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Sixth, the booty of the killed does not belong to the killer according to Abū Ḥanīfah, unless the ruler specifies beforehand that whoever kills someone has the right to the booty of the killed; whereas for al-Shāfi'ī, the booty belongs to the killer whether the ruler stipulated so or not.<sup>92</sup>

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exclusively to the sultan, in effect modifies the Shafi'ī view; Norman Calder, "Friday Prayer and the Juristic Theory of Government: Sarakhsī, Shīrāzī, Māwardī," *BSOAS* 49 (1986): 41, 44–45; al-Māwardī, *Al-Aḥkām al-Sulṭānīyah*, 172, 179–80.

<sup>91</sup> *Tuḥfat al-Turk*, p. 68; MK, fol. 97a, l. 29–31; Sibṭ Ibn al-Jawzī, *Al-Intiṣār wa-al-Tarjīḥ*, 18. Al-Shāfi'ī, *Kitāb al-Umm*, 1:461, sees this as a private matter, hence the priority of the relatives. See also al-Ṭaḥawī, *Mukhtaṣar al-Ṭaḥawī*, 41; and al-Marghīnānī, *Al-Hidāyah*, 2:315, who gives an elaborate line of succession according to which if the sultan is not present, then the *qāḍī* should lead the prayer; if he is not present either, then the imam of the neighborhood should lead the prayer; the relatives come only after him.

<sup>92</sup> *Tuḥfat al-Turk*, p. 66; MK, fol. 97a, lines 14–16; Sibṭ Ibn al-Jawzī, *Al-Intiṣār wa-al-Tarjīḥ*, 17; al-Sarakhsī, *Kitāb al-Mabsūṭ*, 10:47–48. Al-Shāfi'ī, *Kitāb al-Umm*, 4:184, states that what the Prophet said at the battle of Ḥunayn, *man qatala qaṭīlan la-hu salabuhu*, is a *ḥukm* since the Prophet gave the booty to the killer on other occasions as well, as opposed to an *ijtihād* limited to this particular case, a view held by Mālik (see n. 2, p. 184). This becomes a trivial issue as that kind of booty is limited to the things that are on the body of the person who is killed, excluding his properties (Ibn Jamā'ah, *Taḥrīr al-Aḥkām*, 220); besides, there are five conditions which qualify whether the killer deserves the booty of the killed (*ibid.*, 219–20).