

The Zāhirī Madhhab (3rd/9th-10th/16th Century): A Textualist Theory of Islamic Law, by Amr Osman (Studies in Islamic Law and Society, 38) (Leiden & Boston: Brill, 2014), vi + 308 pp., ISBN: 978-90-04-27619-2, €122.00 / \$145.00 (hb)

The present book, a revised version of the author's doctoral thesis at Princeton University, presents a new study of the history of the Zāhirī *madhhab* of Islamic law. In Part I, the author gathers all available information on the scholars who have been counted as adherents of the Zāhirī school beginning with the founder Dāwūd ibn ʿAlī al-Iṣbahānī (d. 270/884) to the latest recorded representative in the 10th/16th century.

In Part II, the author provides a critical analysis of the characteristics of the Zāhiriyyah in comparison with the other Sunnī *madhhabs*, most of which continued to flourish after its decline. He defines Zāhirism as essentially a textualist *madhhab*, criticizing its description as literalist by most modern scholars since I. Goldziher. The common meaning of Arabic *zāhir* indeed is apparent, obvious, and exoteric, in contrast to *bāṭin*, hidden, concealed, and esoteric. The apparent meaning of a text or speech may well differ from its literal meaning. Next he argues that the Zāhiriyyah since its founder belonged to the *Ahl al-raʿy*, the rationalists, in distinction to the *Ahl al-ḥadīth*, who were opposed to the use of *raʿy*, reasoning, personal opinion, in religion. This judgment obviously must seem controversial, as it conflicts with his definition of Zāhirism as a textualist *madhhab*. If Dāwūd al-Zāhirī sought to found Islamic law on texts, the Qurʾān and *ḥadīth*, not on independent reasoning, should he not rather be considered as belonging to the *Ahl al-sunnah*, the name applied to the early opponents of the *Ahl al-raʿy* before the emergence of the *Ahl al-ḥadīth*? It is true, however, that the elaboration of a legal *madhhab* inevitably is a rational endeavor, and from the point of view of the *Ahl al-ḥadīth* Dāwūd al-Zāhirī thus could be seen as belonging to the *Ahl al-raʿy*. The contemporary *Ahl al-ḥadīth* held that faithful Muslims should merely gather all transmitted *ḥadīth*, critically authenticate whatever was sound, and live in accordance with the Sunnah of the Prophet and of the

Companions without seeking to establish a systematic law based on reasoning. The author does not seem to recognize this fact, as he suggests that the early *Ahl al-ḥadīth* did establish a legal *madhhab* based, unlike Dāwūd al-Zāhirī's, only on *ḥadīth* (p. 91). He then notes with some surprise that Ibn Khaldūn "does not seem to have regarded Ibn Ḥanbal as a jurist. He attributes the formation of his *madhhab* to his students." (p. 97). Ḥanbalism in fact was not recognized as a legal *madhhab* until the early Mamlūk age when it finally acknowledged the need for legal reasoning in a much changed social and technological environment against the intention of Aḥmad ibn Ḥanbal.

The author's essential bias in favor of the *Ahl al-ḥadīth* is evident in his statement that Ibn Qutaybah's "focus on the Ḥadīth-related activities of the *Ahl al-ḥadīth* echoes the contention of their opponents that they were primarily Ḥadīth transmitters but not competent jurists or theologians." (p. 93). This was not a contention of their opponents but a plain fact. Ibn Ḥanbal was not a competent jurist for the simple reason that he did not want to be a jurist. He was not a competent theologian because his theological reasoning misled him to the assertion that the Qurʾān addressed to Muḥammad and recited by Muslims and non-Muslims was co-eternal with God, a doctrine rejected by Ibn Taymiyyah as absurd and inconsistent with *ḥadīth* which describes God's speaking to prophets directly or indirectly, during their lifetime. Ibn Ḥanbal's doctrine had no basis in either Qurʾān or *ḥadīth* as it was well-known that the question of the Qurʾān's created or uncreated nature was not discussed during the age of the Prophet and the Companions.

Opponents of personal reasoning among the *Ahl al-ḥadīth* rightly pointed out that human reason is fallible and constantly subject to temptations during life on earth. Humans, they held, should therefore rely on revelation, the Qurʾān, and the Sunnah of the most virtuous of humankind, the Companions of the Prophet, in the conduct of their lives. They ignored that the true meaning of the Qurʾān can only be understood by sound rational judgment and that exemplary Sunnah had to be learned by everybody through personal deliberation. The conditions and challenges of life of every human being differ, and so does good Sunnah. The intellect is ultimately the only path through which revelation, knowledge of good and evil, can reach the conscience of rational human beings.

The *Zāhirī madhhab* became extinct on account of its closeness to the *Abl al-ḥadīth*, not because of its belonging to the *Abl al-raʿy*. As by the beginning of the Mamlūk age it was clear to all Muslims that no nostalgia could ever bring back the golden age of the Companions, Ḥanbalism became the fourth legal *madhhab* of Sunnī Islam, and the *Abl al-ḥadīth* gradually disintegrated despite the continued need for the transmission of *ḥadīth*. The futility of the *Zāhirī* endeavor to establish a purely textualist legal *madhhab* without a minimum of legal reasoning allowing analogy (*qiyās*) became apparent. The last *Zāhirīs* mostly joined the Shāfiʿī *madhhab* which had always upheld the use of *qiyās* as a legitimate source of the religious law.

A few marginal notes may be added. On pp. 37-39 the author refers to the Ismāʿīlī Qāḍī al-Nuʿmān repeatedly as al-Qāḍī al-Nuʿmān and in n. 150 simply as al-Qāḍī. While it is proper in English to retain the Arabic article *al-* in personal names like al-Nuʿmān, it should be avoided in titles or professions, where the article should either be translated into English or dropped: the Qāḍī al-Nuʿmān or Qāḍī al-Nuʿmān. On p. 68 the reader of the book may similarly be misled into assuming that *Sulṭān* was part of the personal name of Abū Muḥammad Yaʿqūb ibn Yūsuf. *Sulṭān* here obviously is not part of the name of this scholar, but a title indicating that he belonged to the ruling Almohad family. P. 53: The student of Bishr ibn al-Ḥusayn named Abū Saʿd Bishr ibn al-Ḥusayn presumably was a son of his, and his name should be corrected to Abū Saʿd ibn Bishr ibn al-Ḥusayn. He can hardly have been his brother as suggested by the author. P. 53, n. 38: The book title *al-Ibānah* should be corrected to *al-Inbāb*. P. 55: ibn Tagh̄j al-Ikhshīd, correct: ibn Ṭugh̄j al-Ikhshīd. P. 56: al-Bukhtarī, correct: al-Bakhtarī. Pp. 71-72: Aḥmad ibn Muḥammad ibn al-Rūmiyyah al-Nabātī was an expert on medical herbs, a botanist, not an “herbs’ seller.”

P. 121 with n. 136: The view that during the *Miḥnah* the doctrine of the created nature of the Qurʾān was pressed upon the caliph al-Maʿmūn by zealous Muʿtazilī theologians is no longer tenable. Al-Maʿmūn was critical of the basic Muʿtazilī doctrine of human free will and backed divine determinism. He generally favored the theological thought of the Jahmiyyah. The theologian close to him was the Jahmī Bishr al-Marīsī. Aḥmad ibn Ḥanbal in turn railed primarily against Jahm ibn Ṣafwān and the Jahmiyyah and only secondarily against the Muʿtazilah. Ibn Ḥanbal’s doctrine of the uncreated nature of the

Qurʾān cannot be considered a fundamental doctrine of the *Abl al-ḥadīth* since it had no basis in *ḥadīth*. Dāwūd al-Zāhirī's rejection of Ibn Ḥanbal's doctrine thus does not distance him from the traditionalism of the *Abl al-ḥadīth*.

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