The Legal Thought of Jalāl al-Dīn al-Suyūṭī

Authority and Legacy

REBECCA SKRESLET HERNANDEZ

OXFORD ISLAMIC LEGAL STUDIES

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Anver M. Emon, Clark Lombardi, and Lynn Welchman

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Series Editors' Preface

Rebecca Skreslet Hernandez offers in this book an interdisciplinary intellectual biography of acclaimed jurist Jalāl al-Dīn al-Suyūṭī, who lived in what is now modern-day Egypt. A self-proclaimed juristic light, al-Suyūṭī authored treatises that were both important and provocative in his own day and continue to inform Islamic education around the world today. Hernandez's intellectual biography is an important contribution to the study of Islamic law generally. There are few biographies of premodern Muslim jurists, and most of those that have been written reflect a mid-twentieth-century historical positivism in their narrative framework and methodological approach, despite developments in intellectual history in the fields of, for instance, political theory. In this book, Hernandez draws upon discourse analysis, literary criticism, and socio-legal studies to situate al-Suyūṭī and his texts in context, to reflect on audience reception, and to ascertain the stakes implicit in his literary production. Hernandez produces a highly nuanced image of al-Suyūṭī through a complex and creative set of reading practices. She charts new ground in the field of Islamic law and legal studies generally—new ground that will certainly prompt future scholars to follow suit.

Anver M. Emon
Clark Lombardi
Lynn Welchman

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Introduction

A CONTESTED LIFE

The great fifteenth-century polymath, Jalāl al-Dīn al-Suyūṭī (d. 911/1505), is a figure who requires interpretation. Al-Suyūṭī's life and work is intriguing not only due to the controversies that the author stirred up during his own time period, but as a result of the competing narratives and ironies surrounding this eminent scholar even today. The areas of irony or mistaken understanding regarding al-Suyūṭī seem to fall along two main lines. The first is a disconnect between how the author saw himself and how this projected identity was perceived by many of his colleagues and contemporaries in late Mamluk Egypt. The second is the further disconnect between the enormous popularity that al-Suyūṭī's works continue to enjoy among scholars and students in the Muslim world and the relative lack of attention that he has received in western academia.

Jalāl al-Dīn al-Suyūṭī claimed nothing less than to be the best scholar of his time. Al-Suyūṭī dared to claim the level of unrestricted legal reasoning (*ijtihād*) in the three disciplines of religious law (*al-aḥkām al-sharʿiyya*), Prophetic traditions (*al-ḥadīth al-nabawī*) and the Arabic language (*al-ʿarabiyya*)—a feat that he claims was not achieved by anyone since the great Taqī al-Dīn al-Subkī (d. 756/1355).[1] Al-Suyūṭī defines the role of the *mujtahid* according to the expectations of jurists of his own time, a period well beyond the formation and subsequent consolidation and systematization of the four

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[1] Al-Suyūṭī, *al-Taḥadduth bi-niʿmat Allāh*, edited by E.M. Sartain, 2 vols. (Cambridge, U.K.: Cambridge University Press, 1975), 2:205. As this study will show, the fields of knowledge that al-Suyūṭī considers indispensable to the aspiring *mujtahid* (including those of *ḥadīth*, jurisprudence, and the Arabic language) also happen to be the very fields in which he excels.

major Sunni schools of law. Therefore, he is careful to distinguish between the independent *mujtahid* (*mujtahid mustaqill*) and the *mujtahid* who is unrestricted in the sense that he can derive rulings from the primary sources of the Qurʾān and Sunna and yet is also affiliated with a particular school of legal thought (*madhhab*).[2] The latter type, the *mujtahid muṭlaq muntasib*, is the rank that al-Suyūṭī claims for himself. It would be a mistake, he says, to equate the independent *mujtahid* (which applies only to the eponyms of the legal schools) and the unrestricted *mujtahid*, as al-Suyūṭī's contemporaries did, just as it would be wrong to relegate al-Suyūṭī to the lesser rank of *mujtahid muqayyad* who, due to a deficiency in his knowledge of *ḥadīth* or Arabic language, is not qualified to interpret the sources directly but must simply follow the opinion of other scholars within the school.[3]

As E.M. Sartain has observed, it was not the audacity of the status claims themselves on the part of al-Suyūṭī that so rankled his colleagues, but the tone in which these claims were delivered. Al-Suyūṭī's portrayal of himself as a *mujtahid* is grounded both in his belief in his own superior talents as well as in his disdain for the low level of learning of most of his contemporaries. Indeed, in a legal opinion (fatwa) on the subject of the apocalypse and the need for a renewer of the faith, al-Suyūṭī makes the vivid assertion: "whoever puffs himself up and claims to rival me and to deny my claims to *ijtihād* and peerless scholarship at the turn of this century and asserts that he opposes me and mobilizes others against me is one that, if he and they were to be assembled on a single plateau and I blew on them one breath, they would become like scattered dust."[4] Al-Suyūṭī's intractability, Sartain suggests,

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[2] In his classification of *mujtahid*s, al-Suyūṭī follows a typology similar to that of an earlier Shāfiʿī jurist, al-Nawawī (d. 676/1277). See Norman Calder, "Al-Nawawī's Typology of *Muftī*s and its Significance for a General Theory of Islamic Law," *Islamic Law and Society* 3: 2 (1996): 137–64. Devin J. Stewart discusses scholarly ranking and juridical hierarchies, including parallel typologies of *mujtahid*s in both Sunni and Shiʿi traditions and covering a range of regions and historical periods, in his "Islamic Juridical Hierarchies and the Office of *marjiʿ al-taqlīd*," *Shīʿite Heritage: Essays on Classical and Modern Traditions*, edited by L. Clarke (Binghamton, N.Y.: Global Publications, 2001), 137–57.

[3] Al-Suyūṭī, *al-Radd ʿalā man akhlad ilā al-arḍ wa-jahil ann al-ijtihād fī kull ʿaṣr farḍ* (Alexandria: Muʾassasat Shabāb al-Jāmiʿa, 1985), 98.

[4] Al-Suyūṭī, *al-Kashf ʿan mujāwazat hādhihi al-umma al-alf* in *al-Ḥāwī li-l-fatāwī*, 2 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 2000), 2:81. Translations from al-Suyūṭī's fatwas are mine unless otherwise indicated.

was due largely to his conviction that he alone, in an age of increasing igno-
rance, was a true scholar, and it must have been this conviction which led him,
first to claim the right to exercise *ijtihād*, and secondly to express his hope that
he might be recognized as the *mujaddid*, or restorer, believed to appear at the
turn of every century to bring about a religious revival.[5]

Were al-Suyūṭī's attempts to frame himself as a *mujtahid* and *mujaddid* suc-
cessful in the eyes of his contemporaries? The short answer is no. Although
he did find some supporters, especially amongst his own students, rivals like
al-Sakhāwī (d. 902/1497) were quick to attack al-Suyūṭī's qualifications as a
mujtahid. In his scathing biographical entry on al-Suyūṭī, al-Sakhāwī points
to his lack of accomplishments in logic and arithmetic and accuses him of
having exaggerated his number of works and even of stealing outright the
works of other scholars and attributing them to himself.[6] Another enemy, Ibn
al-Karakī (d. 922/1516), criticized al-Suyūṭī's claims to be a *mujaddid*, decry-
ing al-Suyūṭī's arrogance and pride in the superiority of his scholarship.[7]

It is undeniable that al-Suyūṭī stirred up disputes at several times in his
life that became so rancorous that the ruler was compelled to intervene.
The situation came to a head in 903/1498 when the Sufi residents of the
Baybarsiyya *khānqāh* rebelled against al-Suyūṭī's leadership as their shaykh
and supervisor of the endowment that provided their monthly stipends.[8]
Tensions became so great that al-Suyūṭī was forced to go into hiding at
one point in fear for his life. After his dismissal from the Baybarsiyya in
906/1501, al-Suyūṭī went from partial to full retirement, resigning from his
remaining academic posts and retreating to his house on Rawḍa until his
death in 911/1505. Sartain characterizes al-Suyūṭī's withdrawal from pub-
lic life in part as a result of his disillusionment about the declining state of
scholarship, but especially due to "the bitterness and disappointment he

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[5] E.M. Sartain, *Jalāl al-Dīn al-Suyūṭī: Biography and Background*, 2 vols. (Cambridge, U.K.:
Cambridge University Press, 1975), 1:61.

[6] See Muḥammad b. ʿAbd al-Raḥmān al-Sakhāwī, *al-Ḍawʾ al-lāmiʿ li-ahl al-qarn al-tāsiʿ*, 12 vols.
(Cairo: Maktabat al-Qudsī, 1934–1936), 4:65–70.

[7] Sartain, *Jalāl al-Dīn al-Suyūṭī*, 78. Ibn al-Karakī, as Sartain points out, was a favorite of
Sultan Qāytbāy and tried to turn the ruler's opinion against al-Suyūṭī. Many sought Ibn al-
Karakī's worldly influence, but not his knowledge. Al-Suyūṭī responds by likening him to a
privy, "to which one repairs to satisfy a need" (Sartain, *Jalāl al-Dīn al-Suyūṭī*, 80).

[8] I discuss this incident in detail in Chapter 1.

felt when his colleagues refused to acknowledge him as the outstanding scholar he believed himself to be."⁹

Although al-Suyūṭī's framing effort may have been a failure during his lifetime, the irony is that he succeeded as a *mujtahid* almost in spite of his own efforts. Al-Suyūṭī's lasting legacy and reputation can be attributed to the enduring popularity and value of his works. This popularity stems not only from the sheer quantity of works that the author produced (estimated at close to 500 titles) but also from their quality.¹⁰ It is no surprise that al-Suyūṭī's most influential works are in the fields he considered to be the most noble and worthy of study: the Qurʾānic sciences, *ḥadīth*, and the Arabic language. Al-Suyūṭī's succinct and practical completion of Jalāl al-Dīn al-Maḥallī's exegesis of the Qurʾān, *Tafsīr al-Jalālayn*, is still popular and his *Itqān fī ʿulūm al-Qurʾān* "remains a work of reference wherever Ḳurʾānic sciences are taken up."¹¹ Of al-Suyūṭī's many important titles in *ḥadīth* collection, criticism, and terminology, his *Jāmiʿ al-jawāmiʿ* (and its abridgement, *al-Jāmiʿ al-ṣaghīr*) and his *Tadrīb al-rāwī fī Taqrīb al-Nawāwī* are worthy of special mention as works that are in regular use. In the subject of the Arabic language, al-Suyūṭī's major work is *al-Muzhir fī ʿulūm al-lugha*.

As far as al-Suyūṭī's legal thought is concerned, his fatwas and treatises are still read and his work on legal precepts, *al-Ashbāh wa-l-naẓāʾir fī l-qawāʿid al-fiqhiyya*, is still taught as a key text of Shāfiʿī *fiqh*. Al-Suyūṭī's fatwas have been compiled in a two-volume set, *al-Ḥāwī li-l-fatāwī*, which continues to come out in new editions. Even during the author's lifetime, al-Suyūṭī says proudly that his works have traveled as far as Syria, the Ḥijāz, Yemen, India, the Maghrib, and Takrūr (in West Africa).¹² Although al-Suyūṭī was able to travel quite extensively within Egypt and went on pilgrimage to Mecca, his fame abroad was due largely to the spread of his works and his response to questions from both near and far.¹³

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⁹ Sartain, *Jalāl al-Dīn al-Suyūṭī*, 84.
¹⁰ The Sufi biographer, Yūsuf b. Ismāʿīl Nabhānī (d. 1932), writes that the greatest of al-Suyūṭī's miracles was the number of his books. See Nabhānī, *Kitāb Jāmiʿ karāmāt al-awliyāʾ*, 2 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1996), 2:132. I am grateful to Jonathan A.C. Brown for alerting me to this reference.
¹¹ E. Geoffrey, "al-Suyūṭī," *Encyclopaedia of Islam*, Second Edition (Brill Online, 2011).
¹² Sartain, *Jalāl al-Dīn al-Suyūṭī*, 41.
¹³ Al-Suyūṭī's *al-Ḥāwī li-l-fatāwī* contains a section in which he answers questions directed to him from the people of Takrūr. It seems that al-Suyūṭī carried on a correspondence with

Indeed, al-Suyūṭī's opinions as a jurist may have been received with more acclaim and admiration abroad than they were in his own scholarly circles at home in Cairo. Marlis Saleh observes, not without irony, that "al-Suyūṭī seems to have been appreciated best at a distance," citing positive biographical entries by ʿAbd al-Wahhāb al-Shaʿrānī (d. 973/1565), Ibn Iyās (d.c. 930/1524), Najm al-Dīn al-Ghazzī (d. 1061/1651), and Ibn al-ʿImād (d. 1089/1679).[14] Saleh also notes "what might be termed a revival of interest in al-Suyūṭī and his work," including two international conferences on al-Suyūṭī in 1976 and again in 1993.[15] If it is possible, as Saleh suggests, to "attempt to judge the value placed on a given work by succeeding generations by seeing whether or not that work was copied and has left surviving manuscripts" and whether or not, in modern times, the work has been published, then al-Suyūṭī's repertoire is impressive indeed.[16] Saleh counts 392 works by al-Suyūṭī "that have been published at least once, not counting additional editions of the same title," and one effort to locate extant manuscripts yielded as many as 724 works.[17]

Five centuries after his death, al-Suyūṭī's works still occupy a place of honor as core texts in the curriculum of many leading institutions of higher learning across the Islamic world. In a recent video, the former state Mufti of Egypt asserts that al-Suyūṭī's treatise on legal precepts is taught to post-graduate students at al-Azhar and is considered the best work of its kind.[18] As al-Suyūṭī might have predicted, his works have endured long after the words of his enemies have scattered like dust. Even so, there remains a disconnect between the respect accorded the medieval jurist in the modern Muslim world and the attention he has received in western academia.

scholars in Takrūr and received representatives from West Africa who would stop in Cairo on their way back from pilgrimage. These scholars would then bring copies of al-Suyūṭī's works back with them. On al-Suyūṭī's influence in Takrūr see E.M. Sartain, "Jalāl al-Dīn al-Suyūṭī's Relations with the People of Takrūr," *Journal of Semitic Studies* 16 (1971): 193–8; and J.O. Hunwick, "Notes on a Late Fifteenth-Century Document Concerning 'al-Takrūr,'" in *African Perspectives*, edited by Christopher Allen and R.W. Johnson (Cambridge, U.K.: Cambridge University Press, 1970), 7–33.

[14] Marlis J. Saleh, "Al-Suyūṭī and His Works: Their Place in Islamic Scholarship from Mamluk Times to the Present," *Mamlūk Studies Review* 5 (2001): 80.

[15] Ibid., 81–2.   [16] Ibid., 88.   [17] Ibid., 88–9.

[18] ʿAlī Gumʿa, "Imām Galāl al-Dīn al-Suyūṭī," accessed July 2, 2014, https://www.youtube.com/watch?v=zyYmhKlJScc.

APPROACH OF THE STUDY

Published in 1975, E.M Sartain's *Jalāl al-Dīn al-Suyūṭī: Biography and Background* remains the only full-length critical study in English of al-Suyūṭī's life and work. Sartain gives the reader a detailed overview of al-Suyūṭī's place in late Mamluk Egypt but explains that since her work is "primarily a historical and not a literary study, no attempt has been made to evaluate al-Suyūṭī's works. The proper assessment of al-Suyūṭī's contribution as a scholar is a task which must be left to specialists in each of the fields in which al-Suyūṭī worked."[19] While it is commendable that so much of al-Suyūṭī's work has been published, scholars have yet to subject the majority of this corpus to detailed analysis and scholarly criticism. Some helpful efforts have been made to address al-Suyūṭī's contributions in such fields as the Qurʾānic sciences,[20] history,[21] grammar,[22] and literature.[23] As far as al-Suyūṭī's legal thought is concerned, some work has been done on al-Suyūṭī's role in the debates surrounding the existence of the *mujtahid* in late medieval Islam,[24] and an article[25] by Mufti Ali looks at al-Suyūṭī's opposition to Greek logic based on three treatises and a fatwa, which I will discuss in detail in Chapter 2. I have not, however, seen any attempts to

[19] Sartain, *Jalāl al-Dīn al-Suyūṭī*, vii.

[20] For example: ʿAbd al-Ḥalīm Hāshim Sharīf, *al-Suyūṭī wa-juhūduhu fī ʿulūm al-Qurʾān* (Cairo: Al-Ṣadr li-Khidamāt al-Ṭibāʿa, 1991).

[21] For example, there are two English translations of al-Suyūṭī's *Taʾrīkh al-Khulafāʾ: History of the Caliphs*, translated by H.S. Jarrett (Karachi: Karimsons, 1977) and *The History of the Caliphs Who Took the Right Way: Being a Translation of the Chapters on al-Khulafāʾ al-Rāshidūn from Taʾrīkh al-Khulafāʾ of Jalāl al-Dīn al-Suyūṭī*, translated by ʿAbdassamad Clarke (London: Ta-Ha Publishers, 1995).

[22] For example: Muṣṭafā Shakʿa, *Jalāl al-Dīn al-Suyūṭī: masīratuhu al-ʿilmiyya wa-mabāḥithuhu al-lughawiyya* (Egypt: Sharikat Maktaba wa-Maṭbaʿat Muṣṭafā al-Bābī al-Ḥalabī, 1981).

[23] There has been some excellent literary criticism done on al-Suyūṭī's *maqāmāt*. For example: ʿAwaḍ Al-Ghubārī, *Maqāmāt al-Suyūṭī: dirāsa fī fann al-maqāma al-miṣriyya* (Cairo: Dār al-Thaqāfa al-ʿArabiyya, 2005) and Samīr Maḥmūd Durūbī, *Sharḥ maqāmāt Jalāl al-Dīn al-Suyūṭī*, 2 vols. (Beirut: Muʾassasat al-Risāla, 1989).

[24] I will examine in detail two articles dealing with this subject: Ignaz Goldziher, "Ignaz Goldziher on Al-Suyūṭī," edited and translated by J.O. Hunwick, *The Muslim World*, 58:2 (1978): 79–99, and Ella Landau-Tasseron, "The 'Cyclical Reform': A Study of the *Mujaddid* Tradition," *Studia Islamica* 70 (1989): 79–117.

[25] Mufti Ali, "A Statistical Portrait of the Resistance to Logic by Sunni Muslim Scholars Based on the Works of Jalāl al-Dīn al-Suyūṭī (849–909 [sic.]/1448–1505)," *Islamic Law and Society* 15:2 (2008): 250–67. This article is based on the author's dissertation: *Muslim Opposition to Logic and Theology in Light of the Works of Jalāl al-Dīn al-Suyūṭī (d. 911/1505)*, Ph.D. Diss. (Universiteit Leiden, 2008).

execute a comprehensive assessment of al-Suyūṭī's contribution to any of the fields in which he excelled.

This book offers a new theoretical interpretation of al-Suyūṭī's legal thought. The analysis differs from Sartain's excellent historical study in two major respects. First, this study goes beyond a "traditional" Islamic studies approach by drawing on tools and methodologies from a variety of disciplines, including discourse analysis, sociolinguistics, anthropology, history, religious studies, and literary criticism. These tools help to answer more than just the limited question of what al-Suyūṭī says in his legal writing, but also how he says it and to what end. The analysis approaches a set of selected texts with the assumption that the author seeks to frame his identity as a superior legal scholar and to assert his authority as a jurist relative to that of his opponents and to other competing sources of authority within his socio-political context (particularly those associated with the Mamluk political elite). The study provides a multi-disciplinary theoretical case study of al-Suyūṭī's legal writing that fills in part of a picture that Sartain has outlined.

Interdisciplinary methods facilitate a detailed analysis of the discursive strategies that the jurist uses to construct, negotiate, and transmit his authority within society and through his use of the written word. Sociolinguistic theories in particular provide a valuable tool in this endeavor because they remind us that the content, form, and context of discourse are inseparable; all three aspects contribute to the meaning of a given utterance. In other words, the 'what?' the 'how?' and the 'why?' of discourse inform each other, and if one focuses on one of these and neglects the others, one misses part of the story. The goal is to look beyond what the text says in order to determine what it might mean (with the assumption that meaning is shaped by context). Finally, theories like Wenger's "communities of practice" teach us that it is not enough to assert authority through words alone; identity must be negotiated both discursively (though text and talk) and socially through practice.[26] Thus, the contention is that the discursive identity of the jurist consists of what he says about himself, what others say about him, and what he does in practice.

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[26] Etienne Wenger, *Communities of Practice: Learning, Meaning, and Identity* (New York: Cambridge University Press, 1998), 151.

The second way in which this study differs from Sartain's classic work is that it connects the legacy of the medieval jurist to modern debates. Al-Suyūṭī's legal work emerges at a key transitional moment in Islamic thought where the pre-modern and the early modern meet. As this analysis will show, al-Suyūṭī's formulation of the important concepts of independent legal reasoning (*ijtihād*) and religious renewal and revival (*tajdīd*) resonate with reformers seeking to counter the common assumption that such innovative thought was no longer possible in later centuries. Also, as already mentioned, al-Suyūṭī's seminal work on legal precepts, *al-Ashbāh wa-l-naẓāʾir*, continues to occupy a place of honor in the curriculum of institutions of higher learning and religious training, such as Egypt's al-Azhar. The legacy of Imam al-Suyūṭī as a master of Shāfiʿī jurisprudence seems to be at odds, therefore, with the image of the bitter and disappointed scholar shut away from the world in brooding isolation.

Most importantly, though, the question of who speaks with an authoritative voice in society is one that has only gained in relevance and urgency in modern times. In recent years, the political and social upheaval touched off by the "Arab Spring" revolutions has brought about an intense crisis of authority and leadership in several Middle Eastern and North African nations. Questions of legitimacy, legal interpretation, and constitutional government must be resolved with reference to modern political norms, but also to the deep and powerful legacy of Islamic law and its influence today. Al-Suyūṭī's concept of the role of the jurist in society is germane to this discussion, especially in his native land of Egypt. At a time when increasing numbers of people in the Arab world have raised their voices to demand democratic forms of government that nevertheless stay true to the principles of Sharīʿa, the issue of who has the ultimate authority to interpret the sources of law, to set legal norms, and to represent the "voice" of Sharīʿa principles in society is still in dispute. In resolving this issue, no less than the future of the new Egypt is at stake.

A Conversation about Religious Authority

This study joins a rich conversation in the field of Islamic Studies surrounding the construction and negotiation of religious authority in

medieval and modern Islamic contexts. The first issue that arises is how to define authority within the context of religious traditions. Can authority and power be used interchangeably, for example, or must one be defined in contrast with the other?[27] In their introduction to *Speaking for Islam: Religious Authorities in Muslim Societies*, Gudrun Krämer and Sabine Schmidtke point out that, despite Weber's influential classification of authority as distinct from coercive power, it can be difficult to distinguish between the two.[28] Further complicating the definition is the sheer variety of forms and discourses through which aspects of religious authority may be articulated.

As Krämer and Schmidtke suggest, one of the key ways in which religious authority is expressed in monotheistic religious traditions based on revealed scriptures is by defining a canon of authoritative texts and setting the normative standards of interpretation of those texts. This process has the added effect of excluding alternate methodologies of interpretation, which come to be classified as deviant and heretical in light of the emerging norms.[29] In his study of Ḥanafī jurisprudence, Brannon Wheeler argues that the application of a canon (in this case, the authority of the Qurʾān as mediated by the Sunna) requires an interpreter and a tradition of interpretation in order to reach its full effect. The interpretive tradition that builds up over generations thus plays a key role in relating the canonical texts to changing circumstances.[30] The process through which an interpretive tradition is created and perpetuated pedagogically strongly favors the scholarly

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[27] Khaled Abou El Fadl differentiates between coercive authority as "the ability to direct the conduct of another person through the use of inducements, threats, or punishments" and persuasive authority as the normative power to "direct the belief or conduct of a person because of trust." The difference is that of being "in authority" in contrast to being "an authority." One heeds an authority "in deference to the perceived special knowledge, wisdom or insight" of that person. See Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford, U.K.: Oneworld Publications, 2001), 18.

[28] Gudrun Krämer and Sabine Schmidtke, "Introduction: Religious Authority and Religious Authorities in Muslim Societies; A Critical Overview," in *Speaking for Islam: Religious Authorities in Muslim Societies* (Leiden: Brill, 2006), 1.

[29] Krämer and Schmidtke, *Speaking for Islam*, 1–2.

[30] See Brannon M. Wheeler, *Applying the Cannon in Islam: The Authorization and Maintenance of Interpretive Reasoning in Ḥanafī Scholarship* (Albany: State University of New York Press, 1996). Jonathan A.C. Brown also uses the notion of canon and canonization as starting points for his *The Canonization of al-Bukhārī and Muslim: The Formation and Function of the Sunnī Ḥadīth Canon* (Leiden: Brill, 2007).

class (ʿulamāʾ) in general and the jurists (fuqahāʾ) in particular as a subset of ʿulamāʾ.

The disproportionate emphasis placed on jurists in the secondary literature on religious authority in Islam may be partially the result of the jurists' own agency and efforts to position themselves as knowledgeable interpreters of authoritative sources with the ability to dictate acceptable norms of practice. It is the jurists rather than the caliph, for example, who set the theoretical boundaries of interpretation limiting the number of Sunni legal schools to four by the tenth century CE. Legal discourses of the tenth and eleventh century reflect a growing awareness of consensus (and violation of consensus) as a conceptual framework through which 'orthodoxy' and 'heresy' came to be defined. Devin Stewart shows in his detailed analysis of Shiʿi legal theory and institutions that, far from being cut off from their Sunni counterparts, Shiʿi jurists developed their own *madhhab*s and legal framework in conjunction with (and in response to) parallel developments in Sunni centers of learning. Despite theories of the absolute authority and guidance of the Imam in Shiʿi thought, it seems that Shiʿi jurists were unwilling to surrender their ability to shape the law, at times even identifying with Sunni *madhhab*s as a means of maintaining influence.[31]

A number of studies have noted the tendency on the part of pre-modern Muslim scholars to establish rankings and typologies of scholars as intellectual heirs of the Prophet's authority. As noted previously, the classification of different levels of *mujtahid*s and the designation of a centennial renewer (*mujaddid*) were popular devices for establishing hierarchies amongst jurists in particular. Biographical and autobiographical literary genres also act as a suitable forum for the discursive negotiation of rank and authority. Reflecting on the origins and development of *ṭabaqāt* as a form of biographical literature distinct from annalistic history, Michael Cooperson suggests that the genre arose out of a compelling interest on the part of pre-modern scholars to compile lists and genealogies of people with similar attributes and eventually to organize them into distinct professional groupings (*ṭāʾifa*s). The identity of the individual serves to reinforce the authority

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[31] Devin J. Stewart, *Islamic Legal Orthodoxy: Twelver Shiite Responses to the Sunni Legal System* (Salt Lake City: University of Utah Press, 1998), 56–7.

of the group as it competed with rival groups for symbolic heirship to the Prophet.[32] Jurists made productive use of the *ṭabaqāt* genre to fulfill a number of pragmatic aims, including legitimizing the authority of the *madhhab*, preserving knowledge, defending the 'orthodoxy' of the doctrine and practice of the group, and asserting the authority of the author by situating him within the hierarchy associated with past generations.[33]

Finally, studies of the doctrines, discourses, and institutions associated with the mystical tradition in Islam have added a valuable dimension to discussions of religious authority in Islamic Studies. Of particular relevance to this study are works that pay attention to the sociology of Sufism (but without losing sight of theological and doctrinal aspects of Sufi thought as well). Vincent Cornell's influential study of Moroccan Sufism takes a multidisciplinary approach to the concept of sainthood, acknowledging that discourse plays a role in the process by which saints are recognized in society. Cornell is critical of simplistic "neo-Weberian" approaches to Sufism that equate charisma with *baraka* without taking into account the many other terms that the tradition itself uses to characterize the ethical/activist, doctrinal, social, juridical, generative, and religio-political aspects of saintly authority.[34] Nathan Hofer's social, religious, and political history of the popularization and institutionalization of Sufism in Ayyubid and Mamluk Egypt also provides helpful context for the power dynamics that shaped al-Suyūṭī's fifteenth-century intellectual milieu.[35]

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[32] See Michael Cooperson, *Classical Arabic Biography: The Heirs of the Prophets in the Age of al-Maʾmūn* (Cambridge, U.K.: Cambridge University Press, 2008). In regards to the development and function of *ṭabaqāt* works, Makdisi writes: "The Traditionalists may or may not have created the *ṭabaqāt*; but there can be no doubt that they adopted it for a specific purpose. Their motivation was *to identify the scholars who had the legitimate authority to determine religious orthodoxy*" [emphasis in the original]. This impulse was not confined to *ḥadīth* scholars but included jurists and scholars of the Arabic language as well. See George Makdisi, "Ṭabaqāt-Biography: Law and Orthodoxy in Classical Islam," *Islamic Studies* 32:4 (1993): 373.

[33] For an excellent example of a study analyzing the rhetorical strategies used by a jurist of the late Mamluk era (Ibn Qāḍī Shuhbah) to negotiate authority in a legal *ṭabaqāt* work (*Ṭabaqāt al-fuqahāʾal-shāfiʿiyya*), see R. Kevin Jaques, *Authority, Conflict, and the Transmission of Diversity in Medieval Islamic Law* (Leiden: Brill, 2006). See also Felicitas Opwis, "The Role of the Biographer in Constructing Identity and Doctrine: Al-ʿAbbādī and his *Kitāb Ṭabaqāt al-Fuqahāʾ al-Shāfiʿiyya*," *Journal of Arabic and Islamic Studies* 11 (2011): 1–35.

[34] See Vincent J. Cornell, *Realm of the Saint: Power and Authority in Moroccan Sufism* (Austin: University of Texas Press, 1998), especially Chapter 3, "Knowledge, Power, and Authority in Monographic Biography," 63–92.

[35] Nathan Hofer, *The Popularisation of Sufism in Ayyubid and Mamluk Egypt, 1173–1325* (Edinburgh: Edinburgh University Press, 2015).

Framing the Jurist

Forty years after the publication of Sartain's study of al-Suyūṭī's life and work, a growing trend in contemporary scholarship seeks to re-envision the life and legacy of important pre-modern figures within the Islamic legal sphere. A few recent works that consider the multi-faceted identity of a particular pre-modern jurist and search for clues within the social context to counter misconceptions about that jurist will be noted here.[36] One uniting factor of such studies is that they reveal an inherent tension between the historian's efforts to locate the jurist within his local political and social context while also drawing conclusions about that jurist's legacy as reflected in the discourses of subsequent generations of scholars.

Bernard Haykel's study of the life and legacy of Muḥammad al-Shawkānī (1759–1839) is a good example of this tension. On the one hand, Haykel shies away from drawing generalizations about al-Shawkānī as a reformer by lumping him together with other eighteenth-century scholars "under one ideological rubric."[37] However, at the same time, the whole premise of Haykel's book is that al-Shawkānī's "Traditionist" approach carried an appeal beyond his immediate context that resonated with later *salafī*-minded reformers who then appropriated his views as ammunition in ideological battles that al-Shawkānī could not have anticipated during his own time.

A useful model for this project is Scott Kugle's study of the Moroccan jurist and Sufi saint, Aḥmad Zarrūq (d. 1493).[38] As a close contemporary of

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[36] Other noteworthy studies that attempt to capture the life, methodology, and influence of individual jurists include: Bernard G. Weiss, *The Search for God's Law: Islamic Jurisprudence in the Writings of Sayf al-Dīn al-Āmidī* (Salt Lake City: University of Utah Press, 1992); R. Kevin Jaques, *Ibn Hajar* (New Delhi: Oxford University Press, 2009); George Makdisi, *Ibn ʿAqīl: Religion and Culture in Classical Islam* (Edinburgh: Edinburgh University Press, 1997); Kate Zebiri, *Maḥmūd Shaltūt and Islamic Modernism* (New York: Oxford University Press, 1993); Christopher Melchert, *Ahmad ibn Hanbal* (Oxford, U.K.: Oneworld Publications, 2006); Malcolm H. Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad ʿAbduh and Rashid Rida* (Berkeley: University of California Press, 1966); Muhammad Khalid Masud, *Islamic Legal Philosophy: A Study of Abū Isḥāq al-Shāṭibī's Life and Thought* (Islamabad: Islamic Research Institute, 1977); Sherman Jackson, *Islam and the State: The Constitutional Jurisprudence of Shihāb al-Dīn al-Qarāfī* (Leiden: Brill, 1996); and Stefan Reichmuth, *The World of Murtaḍā al-Zabīdī (1732–91): Life, Networks and Writings* (Cambridge, U.K.: Gibb Memorial Trust, 2009).

[37] Bernard Haykel, *Revival and Reform in Islam: The Legacy of Muhammad al-Shawkānī* (Cambridge, U.K.: Cambridge University Press, 2003), 13.

[38] I am grateful to John Voll for alerting me to this study. A complementary study to Kugle's book is Knut S. Vikør's *Sufi and Scholar on the Desert Edge: Muḥammad b. ʿAlī al-Sanūsī and his Brotherhood* (London: Hurst & Company, 1995). Vikør looks at the life and work of the North

al-Suyūṭī (d. 1505), Zarrūq lived through "the transitional period in Islamic society from the late medieval era to the early modern."[39] He exemplified both the spiritual identity of a Sufi saint as well as the scholarly authority of the jurist, thus proving that the two are far from being irreconcilable. Kugle's approach is interesting in the way that he links the present and the past. Rather than leaving Zarrūq's legacy till the end, Kugle's book opens in the United States post-September 11, 2001 before backtracking to medieval Fes. Kugle argues that even though Zarrūq's saintly authority was rejected by his contemporaries and his ambitions for reform never realized, the scholar's spiritual and intellectual legacy has acquired new currency in the struggle of modern Sufis (like Shaykh Ḥamza Yūsuf) against "fundamentalist" ideologies.[40]

Another instructive aspect of Kugle's work is the delicate balance that he achieves between issues of identity and authority on the one side and textual analysis on the other. Kugle surveys an impressive number of Zarrūq's works on a range of subjects, including prodigious archival material. Kugle brings across very clearly the sensitive and often perilous environment in which Zarrūq was operating and catalogues his efforts to construct the ideal identity of the "juridical saint" and the "conservative rebel" in opposition to the critique of most of his colleagues. Given this dangerous rhetorical environment, Kugle tends to place more emphasis on the "legal, theological, ethical, and sociological dimensions" of Zarrūq's arguments rather than focusing on the particular linguistic techniques that he employs through detailed textual analysis.[41]

Finally, in his *The First Islamic Reviver: Abu Hamid al-Ghazali and his* Revival of the Religious Sciences, Kenneth Garden builds on previous "revisionist" literature to construct a brilliant reassessment of al-Ghazālī's (d. 505/1111) major works, especially his masterpiece, *Iḥyāʾ ʿulūm al-dīn.* Garden looks for

African reformer al-Sanūsī (d. 1859) in light of three "conceptual polarities," namely: "the relationship between the political and scholarly, between the centre and periphery, and between the Sufi and the scholar," 265.

[39] Scott Kugle, *Rebel Between Spirit and Law: Ahmad Zarruq, Sainthood, and Authority in Islam* (Bloomington: Indiana University Press, 2006), 2.

[40] Ibid., 221.

[41] Ibid., 158. Some exceptions include Kugle's analysis of Zarrūq's use of the term ʿ*bidʿa*' (166–70) and his use of the metaphor 'eating the flesh of carrion' to accuse his enemies of corruption (195–6).

clues in the controversies and political and scholarly disputes surrounding these works to find significance not just in what al-Ghazālī says but also in what he does not say. In the end, Garden is able to draft a new narrative and to uncover the 'real' al-Ghazālī, not as "a solitary and otherworldly seeker, but as an engaged scholar, rooted in his age, connected to some of its most powerful men, and using every tool at his disposal to promote a revivalist agenda."[42] Garden goes on to say that al-Ghazālī's counterparts are to be found "among the Muslim revivers of subsequent ages, many of whom were inspired by al-Ghazālī, and who have been particularly numerous in the modern era."[43] One such scholar who longed to follow in the footsteps of al-Ghazālī and to be recognized as the reviver of religion in his age was Jalāl al-Dīn al-Suyūṭī whose own contentious narrative is the subject of this study.

ORGANIZATION OF THE STUDY

As noted earlier, this research aims to answer three broad questions: What does al-Suyūṭī say about the authority and religious identity of the jurist in his legal writing? How does he say it using language? And why does he choose to say it in the way that he does? Finally, the analysis goes beyond the time of al-Suyūṭī to examine how these works are being appropriated by modern jurists in contemporary Egypt as they struggle to define who they are in turbulent times. This study seeks to show, therefore, how al-Suyūṭī's own crisis of identity and authority as one of a select group of trained experts vested with the moral responsibility of interpreting God's law has echoes in contemporary debates surrounding who can claim to speak authoritatively in modern Muslim societies.

As an interpreter of al-Suyūṭī and his world, I analyze in detail a few texts that speak particularly to the role of the jurist in al-Suyūṭī's personal frame of reference and within the larger context of late medieval Mamluk Cairo (and that carry significant implications for jurists today). The texts on which the study is focused are ones that the author produced in the midst

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[42] Garden, *The First Islamic Reviver: Abu Hamid al-Ghazali and his* Revival of the Religious Sciences (New York: Oxford University Press, 2014), 9.
[43] Ibid.

of conflict and that stirred up further controversy in their own right. One assumes that it is in these moments of crisis that al-Suyūṭī feels most keenly the need to reinforce his own authority relative to that of his opponents.

The texts selected for this study are two fatwas (legal opinions) by al-Suyūṭī written in response to specific issues, various treatises, and a section from his autobiographical work concerning the concepts of *ijtihād* (independent legal reasoning) and *tajdīd* (religious renewal), plus al-Suyūṭī's full-length book on legal precepts (*qawāʿid fiqhiyya*). The strategy in approaching these texts is to look both for internal evidence in the text and external evidence in the context in order to gain access to the author and his world indirectly.[44] Each chapter is intended to illustrate a different aspect of al-Suyūṭī's legal persona and contains a balance between detailed textual analysis and "big picture" questions about the historical and social context within which the author operated. Taken as a whole, the individual aspects form a coherent framework within which the jurist situates himself and frames his own authority.

Just as the themes and case studies vary from chapter to chapter, the methodological focus also shifts depending on the type of data. The aim, therefore, in deciding which linguistic concepts to apply to which texts is to let the form and content of the text drive the methodology. In other words, I single out texts that contain some element of controversy, on the one hand, and that speak to the role of the jurist in al-Suyūṭī's context on the other. I then select an appropriate linguistic methodology that best allows us to understand how and why al-Suyūṭī frames his arguments in the texts in the way that he does. As suggested earlier, the task of choosing specific case studies from al-Suyūṭī's extensive array of legal works, as well as determining to which discourse strategies I should direct my attention, are themselves acts of interpretation. I do not seek to deny my own role as a modern interpreter of a late fifteenth-century figure. Rather, my aim is to augment our understanding of the role of the jurist, as framed by al-Suyūṭī, using insights from several different disciplines.

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[44] Kristen Brustad discusses the potential benefits of such an approach in her article, "Imposing Order: Reading the Conventions of Representation in al-Suyūṭī's Autobiography," *Edebiyāt* 7:2 (1997): 327–44.