Collective Liability in Islam: The ᶜĀqila and Blood Money Payments
By NURIT TSAFRIR (Cambridge: Cambridge University Press, 2020. Cambridge Studies in Islamic Civilization), xviii + 167 pp. Price HB £75.00. EAN 978–1108498647.

For social historians, the *ᶜāqila* is one of the most fascinating institutions in Islamic law. At its core, the *ᶜāqila* involves a principle of joint liability, in which members of a solidarity group pay blood-money for a crime perpetrated by one of their members. Such joint liability is unique in Islamic law, which generally does not recognize corporate bodies. As Nurit Tsafrir argues in this valuable study, the boundaries of the *ᶜāqila* solidarity group reflect the delineation of solidarity groups in society at large. In her reading, the development of legal discourse over the *ᶜāqila* reflects a shift from an Arab, tribal society to a society where solidarity groups are determined by state administration, or are based on alternative forms of mutual bonds, such as neighbourhood or profession.

The first part of the book explains the broad features of the *ᶜāqila* in Islamic law. Muslim jurists limit the scope of joint liability to blood-money paid as compensation for accidental homicide. Unlike intentional homicide, which entails a punishment levied solely on the individual perpetrator, jurists reason that imposing the full amount of the blood-money on an accidental killer would lead to his or her financial ruin, and will therefore be effectively a punishment rather than a compensation. The accidental killer's solidarity group are therefore required to help relieve him of this burden, as part of their sense of duty towards their members; or, as some jurists argue, because the group solidarity inherently contributed to the accidental killer's careless attitude.

Tsafrir then shifts her focus to the Ḥanafī discourse on the *ᶜāqila* institution. From the very beginning, Ḥanafīs rejected the delineation

of solidarity groups according to tribal lines. Instead, they endorsed Umayyad administrative practice, whereby the *ʿāqila* solidarity group comprised all members of a military unit, and the blood-money contributions were deducted from the annual stipends to which this military unit was entitled. Tsafrir calls this Ḥanafī position the 'Dīwān innovation', and views it as a shift from an original reliance on the agnatic group, which nonetheless continued to dominate the Shāfiʿī and Ḥanbalī schools.

In Ḥanafī law, therefore, the *ʿāqila* was not based on corporate groups that emerged from within society. Rather, its boundaries were imposed from above, by the state, as it simply 'united all men that belonged to the same administrative division' (p. 74). This administrative logic also dictated Ḥanafī response to accidental murders committed by a Muslim not registered in the royal Dīwān. According to al-Shaybānī, those registered in the Dīwān of a town should pay on behalf of all those who live in the town, and townsmen need to pay blood money for the peasants of their hinterland. As Tsafrir explains, this reflected ʿAbbasid tax collection practices, as land-taxes mostly stayed in provincial towns.

In the post-Classical period, when Umayyad and ʿAbbasid administrative practices were no longer relevant, eastern Ḥanafīs suggested solidarity groups based on mutual assistance (*nuṣra*) derived from common occupation or residential proximity. They justified this shift by stating that non-Arabs (or Persians, *ʿajam*) do not share the tribal solidarities ingrained in Arab societies. A minority opinion even considered the *ʿāqila* institution null and void in relation to non-Arabs, who inherently lack such mutual *nuṣra*.

Our knowledge of actual application of *ʿāqila* procedure in medieval Islamic societies is meagre, based on a handful of fatwās and narrative accounts. Most commonly, it seems, blood-money was

forcibly collected from the inhabitants of residential quarters. By the sixteenth century, the Ottomans came to reject the *ʿāqila* institution altogether, justifying their position by the loosening of social bonds and increased individualism. In the modern era, jurists argue that the *ʿāqila* has been substituted by insurance companies, which fulfill somewhat similar functions of joint liability for accidental damages.

Tsafrir frames her monograph as a shift away from pre-Islamic and early Islamic tribalism. However, as Tsafrir notes only in passing, Norman Calder had already proposed an alternative scenario, in which the *ʿāqila* did not develop from ancient Arab tribal institutions at all, but rather from urban practices, which then served as a model for the Bedouin *ʿāqila*. Calder's alternative proposition should have been given more serious consideration here. Recent scholarship, such as Peter Webb's *Imagining the Arabs* (Edinburgh University Press, 2016), casts doubt on the existence of pre-Islamic Arab identity. David Sneath's *The Headless State* (Columbia University Press, 2007) argues that tribes in medieval Inner Asia were constructed by Mongol bureaucracy, and had no social meaning beyond their administrative functions.

This book lucidly explains the institution of joint liability in Islamic law, and demonstrates its development over time. For Tsafrir, the Ḥanafī administrative interpretation of the *ʿāqila*, evident in some of the earliest Islamic legal texts, is a deviation from primordial tribal blood-money practices that survive unchanged in the current customary law of Bedouin tribes. The evidence she so skilfully unearthed could, however, also be used to support a revisionist alternative view of tribal solidarities in early Islamic society. In this alternative view, medieval tribes were products of administrative practices, enforced from above rather than emerging from below.

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