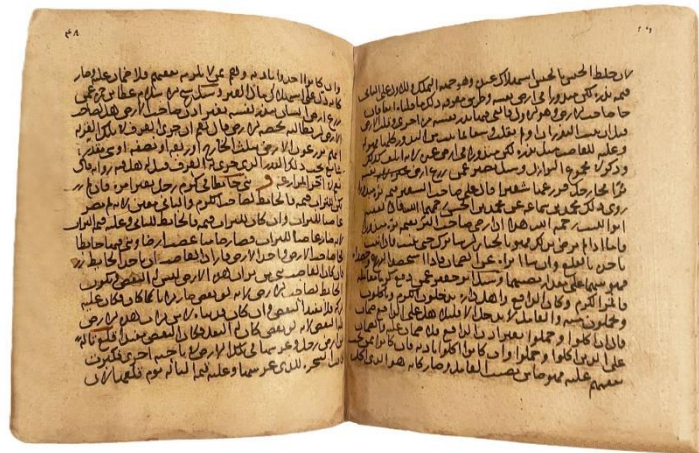


# LES ENLUMINURES

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MUHAMMAD AL-SHAYBANI, *Kitab al-Siyar* ("The Book of Islamic International Law")  
In Arabic, manuscript on paper  
Northern Syria, c. 1150-1200

ff. 369 (738 pp.) on paper, foliated in a later hand in the outer upper margin, complete (collation impractical) except for the last leaf with the colophon, written on 17 lines in a single column, in an undotted cursive in the old naskh style, with a thick-nibbed Qalam (calamus) in black ink, chapter titles and superscriptions in red ink, no leaf-to-leaf catchwords, dots added only when they are necessary for disambiguation, some glosses and marginal notes, in excellent state of preservation, a few tiny holes and water stains. Bound in modern black half calf over stiff ochre paperboards, preserved in a modern grey case (213 x 173 x 90 mm.). Dimensions 185 x 155 mm.

A substantially complete (missing only the colophon) early manuscript of Al-Shaybani's *Kitab al-Siyar*, which is the seminal work on Islamic international law, written originally in the eighth century. Few copies are extant of Al-Shaybani's full text, which is extremely rare in North American collections and usually available in manuscript only through the commentary by Al-Sarakhsi. Its author now takes his place as the "Hugo Grotius of the Muslims" or the "grandfather of international law" for his significant contribution to modern international law, unparalleled before Grotius, which has earned him a cornerstone even today of the Islamic perspective on international law. With sterling provenance, from the important collection of the archeologist, collector, and philanthropist, Hagop Kevorkian (1872-1962).

## PROVENANCE:

1. A 15<sup>th</sup>-century ownership inscription ("dakhala fi nawba") by Muhammad ibn Ahmad (now undecipherable) on the first page, transcribed three or four centuries later.
2. Hagop Kevorkian (1872-1962), New York, The Hagop Kevorkian Collection, their oval paper bookplate "H. Kevorkian Collection" with the inventory number 870 (and a

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second number, 1098) on the pastedown; his sale, Sotheby's 18 April 1983, lot 26, "Fine oriental manuscripts, the property of the Hagop Kevorkian Fund; subsequently sold, sale 3561, Sotheby's, 22 October 1993, lot 98, Oriental manuscripts and miniatures.

The history of the Kevorkian collection and gallery spreads over three continents and three generations. Its roots are in the nineteenth century in Asia Minor where the brothers were born in the 1870s. It then flourished in New York, Paris, Tehran, and Mumbai, where members of the family settled. The archeologist, collector, and philanthropist, Hagop, built his huge collection of Near Eastern and Islamic art in New York, and upon his death some of the collection went to auction. During his lifetime he donated in 1955 works in the Hagop Kevorkian Gallery to the Brooklyn Museum. He created a foundation in New York and established named Professorships at Columbia University and New York University.

3. George Anavian (b. 1952), Professor New York University and Owner, Anavian Gallery, New York [purchased in 1993?], until the early 2000s;
4. Purchased from him by Mr. Basil Adilnor (b. 1966--), The Adilnor Collection, Malmö, Sweden, to his heirs.

#### TEXT:

The first page (leaf a1r) of the manuscript begins with the rubric *Kitab al-Siyar* ("The Book of [Islamic] International Law") and then lists the seven 'fasl' ("chapters," literally "heads"), each of them explaining the permissible conduct allowed to a Muslim combatant in wartime or, when in peace, dealing with a non-believer.

1. "On the [Prophet's] incitement to *jihad*, explaining how it is prepared and in what ways" (in modern editions: Instruction of the Prophet about the conduct of war and International Relations);
2. "On facilitating factors for predation [sic]" (in modern editions: The army's treatment of the disbelievers);
3. "On legitimate war targets" (in modern editions: Acquisition of Muslim property earlier taken away by non-Muslim as booty);
4. "On the spoils" (in modern editions: Management of 'Kharai'; i.e., the payment of the tributes of war); the chapter is divided in two distinct parts, the first related to the spoils of way, and the second related to the spoils of war during peacetime, and the tax applied to them);
5. "On what is permissible and non-permissible to share while in a war zone" (in modern editions: Peace, reconciliation, and armistice among rulers);

6. "On foreigners [non-Muslims] in the war zone and whether it is permissible according to the law of war to enslave them" (in modern editions: Inter-marriages of the peoples of war and the entry of the traders in their territory with a permission of security);
7. "On the legal distinction between Muslims and infidels" (in modern editions: Relationships with non-Muslims [their political, legal, and social rights]);

Abu' Abd Allah Muhammad ibn al-Hasan ibn Farqad ash-Shaybani ( أبو عبد الله محمد بن الحسن بن فرقد الشيباني (749/750-805), known as the "father of Muslim international law," was a Muslim jurist and a disciple of Abu Hanifa (founder of the Hanafi school of Islamic jurisprudence) and Malik ibn Anas (the founder of the Malaki school of *fiqh*, or Muslim jurisprudence). Al-Shaybani is recognized as the founder of "Siyar" (=Islamic international law as an independent field of study). He wrote an introduction to *Kitab al-Siyar* at the end of the eighth century and the more advanced treatise (the present manuscript) shortly thereafter. His "Siyar," which deals with every conceivable aspect of international law relevant to his time, is still considered a fundamental reference work in legal practice, although in the modern world its classical ideal is no longer considered to be compatible with the realities of nation-states, globalization, and post 9/11 politics (see literature below).

Muhammad Ibn Ahmad Abu-Baker Shamsu Al-Iman Al-Sarakhsi ( محمد بن أحمد بن أبي سهل ابو بكر شمس الأئمة السرخسي" (d. 1090) was one of the great Persian scholars of jurisprudence and language. His commentary on al-Shaybani's work is the form in which the latter's *Kitab al-Siyar* is normally found. The present manuscript presents al-Shaybani's work in its original structure, without the commentary, but it includes parts of the commentary by al-Sarakhsi. Al-Shaybani's work in its original form is extant in only a few copies in museums and libraries. The present manuscript must, therefore, be considered an intermediate text in the transmission of the latter's *Siyar*.

Until the twenty-first century, the history of international law was largely Eurocentric (cf. Oppenheim, 1905/1906); that is, scholars begin with the Greek city-state, briefly described the Roman period, and skipped the Middle Ages (with a nod to Gratian and Aquinas), arriving in the modern period with Dutch humanist philosopher Hugo Grotius (1583-1645), who has long been considered the "father of modern international law." However, recently, with a critical publication by Bashir (2018), as well as the new Oxford Handbook (ed. Fassbender and Peters, 2012), Muslim international law has been integrated in a revised history. In this revised history, Al-Shaybani is named the "Hugo Grotius of the Muslims" or the "grandfather of international law," and he stands at the head of twenty-one names of the most important contributors to the field. Bashir compares Al-Shaybani's writings with those of Augustine, Aquinas, Gratian, and Grotius, among others, to demonstrate how significant his contribution was to modern international law, unparalleled before Grotius, and claims a place for him as a cornerstone even today of the Islamic perspective on international law.

We have located no Census of medieval manuscripts of the *Kitab al-Siyar*, and an extensive search suggests that copies are extremely rare, especially in North American collections. One manuscript is recorded in North America, a fragment, at Yale University, Beinecke Library, Arabic MSS suppl. 45. A late manuscript (date 1801) of the later commentary by Mohammed al-Munib al-Istanbuli is housed at the University of Michigan, Ann Arbor (Isl. MS 206).

## LITERATURE:

Unpublished, for further reading,

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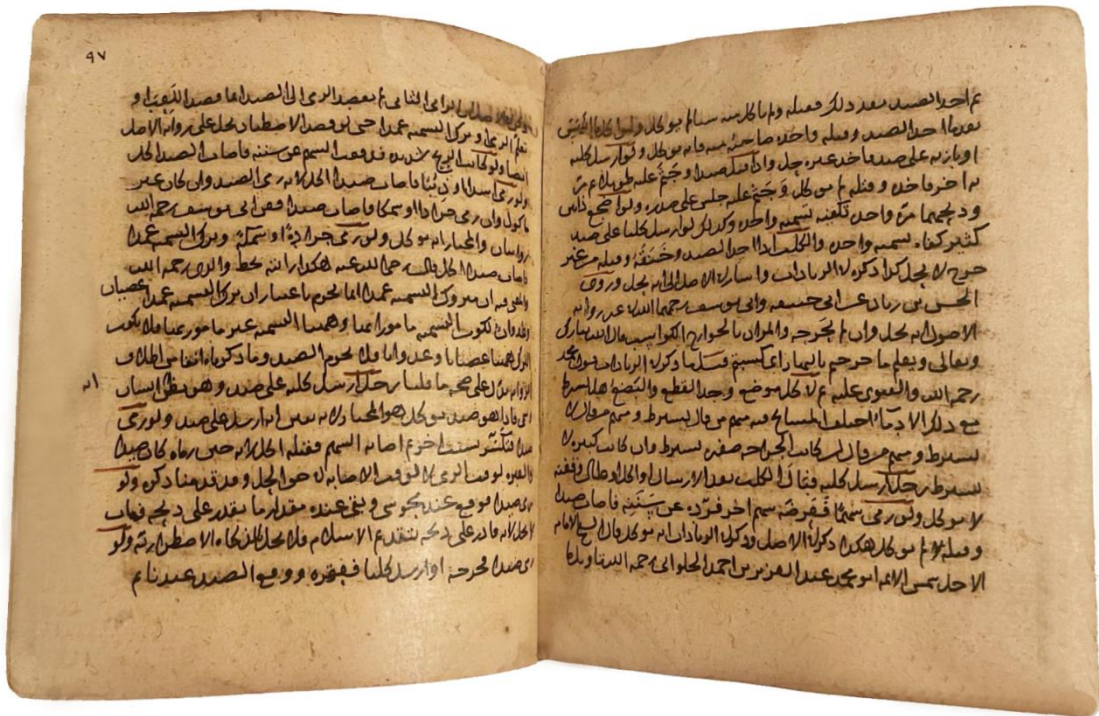


Illustration 1

Les Enluminures, TM-1355, Muhammad Al-Shaybani, *Kitab al-Siyar*, ff. 78v-79r



**Illustration 2**

Les Enluminures, TM-1355, Muhammad Al-Shaybani, *Kitab al-Siyar*, Binding

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كتاب الفصيلة	السيد
الغارية	الوديعة
الاياف	اللفيط
السيد	المفقود
الغارية	الاشجية
السيد	الهيئة
السيد	المضاربة
القائمة	الشفعة
الغارية	الاجازة

من  
 ضلقت نور العبد  
 محمد بن محمد  
 سنة 1070

Illustration 3

Les Enluminures, TM-1355, Muhammad Al-Shaybani, *Kitab al-Siyar*, Leaf a1r, Table of Contents



Illustration 4

Les Enluminures, TM-1355, Muhammad Al-Shaybani, *Kitab al-Siyar*, Book Plate, Kevorkian Collection, MS 870