



ABŪ ḤANĪFA

ABŪ ḤANĪFA, NO'MĀN B. ṬĀBET B. ZŪṬĀ (or AL-NO'MĀN) B. AL-MARZOBĀN (or MĀH), 80-150/699-767, eponym of the Ḥanafī school of Islamic law—the largest of the four primary Sunni schools of law. As one of the most important figures in Islamic social and intellectual history, he was controversial in his own time and long remained so; as Abū Zahra observes, probably no other figure in Islamic law of similar prominence evoked such high esteem from some, yet such categorical condemnation from others—in Abū Ḥanīfa's case especially from some of the proponents of Hadith (*ahl al-ḥadīth*; see Abū Zahra, *Abū Ḥanīfa*, p. 53). But opinions of the proponents of Hadith regarding Abū Ḥanīfa were themselves divided, as Kaṭīb Baġdādī notes at the beginning of his lengthy entry of their unfavorable reports about him; it should be noted also that the biographical dictionaries of the *moḥaddeths* (traditionists) regarded such attacks from their ranks upon Abū Ḥanīfa as slanderous, emanating from jealousy or ignorance, and so gave them no credence and ranked Abū Ḥanīfa highly as a man of great integrity (*Ta'riḳ Baġdād* XIII, pp. 369-419; Ebn Ḥajar, X, pp. 449-52; Dahabī, *Ḥoffāz* I, pp. 168-69; Ebn Kaṭīr, X, p. 107). Indeed the historian Ebn Kallekān ([Beirut], V, p. 413), writing centuries after Kaṭīb and although not himself a Ḥanafī, reprimands him for having even mentioned the reports. Despite having been controversial, Abū Ḥanīfa seems in general to have always been highly esteemed by the majority of the Muslim community; he was clearly popular in his own time and very influential: and it is reported that, when he died in Baghdad after having been imprisoned by the 'Abbasid caliph Maṣṣūr, six funeral prayers had to be conducted in succession because of the massiveness of the crowds (Ebn Kaṭīr, X, p. 108).



Clearly one of the chief reasons for the controversy surrounding Abū Ḥanīfa was the manner in which he employed *ra'y* (personal reasoning) in his understanding and application of Islamic law, about which more will be said later; for it seemed to some of his opponents that he used *ra'y* in such a manner as to virtually nullify the legal value of Hadith. But there were other important reasons as well. Abū Ḥanīfa was, for example, a sharp, outspoken critic of the errors he perceived in the judges and *foqahā'* (legal scholars) around him; there are numerous reports of his opposition to the Kufan *qāzī* Ebn Abī Laylā (74-148/693-765), and on one occasion Ebn Abī Laylā is reported to have taken steps to have the government silence Abū Ḥanīfa's criticisms of him (Makkī in bibliog., I, pp. 115-16; Abū Zahra, *Abū Ḥanīfa*, p. 44). Abū Ḥanīfa's theological views also became a matter of controversy, leading his enemies to label him pejoratively as a Murji'ite, although he disavowed the term himself. Furthermore and perhaps more importantly, Abū Ḥanīfa was a man of deep political commitment whose opposition to the established governments of his time is more conspicuous than that of any other of the four eponymical Sunni imams; and his political sympathies, which brought him into conflict with the Omayyads and 'Abbasids, were clearly 'Alid.

Personal background. Abū Ḥanīfa was probably of eastern Iranian stock. Whence his ancestors came, however, and what their status was in the first days of Islam—i.e., free or slave—is difficult to ascertain. Reports are sharply contradictory, and one is led to suspect that his enemies fabricated accounts about his origins to cast aspersions upon him, just as Abū Ḥanīfa's supporters may have done the opposite to embellish his image. Most reports, however, affirm an eastern Iranian ancestry; according to Abū Zahra (*Abū Ḥanīfa*, p. 13), these accounts are also the most authentically transmitted. Most reports contend that Abū Ḥanīfa's family origins were in Kabul, although others mention Termedj and Nesā. But the city of Anbār, on the banks of the Euphrates, also is identified as his place of origin, and he is even called a "Babylonian" or "Nabatean." These two latter ascriptions appear to be merely depreciatory. The ancient city of Babylon, which had long since ceased to exist, is associated in the Qur'ān (2:102) with cunning arts of magic and deception—a background of which Abū Ḥanīfa's enemies (some of whom went as far as to declare him an anti-Christ [*dajjāl*]) must have felt him most deserving (*Ta'riḵ Baġdād* XIII, p. 396). The appellation *nabaṭī* (Nabatean), which was used to refer to non-Arabs of mixed background, had unequivocally derogatory connotations in early Islamic Arabic usage, to the extent that there were questions as to whether or not usage of it legally constituted slander, and in



some of the reports concerning Abū Ḥanīfa it clearly is used contemptuously (Ebn Manẓūr, *Lesān al-‘arab* VII, pp. 411-12; *al-Moʿjam al-wasīṭ* II, p. 905; for reports, see *Taʾrīk Baġdād* XIII, p. 405). The reports about Abū Ḥanīfa’s origin being from Anbār are, perhaps, more worthy of consideration. In the pre-Islamic period Anbār had been a major Mesopotamian garrison city for the Sasanian armies and, hence, had quartered many Persian soldiers and civilians, just as in the Islamic period it maintained a sizable Khorasanian population. Reports on the authority of Abū Ḥanīfa’s grandson, Esmāʿīl, state that he was the descendant of free Persians who had never been enslaved, referring to Abū Ḥanīfa’s great-grandfather as “al-Marzobān,” an arabicization of the Persian *marzbān* (warden of the marches), a Sasanian military title given to provincial governors commissioned with the preservation of the frontiers of the Sasanian empire (Makkī, I, pp. 5-6; *Taʾrīk Baġdād* XIII, p. 326; “Marzubān,” *EI*¹ III, p. 313; Ebn Kallekān [Beirut], V, p. 405, gives Māh as Abū Ḥanīfa’s great-grandfather’s name, which may have been his proper name, while *marzbān* was his title). It is conceivable, although hardly conclusive, that Abū Ḥanīfa’s great-grandfather had been stationed in Anbār under such auspices, and the peaceful surrender of Anbār to Kāled b. Walīd in 12/634, which exempted its inhabitants from the liability of bondage, facilitated Abū Ḥanīfa’s grandfather’s coming to Kūfa (according to the same report) as a Muslim freeman, never having been enslaved (“Anbār,” *EI*² I, pp. 484-85).

Most reports, however, in great contrast, contend that Abū Ḥanīfa’s grandfather, Zūṭā—who is named al-Noʿmān in the above report, a name which he might have taken after conversion to Islam—was brought to Kūfa from Kabul as a slave, whereas the reports about the *marzbān* specify no city of origin. Zūṭā, according to these reports, was emancipated by the Arab tribe Banū Taymallāh b. Ṭaʿlaba, and he and his family after him became their *mawālī* (clients). Here again the question of ascertaining historical truth is problematic. For, although Makkī, who does not deny the report, points out that according to Islamic standards of judgment one’s origin and social status have nothing to do with one’s moral standing. Abū Ḥanīfa’s enemies did use his presumed slave background to cast aspersions upon his character, citing, for example, an alleged Hadith that the sons of *mawālī* would destroy the Prophet’s religion (Makkī, I, p. 6; *Taʾrīk Baġdād* XIII, p. 395).

Abū Ḥanīfa was born in Kūfa in the year 80/699 during the reign of the powerful Omayyad caliph ‘Abd-al-Malek b. Marwān (65-86/685-705) and the Iraqi governorship of Ḥajjāj b. Yūsuf, whom the caliph had installed as



governor of Iraq five years earlier to put down seething anti-Omayyad rebellions there (Zereklī, *A ʿlām* II, p. 168). Kūfa at this time was becoming one of the primary intellectual centers of the Muslim world; it was, furthermore, the primary center of Shiʿites and their various divisions. It was, not surprisingly, a center of ʿAlid political activity, but also the major center of legal learning for the Iraqi Sunnis. Baṣra, its twin Islamic garrison city to the south, was at that time a major center for the Kharijites, *qadariya*, and proto-Muʿtazilites (see, for example, Madelung, *Der Imam al-Qāsim*, pp. 230-34; Abū Zahra, *Abū Ḥanīfa*, pp. 20-25; cf. Abd-Allāh, *Mālik's Concept of ʿAmal* I, pp. 48-62). Abū Ḥanīfa lived in Kūfa almost all of his life, although he traveled extensively, particularly to Mecca and the Ḥeǰāz for pilgrimage and during the last few years of the Omayyad period, for political refuge (Makkī, II, pp. 22-24; Abū Zahra, *Abū Ḥanīfa*, pp. 26, 27). After the establishment of ʿAbbasid power he returned to Kūfa, where he remained until imprisoned almost two decades later in the newly established ʿAbbasid capital of Baghdad, where he died and was buried in 150/767. Thus, according to the Islamic lunar calendar, Abū Ḥanīfa lived seventy years, fifty-two of them under the Omayyads, whom he witnessed as a child in their greatest strength and as an adult in their decline and fall, and eighteen under the first two ʿAbbasid caliphs, Saffāḥ (104-36/722-54) and Maṣṣūr (95-158/714-75), whose revolution Abū Ḥanīfa initially supported but whose government he later opposed (Abū Zahra, *Abū Ḥanīfa*, p. 36).

Abū Ḥanīfa was an independently wealthy silk merchant (*kazzāz*), owing a large building for the manufacture of *kazz*, a type of silk, in which he employed a number of workers and artisans (Kaḥḥāla, XIII, pp. 104-05; Yāfeʿī in bibliog., I, p. 310; Ebn al-Aṭīr, *al-Lobāb* I, p. 360). His father was probably a well-to-do silk merchant, although this is not specified in the sources (Abū Zahra, *Abū Ḥanīfa*, p. 17). Abū Ḥanīfa is praised highly in the biographical sources for his generosity, since he bestowed his wealth liberally upon his students, indigent religious scholars, and others (*Taʿrīk Baǧdād* III, p. 360). He is said to have been a strikingly handsome man with a beautiful sonorous voice and is characterized as wearing fine clothes and fragrant scent. He was a man of affable humor and sharp, perspicuous wit who remained forever calm and collected, not moved to anger or to response in kind by the attacks of his enemies.

Education. As a youth, Abū Ḥanīfa divided his time between the marketplace and the study of Islamic learning; it was not until late in his youth that he



decided to devote himself solely to learning; he did so, according to some reports, at the behest of the renowned Kufan *moḥaddeth* and *faqīh* ‘Āmer al-Ša‘bī (d. 104/722), who is said to have recognized Abū Ḥanīfa’s precocious quickness of mind (Makkī, I, p. 59). Abū Ḥanīfa began his intellectual career by applying himself primarily to dialectical theology (*kalām*), whence, no doubt, the various works on theological topics attributed to him. According to autobiographical reports, he quickly rose to prominence in the field, became highly regarded in Kūfa for his disputations against schismatics (*ahl al-ahwā*), and even had his own circle (*ḥalqa*) of students studying *kalām* under him. Abū Ḥanīfa is reported to have said, furthermore, that his early *kalām* activities were centered around the refutation of the Kharijites—a claim borne out by the content of his theological works—and that he made more than twenty trips to Baṣra to engage them in debate and on these trips spent more than a year of his time in the city (Makkī, I, pp. 59, 63-64).

But Abū Ḥanīfa became disillusioned with *kalām* and apparently came to regard it as of little worth, given by its nature to producing divisions and, moreover, contrary to the Sunna of the Prophet and his Companions (ibid., pp. 55, 60-61). Convinced of the superiority of legal knowledge, Abū Ḥanīfa is reported to have left *kalām* and devoted himself to the study of Islamic law, of which he had probably already made some study, since he described himself as having decided to return to law (ibid., p. 59). He took as his mentor Ḥammād b. Abī Solaymān (d. 120/737), one of the most prominent of the Kufan *foqahā’* in his time and a student of the renowned Ebrāhīm al-Naḳa‘ī (50-96/670-715) of the same city. Abū Ḥanīfa, according to his autobiographical reports, grew to love Ḥammād like a father and, indeed, seems to have named Ḥammād b. Abī Ḥanīfa, his oldest and most illustrious son, after him. It is reported that after years of study under Ḥammād, Abū Ḥanīfa became impatient to have an independent circle of his own but could not bring himself to break from Ḥammād, who also had a great attachment to him. Abū Ḥanīfa reports that news reached Ḥammād about the death of a kinsman, who had left no heir but Ḥammād, which required Ḥammād’s presence in Baṣra. Abū Ḥanīfa was left in charge of Ḥammād’s circle and, he remarks humorously, no soon had Ḥammād left than it seemed that he was being presented with legal questions the likes of which he had never heard before. Having recorded his responses to these difficult questions, Abū Ḥanīfa presented them to Ḥammād when the latter returned two months later. Of the sixty questions Abū Ḥanīfa had recorded, Ḥammād is reported to have agreed with Abū Ḥanīfa on two-thirds but to have demonstrated the remainder to be incorrect, and Abū



Ḥanīfa reports that it was then that he took his decision never to part from Ḥammād's circle as long as he remained alive. Thus Abū Ḥanīfa is reported to have remained under Ḥammād's tutelage for eighteen years, taking over his circle after his death (ibid., pp. 56, 69; *Ta'rik Bagdād* XIII, p. 333; Abū Zahra, *Abū Ḥanīfa*, pp. 25, 226-28; Sezgin, *GAS* I, pp. 403-04, 409).

A member of the generation of the youngest Successors (*tābe'un*), Abū Ḥanīfa is reported to have seen a few of the oldest Companions during his childhood, most notably Anas b. Mālek, although he was too young to have studied under any of them. Ḥammād b. Abī Solaymān, however, was not his only teacher; as Abū Zahra illustrates, Abū Ḥanīfa studied under a remarkably diverse range of persons, Sunni and Shi'ite, proponents of *ra'y* and proponents of Hadith. Indeed, Abū Ḥanīfa is reported to have been exposed in the Shi'ite center of Kūfa to the teachings of the Kaysāniya, Zaydiya, Emāmiya, and Esmā'īliya (Abū Zahra, *Abū Ḥanīfa*, pp. 62-72). Zayd b. 'Alī (79-122/698-740), himself a Kufan, was, perhaps, among the most important of Abū Ḥanīfa's teachers other than Ḥammād, and Abū Ḥanīfa is reported to have valued Zayd's legal learning most highly. W. Madelung has observed considerable similarity between Zaydī and Ḥanafī law, though Abū Zahra is of the opinion that a much more meaningful similarity exists between Mālekī and Zaydī law (Zereklī, *A'lām* III, p. 59; Madelung, *Der Imam al-Qāsim*, p. 54; Abū Zahra, *al-Emām al-Šādeq*, pp. 171-76, 499-500, 527-28). Abū Ḥanīfa also had contacts with the fifth and sixth Twelver Imams, Moḥammad al-Bāqer (57-114/676-732) and Ja'far al-Šādeq (80-148/699-765), both of whom he is reported to have esteemed highly (Abū Zahra, *Abū Ḥanīfa*, pp. 62-72). However, as Abū Zahra observes, despite Abū Ḥanīfa's pro-'Alid political stance in the heavily Shi'ite atmosphere of Kūfa, he did not feel himself bound to follow the legal opinions of the imams, nor did he regard them to be sole sources of religious knowledge; rather, he looked upon their opinions as *ej'tehād*. His attitudes toward the Prophet's family, the Companions, and political legitimacy were probably closest to those of the Zaydīs (ibid., pp. 57, 164-65).

Theological views. Abū Ḥanīfa's theological and political views, although frequently referred to in his biographical and other sources, are not passed down through his main legal transmitters, Abū Yūsof (d. 182/798) and Moḥammad b. al-Ḥasan al-Šaybānī (d. 189/805), possibly because of the controversial nature of those views and the fact that both men later became official 'Abbasid *qāzīs* (ibid., p. 10). Aš'arī and a number of other heresiographers classify Abū Ḥanīfa among the Murji'ites, Aš'arī describing



him and his followers as constituting a ninth subgrouping of that school and some referring to them as *morje'at al-sonna* (*morje'a* following the Sunna; Amīn, *Žoḥā 'l-eslām* III, pp. 320-21). The designation *morje'ī*, however, had negative connotations, probably because in its earliest usages it implied an overly lenient assessment of sin (Abū Zahra, *al-Emām al-Šādeq*, pp. 62-72). Later the Kharijites, the *qadariya*, and the Mu'tazilites applied the term pejoratively to those who differed from their essential doctrines, and the 3rd/9th century Shi'ite heresiographer Nawbakṭī, who also had distinctively Mu'tazilite inclinations, classifies all Sunnis (as opposed to Shi'ites, Kharijites, and Mu'tazilites) as constituting various sects of the Murji'ites (ibid., p. 153; idem, *Abū Ḥanīfa*, p. 137; Watt, *Formative Period*, p. 121; Madelung, *Der Imam al-Qāsim*, pp. 236-37). It is in the light of the pejorative connotations of the term that Abū Ḥanīfa's enemies refer to him, for example, as "the very head of the Murji'ites," a "Murji'ite who held it valid to resort to the sword within the community of Moḥammad" (i.e., who preached rebellion), and often spell out the scandalous implications of his doctrine in their view (see, for example, *Ta'riḵ Baġdād* XIII, pp. 374-75, 384-86). It is hardly surprising that Abū Ḥanīfa, in the theological tracts attributed to him (*al-Feqh al-akbar* and the *Resāla* to 'Oṭmān al-Battī), disassociates himself from this label (Abū Zahra, *Abū Ḥanīfa*, p. 175; Sezgin, *GAS* I, p. 418; Madelung, *Der Imam al-Qāsim*, p. 235). It may well be true, as suggested by the Ḥanafī heresiographer Šahrastānī, who acknowledges that Abū Ḥanīfa held a doctrine of *īmān* similar to that associated with the Murji'ites, that the term was first applied to Abū Ḥanīfa by the Kharijites and similar groups, against whom, as noted earlier, Abū Ḥanīfa used to debate (Amīn, *Žoḥā 'l-eslām* III, p. 321; Abū Zahra, *al-Emām al-Šādeq*, p. 153).

Madelung and Amīn believe it sufficiently well-established that Abū Ḥanīfa was a Murji'ite, but Abū Zahra is probably correct in observing that this appellation with regard to Abū Ḥanīfa should be understood in general terms, unconnected to the Murji'ite stereotype of an overly lenient assessment of sins and denial of the importance of action (Madelung, *Der Imam al-Qāsim*, pp. 234-35; Amīn, *Žoḥā 'l-eslām* III, p. 322; Abū Zahra, *Abū Ḥanīfa*, p. 176). Theological doctrines held by Abū Ḥanīfa or ascribed to him in biographical reports indicate he held an essentially Murji'ite doctrine of *īmān*, insisted emphatically that one does not cease to be a Muslim by virtue of committing major sins, held Abū Bakr and 'Omar (the first two caliphs) in highest esteem, had a high opinion of 'Oṭmān, although probably never ranking him above 'Alī, and refused to vilify Ṭalḥa and Zobayr for their roles in the Battle of the



Camel, even though he believed that ‘Alī was more clearly in the right in all of his battles than those who opposed him and that Ṭalḥa and Zobayr had taken and broken an oath of allegiance to ‘Alī (Makkī, I, pp. 76, 83-87; *Ta’rīk Baġdād* XIII, p. 351; Abū Zahra, *Abū Ḥanīfa*, pp. 161-67).

Wensinck conceived of those who held Murji’ite ideas as men who complied with the government and ignored the behavior of temporal rulers. In the light of this statement there would appear to be a contradiction between Abū Ḥanīfa’s theological views and the activist political positions ascribed to him; Schacht, for example, regards the derogatory label applied to Abū Ḥanīfa, “a Murji’ite who believed in the sword,” to be a manifestly spurious contradiction in terms (“Abū Ḥanīfa,” *ET*²I, p. 124). It should be noted in this regard that, as Madelung has shown, there was a conspicuously militant dimension to the so-called Murji’ite movement. A number of Kufan Murji’ites, for example, took active part in rebellions against the Omayyads, and many of them were forced to take refuge in Mecca, as was Abū Ḥanīfa himself years later. Moreover the principle of enjoining right and forbidding wrong meant in original Murji’ite doctrine that one must not remain silent in the face of an oppressive government. Indeed Abū Ḥanīfa himself in *al-Feqh al-akbar* defends this interpretation of the same principle, and there are similar references to it in his biographical reports (Madelung, *Der Imam al-Qāsim*, pp. 232-33, 235; Makkī, II, p. 83; cf. II, pp. 85-6).

Political involvement. There are numerous references in Abū Ḥanīfa’s biographical reports to his unequivocal support of the Husainid anti-Omayyad rebellion of Zayd b. ‘Alī, whom a substantial number of Kufans had urged to revolt in 120/738, and the Hasanid anti-‘Abbasid rebellion of Moḥammad al-Nafs al-Zakīya (93-145/712-62) and his younger brother Ebrāhīm (97-145/716-63), whom al-Nafs al-Zakīya sent to Baṣra. Ebrāhīm gained control of that city, southern Iraq, and the Persian provinces of Fārs and Ahwāz, while Maṣṣūr maintained his base in Kūfa, where Ebrāhīm finally attacked him but was defeated (Zereklī, *A’lām* I, p. 48; III, p. 59; VI, p. 220). Abū Ḥanīfa is reported to have given Zayd b. ‘Alī monetary and material support (weapons and horses), which Zayd readily accepted. Makkī transmits a report in which Zayd’s son Moḥammad speaks to Abū Ḥanīfa’s support for his father, and Zamaḡsarī contends that Abū Ḥanīfa gave secret *fatwās* during the time of Zayd’s rebellion making it obligatory to join and support him against the despotic Omayyads (Amīn, *Żoḡā ’l-eslām* III, pp. 273-74, quoting Zamaḡsarī; Abū Zahra, *Abū Ḥanīfa*, p. 31; Makkī, II, p. 83). Likewise, almost twenty-five



years later, Abū Ḥanīfa was so vociferous in his support for Ebrāhīm that Zofar b. al-Ḥoḍayl (d. 158/774), one of Abū Ḥanīfa's main students, states that even Abū Ḥanīfa's students began to fear for their lives from the 'Abbasid authorities (*Ta'rik Baḡdād* XIII, pp. 329-30; cf. Makkī, II, p. 84). Abū Ḥanīfa is said to have sent over four thousand pieces of gold to Ebrāhīm, and Abū Ḥanīfa's enemies also decry him for having urged young men to join Ebrāhīm, an act which often led to their deaths (Zereklī, *A'lām* I, p. 48; *Ta'rik Baḡdād* XIII, p. 385).

Among the most frequently mentioned facts in all Abū Ḥanīfa's biographical sources are his confrontations with Yazīd b. 'Omar b. Hobayra (87-132/706-50), the Omayyad governor of Kūfa and Baṣra under the last Omayyad caliph, Marwān b. Moḥammad, and his confrontation almost two decades later with the second 'Abbasid caliph, Manṣūr. Both men intended to appoint Abū Ḥanīfa to a high administrative position as *qāẓī*, head of the public treasury, or the like, and in both cases Abū Ḥanīfa adamantly refused, and was imprisoned and punished. Ebn Hobayra is said to have had Abū Ḥanīfa given as many as ten lashes on eleven different days, and, according to other reports, had him whipped about his head and face, until Abū Ḥanīfa's face was hardly recognizable. Manṣūr probably did not have the aged Abū Ḥanīfa flogged, although he threatened to do so, but Abū Ḥanīfa died during his imprisonment, and some reports imply or state that Manṣūr had him poisoned (*Ta'rik Baḡdād* XIII, pp. 329-30; Yāfe'ī, I, p. 310). Abū Ḥanīfa's biographical sources, which generally praise his refusals of Ebn Hobayra and Manṣūr as indications of his courage and integrity, ascribe Abū Ḥanīfa's behavior as a rule to his personal piety and cite in the same context his habit of consistently refusing to accept gifts and monetary rewards from rulers and monarchs.

It would be mistaken, however, to view Abū Ḥanīfa's refusals of Ebn Hobayra and Manṣūr apart from the context of his political beliefs. E. Tyan has shown that the appointment of judges and other governmental administrators in early Islamic history was often a preeminently political act. The ruler, according to pre-Islamic monarchical tradition, conceived of himself as possessing a mandate to appoint his subjects to administrative positions; their acceptance of such mandated appointments was not essential to the legal completeness of the act, but their refusal to accept amounted to a rejection of the monarch's authority and, consequently, could be and generally was followed by imprisonment, punishment, and even execution. Acceptance of the appointment, on the other hand, constituted, as it were, an act of political



allegiance (E. Tyan, in bibliog., pp. 11-12, 100-04). Ebn Hobayra had been appointed governor of Kūfa and Baṣra in 128/746 at a time when the ‘Abbasid revolution was beginning to reach its peak, and he directed his energies to fighting it and its supporters, as was expected of him (Zereklī, *A’lām* VIII, p. 185). Indeed Makkī reports that it was when the revolution (*fetna*) came to Iraq that Ebn Hobayra gathered before him all the *foqahā’* of Iraq and began to appoint them to various official positions. He desired to appoint Abū Ḥanīfa as *qāzī* and overseer of the public treasury; of course, Abū Ḥanīfa refused, despite the pleas of his colleagues, who urged him to accept against his will as they had done in order to protect his life. Some accounts say that Abū Ḥanīfa replied that he would never accept an appointment from Ebn Hobayra even if he desired to appoint him only as official counter of the doors of Kūfa’s mosques, let alone if he desired him to be *qāzī* and sign the execution papers of innocent persons (Makkī, II, pp. 22-24). Thus Abū Ḥanīfa’s confrontation with Ebn Hobayra is probably a reflection of Abū Ḥanīfa’s support for the ‘Abbasid revolution, just as his confrontation with Manṣūr probably came about, as Abū Zahra suggests, as a test of Abū Ḥanīfa’s allegiance in the aftermath of his earlier support of al-Nafs al-Zakīya or, as Amīn holds, as punishment for that support (Abū Zahra, *Abū Ḥanīfa*, p. 39; Amīn, *Ḍoḥā ’l-eslām* III, p. 325). It is reported that when Abū Ḥanīfa died he left a testament that he not be buried in that part of the cemetery of Baghdad which Manṣūr had wrongfully usurped from the people (Abū Zahra, *Abū Ḥanīfa*, p. 51).

Abū Ḥanīfa’s legal thought. One occasionally encounters the notion in secondary sources that Abū Ḥanīfa and his school of law represented the school of *ra’y* (free legal reasoning), that Mālek and his Madinan school represented the school of strict adherence to tradition, and that Šāfe’ī effected, as it were, a synthesis between the two, which constituted the “classical” theory of Islamic law. Such a view of the intellectual history of Islamic law and legal theory has little historical merit. In reality there never was a “classical” theory of Islamic law; on the contrary, both before and after Šāfe’ī each legal school, Sunni and Shi’ite alike, had distinctively different overall theories and methodologies for the deduction and application of the law, despite their numerous fundamental similarities (Abd-Allāh, *Mālik’s Concept of ‘Amal* I, pp. 121-29). Moreover, although the use of *ra’y* is an essential part of Ḥanafī legal theory, it was always combined with the systematic use of Hadith (but in accord with special stipulations). Furthermore the use of *ra’y* is no more prominent in the Hanafite school than it was in the Malikite, which seems, at least in some areas of the law, to have given greater scope to its use than Abū



Ḥanīfa. He rejected the Malikite principles of *sadd al-darā'e*' (the obstruction of legal fictions), and his concept of *esteḥsān al-ẓarūra* (preferred exceptional rulings based on absolute necessity) does not appear to be as broad as the Malikite principle of *al-maṣāleḥ al-morsala* (unprecedented rulings based on social need), which in many ways is the pinnacle of Malikite legal thought. (For an excellent treatment of Hanafite legal theory, see Abū Zahra, *Abū Ḥanīfa*, pp. 234-434; cf. Abd-Allāh, *Mālik's Concept of 'Amal I*, pp. 121-279, which involves a comparative treatment of the legal theories of the four primary Sunni schools.)

Of all the schools of Islamic law, Sunni and Shi'ite, the Hanafite school is preeminently the school of *qīās* (analogical reasoning), a method of legal reasoning rejected by the Zahirite Sunnis and Emāmī Shi'ites. The Hanafites not only use *qīās* more extensively than other schools but give it greater authority and in many ways make their conception of *qīās* and cognate principles the very foundation of their legal thought. *Qīās* is essentially a type of generalization; consequently, one of the chief principles underlying Ḥanafī legal theory is that of *ta'mīm al-adella* (the [fullest logical and reasonable] generalization of established legal precepts), in accordance with which legal statements in the Qur'ān and principal legal Hadith are given the broadest reasonable authority according to their general implications and are treated, as it were, as if each were a universal legal decree. No other Sunni school of law gives such authority to general statements, and only the Hanafites among them regard general legal statements to be of definite meaning, only becoming conjectural in meaning after having been rendered specific by other equally authoritative legal references (see Abū Zahra, *Abū Ḥanīfa*, pp. 237-58; cf. idem, *al-Emām al-Ṣādeq*, pp. 344-50; Abd-Allāh, *Mālik's Concept of 'Amal I*, pp. 147-55). A second very distinctive feature of Abū Ḥanīfa's legal thought is his reliance upon the hypothetical method, frowned upon by most of his contemporaries, who held instead that legal speculation should be restricted to actual problems as they occurred. Abū Ḥanīfa justified his use of the method by contending that it was the suitable means of preparing for calamities before being overwhelmed by them, so that one would know how to extricate oneself from them once they appeared. But the hypothetical method was also ideally suited, as Abū Zahra observes, for Abū Ḥanīfa's use of *qīās*, since it enabled him and his students to range together a wide variety of legal questions in accordance with a single analogue applicable to them all. This in turn greatly facilitated the first systematic compilation of major legal compendia, which spurred in turn the compilation of similar compendia in other schools after the Hanafite pattern (Abū Zahra, *Mālek*, pp. 18-19; Abd-



Allāh, *Mālik's Concept of 'Amal I*, pp. 60, 108-09).

Abū Ḥanīfa's method of using Hadith must also be understood in terms of his system of *qīās*, as well as of the special stipulations which he apparently used in evaluating them and which are illustrated in Hanafite legal theory (Abd-Allāh, *Mālik's Concept of 'Amal II*, pp. 762-64 [Appendix 1]; Kawṭarī, *Nokat*, pp. 259-66; idem, *Feqh*, pp. 36-38). Abū Ḥanīfa's method of *qīās* is predicated upon making distinctions between the normative or universal and non-normative and exceptional aspects of the law; and he regards it as valid to make *qīās*—i.e., to generalize—only on the basis of that which is normative. Consequently he identifies for each fundamental aspect of the law those Qur'an verses, Hadith, teachings or practices of the Companions, and the like which best embody the pertinent underlying precept; and he makes them his principal references and analogues in solving legal questions of an unprecedented nature. The disputes between Abū Ḥanīfa and the proponents of Hadith pertained primarily to his rejection of those isolated Hadiths (*aḥādīṭ al-āḥād*), the apparent legal implications of which ran contrary to Abū Ḥanīfa's conception of the normative principles of the law. Abū Ḥanīfa and the early Hanafites would identify such Hadith as *šādd* (irregular, non-normative); and when such Hadith pertained to social transactions (*mo'āmalāt*), regarding which Abū Ḥanīfa made extensive use of *ra'y*, he would generally not apply them, deeming them to have been abrogated or to be invalid for other reasons. If, on the other hand, such irregular Hadith pertained to acts of worship (*'ebādāt*), regarding which Abū Ḥanīfa made less extensive use of *ra'y*, he would sometimes accept them but, in light of their non-normative character, would restrict them to the narrow area to which they unequivocally applied. He would refer instead to the contrary normative Hadith or legal text to which they pertained when solving unprecedented legal questions. Hanafites refer to this special acceptance of the isolated, irregular Hadith as *esteḥsān al-sunna* (a preferred exceptional ruling based on the Sunna; see Abd-Allāh, *Mālik's Concept of 'Amal I*, pp. 170-88).

Finally, Abū Ḥanīfa is also associated with the use of *esteḥsān* (preferred exceptional ruling) and *ḥīyal* (legal fictions). The use of *esteḥsān* is probably more common in the Malikite school than it is in the Hanafite; in both schools, however, *esteḥsān* constitutes a counterpart of *qīās*, the purpose of which is to make reasonable modifications to analogical precepts when, due to special circumstances, strict application of the general precept is no longer appropriate. Malikite *esteḥsān* in practice and by definition is based primarily



upon consideration of the principle of *maṣlaḥa* (individual and social need); Hanafite *esteḥsān*, although often of this type, is more frequently performed by referring the solution of the problem in question to a less obvious analogue with a more favorable consequence and thus reflects the primacy of *qīās* in the Ḥanafī school (Abd-Allāh, op. cit., I, pp. 245-62). Abū Ḥanīfa's alleged use of *ḥīyal*—there are differences of opinion among Hanafites as to whether or not he actually espoused them—is another of the controversial aspects of his legal thought. According to Abū Zahra's study of legal fictions attributed to Abū Ḥanīfa, however, they amount essentially to instances of legal counsel and, as a rule, fall into four broad categories: (1) special absolution of foolish or ill-advised oaths, (2) special guarantees for contractual stipulations likely to be broken, (3) special provisions for necessary but formally invalid contractual stipulations, and (4) special means of ensuring legal rights which, because of the peculiarity of a case, are in danger of being forfeited (Abū Zahra, *Abū Ḥanīfa*, pp. 417-34).

Abū Ḥanīfa's writings. With the exception of the *Mosnad* of Abū Ḥanīfa (a compilation of legal Hadiths), none of the primary works ascribed to Abū Ḥanīfa pertains to law; most of them pertain to theology, often including, or consisting primarily of, wise counsels (*waṣāyā*). As mentioned earlier, Abū Ḥanīfa's legal thought was transmitted primarily by his students; and his chief legal transmitters were Abū Yūsuf and Ṣaybānī, whose books, which include their independent opinions as well as Abū Ḥanīfa's, constitute the primary documents of the Ḥanafī school. The question of establishing the authenticity of the works attributed to Abū Ḥanīfa, however, is, as Sezgin admits, a difficult problem of literary history. Juynboll and Schacht, for example, doubt the authenticity of these works and are inclined to believe that Abū Ḥanīfa left no written legacy. Sezgin, however (who has demonstrated the earlier practice of writing and compiling books in Islamic history), inclines toward regarding these works as authentic. He notes that there are numerous references to Abū Ḥanīfa's books in reports from his contemporaries, that his own students were prolific compilers of books, and that Abū Ḥanīfa lived at a time when many of the prominent religious scholars were composing books (Sezgin, *GAS* I, pp. 409-10; *EI*¹ I, pp. 90-91; *EI*² I, pp. 123-24). The major works of Abū Ḥanīfa, most of which have now been published and for which there are numerous manuscripts and commentaries, as Sezgin documents, are the following: 1. *al-Feqh al-akbar*, pertaining to theology and described by Madelung (in bibliog., p. 235) as a 2nd/8th century charter of *erjā*. 2. *Resāla elā 'Oṭmān al-Battī*, again an essentially theological tract containing Murji'ite theological views. 3. *Ketāb*



al-‘ālem wa’l-mota‘allem, also pertaining to theology (*Kašf al-zonūn* [Istanbul] II, p. 1437). 4. *Mosnad Abī Ḥanīfa*; Sezgin cites over fifteen different transmissions of the work, including transmissions by Abū Yūsuf and his son. Ebn Ḥajar, however, although he believed the work to contain Hadiths Abū Ḥanīfa would transmit and rely upon in his application of Islamic law, contends that the actual compilation of the work into chapters by subject was the work of Abū Ḥanīfa’s students (Abū Zahra, *Abū Ḥanīfa*, pp. 190-92). 5. *Al-Qaṣīdat al-kūfīya*, a poem in praise of the Prophet. 6. A number of *waṣāyā* (individual counsels) that Abū Ḥanīfa is said to have directed toward particular students of his.

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