CHAPTER ONE

THE JURISPRUDENCE OF IBN SHIHĀB AL-ZUHRĪ.
A SOURCE-CRITICAL STUDY

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I. The Problem

What do we know about the legal doctrine of Ibn Shihāb al-Zuhrī, one of the leading scholars in Medina during the first quarter of the second century A.H./eighth century C.E.? Joseph Schacht wrote about the issue in his epoch-making work The Origins of Muhammadan Jurisprudence: “Those cases in which Mālik explicitly states that he asked Zuhrī or heard Zuhrī say something can unhesitatingly be regarded as genuine.” Schacht based his conclusion on Mālik’s Muwatṭa’. He continues: “There are other opinions ascribed to Zuhrī which are obviously authentic.” As a source where these opinions are to be found, Schacht mentions the Muwatṭa’ again and Saḥnūn’s Mudawwana. Then Schacht states: “But towards the end of the second century A.H., Zuhrī had already been credited with many spurious and often contradictory opinions, and his name inserted in asānīd of traditions which did not yet exist in his time and from which fictitious statements on his supposed doctrine were abstracted.” In Schacht’s opinion, these fictitious transmissions from Zuhrī are to be found for example in Shaybāni’s recension of the Muwatṭa’, in Shāfī’i’s treatises and in the Mudawwana.

In view of this presentation one would expect Schacht to exclude Mālik’s Muwatṭa’ from the suspicion of containing forged Zuhrī traditions. That is not the case, however, as other parts of his Origins

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make clear. Although referring to “the end of the second century” as
the time in which fictitious Zuhrī traditions were circulated, Schacht
actually thinks that they were fabricated during the entire second half
of the second/eighth century and that they are found in all sources
of this period, including Mālik’s *Muwaṭṭa*. Earlier sources were not
available to Schacht. He assumes that only a part of what Mālik in his
*Muwaṭṭa*, as transmitted by Yaḥyā ibn Yaḥyā al-Laythī, claims to have
received from Zuhrī actually comes from him. As the only evidence
of authenticity, Schacht accepts Mālik’s own statement that he asked
or heard Zuhrī’s opinion on a subject. Yet these texts are quite rare in
Mālik’s Zuhrī transmission. Most consist, instead, of simple sayings
and traditions, i.e., texts in which Zuhrī appears only as transmitter.
In these cases, Schacht decides the question of whether Zuhrī really
was – or at least could have been – Mālik’s source for a text by placing
the content of the text in the general context of legal developments as
he himself had reconstructed them.

Schacht’s ideas concerning the development of Islamic jurispru-
dence were deeply affected by his appreciation of the sources. He
maintains that, generally, traditions referring to the generation of the
so-called Successors (*tābiʿūn*) represent the earliest stage in the pro-
cess of projecting the legal development of the second/eighth century
back into the first/seventh century; Companion (*ṣaḥāba*) texts are a
younger level; and the traditions of the Prophet are the youngest ele-
ment in this chain. Zuhrī traditions, in which he is only Mālik’s infor-
mant for doctrines of earlier authorities (Successors, Companions,
the Prophet), cannot be accepted, therefore, as authentic elements of
Zuhrī’s legal teaching. “He appears as the common link in the *asānīd*
of a number of traditions from the Prophet, from Companions and
from Successors; Zuhrī himself was hardly responsible for the greater
part of these traditions.” Schacht regards even Zuhrī texts referring
to *tābiʿūn* as fictitious, i.e., not really going back to Zuhrī and by no
means to the alleged Successor. “This makes it impossible to regard
information on the Medinese lawyers in the time of the Successors
as genuine, unless it is positively shown to be authentic. It would be
rash to exclude this possibility a priori, but as far as I have been able
to investigate the development of the Medinese doctrine, *I have not*

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