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ject have appeared in the West, most of them in support of Schacht's views on the formation of Islamic jurisprudence. Motzki's *Anfänge* poses a challenge to some of these generally accepted views.

Motzki sets out to investigate the beginnings of Islamic jurisprudence and its development in Mecca up to the 2nd/8th century. The book is divided into four chapters, an epilogue, a bibliography and an index of names and important terms.

The first chapter contains a historical account of the contributions to the study of the development of Islamic law, mainly focusing on Schacht's theories and the subsequent discussions it generated. Already at this juncture Motzki makes clear that he will try to revise in part Schacht's account of the formation of Islamic jurisprudence. While, for Schacht, only *ra'y* ('personal opinion') produced legal solutions up to the emergence of Islamic law in the middle of the 2nd century, Motzki is convinced that the beginning of Islamic law should properly be dated some 50 to 75 years earlier. He criticizes Schacht's theory of the artificial growth of the *asānid*, which implies that the most complete *asānid* going back to the Prophet and the Companions are always the latest ones. Schacht had thus been led to the conclusion that it is idle to try to reconstruct the tendencies and characteristics of the doctrine of any particular Companion and of the Prophet from the traditions attributed to them.

Motzki's book is an attempt to show that in spite of the well known problems of authenticity stated by Schacht it is possible to reconstruct the early history of Islamic law from somewhat later sources. To substantiate his claim he proposes to investigate the *Muṣannaf*, an earlier *ḥadīṭ*-book, by the Yemenite author ʿAbdarrazzāq al-Ṣanʿānī (d. 211), which was not available to Schacht, and was published later.

Chapter two is devoted to a careful consideration of ʿAbdarrazzāq's work. Motzki examines the main transmitters of this book: Maʿmar, Ibn Ǧuraiǧ, Ṭaurī and Ibn ʿUyayna, identifying also their sources. He comes to two important conclusions. First, the *Muṣannaf* itself is based on older reliable sources, none of which have survived but can be reconstructed through the *asānid*; and second, the edited version (Beirut 1972, 1983<sup>2</sup>) should be considered as being nearly identical with that originally compiled by ʿAbdarrazzāq himself (pp. 66ff.). The proof of the authenticity of these traditions is pursued in the next chapter.

In chapter three, Motzki develops two main sets of formal criteria which he calls criteria for authenticity, namely, the external and the internal (pp. 70ff.). He applies both sets of criteria to the traditions which Ibn Ǧuraiǧ reports from ʿAṭāʾ and ʿAmr b. Dīnār. The external criteria consist in examining the transmitters from whom Ibn Ǧuraiǧ reports his traditions. Motzki discovers, for example, that Ibn Ǧuraiǧ takes only 38.5% of his transmissions from ʿAṭāʾ, 25% from a group of five scholars, 20.5% from 86 other scholars. This distribution, Motzki argues, shows an individual profile which is unlikely to be forged. Be-

*Die Anfänge der islamischen Jurisprudenz: Ihre Entwicklung in Mekka bis zur Mitte des 2./8. Jahrhunderts.* By HARALD MOTZKI. *Abhandlungen für die Kunde des Morgenlandes*, vol. 50.2. Stuttgart: FRANZ STEINER VERLAG, 1991. Pp. ix + 292. DM 96.

Since the publication of Schacht's *The Origins of Muhammadan Jurisprudence* in 1950 various contributions to the sub-

sides this, one finds the same random pattern by examining the *dicta, acta* and *responsa*, i.e., utterances and actions.

The internal criteria consist in the manner in which Ibn ʿĠuraiḡ presents his material. And here too Motzki finds support for his claim of authenticity because Ibn ʿĠuraiḡ's comments show his criticisms of individual traditions, express his own opinions, and make clear that he is uncertain about the exact content of the sayings of ʿAṭāʾ and ʿAmr.

He concludes that especially the material which Ibn ʿĠuraiḡ received from ʿAṭāʾ and ʿAmr really does go back to them and partly even one generation earlier, i.e., to the *ṣaḥāba* (e.g., to Ibn ʿAbbās); therefore, we can gain insight into the early history of Meccan jurisprudence.

Motzki's methodological approach suits the purpose of analyzing the traditions of Ibn ʿĠuraiḡ. His arguments are plausible. His external criteria show that Ibn ʿĠuraiḡ was not a conscious forger; the internal criteria confirm that he was sincere in admitting his ignorance and doubts regarding certain traditions. But one should always keep in mind that this does not automatically point to the authenticity of *all* the traditions transmitted by Ibn ʿĠuraiḡ, as Motzki seems to conclude. Ibn ʿĠuraiḡ may have transmitted some genuine, but also some forged material, perhaps being subjectively convinced of its authenticity, and his name may have been used by someone else to confer legitimacy. So Motzki seems too bold when he writes that ʿAbdarrazzāq's *Muṣannaf* contains "undoubtedly authentic material" (p. 66).

Motzki then attempts, through a detailed analysis of Meccan transmitters and with the help of examples taken from family law, i.e., the *K. an-nikāḥ* and *K. aṭ-ṭalāq* (pp. 67ff.), to show that many traditions can safely be assumed to be genuine, stemming from the time of the Companions and Successors. He is convinced that traditions originating from the Prophet existed and were known. In one case he even convincingly argues that a Prophetic *ḥadīṯ* was known but was not cited at first to support a legal rule (p. 115). This can be seen as a very interesting criticism of Schacht's *argumentum e silentio*, which, Motzki concludes, should be used with extreme caution.

In the fourth chapter summarizing his results, Motzki concedes that Schacht's theory regarding the formation of Islamic jurisprudence, namely that it was originally based on *raʾy* rather than on the *Qurʾān* and the *sunna*, is corroborated for the early history of law in Mecca. Motzki rejects, however, Schacht's opinion that during the first century no Islamic jurisprudence in the technical meaning of the term existed. According to him there are authentic traditions going back to the Prophet and the Companions, related by the *fuqahāʾ* of Mecca, while the decisions of Umayyad judges and governors did not play an important role in the early history of Meccan civil law.

Motzki's work must be considered a fruitful attempt to throw light upon a hitherto obscure area of early Islamic law, namely its development in Mecca—which Schacht did not look at very closely. His critique of Schacht invites further investigations in this area. This book must be seen as an

exceedingly valuable contribution to the understanding of the formation of Islamic law.

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