

## « Constructing an Identity: The Development of The Ibadi Law »

Ersilia FRANCESCA  
University of Naples “L’Orientale”

In *The Origins of Muhammadan Jurisprudence*, Schacht assumed that the Ibadi doctrines do not differ from those of the Sunni schools of law because the Ibadis adopted the Islamic law as it was being developed in the orthodox schools of law, introducing only such superficial modifications as were required by their political and dogmatic tenants.

Recent studies on the Ibadi madhhab demonstrated that contrary to what Schacht averred, the Ibadis took from the beginning a detached line. They had their own independent authorities, collections of traditions and works by their own jurists.

The aim of this paper is to analyse the origins and the development of the Ibadi madhhab and its relationships to the Sunni schools in the early centuries of Islam, from both a juridical and historical point of view.

My research is based on the Ibadi *tabaqat* and *fiqh* works and mainly on some ancient Ibadi manuscripts.

The Ibadi madhhab is one of the oldest. Its foundation goes back to Jabir b. Zayd in the early 8th century Basra. In this period, the Ibadis were in close contact with the ancient Iraqi schools of law. The sources do not show any clear-cut, fundamental difference in legal theory between the Ibadis and the Sunnis. They both relied on the local tradition and their free exercise of personal opinion.

About the middle of the 8th century, the Ibadi movement began to undergo a profound change, it became a school with a defined membership, doctrine and organized missionary activities. In this period the main authority was Abu ‘Ubayda. He played an important role in formulating the first juridical theories and in organizing a *da‘wa*. The Ibadi egalitarian doctrine had enormous appeal for the underdogs. The ‘ulama’, who were the first to formulate it, were from the humblest Basran background: Ja‘far b. as-Sammak, son of a fisherman (variant Samman, butter merchant), Abu Nuh Salih ad-Dahhan, the painter/greaser, Abu ‘Ubayda Muslim, a basket weaver.

From the 9th century onwards, the Ibadi madhhab went through a process of radicalization. It started to show a strong cohesion as group apart, which had a dogmatic basis in some doctrines, such as the concepts of *walaya* and *bara’a* (association and dissociation), that is to say the obligation of friendliness towards the individuals who carry out the precepts of religion in a satisfactory manner, and conversely the obligation of hostility against those who do not deserve to be called believers.