

Prof. Devin J. Stewart

Notes on the Early History of the Genre of *Aḥkām al-Quran*

The documentary record suggests that in the history of Islamic legal literature, members of the Shāfi`ī legal school were particularly influential. The *Risālah* of al-Shāfi`ī (d. 204/820) was widely considered to have inaugurated the genre of *uṣūl al-fiqh*. Among the biographical dictionaries devoted *ṭabaqāt al-fuqahā'* “generational classes of jurists,” that of Abū Ishāq al-Shīrāzī (d. 476/1083) takes pride of place. The earliest and most influential works on *qawā'id* “legal maxims” include those of `Izz al-Dīn b. `Abd al-Salām (d. 660/1262). Yet close examination of the sources, particularly for the early Islamic centuries, suggests that the appearance of the Shāfi`ī innovation and may be due more to the Shāfi`īs' better record in preserving the work of their Shāfi`ī predecessors than to their actual dominance of the fields in question, and that jurists of the Ḥanafī school were more important than has been realized. It is often not stressed that al-Shāfi`ī is held to have copied all the works of al-Shaybānī in Baghdad before he ended up in Egypt and that his major work, *Kitāb al-Umm* or *Kitāb al-Mabsūṭ*, may have been to a large degree, a response to al-Shaybānī's elaboration of the law. Particularly because the *Risālah* differs radically in formal terms from later manuals of *uṣūl al-fiqh*, several scholars have cast doubt on this work's supposed role in the creation of the genre (Hallaq 1987) and suggested that the Ḥanafīs and Mu`tazilīs played a greater role in it than has been realized. Indeed, it looks as though the Ḥanafīs may have suppressed the work of their early predecessors because it adopted what became unpopular positions, such as the acceptance of *ra'y* as one of the sources of jurisprudence or the rejection of most of the *ḥadīth* corpus (Stewart 2002, 2004). The present paper examines the early genre of *aḥkām al-Quran*, works devoted to the identification of the Qur'anic verses that serve as the basis for legal elaboration, drawing on the *Fihrist* of Ibn al-Nadīm (d. 380/990), *Aḥkām al-Quran* of al-Jaṣṣāṣ (d. 370/980), one of the earliest extant exemplars of the genre, and other accounts preserved in the biographical literature, especially in *Ṭabaqāt al-Shāfi`iyyah al-kubrā* by Tāj al-Dīn al-Subkī (d. 771/1370). It will be suggested that the Ḥanafīs played a prominent role in the history of this genre in the early Islamic centuries as well.



Prof. Devin J. Stewart

Emory University

Devin J. Stewart is a professor of Islamic studies and Arabic language and literature. His research interests include Islamic law, the Qur'an, Islamic schools and branches and varieties of Arabic. Stewart has taught Arabic studies, Islamic studies and Middle Eastern studies at the Department of Middle Eastern and South Asian Studies at Emory University for the past two decades. He also serves on the editorial board for the *Library of Arabic Literature*. Much of Stewart's work has focused on the reconstruction of early Muslim legal theory based on ancient texts. He has also called attention to infrequently studied genres of Arabic literature such as *Maqāma*. He is the author of *Islamic Legal Orthodoxy: Twelver Shiite Responses to the Sunni Legal System*. Salt Lake City: University of Utah Press, 1998, and many more articles.