

Quite frequently the groups involved in dialectic are left unidentified and anonymous and are introduced by phrases such as *qāla qawm* or *minhum man qāla*. Where the opposing parties are also anonymous, they are either introduced by these same phrases or by phrases such as *qāla ākharūn*, *qāla al-bāqūn*, or *qāla ghayruhum*. Not infrequently explicit mention of anonymous parties is not made at all, and their existence must be inferred from the term *ikhṭalafū*, used as an opener of an account of a given *mas'alah*, or from the dialectical format of the account (*in qāla . . . qulnā*).

When Āmidī wishes to indicate a quantitative relationship between parties (the majority against a minority), he employs terms such as *al-aktharūn*, *al-akthar*, *al-jumhūr*, *al-jamāhīr* or *al-kull* for the majority and terms such as *al-aqallūn*, *al-shudhūdh* or *al-shādhdhūn* for the minority. Frequently the terms connoting a majority are attached to the names of groups, as in *akthar aṣḥāb al-Shāfi'ī* or *jumhūr min al-Ḥanafīyah*, but often they appear alone, in which case we cannot be certain of what population the group thus designated is the majority. *Al-kull* is especially curious. Though seeming to be all-inclusive, it in fact is not, as is clear from the fact that it is generally followed by the phrase *khilāfan li-*, which introduces an exception ("Everyone affirms such-and-such in disagreement with so-and-so"). But even without the stated exception, *al-kull* necessarily is limited to a field of discourse of some sort.

In our search for significant *uṣūl*-related *madhhab* differences, it is of course the dialectical encounters involving the four classical schools of law or their eponyms that will be of primary interest. The schools are designated in two different ways: by means of the familiar collectives (Shāfi'īyah, Ḥanafīyah, Ḥanābilah and Mālikīyah) and by means of construct phrases that combine *aṣḥāb* and the name of an eponym (Aṣḥāb al-Shāfi'ī, Aṣḥāb Abī Ḥanīfah, Aṣḥāb Aḥmad ibn Ḥanbal and Aṣḥāb Mālik). I shall call these latter "*aṣḥāb* phrases". One also encounters with great frequency the designation *aṣḥābunā*, which customarily appears in opposition to or alongside designations of the Ḥanafī, Mālikī or Ḥanbalī schools such as to render it synonymous with Aṣḥāb al-Shāfi'ī. The same seems to be true of *'indanā* ("according to us", meaning "us Shāfi'īs").

On the other hand, *aṣḥābunā* is on occasion juxtaposed with *Mu'tazilah*, in which case it seems to translate into *Ashā'irah*. The close affiliation of Ash'arism with the Shāfi'ī school has been well docu-

mented by George Makdisi.<sup>2</sup> Although many Shāfi'īs distanced themselves from dialectical theology (*kalām*), it was nonetheless to the Shāfi'ī school that persons such as Āmidī who subscribed to Ash'arī theology gravitated. Āmidī's interest in *kalām* in fact had much to do with his transfer of allegiance from the Ḥanbalī school to the Shāfi'ī. Thus Āmidī could quite comfortably use *aṣḥābuna* with either fellow-Shāfi'īs or fellow-Ash'arīs in mind, since in either case those thus designated were Shāfi'īs in matters of law.

In the medieval *madrasah*, the term *aṣḥāb* (sg. *ṣāhib*) referred to an established scholar's inner circle of advanced student, his "fellows" (to use George Makdisi's translation). As Professor Makdisi has shown,<sup>3</sup> the status of *ṣuḥbah* was the high point of an individual's student days. Phrases such as *aṣḥāb al-Shāfi'ī* can therefore refer to the close disciples of a master, his immediate associates. This is not, however, the import of the phrases as used by Āmidī, as is clear from his frequent mentioning as *aṣḥāb* of a master scholars who lived well after the master's death (*aṣḥāb fulān ka . . .*). An example is *jamā'ah min aṣḥāb al-Shāfi'ī ka al-Ṣayrafi wa al-Ghazālī*.<sup>4</sup> Ṣayrafi died in 330/941, a century and a quarter after the death of Shāfi'ī in 204/820, and Ghazālī died much later (505/1111). It is curious that Āmidī at least once uses the term *nuqila* in conjunction with *aṣḥāb* phrases (*nuqila 'an aṣḥāb Abī Hanīfah wa 'an Aḥmad . . . wa 'an ba'd aṣḥāb al-Shāfi'ī*),<sup>5</sup> suggesting that the *aṣḥāb* lived in times past and that their doctrine formed a transmitted tradition. This would seem to exclude Āmidī and his contemporaries from the category of *aṣḥāb* of an eponym and thus to separate that category entirely from *aṣḥābunā*, which clearly does include Āmidī and his contemporaries. On the other hand, *aṣḥābunā* also includes scholars of previous generations, as is clear from examples such as *Abū Ḥāmid al-Isfarā'inī min aṣḥābinā*.<sup>6</sup> (Isfarā'inī died in 406/1015, as compared to Āmidī, who died in 631/1233.) There is no reason to suppose that *aṣḥāb al-Shāfi'ī* does not in general include Āmidī and his Shāfi'ī contemporaries and

<sup>2</sup> George Makdisi, "Ash'arī and the Ash'arites in Islamic Religious History", *Studia Islamica* 17 (1962): 37-80; and 18 (1963): 19-30.

<sup>3</sup> George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West* (Edinburgh: Edinburgh University Press, 1981), 128.

<sup>4</sup> Sayf al-Dīn al-Āmidī Abu al-Ḥasan 'Alī b. Abī 'Alī b. Muḥammad, *al-Iḥkām fi uṣūl al-aḥkām*, 4 vols. (Cairo: Dār al-Kutub al-Khidwiyah, 1914), 1:248.

<sup>5</sup> *Iḥkām*, 4:190.

<sup>6</sup> *Iḥkām*, 1:207.

that the conjoining of *aṣḥāb* phrases with *nuqila 'an* is exceptional. I shall in any case here treat the *aṣḥāb* phrases (including *aṣḥābunā*) and the standard collectives as equivalents.

Quite frequently the collectives as well as the *aṣḥāb* phrases are combined with terms of quantification such as *akthar* (as in *akthar aṣḥāb al-Shāfi'ī*) and *jumhūr* (as in *jumhūr min al-Shāfi'īyah*), both of which signify majorities within the schools, and *ba'd* and *jamā'ah* or similar term (for example, *ba'd al-Shāfi'īyah* and *jamā'ah min aṣḥāb Abī Hanūfah*), which signify factions within the schools that are presumably less than majorities. *Minhum man* is also sometimes used to designate factions within a school. One also sometimes comes across phrases such as *shudhūdh min al-Ḥanafīyah*, which indicates minority status with a school.

The type of dialectical encounter that one might be inclined to turn to first in the search for uṣūl-related *madhhab* differences is the type in which whole schools, rather than segments of schools (majoritarian or otherwise) or eponyms, are lined up on opposing sides of a controversy. This raises the question of whether unquantified school designations stand, in Āmidī's mind, for entire schools without any exception. We may reasonably assume that the schools thus designated were for Āmidī whole schools to the best of his knowledge. This is not to say that he would claim to have been able to canvass the opinions of the entirety of scholars who belonged or had belonged to a school thus designated; in all probability his claim would be that he knew of no prominent scholar within the history of the school that took exception. In the final analysis, however, all these considerations are purely academic for our present purposes, since no controversy is to be found in the pages of the *Iḥkām* in which all four schools are represented by means of unquantified designations. If controversies involving all four schools is to be our special interest, we must settle for controversies in which the four schools are represented in different ways, never all by means of unquantified school designations. For example, the parties to a controversy may be the Ḥanafīs, some Shāfi'īs, most Ḥanbalīs and Mālik ibn Anas. The different mixes that crop up in dialectical encounters in the *Iḥkām* are many indeed. It is incidentally important to bear in mind that even when the mixes include all four schools in some way they more often than not include other types of groups and/or individuals other than eponyms. This serves to alert us to the fact that Āmidī is not just interested, in his accounts of controversies, in schools of law or

their eponyms, important as these may have been for him.

In searching for controversies involving all four schools, we are presumably not giving pride of place to controversies in which the four schools hold four different views on a given question. This would amount to an exercise in futility and would be pointless. Most controversies entail a positioning on one side of a fence or the other. The reason for an interest in controversies involving the four schools is a desire to see how the schools line up on a particular question: which ones are on this side, which ones are on that side?

It is worth noting that instances in which all four schools appear in controversy as (presumably) whole schools are non-existent and that instances in which all four appear as majorities or in the person of their eponyms are extremely rare. I have in fact found only one of each of the latter in the *Ihkām*. The instance of controversy involving majorities has to do with a question relating to the use of analogy in the formulation of rules: whether an *illah mustanbatah*—an inferred reason for a rule's existence as opposed to a textually stated reason—may be restricted in its operation by virtue of proven exceptions. We are told that most Ḥanafīs, most Mālikīs and most Ḥanbalīs say that an *illah mustanbatah* may be restricted, whereas most Shāfi'īs say it may not.<sup>7</sup> The sole instance in which the eponyms of the four schools are all involved as parties has to do with the question of whether a *khbar mursal*—a report concerning the Prophet whose line of transmitters lacks the first transmitter—can be accepted as a basis for a legal judgment. We find that Abū Ḥanīfah, Mālik and Ibn Ḥanbal said that it could be accepted and that Shāfi'ī insisted on certain conditions.<sup>8</sup>

Instances in which (presumably) whole schools or school majorities are combined with eponyms too form a complete set of four parties are more plentiful. For example, on the question of whether the Qur'ān may be abrogated by a *sunnah* of undoubted authenticity (*mutawātirah*) we find a Shāfi'ī majority and Ibn Ḥanbal on the side of those who reject such abrogation and the Ḥanafī school and Mālik on the side of those who accept it.<sup>9</sup> No mention is made of

<sup>7</sup> *Ihkām*, 3:315. In *akthar aṣḥāb Abī Ḥanīfah wa-mālik wa-aḥmad ibn Ḥanbal*, I am taking the last two names of eponyms to be in grammatical apposition with *Abī Ḥanīfah* and thus in construct with *akthar aṣḥāb*.

<sup>8</sup> *Ihkām*, 2:178.

<sup>9</sup> *Ihkām*, 3:217.

the schools that bear the names of Ibn Ḥanbal or Mālik. (On the other hand, Shāfi'ī is mentioned along with the Shāfi'ī majority, which suggests that the name of an eponym alone does not suffice as a reference to the school.) Throughout the *Ihkām* any combination of school, school majority or eponym is possible in a given account of a controversy. The above example (a school, a school majority and two eponyms, not counting Shāfi'ī, who is mentioned alongside his school) is only one such combination.

In all of the instances of four-school involvement in controversy just mentioned the parties are on one side of the controversy or the other. Often in the *Ihkām* a school is divided on a given issue or an eponym appears on both sides. The very notion of a school majority in fact implies the existence of a minority and thus a division within the school. However, minorities are frequently left unmentioned, opening up the possibility that those who do not belong to the majority simply are not involved of the controversy. When minorities are mentioned, division within a school is not merely implied but is expressly affirmed as an essential component of the dialectic. The more common type of division within a school is reflected in the use of *ba'd* or *jamā'ah*: some Shāfi'īs (for example) say this, some say that; or one group of Shāfi'īs say this, another says that. The appearance of an eponym on both sides of a controversy is normally due, not to ambivalence or change of mind, but to diverse attributions. Ibn Ḥanbal and Abū Ḥanīfah are frequently said to have held a certain opinion "in one of two traditions" (*fi riwāyah min riwāyatayn*); in the case of Shāfi'ī the preferred formula is: "in one of two statements" (*fi qawl min qawlayn*). The second tradition or statement comes later in the account. Āmidī deals with the problem of contradictory traditions or statements in a special section of the *Ihkām*.<sup>10</sup>

Where we encounter division within a school or contradictory attributions to an eponym, we are of course dealing with differences within schools rather than with the subject of this study, differences between schools. Our concern here can be only with controversies in which schools are on one side or the other and are not divided between the two sides. Majoritarian opinions unaccompanied by mention of alternative opinions within a school are problematic but may be considered of use in this study. As for the opinions of eponyms,

<sup>10</sup> *Ihkām*, 4:269–273.

they also are of use in this study when singular and noncontradictory. In the light of Wael Hallaq's study of *takhrīj* elsewhere in this volume, we must put opinions of eponyms in the context of the process of construction of juristic authority. As attributions and constructs of schools, they too can be treated as a conduit of school positions, and when contradictory as reflective of school divisions.

The paucity of controversies in the *Ihkām* involving all four *madhhabs* need not, however, deter us, since *madhhab* differences can be of interest to scholarship whether four, or three, or even as few as two *madhhabs* are accounted for. Most controversies covered in the *Ihkām* are, as I have said, two-sided, so that where three or four schools are involved, they will align themselves around two basic positions. This being the case, a controversy between just two schools can have a high degree of potential significance, since it takes only two schools to generate two different perspectives and two sets of arguments to go with those perspectives. Once launched, a controversy can over time widen its reach among the schools. This is no doubt how Muslim legal dialectic in large part actually developed.

Once this point has been taken into account, an important observation about Āmidī's accounts of controversies involving the schools and their eponyms begs to be made. Anyone who carefully surveys these accounts cannot fail to notice how frequently Shāfi'īs and Ḥanafīs are on opposite sides. This is true not only of controversies in which Shāfi'īs and Ḥanafīs appear alone as parties, which are relatively few in number; it is true also of controversies in which both Shāfi'īs and Ḥanafīs or their eponyms appear along with other schools, groups and individuals. Even within such mazes Shāfi'īs and Ḥanafīs are typically on opposite sides. The three controversies previously mentioned in this study (whether the *'illah mustanbaṭah* can be restricted, whether a *khbar mursal* is acceptable, whether the Qur'ān may be abrogated by a *sunnah mutawātirah*) exemplify this point. This is not to say that Shāfi'īs and Ḥanafīs never share the same position in Āmidī's accounts. I found six accounts of *masā'il* in which they are represented as in agreement, in these instances with the Ḥanbalīs on the opposing side. However, the controversies in which Shāfi'īs and Ḥanafīs are on opposing sides are much more numerous.

An observation worth making in passing is that in controversies involving more than two schools or eponyms of schools the Shāfi'ī school is omnipresent (which is not surprising, considering that Āmidī was himself a Shāfi'ī) and the Ḥanafī nearly so. Of the two other Sunnī schools, the most frequent in appearance is the Ḥanbalī school

or its eponym and the least frequent the Mālikī school or its eponym. One wonders to what extent this reflects the manner in which Islamic legal dialectic developed. The Shāfi'ī-Ḥanafī encounters were, it seems, typically the principal catalyst. These two schools, the data in the *Ihkām* seems to suggest, were the earliest to develop their dialectical skills to an advanced degree and to exercise those skills in debate over questions of the sort that fill the pages of the *Ihkām*. The Ḥanbalī and Mālikī schools were for various historical reasons by comparison late-comers to the dialectical scene portrayed in Āmidī's accounts. It should be kept in mind that when Mālikī writers such as Qādī Abū Bakr and Ibn al-Ḥājjib and Ḥanbalī writers such as Ibn Qudāmah took to writing about *uṣūl al-fiqh* they did so under strong Shāfi'ī influence.<sup>11</sup>

Given the seminal character of the Shāfi'ī-Ḥanafī differences, a listing of these differences should prove useful. The following list contains all the Shāfi'ī-Ḥanafī differences I was able to locate in the *Ihkām*. In most cases there are other parties in the controversies besides the two schools or their eponyms. My criterion of selection was the positioning of the schools and/or their eponyms *entirely* on one side or the other of the controversy. Controversies in which either one school or both schools were divided or in which one eponym or both appear on both sides are not included. The Shāfi'ī-Ḥanafī differences thus identified are as follows:

1. The Shāfi'īs maintain that *farḍ* and *wājib* are identical categories; the Ḥanafīs maintain that they are different.<sup>12</sup>

2. Shāfi'ī held that the obligation to fast and the prohibition against fasting during *yawm al-ʿīd* are contraries; Abū Ḥanīfah (thanks to a distinction between a duty as such and its implementation) held that they are not.<sup>13</sup>

3. A group (*jamā'ah*) of Shāfi'īs maintain that recommended acts fall in the category of commanded (*ma'mūr*) acts; two noted Ḥanafīs (Jaṣṣāṣ and Karkhī) maintained that they do not.<sup>14</sup>

4. Shāfi'ī contended that non-*mutawātir* Qur'ānic material, such as the *muṣḥaf* of Ibn Mas'ūd, is not authoritative; Abū Ḥanīfah held that it is.<sup>15</sup>

<sup>11</sup> On the development of the schools see Christopher Melchert, *The Formation of the Sunni Schools of Law* (Leiden: Brill, 1997).

<sup>12</sup> *Ihkām*, 1:139.

<sup>13</sup> *Ihkām*, 1:168.

<sup>14</sup> *Ihkām*, 1:170.

<sup>15</sup> *Ihkām*, 1:229.

5. If the true condition of a *ḥadīth* transmitter (*rāwī*) is unknown but he appears outwardly (*zāhir*) to be a good Muslim and not a profligate, then according to Abū Ḥanīfah and his followers his reports should be accepted, while according to Shāfi'ī (and Ibn Ḥanbal) his true condition must be known before his reports can be accepted.<sup>16</sup>

6. Shāfi'ī (and Ibn Ḥanbal) held that one who held a license (*ijāzah*) from a *ḥadīth* teacher was entitled to transmit *ḥadīth* by virtue of that license; Abū Ḥanīfah denied this.<sup>17</sup>

7. Shāfi'ī allowed a *ḥadīth* transmitter to transmit a *ḥadīth* that he believed as a matter of opinion (but not with certainty) to be authentic; Abū Ḥanīfah did not.<sup>18</sup>

8. Shāfi'ī held that if a transmitter interprets the material he transmits non-literally we should ignore his interpretation and interpret the material literally, whereas Abū Ḥanīfah held that the transmitter's interpretation should be accepted.<sup>19</sup>

9. Shāfi'ī and most Shāfi'īs accept *khbar mursal* only if certain conditions are met, whereas Abū Ḥanīfah (along with Mālik and Ibn Ḥanbal) do not require those conditions.<sup>20</sup>

10. The Shāfi'īs do not regard immediate compliance as required by an unqualified command, whereas the Ḥanafīs (and Ḥanbalīs) do.<sup>21</sup>

11. Both Shāfi'īs and Ḥanafīs are divided among themselves on the question of whether a transaction can be forbidden and yet valid. However, Āmidī has Shāfi'īs undivided on the question of whether (only valid transactions are prohibited such that) the prohibition of a transaction indicates that the transaction was previously valid: they say it does not, while Abū Ḥanīfah says it does, thus allowing for a prohibition of invalid transactions.<sup>22</sup>

12. According to the Shāfi'īs, a denial in a text of equality between two things must be assumed without evidence to the contrary to be general (*ʿāmm*); that is, it must be assumed to be a denial of equality of those two things *in every respect*, whereas Abū Ḥanīfah allows that the denial may relate to a single respect.<sup>23</sup>

<sup>16</sup> *Ihkām*, 2:110.

<sup>17</sup> *Ihkām*, 2:142–3.

<sup>18</sup> *Ihkām*, 2:145.

<sup>19</sup> *Ihkām*, 2:164.

<sup>20</sup> *Ihkām*, 2:177.

<sup>21</sup> *Ihkām*, 2:242.

<sup>22</sup> *Ihkām*, 2:282.

<sup>23</sup> *Ihkām*, 2:360.



13. The Shāfi'īs consider a transitive verb to be general (*'āmm*) with respect to its objects, meaning that the prohibition "Don't eat" (relevant, presumably, during times of fasting) is a prohibition not to eat any edible. Abū Ḥanīfah held the opposite view.<sup>24</sup>

14. Any expression that is conjoined with a general (*'āmm*) expression by means of "and" must, according to the Ḥanafīs, itself be treated as general, while according to the Shāfi'īs it should not.<sup>25</sup>

15. The Shāfi'īs regard divine words addressed specifically to the Prophet as applying only to him, whereas the Ḥanafīs (as well as the Ḥanbalīs) regard such words as general (*'āmm*) and as thus applying both to him and to the community, unless there is proof to the contrary.<sup>26</sup>

16. According to the Shāfi'īs, several sentences connected by *waw* and followed at the end of the series by an exceptive phrase (*istithnā'*) are all subject to the exception; according to the Ḥanafīs, only the last sentence in the series is subject to the exception.<sup>27</sup>

17. The Shāfi'īs consider an exception to an affirmative statement to be tantamount to a negation and an exception to a negative statement to be tantamount to an affirmation, whereas the Ḥanafīs deny that this is so.<sup>28</sup>

18. Shāfi'ī considered it possible for exceptions to general norms to be based on dicta of the Companions of the Prophet, whereas the Ḥanafīs (as well as Ḥanbalīs) do not.<sup>29</sup>

19. The Shāfi'īs hold that an unqualified expression (*muṭlaq*) may be treated as qualified (*muqayyad*) in the light of a qualified expression occurring elsewhere in the textual sources even if the two expressions relate to different situations. For example, "free a slave" in 5:89 may be taken to mean "free a believing slave" in the light of 4:92, which contains the qualification "believing", even though in one case the manumission is expiation for accidental killing of a Muslim and in the other case expiation for failing to fulfill an oath. The Ḥanafīs do not allow this type of qualification.<sup>30</sup>

<sup>24</sup> *Iḥkām*, 2:366.

<sup>25</sup> *Iḥkām*, 2:376.

<sup>26</sup> *Iḥkām*, 2:379.

<sup>27</sup> *Iḥkām*, 2:438.

<sup>28</sup> *Iḥkām*, 2:451.

<sup>29</sup> *Iḥkām*, 2:475.

<sup>30</sup> *Iḥkām*, 3:3.

20. Shāfi‘ī (along with Mālik and Aḥmad) held that the qualification of a term implies a negative judgment with respect to what is excluded as a result of the qualification. For example, “Alms is required on free-grazing sheep” implies that alms is not required on other kinds of sheep. Ḥanafīs disagree.<sup>31</sup>

21. A Qur’ānic passage may be abrogated by a *sunnah mutawātirah*, according to the Ḥanafīs (and Mālik), but not according to Shāfi‘īs (and Ibn Ḥanbal).<sup>32</sup>

22. The addition of a new element to a previously prescribed act of worship in such a way that the additional element becomes an integral part of the act of worship constitutes, according to the Ḥanafīs, an abrogation of the original duty; according to the Shāfi‘īs (as well as the Ḥanbalīs), it does not.<sup>33</sup>

23. An ‘illah (“cause” of a rule) that is both nontransferrable and inferred (as opposed to textually stated) is a genuine ‘illah in the view of Shāfi‘ī and the Shāfi‘īs (as well as in Ibn Ḥanbal’s view), whereas in the view of Abū Ḥanīfah and the Ḥanafīs it is not.<sup>34</sup>

24. An inferred ‘illah may not be subjected to a restriction (*takhsīṣ*) of its operation, according to Shāfi‘ī and most Shāfi‘īs; according to most Ḥanafīs (as well as most Mālikīs and Ḥanbalīs), such a restriction is possible.<sup>35</sup>

25. The Shāfi‘īs speak of a rule whose ‘illah is textually specified as validated by the ‘illah, whereas the Ḥanafīs prefer to speak of it as validated by the text.<sup>36</sup>

26. Shāfi‘ī (as well as Ibn Ḥanbal) allowed the fixed penalties (*ḥudūd*) and the acts of penance to be established by means of analogy, whereas the Ḥanafīs do not.<sup>37</sup>

27. Most Shāfi‘īs say that an ‘illah may be established by means of analogy; the Ḥanafīs take the view that it may not.<sup>38</sup>

28. A group of Shāfi‘īs regard *istishāb* (the principle of perpetuity of the law) as a valid tool of legal argumentation; most Ḥanafīs reject the principle.<sup>39</sup>

<sup>31</sup> *Iḥkām*, 3:102.

<sup>32</sup> *Iḥkām*, 3:217.

<sup>33</sup> *Iḥkām*, 3:243.

<sup>34</sup> *Iḥkām*, 3:311.

<sup>35</sup> *Iḥkām*, 3:315.

<sup>36</sup> *Iḥkām*, 3:357.

<sup>37</sup> *Iḥkām*, 4:82.

<sup>38</sup> *Iḥkām*, 4:86.

<sup>39</sup> *Iḥkām*, 4:172.

Shāfi'ī/Ḥanafī differences are of course but one of six categories of one-on-one differences between schools. The other five are decidedly fewer in number. Of Shāfi'ī/Ḥanbalī differences I found eleven in the *Ihkām*; of Ḥanafī/Ḥanbalī, nine; of Shāfi'ī/Mālikī, seven; of Ḥanafī/Mālikī, four; and of Ḥanbalī/Mālikī, two. As with the Shāfi'ī/Ḥanafī differences, these differences are between disparate representations of the schools: as entire schools (insofar as an unquantified designation may be assumed to represent entire schools), as school majorities, as segments of schools and as eponymic authorities. Furthermore, other parties are usually involved in the controversies out of which the differences emerge, parties that are not *madhhab*-related. Finally, it should be kept in mind that these differences do not usually stand alone within the controversies out of which they emerge. In a controversy in which, for example, Mālikīs and Ḥanbalīs are on one side and Ḥanafīs on the other, we have both a Mālikī/Ḥanafī difference and a Ḥanbalī/Ḥanafī difference.

We need not, I think, devote space in this book to a listing of *madhhab* differences with the five other categories, since one can get an impression of what these differences are like from the Shāfi'ī/Ḥanafī differences. In fact, many of the differences in these other categories emerge out of the same controversies and thus relate to the same issues as the Shāfi'ī/Ḥanafī differences. The further exploration of differences would thus contribute rather little to our study. If it is true that the Shāfi'ī/Ḥanafī encounters have a catalytic role in the development of Muslim jurisprudential dialectic, then we can justifiably say that the differences between these two schools are uniquely deserving of our attention.

What then is the significance of the *madhhab* differences reflected in the *Ihkām*? Looking over the Shāfi'ī/Ḥanafī differences listed above, we can hardly dismiss them as inconsequential. Kevin Reinhart shows in his contribution to this volume how the very first difference in our list reflects major historical cleavages between the Shāfi'ī and Ḥanafī schools that extend beyond the boundaries of jurisprudence into the realm of theology. I have the impression that a similarly thorough exploration of many of the other differences will yield similar findings or even confirm his. One example will suffice to explain what I have in mind. Reinhart's characterization of the Ḥanafī school, in its insistence upon the distinction between *fard* and *wājib*, as less willing than the Shāfi'ī to consign human duty to the realm of opinion and as more insistent upon the existence of a realm where duty