significantly, Ibn ʿĀbidīn used these orders and edicts to amend jurisprudential opinions in the *madhhab*.

My analysis connects Ibn ʿĀbidīn's legal thought to three hallmarks of late Ḥanafism in the early modern period: (1) the clear distinction between the late and early Ḥanafī legal doctrines, texts, and authorities, (2) the role of Ottoman sultanic authority in shaping the late Ḥanafī tradition, and (3) the internal mechanisms of the *madhhab* that made doctrinal shifts and legal changes possible. My examination of Ibn ʿĀbidīn and his work contributes to the general argument of this book that late Ḥanafism is best understood in terms of a set of authoritative texts, doctrinal shifts, and concerns that dominated the legal discourse of Ḥanafī jurists in this later period.

IBN ʿĀBIDĪN: INTRODUCTION

Ibn ʿĀbidīn's full name was Muḥammad Amīn b. ʿUmar b. ʿAbd al-ʿAzīz b. ʿĀbidīn. He was born in 1784 in Damascus.⁵ He grew up in his father's care and memorized the Qurʾān at a very young age. He was also a frequent visitor at his father's shop, where he learned the skills of trade. He was taught the Qurʾān and Shāfiʿī

³ Late Ḥanafī jurists are explicit in their avoidance of some of the school's *zāhir al-riwāya* opinions. Instead, they endorse many views rooted in *nawādir* (less authoritative) narrations, justifying the change in position in terms of necessity and emergent social practices. See Ibn Qāḍī Samawānī, *Jāmiʿ al-Fuṣūlayn wa-bi-hāmiṣihī al-hawāshī al-raḥīq wa-l-taʿālīq al-anīqa* (Cairo: al-Maṭbaʿa al-Kubrā al-Amīriyya, 1883), 15.

⁴ Ibn ʿĀbidīn, *Majmūʿat Rasāʾil Ibn ʿĀbidīn*, 45; Hallaq, "Prelude to Ottoman Reform," 56.

⁵ Al-Zirikī, *al-Aʿlām*, 6:42.

fiqh by Muḥammad b. Ibrāhīm al-Ḥamawī (d. 1820).⁶ Ibn ʿĀbidīn also studied Arabic grammar and morphology with him and obtained an authorization (*ijāza*) from him on these subjects. During his studies, Ibn ʿĀbidīn met one of the most prominent scholars of his age, Shaykh Shākīr al-ʿAqqād (d. 1808). Ibn ʿĀbidīn's encounter with al-ʿAqqād was a significant moment in his career as a scholar. He went on to study books on Qurʾānic exegesis, juristic principles, inheritance, Sufism, mathematics, and the rational sciences under al-ʿAqqād's supervision, and the latter appears to have been instrumental in Ibn ʿĀbidīn's change of affiliation from the Shāfiʿī to the Ḥanafī school. With al-ʿAqqād, Ibn ʿĀbidīn read major works of Ḥanafī *fiqh*, such as al-Ḥalabī's *Multaqā al-Abḥur*, al-Nasafī's *Kanz al-Daqāʾiq*, and commentaries on al-Marghīnānī's *Hidāya*. After al-ʿAqqād's death, Ibn ʿĀbidīn started reading al-Ḥaşkafī's *al-Durr al-Mukhtār* with the famous jurist Saʿīd al-Ḥalabī. Ibn ʿĀbidīn was also a member of the Qādirī Sufi order and remained committed to it until his death.⁷ Between 1830 and 1880, Damascene ʿulamāʾ such as Ibn ʿĀbidīn and his son ʿAlāʾ al-Dīn witnessed a tremendous decline in status as a result of the Ottoman Empire's administrative reforms in the social, political, cultural, and economic arenas.⁸

Ibn ʿĀbidīn took great pride in his magnum opus, *Radd al-Muhtār* (a commentary on al-Ḥaşkafī's *al-Durr al-Mukhtār* and also known as *al-Ḥāshiyā*), because of its meticulous engagement with earlier authoritative works within the *madhhab*.⁹ In the commentary, Ibn ʿĀbidīn affirms, clarifies, and revises the legal norms and opinions of the school. He is careful to record and distinguish his own contributions to late Ḥanafī scholarship by prefacing them with "I say" (*wa-aqūl*) or "I said" (*qult*). He also frequently alerts his readers to "warnings" (*tanbihāt*) concerning his take on emergent issues and cases that the previous legal literature did not fully explain.¹⁰ In addition, He guides his readers through a set of phrases in the command form, such as *taʿammal* (reflect), *ightanim* (obtain benefit), and *ifham* (discern).¹¹ This scrutiny and attention to the continuity of the Ḥanafī tradition allowed Ibn ʿĀbidīn to amend numerous late Ḥanafī opinions on the grounds that they had not been transmitted accurately.¹²

Ibn ʿĀbidīn's *Radd al-Muhtār* brings together the preponderant and revised positions of the Ḥanafī school, and it is consequently an authoritative text in the late Ḥanafī tradition. Other important Ḥanafī authors such as Ibn al-Humām (d. 1457) and Ibn Nujaym (d. 1562–3) also attempted to compile such

⁶ Ibn ʿĀbidīn, *al-Uqūd al-Durriyya*, 1:2; idem, *Radd al-Muhtār*, 170.

⁷ Ibn ʿĀbidīn, *al-Uqūd al-Durriyya*, 1:2.

⁸ David Commins, *Islamic Reform: Politics and Social Change in Late Ottoman Syria* (Oxford: Oxford University Press, 1990), 7. Commins suggests that the Ottoman reforms led to a dislocation in the status of the ʿulamāʾ and their prestige in Syria by creating a new social class that grew in power and wealth to the disadvantage of the ʿulamāʾ. See Commins, *Islamic Reform*, 19–20.

⁹ Ibn ʿĀbidīn, *Majmūʿat Rasāʾil Ibn ʿĀbidīn*, 15.

¹⁰ For examples, see Ibn ʿĀbidīn, *Radd al-Muhtār*, 1:14, 27, 38, 42, 58, 87, 89, 121, 133, 139, 153, 161, 165, 170, 177, 189.

¹¹ Ibn ʿĀbidīn, *Radd al-Muhtār*, 1:9, 39, 57, 73.

¹² Ibn ʿĀbidīn, *Majmūʿat Rasāʾil Ibn ʿĀbidīn*, 15. Ibn ʿĀbidīn lists a number of instances of inaccurate transmission of transmitting school opinions.

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