



HANAFITE MADHAB

HANAFITE MADHAB, a school of Sunni jurisprudence named after Abu Ḥanifa No'mān b. Tābet (q.v.; 80-150/699-767), an early Kufan jurist and theologian of Persian descent. The Hanafite law-school (*madhhab*) grew out of the ancient "school" of Kufa in which Abu Ḥanifa was a leading influence. Although he did not leave behind any writings on *feqh* (q.v.), he did attract a number of disciples, among whom were the transmitters of his teachings, namely Abu Yusof Ya'qub b. Ebrāhim (d. 182/798) and Moḥammad Šaybāni (d. 189/805). It is only through the writings of these students that the teachings of Abu Ḥanifa himself came to form the basis of an identifiable school of jurisprudence. Of the two leading disciples of Abu Ḥanifa, less is known of Abu Yusof. Among the works attributed to him in Ebn al-Nadim's *Fehrest* (ed. Tajaddod, p. 256-57) only his *Ketāb al-ḵarāj* has survived; it is largely devoted to questions of taxation and fiscal administration. From those parts of the work that bear on legal questions as well as from other early legal and biographical sources (Sezgin, *GAS* I, pp. 419-21), it is clear that Abu Yusof, while continuing the main thrust of his master's teaching, did diverge from the latter in several ways. He placed greater emphasis on the Hadith as a source of law than Abu Ḥanifa seems to have done; he relied less on individual reason (*ra'y*) in the resolution of legal questions; and finally, his willingness to change his position, particularly on questions of application, suggests a greater degree of flexibility. Joseph Schacht has suggested that this flexibility was due, in some measure, to his experience as a judge faced with the need for solutions to concrete legal questions (Schacht, 1950, pp. 301-6; 1964, pp. 44-45).



But it is essentially through the works attributed to Šaybāni that the judicial opinions developed by Abu Ḥanifa and his Kufan circle are known. While much of Šaybāni's substantial literary output (Sezgin, *GAS* I, pp. 421-33) was devoted to the transmission of the views of earlier members of the school, it is clear that Šaybāni's own contribution was more than as merely a transmitter (Schacht, 1950, p. 360ff.); therefore, it is with good reason that he has generally been classified among the founders of the Hanafite maḍhab. Among his works, the following came to constitute a kind of canon within the school, whose transmission was deemed to be a sacred duty: (1) *Ketāb al-aṣl* (known also under the title of *al-mabsuṭ*), a short but seminal work on Hanafite law, the memorization of which has been considered sufficient to qualify one as a *mojtahed*; (2) *Ketāb al-jāme' al-kabir*; (3) *Ketāb al-jāme' al-ṣaḡir*; (4) *Ketāb al-siār al-kabir*; and (5) *Ketāb al-siār al-ṣaḡir*, which has been translated into English by Majid Khadduri (1966). A number of the shorter treatises attributed to him (e.g. his *Ketāb ejtehād al-ra'y*, *Ketāb al-esteḥsān* and *Ketāb oṣul al-feqh*) reflect an interest in legal theory as opposed to practice. In particular, Šaybāni devoted considerable attention to the question of the respective roles of individual reasoning (*ra'y*) and Hadith in the elaboration of feqh, insisting that the two could complement each other. At the same time, he went to considerable lengths to justify his legal doctrines on the basis of Hadith, especially those traced back to the Prophet. In contrast to Abu Yusof, Šaybāni accorded a higher degree of authority to Hadith attributed to the Prophet than he did to those traced back to the Companions (*ṣaḥāba*). At the same time, according to Eric Chaumont, the juridical reasoning employed by Šaybāni was considerably "more rigorous and systematic than that of Abū Ḥanifa and Abū Yūsof or Mālik" (Chaumont, p. 394). He also advocated a stricter kind of *qiās* (analogical reasoning) and, in this respect, reflected a position very close to that favored by Šāfe'i in his *Resāla*. In general, it can be said that Šaybāni represents the beginning of a transition from the *local* schools of the early period to the *personal* schools of the classical period.

Despite certain differences within the maḍhab on questions of doctrine, Hanafism did come to represent a relatively coherent body of legal doctrine already quite early on. The notion of *ra'y* played an important role in Hanafite thought from the beginning, but it would be wrong to suppose, as is sometimes suggested in secondary sources, that *ra'y* implied a certain reticence regarding the use of Hadith. As Abd-Allah and others have shown, the emphasis on *ra'y* was combined with a systematic reliance on Hadith (Abd-Allah, 1978, I, pp. 121 ff.). For Hanafism, *ra'y* and Hadith formed part of an integral whole.



Undoubtedly, the single most distinctive feature of Hanafite legal theory is the significant role given to *qiās*, or analogical reasoning, a legal procedure rejected by Zahirites and Imami Shi'ites and allowed only in a very limited sense by Hanbalites. For Hanafites, *qiās* was not just a method of reasoning, it was, as Abd-Allah has pointed out, a method of generalization that enabled the school to extrapolate from the Qur'ān and the Hadith a set of general, normative legal principles. While its heavy emphasis on *qiās* gave to Hanafite thought a certain tendency towards systemization and reification, Hanafites were, on the whole, sensitive to the need to maintain flexibility particularly in the application of the law; to an important extent this was achieved through the concepts of *esteḥsān* (preferred exceptional ruling) and *ḥial* (legal stratagems). What distinguished Hanafite jurisprudence from that of the other Sunni schools was not primarily its use of these concepts—after all, they were hardly exclusive to their school—but rather the way in which they were interpreted and applied. (For a systematic treatment of Hanafite law, see Abu Zahrā, pp. 234 ff. See also Abd-Allah, I, pp. 147-88, for a more detailed comparison of the legal theory of the four Sunni schools.)

The majority of those associated with the Hanafite *madḥab* in the early period, especially those in positions of authority (including such prominent figures as Abu Ḥanifa, Abu Yusof, and Šaybāni), identified themselves with the teaching of moderate Murji'ism, a politico-religious movement which professed that one's status as a Muslim depended exclusively on one's faith, or confession of belief, and not at all on one's actual deeds. While the precise historical reasons for this preference for Murji'ism have been debated at length, the fact that the *mawāli* (mainly of Persian background in the early period) were well represented in both Hanafite and Murji'ite circles may partially explain the connection. What is clear is that already during the lifetime of Abu Ḥanifa, the Hanafite and Murji'ite movements spread eastward into Khurasan and Transoxiana frequently through the efforts of the very same individuals, a number of whom, like Abu Ḥanifa himself, were of Persian origin. Among the more important, one may mention especially Abu'l Hoḍayl Zofar 'Anbari, Abu Moṭi' Balki (q.v.) and Abu Moqātel Samarqandi, all younger contemporaries of Abu Ḥanifa. It was the establishment of a strong Hanafite-Murji'ite presence in the east, especially among the rapidly increasing *mawāli* population, that facilitated the eventual spread of Hanafism to the Turks. It was natural that the Samanids, given their power base in the east and their Persian background, should embrace both Hanafism and Murji'ism. Later, the Saljuqs also became champions of the Hanafite *madḥab*, along with Mātu-ridi



theology, which had formed in Hanafite circles in Transoxiana under the influence of later permutations of Murji'ism. Maturidism, though close to Ash'arism on a number of points, differed with regard to the question of the divine attributes (*ṣefāt*), freewill, and the relationship between faith and works (cf. Madelung, "Māturīdiyya," *EI2VI*, pp. 847-48). The westward expansion of the Saljuqs in the 5th/11th and 6th/12th centuries enabled Hanafism of the eastern variety, with its Persian and Turkish character, to become firmly established in the west, especially in the cities of western Persia, Iraq, Syria and Anatolia. The eastern roots of the Ottoman dynasty also explain its adoption of the Hanafite maḏhab, a connection that was to remain intact until the demise of the empire in the early 20th century. Although it was not uncommon for Hanafite jurists in the 4th/10th, 5th/11th and 6th/12th centuries to identify with one of the other schools of theology, the Hanafite connection with Murji'ism and Maturidism was to remain firm in the subsequent centuries (Madelung, 1971, pp. 109-68). From eastern Persia and Transoxiana, Hanafism found its way into India, on the one hand, and into Central Asia and western China, on the other.

The legal works of Šaybāni, Helāl b. Yaḥyā (d. 245/859), Abu Bakr Kaṣṣāf (d. 261/874) and others of the early period formed the basis for the work of some of the most important Hanafite jurists of the classical period, among whom the following are representative: Abu Ja'far Ṭaḥāwi (d. 321/933), the author of several works of law, especially his *al-Moḳtaṣar fi'l-feqh*, which set forth a decidedly traditionalist interpretation of Hanafite law; Ḥakim al-Šāhed (d. 334/945), author of a widely used abridgment of the principal legal works of Šaybāni under the title of *al-Kāfi*; al-Qoduri (d. 428/1036), whose famous *Moḳtaṣar* formed the basis for a number of later works of Hanafite jurisprudence, and Abu Bakr Saraḳsi (d. 483/1090), who produced an important commentary on the *Kāfi* of Ḥakim al-Šāhed.

These works of the classical period, however, were gradually overtaken and eventually replaced by a number of later handbooks and commentaries—a phenomenon that can be observed in all of the medieval schools of law. The most important of these later handbooks was the celebrated *Hedāya* of Borhān-al-Din Margēnāni (d. 593/1197), on which numerous commentaries were written over the next several centuries (Brockelmann, *GAL* I, pp. 376-87; Suppl., I, pp. 644-49; tr. Charles Hamilton, 1791). Then there was the *Kanz-al-daqa'eq* of Abu'l-Barakāt Nasafi (d. 710/1310), which formed the basis for a number of commentaries, especially in the 9th/14th and 10th/15th centuries



(*EI2*VII, p. 96; Brokelmann, *GAL* II, pp. 250-53). During the Ottoman period the *Moltaqa al-abḥor* of Ebrāhim Ḥalabi (d. 956/1549) became one of the most popular handbooks of Hanafite law used in the Ottoman Empire.

Hanafite jurists were equally productive in the field of *oṣul al-feqh* (the principles of jurisprudence). Among the works in this branch of Hanafite jurisprudence, mention must be made of the *Kanz al-woṣul* of Bazdawi (d. 428/1089), the *Keṭab al-oṣul* of Saraḳsi, the *Madār al-Anwār* of Abu'l-Barakāt Nasafi, and the *Tawziḥ* of 'Obayd-Allāh Maḥbubi (d. 747/1346).

The first attempt to codify Hanafite law, indeed, Islamic law in any form, occurred in 1877 under the aegis of the Ottoman Empire. Since then, however, and particularly in the 20th century, the trend toward codification, normally carried out through the state, has become perhaps the most noticeable feature of current legal practice within the Muslim world. Although perhaps inevitable given modern conditions, this trend does mark a significant break with Islamic jurisprudence, both at the level of practice and theory (Meyer, pp. 177-98).

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