CHAPTER – THREE

Critical Study of The Important Works

1. General Works
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1. General Works

A. Fatāwā Collections

\(1/6^{th}\) *Al-Fatāwā al-Ghiyāsiyah* (Prtd.)\(^1\)

In the preface of the *Fatāwā* Shaikh Dāud b. Yūsuf al-Khatib is clearly mentioned as its compiler. But no biographical account of Dāud b. Yusuf is available in the contemporary or modern sources. It is also evident from the preface of the *Fatāwā* that it was compiled in the period of Ghiyāsuddin Balban (1266-1287 AD) and was dedicated to him\(^2\). But in the introduction of the published edition of *Fatāwā-i-Tātārkhānī* it is wrongly stated that it was compiled in the reign of Ghiyāsuddin Tughlaq (1320-1325 AD)\(^3\).

The *Fatāwā* Ghiyasiya, one of the earliest *Fatāwa* collection of medieval India was arranged into chapters, sub-chapter and sections (*Abwāb, Fusūl, Anwā*).

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\(^1\) The second number against each entry in this chapter indicates the serial number under which the work was mentioned in the second chapter giving information about its manuscript or publication as the case may be.


The *Fatāwā* Ghiyāṣiyya discusses the legal problems in a comprehensive way. Its contents cover the issues relating to *ibadat* (prayer) family affairs, religious and social customs and traditions, economic matters, especially ownership of landed property endowment and pre-emption. Some of the contemporary problems which have been discussed in this *Fatāwā* included use of Persian words for marriage, divorce and *qiraat* in Persian in prayers, prostration before the rulers (*Mulūk*) as a way of greeting, acceptance of the invitation of the Sultan and their gifts, spending the resources of the *Bai-al-Mal* for the teacher of the subjects of Islamic learning (*Qurān*, *Hadīṣ* and *fiqh*), the hospitality of the Christians and jews, the issue of advance payment to the employees, acceptance of *Zakāt* by Hāshmi Saiyyids⁴. Another important feature of the *Fatāwā* is that at the end of discussion of each problem it usually gives preferred or most accepted view of the *Ulamā* by stating that this is *al-Mukhtār or wa-ālaih al-Fatwā*.

It is also notable that at different places the author has explained the Arabic text through using Persian words, which shows the rising influence of the Persian language in those days.

The value of this *Fatāwā* may be realised from the fact that the *Fatāwā* collections of later period had extensively quoted this

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work in their texts. The important among them may be mentioned as Fatāwā-i-Tātārkhani, Fatāwā-i-Firūzshahi, Fatāwā-i-Hammādi, Fatāwā-i-'Ālamiğīrī.

The important works referred to in this Fatawa are the earlier works of Hanafi School of fiqh. Such as Muntaqa, Jami‘al Fatāwā, Fātawā-i-Nasiri, Mukhtaşar al-Tahawi, Al-Nawāzil, Fatāwā-i-Zakhirah, Fatāwa-i-Smarqand, Zahiriyyah Hidāyah, Adab al-Qāzi, Husāmī, Zakhirah.

It is interesting that the compiler has given abbreviations for the works quoted in the texts; such as he uses Mim (ٍ) for Muntaqa Ha (ح) for Husāmī, Nun (ن) for Nawazil, Zal (ز) for Zakhirah.

2/15. Al-Fatawa al-Tatarkhaniya (Prtd.)

‘Ālim bin‘Alā al-Hanafi al-Indrapati al-Dehlawi (d. 786 AH/ 1384 AD)

The compiler of this Fatāwā was a great Hanafi ‘Ālim of fiqh and its principle. He was a contemporary of Sultan Firuz Shah (1351-1388 AD). It was compiled with the help of a board of Ulamā at the instance of Tātārkhan (d. 800 AH/ 1397 AD) and it was dedicated to him who was a prominent courtier and eminent

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noble of Firūz-Shah's time who was also well known for his interest in learning and patronage of scholars⁶.

The work consisting of 30 volumes is considered as an encyclopaedia on Islamic jurisprudence, which has given impetus to the development of Fatawa compilation in Sultanate period. The contents of the Fatawa are divided into chapters and sub-chapters and the problems are discussed in a very comprehensive way. The compiler explains each issue in detail mentioning the differences of the jurists and their respective arguments given in support of their view. A detailed discussion is found in the introduction of the work about the etiquettes and principles of imparting Fatwā and asking Fatwā (Istiftā). One of the striking feature of this work is that various new issues of the society have been taken into account such as qiraat (recitation) of the Quran in Persian in the prayer, use of Persian language for pronouncing technical words at the time of Nikāh (marriage) and ṭalāq (divorce), marriage with ahl-i-zimma (the non-muslim protected by the Islamic state after taking jizyah from them), different legal aspect about the nafaqah (maintenance) in case of difference in religion of parents and their sons⁷.

The important *fiqh* works which have been quoted as reference in *al-Fatāwā al-Tātārkāniyāh* are *al-Muḥit*, *al-Hidayah*, *Zakhīrat al-Fatāwā*, *Fatāwā Qāżī Khān*, *Fatawa Zahiriya*, *Fatāwā Sirājiya*, *Khulāsāt al-fiqh*, *Fatāwā-i-Ghiyāshīa*.

3/9. *Fatāwā Ibrāhīm Shāhiyāh (MS)*

Shihabuddin Ahmad b. Muhammad known as Nizam al-Gilani al-Jaunpuri Daulatabadi (d. 875 AH/ 1468 AD)

The compiler of this *Fatāwā* collection was born in Gujarat and settled in Jaunpur. He was a contemporary of Sultan Ibrahim Shah Sharqi (1401-40 AD) who had appointed him as Qāżī of Jaunpur. Shaikh Shahabuddin got opportunity to show his ability in the field of *fiqh*, through imparting *Fatwā* and deciding the disputed cases. He visited Mandu (capital city of Malwa) in the period of Mahmud Shah Mandawi and wrote Mahmūd Shāhi a history of Malwa for him. Shaikh Shihabuddin was also the author of *Uṣūl-i-Ibrāhīm Shahi* on *Uṣūl-i-fiqh*, which is referred to in

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9 There is a controversy about the date of the compilation of this work. According to the popular view the compiler lived during the reign of Sultan Ibrahim Sharqi (1401-40) and was very close to the Sultan who was appointed as the Qāżī of Jaunpur by him. However, the cataloguer of Patna library has stated that the compiler was a contemporary of Ibrahim Shah of Bijapur (1535-57) and that the work was ascribed to him. See K.B.L. XXXIII/40-41 (No. 1749), India Office, London, 1973, vol. II, pt. 3 (No. 1704).

Sharh Uṣūl al-Bazdawi. He also wrote in Persian language a Tafsir on Quran, which is known as Bahīr-i-Mawwāj.

*Fatawa* Ibrahim Shahiya is a very comprehensive *Fatāwā* collection and deals with all important issues of *fiqh* including ibādāt, muamalat and uqubat. In the compilation of this *Fatāwā* a large number of *fiqh* works have been utilised.

4/7. *Al-Fatāwā al-Hammādiyah (MS)*

Abul Fath Ruknuddin al-Hanafi Nāgauri (d. 920 AH/ 1514 AD)

The compiler of the *Fatawa* was a prominent jurist and Mufti of Nagaur (presently in Rajasthan). He compiled this *Fatāwā* in Naharwala (Gujarat) at the instance of the Chief Justice (*Qazi al-Quzāt*) of Gujarat; Qāżī Hammaduddin b. Muhammad Akram with the help of his son Daud and dedicated it to him. Shaikh Ruknuddin came from Multan to Delhi in the days of Sultan Qutubuddin b. Ālāuddin and Sultan himself welcomed him at the Hauz-i-Khas ‘Alai. Shaikh Ruknuddin came to Delhi to develop his knowledge and seek blessing from Shaikh Nizamuddin.

The work has been arranged in a systematic way dividing the content under main chapters and sub-headings. The work

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13 Nuzhat, III/53.
takes into account all the main issues of *fiqh* including *Ibadat*, *Muamalat*, economic dealing, family matters, social issues, penal laws, inheritance and administration of justice. All these issues have been discussed in a detailed way. One of the important aspects of the discussion is to explain the differences of the jurists of different School on several issues and to make reference to the works of their respective schools. Secondly, at some places the author has used *Arabic* and *Persian* both languages to make the point more clear. In reference to different cases he has applied the principles of *Qiyās* and exercised *ijtihād* to solve them. Sometimes he showed preference to the Shafiite or jurists of other schools. Thirdly, while discussing the issues under any particular head the compiler also refers to a tradition. More than two hundred works were consulted by him for preparation of this *Fatawa*. The noteworthy of them are: *al-Hidāyah, al-Sīrājiyyah, al-Fatāwā al-Husāmī, Fatāwā-Tātārkhānī, Munyat al-Musalli, Majmā al-Baḥrain*.

5/3. *Al-Fatāwā al-ʿĀlamgīrīyyah (Prtd.)*\(^{15}\)

Shaikh Niẓām Burhānpūrī (d. 1090 AH/ 1679 AD)

This great monumental work on *fiqh* was compiled by a

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\(^{15}\) Beirut, 1980.
board of ʿUlamā at the instance of Emperor Aurangzeb (1656-1707 AD). The contributors to this Fatāwā included the distinguished scholars of this period such as Shah Abdul Rahim (1131 AH/ 1718 AD) Qāzī Muhammad Husain Jaunpuri (d. 1081 AH/ 1670 AD) Muhammad Akram Lahori (d. 1094 AH/ 1682 AD) Shaikh Wajihuddin Gopamawi (d. 1082 AH/ 1671 AD) Shaikh Raziuddin Bhagalpuri (d. 1081 AH/ 1670 AD) Muhammad Jamil Siddiqi (d. 1123 AH/ 1711 AD) Saiyyid Jalaluddin Muhammad Machhli Shahri etc. This board of compilers was headed by Niẓām Burhanpuri who was himself a great jurist of Aurangzeb's time and was associated with his court.

Fatāwā-i-ʿĀlamgīrī, the most well known Indian work of the Hanafi School of fiqh was systematically arranged and divided into chapters and sub-chapters. The work consisting of six volumes, deals with the four pillars of Islām, family laws, penal law, sale transaction, slaughter of animal, taxation, International laws and administration of justice. One of the important features of this Fatāwā is that before discussing the issues concerned it defines the subject and gives details about its requisites, conditions and other related matters. This pattern is found in almost all the chapters. The work, compiled mainly from the Hanafite point of view, gives the opinion of the well-known jurists
of this school with reference to their sources. Thirdly, this compilation being a huge one is free from the repetition. A peculiar feature of this Fatāwā is consideration of miscellaneous issues at the end of each chapter under the sub-heading of mutafarrijat. Moreover, it came to be widely studied and quoted by the Ulamā, jurists Qāzi and muftis of different period. The same work is also being referred to by judges of modern courts in reference to the cases of Muslim Personal Law.


It is important to note that some of the Indian Fatawa compilations have also been quoted in the present work such as Fatāwā Ghiyāsiya, Fatāwā Tātārkhāniya and Fatāwā Hammādiya16.

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16 It was rendered into Urdu by Saiyyid Amir Ali and was published from Nawal Kishore Press, Lucknow, in ten volumes in 1899, which is popularly known as al-Fatāwā al-Hindiya. In 1850, N.B.A. Belly has translated one part of this Fatāwā into English, and published it under the title of 'A Digest of Muhammetan Haneefaa and Islamia law in India, from Lahore. This Fatāwā was also translated into Persian by Abdullah Chelpl but no copy of the Persian version is available in any library.
6/19. *Mukhtasār al-Fatāwā al-Shāfī (MS)*\(^{17}\)

Qāzi Abdul Hamid b. Abdullah al-Thanawī (belonged to 1st quarter of 18th century AD)

The author was a well-known jurist of his times. On account of his eminence in the field of Islamic jurisprudence he was appointed as Qāzī in the days of Muhammad 'Āzam Shah b. Ālamgir (1707 AD). He also worked as incharge of the revenue department in Gujarat. In the days of Shah Alam b. Ālamgir (1707-17 AD) he was appointed as Chief justice of India\(^{18}\). The date of death of the compiler is unknown and it appears from a note at the end of the manuscript that it was compiled in 1079 AH/1668 AD.

The work compiled from the Hanafi point of view is divided into a number of chapters (*Abwāb*) and each chapter has been further divided into subchapters (*fusūl*). The work is quite comprehensive dealing with the legal problems of varied nature. The main chapters of *Mukhtasār* are purification, four pillars of Islām, Jizya, sacrifice, family life, economic transaction, punishment and administration of justice. The minor issues have also been taken into account such as etiquettes of sleeping and *Muṣāfaха* (shaking hand) and *Mū‘ānaqah* (embracing), cutting nail

\(^{17}\) M.A.L. Subhanulah *Collection*, No. 297.31/1.

\(^{18}\) *Nuzhat* VII/144.
and hair¹⁹. An important aspect of the work is that at several places problems have been explained in the form of the Īstiftā (query) and fatwā (verdict) but the name of the mustaftī (questioner) is not mentioned anywhere in the text. Another notable feature of the work is giving answers in Arabic and Persian both the languages. The marginal notes of the compiler have added to the value of the work. In course of his discussion, the author frequently quotes traditions of the Prophet (S.A.W.), sayings of the Tabīīn like Abul Laís²⁰ and the opinion of the well-known jurists with reference to their works. Special consideration is given to the legal verdicts of qazis (judges) of the period including Qazi Abdul Jabbar²¹. The main sources of the author included Jami’al Šaghir, Sirāj al-Hidāyah, Qudūrī, Tahzīb, Zakhīra, Fatawā Qazi Khān, Fatawā-i-Tātārkānīyah, Nişāb al-Iḥtīsāb.

7/14. Fatawā Sirāj al-Munīr (MS)²²

Tabī Muḥammad b. Muḥammad Saīd Lakhnawi (belonged to 18th century AD)

The compiler, a native of Lucknow, got his education under the well-known Ulamā of that time including his father and Shaikh

²⁰ Ibid. f. 256 b.
²¹ Ibid. f. 253.
²² M A L Abdul Hai, No. 326/34.
Ahmad b. Abi Sai'd al-Ṣālelhi al-Amethwi. Later on he occupied himself with the work of teaching and imparting Fatwa. He also worked as the Mufti of Lucknow after the death of his father\(^2\). The date of his death could not be found in any source. However, it is clear from the preface of the work that it was compiled in 1120 AH/ 1708 AD. Two manuscripts of the work are available in Kutubkhana Darul Ulum, Deoband. The first was scribed in 1128 AH/ 1715 AD by  şümatullah b. Raḥmatullah Qāzi Faizullah Amethwi\(^2\) while the second gives 1282 AH/ 1865 AD as the date of scribing.

The work is divided into Kitāb, fasl and bāb. It contains a comprehensive list of content and it deals with the major issues of the human life from Juridical point of view. In the beginning of the book he quotes Qurān and Hadīṣ to highlight the importance of sincerity of intention (niyyat) and deep attachment with the Holy Qurān for leading a man to the right direction. The issues which are discussed in this work are purification, four pillars of Islām, marriage, divorce, penal matters, inheritance, economic issues and international relations. The compiler has discussed these problems in a detailed way taking into consideration even the minor issues. One of the important aspects of the Fatāwā is

\(^{2}\) *Nuzhat* VII/51.

that both Arabic and Persian languages have been used for explanation of the issues under discussion. Secondly all the problems have been discussed according to the Hanafi School. Another copy of the same work has additional material with regard to the legal nature of the landed property given by Sultan of the period to Ulama, Sufis, and scholars which was known as Madad-i-Maash in those days connotation. The important books referred to in this work are Sirajiya, Nihaya, Kanz al-’ibad, Jami’ al-Rumuz, Fatawâ Ibrahim Shahî, Fatawâ Ghaušiya, Khazanat al-Muftiyin.

B. Other works including Shurûh and Hawâshî

8/289. Ḥâshiyah ‘Alâ Kanz al-Daqiq

Mu’înuddin ‘Imrâni al-Dehlawi (belonged to second half of 13th century AD)

The compiler, was a distinguished scholar of Muhammad Shah Tughlaq’s period. He was noted for his excellence in different branches of learning including traditional and rational ones. In the beginning of his career he did not like Hazrat Nasiruddin Chirâgh-i-Dehli and was opposed to his view. But

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25 The compiler says in the chapter of Masarif that he has discussed these issues in al-Fatâwâ al-Kabîr which shows that he was also compiler of Fatâwâ al-Kabîr, see Tâ’âruf Makhlûtât p. 183.
26 Nuzhat II/161.
under pressure of Maulānā Khawājījī he went to Haẓrāt Chirāgh-i-Dehli, lived with him for sometime and at last returned as his disciple. Muhammad Tughlaq (1325-1351 AD) was so much impressed by the scholarship of Mu'īnuddin that he sent him to Shiraz to bring Qāzī Azuddin Aijī (d. 756 AH/1355 AD) a great ʿĀlim of Shirāz, to Delhi. But the ruler of Shiraz who had great respect for the Qāzī did not agree with his departure for India and sent back the emissary of the Delhi Sultan with great honour. It is important to note that Mu'īnuddin ʿImrānī was designated as Dānish-i-Āzīm and U斯塔d-i-shahr by Shaikh Abdul Haq Muhaddis Dehlawi, the eminent scholar and distinguished author of Medieval India. Maulana Azad Bilgrami called him Madār-i-Afāzīl. Some of the biographers have referred to his annotation of Kanz al-Daqa'iq and some other works but these are not available.

9/237. Sharḥ Kanz al-Daqa'iq

Shaikh Maḥmud b. Muḥammad al-Dehlawi (d. 710 AH/1310 AD)

The compiler of the work and a contemporary of Sultan

28 Akhbār al-Akhīār p. 144.
29 Subḥat 1/91.
30 Nuzhat II/161
31 Nuzhat II/154.
'Alāuddin Khalji and Ghiyāṣuddin Tughlaq was a well-known jurist of that period. He came to India with his father Qutubuddin Muhammad and settled in Delhi. He was famous for his piety, bravery and hospitality. He took up the work of teaching and trained many students and scholars who further contributed to the development of Islamic learning. His disciples included Qazi Ruknuddin b. Nizamuddin al-Karwi and Shaikh Alauddin al-Hasni al-Jeuri. He wrote commentaries on some important fiqh works such as al-Manār fi'l Usūl and Kanz al-Daqāiq of Hafizuddin Abul Barkāt al-Nasafi (d. 710 AH/1310 AD). The first commentary was known as Ifazat al-Anwār fi Izaat Usul al-Anwār. None of these works are available now.

10/233. *Sharḥ al-Hidāyah*

Hamiduddin Mukhlis Dehlawi (d. 764 AH/1362 AD)

The author was a learned scholar of the Tughlaq period. He was mainly known for writing commentary on popular works of Hanafi fiqh. The present work is commentary of al-Hidāyah one of the most referred books of the Hanafi School. Maulana Azād Bilgrāmi, the author of *Subhat al-Marjān* has designated him as

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32 Ibid.
33 Fuqahā-i-Hind 1/299.
34 Hadāi'q p. 291, Nuzhat 11/34.
35 Fuqahā-i-Hind 1/210-211.
Umdat al-'Ulamā and Qudwat al-Fuzala\textsuperscript{36} which shows his eminence as a scholar. His commentary referred to by some of the modern biographer is not available at present.

11/287. Hashiyah al-Hidayah (MS)\textsuperscript{37}

Ilahdad Jaunpuri b. Abdullah (d. 923 AH/ 1517 AD)

The writer of the Hāshiyah was a reputed theologian and jurist of 16\textsuperscript{th} century India. He was well known for his interest in fiqh and writing Shurūh wa Hawāshi (commentaries and marginal notes). He completed his studies under Abdullah Tulāmbi (d. 922 AH/1516 AD) and undertook the mystical training under the guidance of Shaikh Rājī Ḥamīd Shah Mānakpuri – a saint of Chishti order. His teachers included the famous commentator and jurist Qāzi Shahabuddin Daulatabadi (d. 849 AH/1445 AD). He spent his whole life in teaching and writing. He died in Jaunpur and was buried in the same place. He was author of many books and compiler of commentaries (Shurūh) on popular texts of fiqh and Usūl-i-fiqh such as Kifaya, Uṣūl-i-Bazdawi, al-Hidāyah\textsuperscript{38}.

The present work is a detailed annotation of al-Hidayah, the famous compendium of the Hanafi School. It explains the text in a very comprehensive way from lexical, etymological and

\textsuperscript{36} Subhat 1/73-74.
\textsuperscript{37} M.A.L. Abdul Hai Collection No. 408/116.
grammatical point of view. To substantiate his discussion the commentator has quoted verses of the Holy Qurān, traditions of the Prophet (S.A.W.) and Ṣahābah (R.A.) and views of the jurists of earlier period. While quoting many traditions, the author mentions the chain of narrators. One of the striking feature of the book is that the author has explained important aspects of Uṣūl-i-fiqh (principles) at different places in course of his discussion.

12/291. Ḥāshiyah āla Sharḥ al-Waqāyah (MS)

Wajihuddin Ālwi al-Gujrāti (d. 978 AH/ 1570 AD)

The annotator of this Ḥāshiyah was born in Japaner (a place in Gujarat) in 911 AH/1505 AD and was buried in Ahmdabad. He got the higher learning under Imamuddin Muhammad b. Mahmud al-Tarmi. He was well known as a scholar as well as a mystic and people in large number thronged him to seek his blessing. The important personalities of his period also invited him for consultation on different issues. He showed keen interest in the promotion of learning through different ways including teaching and writing. Sultan Mahmud-III of Gujarat (961 AH / 1553 AD) had full respect for him and gave due consideration to his

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40 M.A.L. Zakhirah Sulaiman Collection, No. 60/32.
verdicts. He has written commentaries and original books on different issues of *fiqh*.

The *Hāshiyyah* of *Sharḥ al-Waqayah* was explained in fifty chapters, one hundred ten subchapters and eighteen sections (*fusul*). At the end of the book the problems of varied nature have been summed up under the heading of *Masā'il-i-Shatta minho*. The main contents of this *Hāshiyyah* are: purification, four pillars of Islām, family laws, economic dealing and transaction, pre-emption, horticulure, cultivation of wasteland, crimes vows, and inheritance.

The present work is an explanation of the text of *Waqayah* in the form of marginal notes (*Hawashi*) in which the author has explained the difficult words and elaborated these points given in the text. He makes reference only to the important part of this text so it is required for reader to keep the full text of *Waqayah* before him to utilise the commentary. The weak point of this *Hāshiyyah* is that after dealing with the problems and mentioning the viewpoints of the ‘Ulamā’, the commentator does not mention the source books.

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13/222. *Fath al-Mu'in*  
Ziauddin b Abdul Aziz (d. 991 AH/ 1583 AD)  

The commentator of this work was a Shafi'i jurist of 16th century India. He wrote several books on *fiqh* and *Hadis*. The important among them is *Fath al-Mu'in*, which deals with the general issues of *fiqh* according to the Shafi'i School of jurisprudence. This Fath al-Muin is a commentary of his another book on jurisprudence namely: *Qurrat al-'A'in*. Fath al-Muin was further abridged by Ali b. Ahmad Saida al-Mabadi. This work is not available in any library.

14/18. *Jami al-Barakat (MS)*  
Abul Barakat b. Husamudin Dehlawi (d. 1119 AH/ 1707 AD)  

The author of this work was a contemporary of Emperor Aurangzeb and an eminent Hanafi jurist. He worked as *muttifi* and *qazi* of Delhi during his rule. He compiled this work in 1116 AH/ 1704 AD.  

The whole book has been divided in 85 chapters and each chapter is divided into sub-chapters. Consisting of 327 folios, the
work is of comprehensive nature, which covers all the important issues of *fiqh*. Under each chapter the author, first of all, explains the special terms related to that chapter, then he takes into account the subject matter in a very detailed way referring to the Holy *Quran* and traditions of the Prophet (S.A.W.). This work was compiled mainly from the Hanafi point of view, and it contained in detail, the views of the well-known Hanafi jurists with reference to several works of that school such as *al-Hidāyah*, *al-Kifāyah*, *al-Nihāya*, *Fatawā ‘Ālamgīrī*, *Fatawā Sirājīyah*, *Fatawā Zahiriya*, *Khazānah al-Riwayāt*, *Bahr al-Rā’īq*, *Al-Ḥāwi*, *Fatawā Qāzi Khān*, *Fatawā Tātār Khāniya*, *Muhit al-Burhānī*.

15/296. *ḤashiyahSharḥ Waqāyah (MS)*

Shah Amānullah Phulwari (d. 1139 AH/ 1726 AD)

The writer of this *Hashiyah*, belonged to Phulwari Sharif a well-known town in the suburb of Patna. His father Muhammad Amin himself was a great ‘Alim who trained him in the field of Islamic learning. He has special interest in Islāmic jurisprudence, which is evident from the present work. In the form of marginal notes it explains the text of *Sharḥ-i-Waqāyah*, a popular book of the Hanafi School of *fiqh*. His *Ḥashiyah* quotes many earlier

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works of *fiqh* including *Fatāwā-i-Zahiriya*, *Fatāwā Chelpi* and *Fathul Qadir*.

16/2. *Fākihat al-Bustān (MS)*\(^{47}\)

Muhammad Hashim b Abdul Ghafur al-Thattawi al-Sindhi\(^{48}\). This work was compiled in 1719 AD and written on hunting and slaughtering of animals (*Said wa’l-Zabaih*). Listing the animal alphabetically the author has discussed issues connected with their slaughter from legal point of view.

17/302. *Mukhtasar al-Hidayah (MS)*\(^{49}\)

Abdullah b Abdul Rahim Phulati (d. 1187 AH/ 1773 AD)\(^{50}\)

The compiler of this work and a reputed scholar and mystic of later Mughal period, got his education under his brother and noted thinker and scholar, Shāh Waliullah. He has to his credit many works on *Tafsīr, Ḥadīṣ, fiqh*, and *Ṭibb* in Arabic and Persian languages.

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\(^{48}\) K.B.L XXXIII/69, No. 1802.

\(^{49}\) For biographical details seen my discussion on *Faraiz al-Islām* in this chapters on p.

\(^{50}\) M.A.L Habib Ganji Collection, No. 17/118.

\(^{48}\) The manuscript of Persian Translation of *Kanz al-Daqiq* (Kutubkhana Darul Ulum Deoband (MS No. 363) by the same author gives date of his death as 1193 AH, while the author of *Nuzhat al-Khawatir* mentions it as 1187 AH with reference to the authority of Shah Abdul Aziz. See also *Nuzhat*, VI/45.
The Mukhtasar, an abridgement of Hidāyah of Āllama Burhanuddin Marghinani (d. 593 AH/ 1196 AD) has the same arrangement of the chapters as the original work. It covers all the major issues of fiqh from ʿibādāt (prayers) to muamalat (mutual transactions). It is important to note that the two volumes of the Hidayah has been summarised by the compiler in just one volume containing 104 pages. Moreover, he has prepared this summary in such a way that the author's references to the Quran and Hadis remained intact. In this process of summarisation the views of disciples of Imam Abu Hanifa have been left out at many places. The marginal notes in the work are quite helpful for understanding its content.

18/214. Al-Mufid fima Yukalu wa Mālā Yukalu (MS)

Muḥammad Shamsuddin al-Ḥanafi b. Amiruddin (belonged to 1st half 19th century AD)

No biographical information is available about the author of the work. It is only apparent from the date of its scribing that it would have been written some time before 1256 AH/ 1840 AD. The work deals with birds and animals from the point of view whether use of their meat is lawful or unlawful. Arranged

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52 M.A.L. Abdul Hai Collection, No. 395/103.
alphabetically the book first of all, gives a detailed account of a large number of birds and animals along with correct pronunciation of their names into Arabic, Persian and Hindustani. The author's discussion is brief taking into account of only important aspects of the issue. The author has given the views of different learned jurists of earlier period including Abu Hanifa, Imam Malik, Iman Shafi'i, Imām Hanbal, Imām Auzāji and Imām Abul Iaiš. The work dealing with the legal aspects of meat of more than hundred birds and animals is very informative.

19/246. Siqāyat Le Āţshān al-Hidayah (MS)\textsuperscript{53}

Abdul Ḥalim b Aminullah Farangi Mahali (d. 1285 AH/ 1868 AD)

The compiler of the work was born in Lucknow in 1239 AH/ 1823 AD and was very closely related to Quṭubuddin Sihalwi (d. 1103 AH/ 1717AD). He completed his education under his father and Mufti Muḥammad Aṣghar Nimatullah, Mufti Yūsuf, Maulawi Abdul Wali Qadir Farangi Mahli. After working for sometime as teacher in Banda and Jaunpur, he went to Hyderabad where he was appointed as teacher by Turab Ali (popularly known as Khan Salarjang) in Madrasah Nizamiyah. In 1862 AD he was elevated to the post of Qaẓi and the appointment of justice was placed under

\textsuperscript{53} M.A.L. Abdul Hai Collection, No. 376/84.
his charge. He compiled several works about logic, philosophy and Islamic jurisprudence and has also written commentary on popular texts of different subject. His books on Islamic jurisprudence included Ghāyat al-Bayān fi Bayān al-Ḥalāl wa’l-Harām, Khair al-Kalām fi masā’il al-Siyām, ʿUmdat al-Taḥrīr fi masā’il al-Laun wa’l-Libās wa’l-Ḥarīr, Qamrul Aqmār⁵⁴.

The present work is a commentary of Hidayah. The contents show that it is a commentary of some selected chapters of Hidayah relating to sale transaction (Buyu) pre-emption (Shuf’ah), slaughter and sacrifice of animals (Zabiha and Uzhia). Each chapter is further divided into fusul (sections) and furu (sub-section). The work is basically in Arabic but at different places the points are also given in Persian. Secondly, the marginal notes of the compiler are of much importance for understanding the contents of the work. Similarly the author tries to explain the co-relation between preceding and the following chapter⁵⁵. The compiler has also explained difficult terms used in the text of Hidayah and has discussed many works from etymological points of view. The book has frequent references to the opinions of the well-known jurists of earlier period such as ʿImām Shafiʿī, ʿImām Muhammad, ʿImām Yūsuf, Ibn-i-Hajr, ʿImām Zailaī. The main works

⁵⁵ Siqāyat le Aṭshan al-Hidayah, Op. Cit. 1, 31b, 52a, 73b.
cited by the author are Mukhtaşar al-Qudūri, Khazānat al-Muftiyin, Ghāyat al-Bayān, Khulasat al-Fatāwā, Al-Kifayah, al-Binayah.

2. Four Pillars of Islām

20/76. Risalah Sajdah Sahw (MS)\textsuperscript{56}

Burhanuddin Dewi b. Sarfraz Ali (belonged to 1\textsuperscript{st} half of 19\textsuperscript{th} century AD)

The author, a great jurist and muhaddis, was born in Dewa (near Awadh) in the family of Mufti Abdul Salām Dewi (1042 AH/1632 AD), got his early education from his uncle Zulfiqār Ali Dewi, Saiyyid Muḥammad Āḏl Naqšbandi was his spiritual guide\textsuperscript{57}. He was fully devoted to eradication of social evils and reform of Muslim society. Thousands of people were enlightened and sought the right path by his efforts. He wrote several treatises about different social and religious issues in the light of shariat's rules such as; Risālah Sadqa wa Mahr, Risālah Nikāh, Risālah Aḥkām ʿId al-Fitr wa ʿId al-Azḥā, Risālah Taḥqiq Riba wa Ribh etc.

Consisting of five sections, the present treatise deals with the issue of the Sajdah sahw (prostration done due to certain mistakes committed by a Muṣallī). The works quoted by the

\textsuperscript{56} M.A.L. Subhanullah Collection, No. 297.3/12.
\textsuperscript{57} Tazkirah, p. 31, Nuzhat, VII/99.
author in support of his discussion included *Rasā'īl al-Arkān, Bahr al-Rā'iq*. It is important to note that while dealing the issues of book the author defines various important terminologies related to principles of Islamic jurisprudence such as *al-Ḥukm al-Qatī, al-Ḥukm al-Zanni, Muṭlaq, Ijmāʿ, Qiyās*. It is a part of collection of other three treatises of the same author in Arabic language.

21/70. *Risālah fi Taḥqiq Rafāʿ al-Sabbābah fi'l-Tashahhud (MS)*

This is another work of Burhanuddin which is related to the issue of raising finger in the Q'ada (sitting for recitation of Tashahhud after two raka'āt). The issue has been discussed mainly in the light of the relevant Ḥadīṣ. Furthermore, the author has made reference to the views of different jurists such as Imam Shafiʿī, Abu Yusuf, ʿAbdul Ḥaq Muḥaddis Dehlawi.

22/51 *Masāʿīl fi Muqām Ṭuhr al-Mutakhallil wa fi Bāb-al-Masaḥāl-'ala'l-Khuffain min Sharḥ al-Waqāyah*

The treatise written by Burhanuddin is related to the issues connected with haiz (menstruation) and Tuhr (purity). It also

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60 Ibid, ff. 56 b, 66 b.
contains discussion about masah ala'l-khuffain (to pass wet hand over socks). The treatise is very brief but covers most of the essential points about the above matters. The contents of the work are mainly based on sharh al-Waqāyah, a popular compendium of the Hanafi School.

23/77. *Risālah Tahqiq Qaza al-Fawāit (MS)*

A very small treatise of Burhanuddin b. Sarfaraz Ali Dewi consisting of only eight pages, deals with the performance of missed prayer (qazā). The author is of the opinion that such kind of salat should be performed according to the sequence of their times. The author makes reference to some important works of jurisprudence such as *Fatāwā ‘Ālamgīri* and has taken note of the opinion of the well-known jurists of the Hanafi school including Abū Hanifa, Abu Yusuf, and Imām Muḥammad.

24/196. *Fiqh-i-Makhdūmi*

Shaikh Alauddin Ali b. Aḥmad al-Mahaimi al-Gujarati (d. 835 AH/1431 AD)

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62 M.A.L Subhanullah Collection, No. 297.3/12.
64 Ibid, f. 52.
65 *Arabi Adabiyyat*, p. 98.
The compiler of the work belonged to a business class family of Kokan. His forefathers were of Arabian origin of Nawait who migrated from Madinah to the coastal area of Arabian Sea during the governorship of Hajjaj b. Yusuf al-Ṣaqqāfi (d. 713 AD). His father shaikh Ahmad a great ʿĀlim himself, took special care in educational upbringing of his son. After completing education he occupied himself with teaching in a Madrasah of Mahaim. He was appointed as Qazi of Mahaim by Sultan Ahmad Shah (1441 AH/1439 AD). He has to his credit a number of works on different subjects including Tafsir, fiqh and Falsafah. His main work on fiqh is known as Fiqh-i-Makhdūmī, which deals with the issues related to prayers. His another contribution, which shows his interest in fiqh-i-Islāmi, is known as Fatawa Makhdūmī. It is important to mention that despite of certain mistakes the importance of Fiqh-i-Makhdūmī could not be overlooked. It is still of useful for the followers of Imam Shafii.

25/42. Kitāb al-Manāsik wa Ubab al-Masālik

Rahmatullah b ʿAbdullah al-Sindhi (d. 994 AH/1585 AD)

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66 Subḥat al-Marjān fī Āsār-i-Hindustān, p. 97, Rud-i-Kausar, p. 511.
67 Rūz-i-Kausar, p. 511.
68 Taẓkirah p. 147, Nuzhat III/78-80.
69 Abdul Rahman Parvaz Islahi, Makhdūm ʿAlī Mahāimi, Bombay, 1976, p. 120.
70 Ibid., p. 120 see also ʿArabīī Adabiyyāt p.98.
71 Nuzhat. IV/99.
The author of the work belonged to Darbila a town of Sindh. After completing traditional education, he went to Madinah for higher education in the field of Hadis. Rahmatullah and his friend Abdullah were known as Shaikhain, both were the eminent disciples of Ali Muttaqi Burhanpuri, the author of Kanz al-Ummāl. During his stay in Madinah he joined the lectures of different Muhaddisin including that of Ali Muhammad Khatib al-Madani. On returning to Gujrat, he engaged himself in teaching and compiling books. In the last part of his life he settled in Madinah and died there in 990 AH/1582 AD.

This work contains a detailed discussion about an important pillar of Islam, i.e. Hajj pilgrimage. The author has taken all major issues related to the Hajj including its conditions, etiquettes and the works to be performed by a pilgrim. A commentary of this work was prepared by Nuruddin Ali b. Sultan al-Harwi under the title of Maslak al-Muqtasit fi'l Mansak al-Mutawassit. Another work on the same subject known as al-Manāsik al-Ṣaghir is also ascribed to him.

72 Taṣkjirah, p. 62, This manuscript is an abridgement of his another book. Al-Manāsik al-Kabir which is about the Hajj pilgrimage.
73 Ibid, p. 62. The author of Nuzhat al-Khawatir gives the date of his death as 995 AH/1586 AD.
26/29. Al-Ḥujjat al-Sawābah fi lṣbāt Raṭa al-Sabbābah (MS)\textsuperscript{74}

Ilmullah b. Abdul Razzaq al-Makki al-Amethwi (d. 1104 AH/ 1694 AD)

The writer of the book, one of the eminent scholars in the field of Tafsir, Hadis, fiqh and literature was born in 954 AH/ 1547 AD in Amethi and died in the same place. He got his early education under his father and for higher learning of Hadis and fiqh he went to Hijaz and stayed there for about twelve years. His teachers included Hāshim b. Burhan al-Ālwi, Shahabuddin Ahmad b. Hajr al-Makki\textsuperscript{75}. On returning from Hijaz he settled in Bijapur where Ibrāhim ʿĀdil Shah (1535-1557 AD) appreciated his contribution to Islamic learning and social reforms and gave him full patronage and encouragement.

This work relating to a trivial issue of prayer (rafa al-Sabbabah) is divided into two parts, each part called maqsad. It also contains an introduction and resume (Khātimah). First of all, the compiler recorded all those traditions which are related to raising finger during the recitation of Tashahhud. In the second part he strengthens his point of view by quotations from the works of the learned jurists. In course of his discussion the author has quoted opinion of the jurists of different schools including Hanafi

\textsuperscript{74} M.A.L. Habib Ganj Collection, No. 17/209, Shamil No. 24/5.
\textsuperscript{75} Nuzhat VI/285-286.
and Shafi'i. In the conclusion he had analysed these relevant traditions and opinion of 'Ulamā and has explained that how the finger is required to be raised at the end of the Tashahhud. While establishing his point of view the author has criticised those 'Ulamā who opposed the raising of finger in the Tashahhud.

The following books have been utilized by the compiler as source material, Kifayah, Fatāwā Qāzī Khan, Khazānat al-Muftiin, Fatāwā-i-Tātār Khāniya.

27/46. Fath al-Ghafūr fi wazā al-Aydi ála'l-Sudūr (MS)76
Muḥammad Ḥayāt al-Sindhi al-Madani (d. 1193 AH / 1779 AD)

The compiler, who belonged to the tribe of chachar, was native of Thatta. He got his education in the same town under Shaikh Muhammad Mian b. Muḥammad Amin al-Thattawi. After performing Ḥajj he settled in Madina with Abu Hasan b. Abdul Hadi al-Sindhi and after the death of his teacher he occupied himself with the work of teaching at the same place for about twenty-four years. Many well-known scholars of Sind including Abul Hasan b. Muhammad Sadiq al-Sindi, Ahmad b. Abdul

76 M. A. L. Abdul Hai Collection, 'Arabia fiqh, No. 386/94.
Rahman al-Sindi had been his disciples. He was author of several books on Hadis and fiqh. This treatise is a collection of traditions relating to the setting of hand on the chest (sadhr) or below navel (surrah) during the Qiyām (standing position in the prayer). Both kinds of traditions are given in the work with showing preference to those which allowed the setting of hand on the chest. Such traditions have been recorded on the authority of Imām Ahmād, Imām Bihāqi, Imām Bukhari, Ibn-i-Abdul Bar, Darquṭnī, al-Tabrānī. The author has also taken into account the opinion of those 'Ulamā who accepted those traditions which allow the setting of hand below the navel and they are Imām Suyūṭī and Ibn-i-Hajr.

28/23. Farāʾīz al-Islām (MS)

Muḥammad Hāshim b. Abdul Ghafūr Sindhi al-Thattawi, (d. 1174 AH/ 1760 AD)

The author, a native of Thatta was well known for his excellence in the field ofHadīṣ and fiqh. His teachers included Makhdum Žiauddin al-Sindhi and Abdul Qadir b. Abu Bakr al-Hanafī—a jurist of Makkah. After completing education he devoted himself to the course of Islamic learning especially Hadīṣ and fiqh

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77 Taḏkiraḥ p. 186, Maʿāṣir al-Kiram 1/164, Nuzhat VI/302, Subḥat, p. 244.
78 M.A.L. Habib Ganj Collection, No. 17/201.
and came to be known for his great contribution in this field. By the efforts of Maulana Sindhi thousands of Indian non-Muslims embraced Islam. Nadir Shah (d. 1160 AH/ 1747 AD) and Ahmad Shah Durrani (d. 1182 AH/ 1768 AD) accorded generous patronage to him. His views on legal issues were generally recognised by the contemporary 'Ulamā'. In addition to introduction and resume the work has two big sections. The author has thoroughly studied the obligations (Farā'īz) of four pillars of Islam (al-Arkān al-Arba'ah) and according to him the total number of obligations is one thousand, two hundred and sixty two of which three hundred thirty two are related to aqidah (faith), while the remaining concerned Āmāl (action). He has taken up each rukn (pillar of Islam) separately, and then discussed these farā'īz connected with that rukn. For example in connection to Taharat (purification) and different times-prayers he states that there are forty two faraiz in tahārat and three hundred twenty six obligations in different prayers. Moreover, the number of rakat of every salat are given separately in the beginning of the book. In the same way discussing the farā'īz connected with the beliefs (Aqāid) he has divided them under categories of Imanbi Allah (Belief in Allah), Iman bi'l-Kutub (Belief in divine Books), Iman bi'l-Rusul (Belief in messengers of Allāh), Iman bi'l-Ākhirah (Belief

in the Day of judgement), *Imān bi’l-Qadr* (Belief in destiny). The author has discussed all these issues thoroughly and has provided very useful information about the matter under discussion. For example in relation to discussion on belief in Holy Quran he has given details about other Divine Books (*Suḥuf-i-Samāwi*) including their period of revelation and their languages\(^\text{80}\). While discussing the issues, the author has quoted the relevant verses of the Holy Qurān and different views of the ‘Ulamā’. At different places the author has mentioned the sources of his information about a particular issue. His sources included *al-Fatāwā al-Sirājiya*, *al-Zahiriyyah*, *al-Tātārkhāniyyah*, *al-durr al-Mukhtār*, *al-Ghiyāsiyya*, *Munyat al-Musalli*, *al-Sirāj al-Wahhāj*, *Fathul Mubin*.

**29/37. Kashf-al Rain ‘an Msalah Rafā al-Yadain (MS)\(^\text{81}\)**

Muḥammad Hāshim b. Abdul Ghafūr al-Sindhi\(^\text{82}\), wrote this small treatise relating to the controversial issue of *Rafā al-Yadain* (raising hand) during the performance of prayer. The issue discussed mainly in the light of Ḥadīṣ. According to him this is obligatory in the beginning of prayer as well as before *rukū* and

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\(^{82}\) The biography of the author may be seen in connection with his another work, *Faraiz al-Islām* discussed above.
after ruku but it is surprising that the author has not mentioned any Hadis which goes against his view. It is also established by some other traditions that Rafâ al-Yadain is required only at the starting time of the prayer. This second category of traditions are transmitted on the authority of Abdullah b. Masud, Abdullah b. Zubair and Abdullah b. 'Umar. In view of this difference the author concludes that when both kinds of traditions are transmitted through reliable sources, one is allowed to follow any one of two standpoints. It is important that in course of discussion the author has also examined the nature and quality of the traditions quoted by him. At some places the author has given his discussion in Persian especially in course of examining the views of Indian Ulama' such as Abdul Haq Muhaddis Dehlawi. The main sources of the author are Takhrij al-Hidâyah al-Aini', Tahrir al-uşûl, Tažkira al-Qârî, Tahzib al-Tahzib.

30/57. Rasâ'îl al-Arkân (Prtd.)

Baḥrul Ulûm Abdul Ali b. Nizamuddin Sehalwi (d. 1235 AH/ 1819 AD)

The compiler of the work was born about 1125 AH/ 1713 AD in Lucknow. He was an eminent scholar of his time. He got his

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54 Yusufi Press, Lucknow, 1910 AD.
early education from his father Nizamuddin. After the death of his father in 1747 AD he worked hard for the development of his knowledge in different fields. He came into contact with the reputed ‘Ulama of that period including Kamaluddin Sihalwi (d. 1771 AD). Later on, he was appointed by Hafiz Rahmat Khan, Nawab of Shahjahanpur as teacher in Shahjahanpur. After the death of Hafiz Rahmat Khan, Nawab Faţlullah Khan of Rampur invited him. He also worked for sometime as teacher in Bihar. After some years he was invited to Madras by Nawâb Muhammad Āli Khān, a noble of Karnataka and was given the title of Malik al-‘Ulama Bahrul Úlûm. He died in Madras and was buried there. He got excellence in the field of fiqh, logic, Scholastic and theology and wrote several books about the subjects including Sharh Musallam al-Şubût known as Fawâtiḥ al-Raḥmût, Risālah Tauhid, Sharḥ al-Dair, Takmilah Sharḥ al-Tahrîr.

This treatise, systematically arranged is divided into four chapters. The work discusses pillars of Islām and explains the related issues according to the Hanafi School in a comprehensive way. For example in chapter on the prayer, the author has first of

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all discussed in details about purification by ablution, bath and tayammum.

31/152. *Manāhij al-Tadqiq wa Maʿārij al-Taḥqiq (MS)*

Husain b. Dildār (d. 1273 AH/ 1856 AD)

The compiler of this book was a notable *Shiāh* mujtahid of Lucknow, and authority of *Shiāh* School in India. He was born in 1211 AH/ 1796 AD and got education under his father Saiyyid Dildar Ali and brother Muhamad b. Dildār Ālī. He left many students who further contributed to the development of Islamic learning. Some of them are ʿĀbbas al-Tastari, Ghani Naqi al-Zaidpuri, Saiyyid Ḥusain al-Marāshi, Mīrzā Ḥasan al-Azīmabadi, Ālī Aẓhar and Habib Mahd. He wrote many books on *fiqh* in Arabic including *Risālah fiʾl Rakātāin al-Awwalān min al-Ṣalāt, Ḥiṣālat al-Ṭahārat*. The present book deals with the important issues related to Namāz (Prayer) such as its timing in the light of rising, setting and declining of the sun, the niyyat in the beginning of the prayer, the recitation of *Ṣūrah al-Fātiha* and reciting two *sūras* in the same *rakāt* while all the above mentioned works show the viewpoint of *Shiāh* school.

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Kitāb-o-Auqāt al-Ṣalāt (MS)\textsuperscript{88}

Maḥbūb Ālī Dehlawi (d. 1280 AH/ 1863 AD)

The compiler of this treatise, one of the distinguished scholars of India was born in Delhi and got education under Shaikh Ābdūl Qādir b. Shah Waliullah. Syed Ismail Shahid was classmate of Maḥbub Ali. While they were studying under Ābdūl Qādir, he took bai'at for Jihād at the hand of Saiyyid al-Mujahid Ahmad b. Irfan al-Bareiwi but could not participate in jihād. His disciples included Qāzi Muḥammad b. Ābdūl Aziz al-Machhli Shahri\textsuperscript{89}.

Kitāb-o-Auqāt al-Ṣalāt is a short treatise dealing with the starting and finishing time of each of five daily prayers. Their timing has been discussed keeping in view the different seasons. The compiler has tried to mention all the obligatory and non-obligatory part of the prayers of different times. The author discussed in this book the Sunnat Mutawâtirah (continuous practice of the prophet S.A.W.) and concensus of the companion regarding the rak‘at, obligatory and non-obligatory part of the prayers. This treatise also takes up the issue of pre-poning and postponing of the Salat due to wars. The author has also taken into consideration Jama‘-bain al-Ṣalātān (performing two times

\textsuperscript{87} Nuzhat VII/142.
\textsuperscript{88} M.A.L. Abdul Hai Collection, 'Arabīa Mazhab (2), Nos. 117, 118.
prayers together) and issues of Qaṣr prayer (shortening the prayers). The author has discussed the timing of the prayers with reference to the versis of Holy Qurān, tradition of the Prophet (S.A.W.) and viewpoints of Fuqahā of different schools. The work also contains a detailed discussion about the end of time of the Zuhūr prayers and beginning of time of the Aṣr prayer in the light of Miṣl and Miṣlāin (single and double shadow of a thing), which is a much debated and controversial issue among the jurists. The Hanafite jurists themselves have different opinions on this issues, though Imām Abū Ḥanifa has finally accepted the opinion of his two close disciples who considered Mislain, the end of the Zuhūr prayer⁹⁰.

It is important to note that while quoting the tradition, the author has also defined its categories such as Jayyid, Ḥasan, Ṣahih. The marginal notes especially explanation of different terms are quite helpful in understanding the contents of the work. The important fiqh works cited by the author are Majmāʾ al-Barakāt, al-Durr al-Mukhtār, al-Ṭahāwī, Khazānat al-Riwayāt, al-Sharḥ al-Waqāyāh and al-Sirāj al-Munīr.

⁹⁰ Nuzhat VII/416.
The work deals with the issue of raising hands on different occasions during the performance of Salat. The author has tried to prove it to be Sunnat-i-Ghair Mu'akkadah (Non-stressed tradition of the Prophet S.A.W.). According to him it does not matter if one raises his hands or not because the Prophet (S.A.W.) and his companion did it occasionally. The compiler quoted traditions, which support both points of view. For example a tradition of the Prophet recorded on the authority of Abdullah b. Abbas stated “do not raise your hands except in seven places i.e. Iftitah-i-Salāt, Salat of witr, Salat of I'd and four times during the Hajj pilgrimage. Referring to the controversy among ‘Ulamā about raising hand between two Sajdah he pointed out that it was not allowed in view of the consensus of the ‘Ulamā. The author tried his best to discuss this issue in the light of Holy Quran, Hadis and fiqh works. According to the compiler the ‘Ulamā who were in favour of raising hand included Imām Mālik, Imām Shafī‘ī, Imām Ahmad b. Hanbal. At different places the author has given his own opinion about this issue. At one place he says that it is

91 M.A.L. University Collection, 'Arabia Mazhab (2), No. 118.
92 For brief account of the author, see the above discussion on Kitāb Auqāt al-Salāt.
94 Ibid.
better to follow the standpoint of the 'Ulama favouring raising hands because they had a deep knowledge of Quran and Sunnah. Highlighting the importance of following of a Hadis in relation to the above matter he stated we are the Ummah of the Prophet Muhammad (S.A.W.) not that of Abū Hanifa or Shafī'ī. One of the important aspect of the author's discussion is that after quoting several traditions in support of the two stand points, he scrutinises them and explain their categories in terms of Sahih, Hasan and Muttaṣilī. It is also interesting to note that after discussing the issue of Rafā' al-Yadain (raising hand) the author gives a detailed account of the deep knowledge and legal expertise of the founders of four schools of Islamic jurisprudence, their mutual respect and due consideration to the opinions of each other. Some of the books of Indian authors referred to in the present works are Fatāwā Tātārkānī, Fatāwā Hammādi, ʿIqdul jid fiʿl-Ijtihād waʿl-Taqlīd. The other important sources of the work are al-Hidāyah, al-Tauhzīb, Fatāwā al-Gharāʾib, Majmā al-Riwaʿāyat, al-Hāwī, Khazānāt al-Muftīyyīn.

95 Ibid, f. 27 b.
96 Ibid, f. 31 b.
97 Ibid, 26 a, 59.
34/96. Tāliq al-Afāzil fi Masālah al-Ţuhr al-Mutakhallil (MS)  
Abdul Ḥalim b Muhammad Lakhnawi (1285 AH/ 1868 AD)

The work is actually meant for those women who face some natural problem (menstruation) every month. The treatise defines the minimum and maximum duration between two courses of Ḥaiz (menstruation) and shows distinction between Ḥaiz and Istihāza. Various reasons in terms of day, night and prolonging situation has been elaborated to distinguish between them.

The author tried to support his discussion with reference to the views of learned jurists including Imam Abu Hanifa, Imam Yusuf, Imam Muhammad, and Ibn-i-Mubārak.

3. Social and Religious Issues

35/136. Risālah fi Usūl al-Samā

Fakhruddin Zarrādi (748 AH/ 1347 AD)

The writer of this treatise was a contemporary of Muhammad b. Tughlaq. He origianally belonged to Samana (presently in Haryana), later he settled in Delhi. He was one of the eminent jurists. His account has been given in the discussion of Siqayat Atshan al-Hidayah in this chapter on p. 160-161.
disciples of Shaikh Nizamuddin Auliya and was well known as a jurist. He has also very deep knowledge of Hadis. He is reported to have very minutely scrutinised those Ahadis, which have been quoted in Hidayah from Sahih Bukhari and Sahih Muslim. Before joining the mystic circle he was very much critical of Sama and some other practices of Sufis. But later he defended their principles and practices. The present treatise was written by him to explain legality of Sama. In this work he has also discussed important aspects of Taqlid and Ijtihad. Sultan Muhammad Tughlaq was impressed by his scholarship. When he shifted a part of the population of the Delhi to Deogir (Daulatabad) Fakhruddin Zarradi also went there and from there he left for Hijaz to perform Hajj. While returning from Hijaz, he died in the way.

36/132. Risalah fi Jawaz al-Istighasah wa'l-Milad (MS)

Muhammad Abid b. Ahmad Ali al-Sindhi (d. 1157 AH/1744 AD)

The author of the work was a well-known traditionist and jurist. He was born in Siwan and got his education under his uncle Muhammad Husain and Ulama of Yemen and Hijaz including Abdul Rahman b. Sulaiman, Yusuf b. Maulana Muhammad,
Muhammad Tahir Sumbul, Abdul Malik al-Qilaii, Saleh b. Muhammad. The author visited various parts of the Muslim world as the emissary of Sultan of Sana (Yemen). He showed full devotion to the cause of religion and for the same objective he took up the work of teaching and writing. Most of his works are on *fīqh* such as *Tawālī al-Anwār ala'l-Durr al-Mukhtar*, *Kitāb al-Hudūd* and *Mawahībat latīfa ālā Musnad al-Īmām Abī Hanīf*.

The present book deals mainly with two issues seeking help from dead person through such utterances, "Ya Sayyīdī Ādūl Qādir or Ya Mālālī Khawāja Naqshbandī", and celebrating birth and death anniversary of the Prophet (S.A.W.) just like a festival. The author makes plea for the lawfulness of these actions and quotes two traditions, which show the possibility of hearing by dead persons. He has also cited some Quranic verses to prove that some dead bodies are in the living state as *Qurān* says: think not of those who are slain in God's way as dead. Nay they are alive; finding their substance in the presence of their Lord.

The author has also quoted some traditions on the authority of ʿUṣmān b. Hanīf which permits seeking *Wasīlah* (medium) of wali or pious man for his requirements. 'ʿAllāma Baihaqi has placed this

\[103\] *Nuzhat VII/457-59*


tradition under the category of *Ṣaḥīḥ*\(^{106}\). He further asserted that it is permissible to visit graveyard and pray to the dead bodies for seeking their blessing. But he did not consider it lawful to kiss them, to bow before them or to offer *salat* on these places\(^{107}\). In support of his view about celebration of the Prophet's birth day the author says that it is evident from the early history of *Islam* that some pious people considered the birthday of the Prophet (S.A.W.) as sacred event and they offered some sacrifices and prepared special dishes such as Hazrat Abū Bakr slaughtered an animal and Hazrat Abū Hurairah distributed the meal at the birthday of Muhammad (S.A.W.). So the objection of *Ulama* about these works as given by Ābdul Ḥaq Muhaddīṣ Dehlawi and Ābdul Wahhāb are not justified\(^{108}\). At the end of the book the author divided the innovation into two categories *Bidāt-i-Ḥasnah* and *Bidāt-i-mazmūmah* and justified his standpoint saying that rigid stand is not good.

37/130. *Nūr al-Imān bi Ziyārat-i-Āsār-i-Ḥabib al-RAhmān*  
(Prttd.)\(^{109}\)  
Ābdul Ḥalim b. Aminullah Farangi Mahli (1285 AH/ 1868 AD)\(^{110}\)

\(^{108}\) Ibid, p. 45.  
\(^{110}\) For a brief account of the author see my discussion about *Siqayat le Atshan al-Hidayah* in this chapter on p.
This treatise was written by the author during his Hajj pilgrimage in 1862 AD. It explains etiquettes and manners to be observed for visiting Rauza-i-Mutabarrakah and other holy places of Makkah and Madinah. According to him he felt the need for such work as he found many people unaware of these things and so they indulged in unlawful acts while visiting these holy places. He especially pointed out illegality of seeking help from the grave of the Propet (S.A.W.). Thus the treatise helps to understand what to do and what not to do at the time of visiting the graves and other holy places. In addition, the work also informs about various places of religious and historical importance such as Masjid-i-Baqi, Masjid-i-Qubā, Uhad mountain.

4. Economic Issues

1. Inheritance

38/102. Ki tāb al-Fara’īz

Razıuddin Hasan al-Saghani b. Muḥammad (d. 650 AH/ 1252 AD)

The author of the book was an eminent traditionist and lexicographer of medieval India. He contributed a lot to the development of Islamic learning especially ʿIlm-i-Ḥadīṣ in the early period of Muslim rule in India. His forefathers originally belonged

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111 Hadāʾiq p. 254.
to Saghaniyan (a district in Transoxiana) and they migrated to India and settled at Lahore where 'Allamah Saghani was born in 1181 AD and grew up at the same place. He got early education from his father and went to Ghazna, Iraq and Makkah for higher learnings. His teachers included Abu Hafs Umar Marghinani and Burhanuddin Abul-Futūh. Allama Saghani has a close contact with Sultan Qutubuddin Aibak (1205-1210 AD) who offered him the post of Qāzi of Lahore but he did not accept it. During his stay in Egypt he came into contact with the Abbasid Caliph Abul Abbas Ahmad b. Mustazi known as al-Nāṣir li Din Allah (1179-1225 AD) who sent him as envoy to the court of Iltutmish in 1210 AD. His successor, Caliph al-Mustansir (1226-1242 AD) also deputed him as his envoy to the court of Raźia Sultana.

The present work as the title shows is related to the law of inheritance, but I could not find it in any library or private collection.

39/112. Risālah fi'l Mirās (MS)

This small treatise of an anonymous author relates to division of inheritance an important issue of Islāmi fiqh. It was written, as mentioned in the introduction for the children of the

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113 M.A.L. Qutubuddin Collection, No. 23/16-B.
author but his name is not given. The treatise was scribed in 1118 AH/ 1706 AD by Maula Muḥsin. It shows that the book was written some times before 1706 AD. Explaining the major problems of division of inheritance, the *Risalah* defines different categories of shareholders, and takes into account the situations leading to the denial of share in inheritance such as Paganism, slavery, murder of legator (muriṣ). This work also contains a table listing different shareholders and their respective shares.

40/242 *Sharh Mukhtasar al-Farāiz* (MS)

Abdul Basīt Qannauji (d. 1223 AH/ 1808 AD)

The commentator was a learned scholar of 19th century India. He memorised Qurān and got his early education under his father. Later on he associated with Maulawi Abdul Wali Farangi Mahli (d. 1177 AH/ 1763 AD) for further development of his knowledge. This book discusses the issues related to inheritance. The work is actually a commentary of *Mukhtasar al-Farāiz*, written by Habibullah Qannauji (d. 1727 AD) about inheritance and rules of its division. The present manuscript is a part of collection (Majmua'h) of five treatises scribed by Hamiduddin Qannauji and bound together.

115 Tażkirah p. 107.
This work as it is evident from the title is related to inheritance (faraiz). The work written in accordance with the Shii fiqh, quotes many books of the same school. The actual date of compilation of the treatise is not known but it appears from the date of the death of compiler that it would have been written sometime before 1235 AH/ 1819 AD. The work was dedicated to Sultan Safdar Ali Khan Bahadur.

The compiler of this work belonged to a reputed family of Muhammadpur in the district of Arakat (presently in Cochin). He was a well-known jurist of South India and follower of Imam Shafii. Among his teachers the noteworthy were Nizamuddin, Aminuddin Siddiqui and Abdul Ali. He was very close to the Nawab of Madras who appointed him as tutor for his son. The Nawab conferred on him different titles such as Sharf al-Daulah,
Sharf al-Malik and Ghālib Jang. He was also a good author and compiled many works about fiqh such as

(a) Al-Fawāid al-Sabghiyah fi Sharh al-Faraiz al-Sirājīyah
(b) Sawātī al Anwār fi marifat-i-Auqat al-Salat wal- Ashar
(c) Kifāyat al-Mubtadi fi'l fiqh al-Shāfiī
(d) Tāliqat ālā Mukhtaṣar Abū Shuja
(e) Masā'il fi'l fiqh al-Shafiī

These works referred to by the author of Fuqahā-i-Hindi\(^{119}\)

are not available at present.

43/117. Zubdat al-Faraīz (MS)\(^{120}\)

'Imaduddin Muḥammad ʿUsmani al-Lubkani (belonged to 19\(^{th}\) century AD)

The author of the work was a native of Lubkan a place in Bareilly district. He was a well-known scholar of Islamic jurisprudence, logic and philosophy who completed his studies under two distinguished scholars namely Muḥammad Ḥasan (d. 1783 AD) and Ābdul Ali Bahrul Ulūm (d. 1819 AD). He has also to his credit three other books: 'Uqdat al-Waṣīqa, Sharḥ Kamīlah

\(^{119}\) Ibid.
\(^{120}\) K.B.L. XXXIII/167, No. 1960.
Risālah Māqul al-Ashar\textsuperscript{121}. The date of death of author or that of compilation of the work could not be traced but it may be said in the light of the period of the teachers of the author that he belonged to 19\textsuperscript{th} century. The work discusses the issues related to inheritance in a detailed way. The present manuscript is a part of collection (majmū‘ah) of five treatises scribed by Hamiduddin Qannauji and bound together.

B–Landed Property

44/120. Risālah dar bai al-Ārāzī al-Kharājiyyah (MS)\textsuperscript{122}
Shaikh Jalāluddin Maḥmūd Thanesari (d. 989 AH/ 1581 AD)

The author of the work was born in 894 AH/ 1488 AD. His forefathers were native of Balkh. He was one of the distinguished ‘Alim and Sufi of the period of Akbar to whom the Emperor had paid two personal visits. He belonged to the Sabiri branch of the Chishti order and was a close disciple and Khalifah of Shaikh Quddūs Gangohi Chishti (d. 945 AH/ 1538 AD). In the Maktubat-i-Quddūsiya (a collection of Abdul Quddus’s letters) many of the letters of Shaikh ‘Abdul Quddūs are addressed to Shaikh

Jalaluddin. He was also known for deep knowledge of Islamic jurisprudence and contribution to this subject through compilation including the present one\textsuperscript{123}. The book was basically written to highlight the issue of ownership of lands. He thought that on account of elapse of a long time since the conquest of India no accurate information was available about the ownership of the properties because due to natural calamities and fear of the conqueror the original owner of land shifted their settlement from one place to another\textsuperscript{124}. In this situation such kind of land comes under the category of wasteland or ownerless property belonging to the property of \textit{Bait al-Māl} (the treasury of the Muslim State)\textsuperscript{125}. Jalaluddin’s view about such kind of land being the property of \textit{Bait al-māl} is based on the theory that there is no evidence that the land was ever distributed among the victors (\textit{Ghanīmīm}) or was restored by the Muslim conquerors to original owner after the initial conquest\textsuperscript{126}. So such kind of vacant land if occupied by a new group of people may not be legally lawful and lands must be deemed to have been abandoned and ownerless, so as to become the property of the \textit{Bait al-māl}\textsuperscript{127}. To prove his stand point the

\textsuperscript{124} Risalah dar Bai Arazi Op. Cit, f. 2 a.
\textsuperscript{125} Ibid, f. 2 b.
\textsuperscript{126} Ibid, ff. 2b, 3a, 7a.
\textsuperscript{127} Ibid, ff. 2b, 10a.
author gives the example of Ranjārs (Ranghārs) living in the region of Thanesar (a place in Haryana region) where the dominant group of the Ranjārs, Chauhāns and Tomārs (Tower) expelled the weaker section of the Ranjār – the Pandiar (Bundiar) and the Brahman (Ahl-i-Zunnār) from their villages and occupied their lands. The descendants of the later occupants, in his opinion, could not be recognised proprietor of the land occupied through expulsion of original occupants.

The important juridical works referred by Qazi Jalaluddin in his book are Mukhtasar al-Qudūri by Ahmad b. Muhammad al-Quduri (d. 1036 AD), Fatāwā Qāzi Khān by Fakhruddin Hasan b. Mansur Qazi Khan (d. 1196 AD), al-Hidayah by Burhanuddin Ali b. Abu Bakr Marghinani (d. 1197 AD), Kanz al-Daqaiq by Hafizuddin Abdul Barakat Abdullah b. Ahmad Nasafi (d. 1310 AD), Fatawa Qara Khani by Qara Khan (14th century), Fatawa-i-Tatar Khani by ʿAlim b. Ala Hanafi (d. 1397 AD). Besides these compilations he referred some important Ulama and Muftis in his treatise they included Ilahdad Jaunpuri (d. 1517 AD), Tayyab Budh and Muhammad Mufti.

The author after supporting the view of the above scholars of his own times, he came to the conclusion that if any former

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28 Ibid, ff 10a, 14 a, see also, Socio-Economic Dimension of Fiqh Literature in Medieval India, p. 91.
ruler had earlier restored land to the original owner (the ancestors of the present occupants) the ruler, acting upon the opinion of Imam Shafii could issue his judgement against the occupant's right to own the land\textsuperscript{129}.

In such case the land, in his opinion, would remain Kharaji and the occupants would be treated merely as cultivators working for the Muslims. Besides, the ruler would have full control over such lands to bestow the revenue or the land itself upon deserving person according to his own will. Such beneficiaries (grantees) would be entitled to full proprietary rights free from any fear of assumption or alination\textsuperscript{130}. In this way according to Jalaluddin most of the land in Mughal India came under the category of ownerless property that belonged to Bait al-mal. In such situation according to the author, any portion of the land granted by the Sultan to a deserving person and cultivated by the latter with the former's permission would ultimately become property of the grantee and be designated as 'Ushri.

\textsuperscript{129} Ibid, ff. 7b, 8b.
\textsuperscript{130} Ibid, ff. 6b, 8 a. b, see also Socio-Economic Dimension p. 92.
C. Sale & Purchase

45/01. Al-Bayāţ al-Jāmi' fi aqwāl al-fuqah (MS)\textsuperscript{131}

Muḥammad Ḥāshim b. Abdul Ghafūr al-Thattawi (d. 1174 AH/1760 AD)\textsuperscript{132}

The work was arranged on the pattern of general books of fiqh. It was divided into two volumes the first volume discusses the different aspects of learning while the second relates to sale and purchase (Bā'ī wa Shirā). This work is mainly based on quotations from several books of fiqh about the matter under discussion. The first volume of manuscript in K.B.O.P. Library Patna consists of 451 folios while the second has 291 folios.

5. Penal Matters

46/123 Fatāwā Ikhtiyār fi'l Ḥudūd wa'l-Qiṣāṣ (MS)\textsuperscript{133}

Hazāqat Ali Khan Ḥakim Salāmat Ali Banārsi (belonged to 2\textsuperscript{nd} half of 19\textsuperscript{th} century AD)

This work dealing the penal issues is an important collection of legal opinions and verdicts of jurists. It is divided into two

\textsuperscript{131} K.B.L. XXXIII/70-71, Nos. 1803, 1804, 1805.
\textsuperscript{132} The biographical information about the author may be seen in reference to his another work: Fākihat al-Bustān in this chapter on p.
\textsuperscript{133} M.A.L. Zamimah Subhanullah Collection, No. 297.31/7.
main parts and subdivided into several chapters and these sub-chapters are further divided into fusul (sections). This Fatawa collection contains a very useful introduction which discusses the Islamic principles and rules for dealing with crimes of different nature. He has first of all, defined Hadd, Qisas and Tazir and has explained the nature of punishment to be given for different kinds of crimes. In this connection he also discusses the conditions and etiquettes of giving witness in various cases. The author has taken into account a very large number of subsidiary issues connected with the Ḥudūd, Qisāṣ and Tāzir. It is also important that the author has elaborated his points in the light of original sources such as al-Hidayah, Fath al-Qadir, al-Quduri, Fatawa Qāzī Khān, al Ashbāh wal-Nazāir, al-Jāmi′ al-Ṣaghir, Bahr al-Rāʼiq, al-Fatāwā al-Hammadiya, al-Fatāwā al-Tātār Khaniyah, Majmā′ al-Baḥrain.

In this way this Fatawa has very rich material on penal issues covering every aspects of crimes and punishment. This work was translated by Maulawi Ābdul Salām Nadwi in Urdu and published from Matba Maarif, Āzamgarh in 1992 AD in the title Islamic Qanun-i-Faujdari.
Sirajuddin Ali Khan (belonged to 19th century AD)

Very scanty information is available about the author of the work. It is only confirmed about him that he worked as Qazi in Calcutta in 1805 AD. At the same time Henry Clark and Herbert Horington were also working as judges in Calcutta. The latter has stressed upon Sirajuddin to compile a separate work on penal law of Islam.

The present work consisting of seven chapters and one supplement covers all major and minor issues related to Hudud, Qisas and Tazir. The work compiled basically from the point of view of Hanafi School is quite comprehensive and the author had adopted modern approach while discussing and explaining the legal problems.

In the introduction the author has explained the basic differences between Hadd and Tazir. According to him nature and kind of punishment under the Hadd is fixed by the text of Qurān and Hadis, while under Tazir it is depended on the verdict of Qāzi. Secondly, in case of even little doubt (Shubhat) about the offence, Hadd would not be implemented but the Tazir may be enforced. Thirdly, the minor (Šabī) would be exempted from Hadd but such

135 Arabî Adabiyyât, p. 96.
exemption is not allowed in case of Tâzir. Still another difference is that, the punishment under Tâzir would be given to both Muslim and non-Muslim while the Hadd is to be applied only to Muslims. In the first chapter the author discusses the objectionable and vulgar sentences liable to Tâzir. The second chapter takes into account the cases in which only Tâzir is applicable. The author has pointed out some particular situation in which the implementation of Hudūd could be suspended. The third chapter defines al-Shubhat al-Qawiyyah (strong doubts) on the basis of which rules of Tâzir may be applied. The fourth chapter deals with the cases involving Qisas and explains conditions for its implementation. In this connection he quotes the opinion of some eminent Ulama including Qāzi Ābul Āṭa al-Nāsiki, Abū Bakr al A‘mash and Abū Shujā. The fourth and fifth chapters deal with the false witness and its rejection in different matters. In the same context he has also given his opinion about fabricated cases of crimes. In the last chapter he discusses the procedure for giving punishment under Tâzir. Such as minimum and maximum number of whips allowed under Tâzir. In last part of the work the compiler has given details about the Siyāsat (punishment for political offences), its implementation by Imām and Qāzi for the interest of the state and its subjects. The author has taken into

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account not only the issues of his own time but has also dealt with some subsidiary problems which may arise in future. Many examples of the implementation of Hudūd and other punishment given from the Islamic history especially from the period Caliph Umar (R.A.). The author has also pointed out the differences of opinion among the jurist of the Hanafite School. The main sources referred in the work are: al-Hidāyah, al-Nihāyah, al-Fatāwā al-Sirājiyyah, al-Fatāwā al-Zahiriya, al-Ashbāh al-Nazāʾir, al-Bahr al-Rāʾiq, Fath-al Qadir, al-Kafi, Muḥit al-Sarkhasi, Fatāwā Qāzi Khān, Niṣāb al-Ḥtisāb.

6. Administration of Justice

48/188. Šinwān al-Qazā wa Ūnwān al-Iftā (MS)\(^{137}\)

Abul Maḥamid Muḥammad b. Muḥammad Ḥsmāl al-Usqrqānī (d. 646 AH/ 1248 AD)

No information is available about the author, except that he originally belonged to Khurasan and migrated to India in 616 AH/ 1219 AD during the Mongol’s onslaught in that region\(^{138}\).

The book relating to an important subject of Qazā (judiciary) and Iftā (issuing legal verdict) is divided into five chapters each

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\(^{138}\) K.B.L. XIX / 165-166, No. 1682.
chapter is subdivided into several \textit{fuṣūl} (sections) and then each \textit{faṣl} again divided into a number of \textit{nau} (category). The first chapter discusses the importance of administration of justice, conditions and qualifications required for a person to be appointed as \textit{qāżī}. The second chapter deals with the responsibilities of Qāżī al-Qużāt (chief justice), etiquettes of Qaẓā and principles of imparting justice. In the third chapter the claimant's rights, issues of Shahādat (witness) and the principles delivering judgement have been taken into account. The fourth chapter deals with the behaviour and conduct of life which is desirable for a Qāżī. It also explains the matters which are required to be considered for giving judgement. The work has frequently quoted various reliable works including \textit{al-Mabsūt}, \textit{al-Jāmī al-Saghir}, \textit{al-Jāmī al-Kabir}, \textit{al-Siyar al-Kabir}, \textit{Zakhirat al-Fatāwā} and \textit{Sharḥ Adab al-Qāţī}.

49/187. \textit{Niṣāb al-Iḥtisāb (MS)}\textsuperscript{139}

Qāżī Ziauddin ʿUmar b. ʿIwaz al-Hanafi al-Sunnāmi (belonged to second half of the 14\textsuperscript{th} century AD).

The author of the work was a great jurist and reputed Scholar of the sultanate period. Throughout his life he worked

\textsuperscript{139} M.A.L. Subhanullah Collection, No. 297.3/54.
hard for propagation of Islamic values and eradication of social evils. He did not compromise for the Shari'at's rules even on minor issues. He never hesitated in pointing out unlawful practices irrespective of the fact that such cases were related to any theologian or political personality. He was contemporary of Muhammad b. Tughlaq (1325-1351 AD) who appointed him as qazi of Warangal where he died. In the beginning of the book a detailed account is given about Ihtisāb and its importance as a department of the state administration for looking after moral life of the people. The author has also explained nature of punishment of different crimes under Hudūd and Tazir. At different places, the problems have been discussed in the form of question and answer supported by references to the Qurān, Hadīṣ and fiqh works. While dealing with the practices of the Sūfis he touches the issue of Sama' (spiritual recital with the use of musical instrument), raqs (dance), wearing of garment embroidered with gold and silver. He says that these are not allowed by the Islamic Shari'at. The problems taken up in the work are of varied nature such as use of gold and silver, rights of minors, etiquettes of sitting in mosque and that of visiting grave yards, employment of the children as servant, bowing head as a

140 Taẓkirah p. 97.
141 Akhībār al-Akhyār p. 109, Nuzhat II/63.
way of greeting. At some places he has supported his discussion by citing historical events especially from the period of the second Caliph Hazrat ʿUmar (RA). The sources referred by the author are al-Hidāyah, Jāmī al-Ṣaghīr, Qudūrī, Fatāwā-i-Khāniya, Fatāwā Zahiriyyah, Fatāwā Nasafi, al-Zakhira. According to the catalogue of K.B.O.P. Library Patna, the work was printed in lithograph form.

7. Principles of Islamic Jurisprudence

50/163. Al-wasūl iilā-ʿIlm al-Uṣūl

Ṣafiwuddin Muḥamamd b. Ābdul al-Raḥim al-Hindi (d. 715 AH/1315 AD)

The author of the work was born in Delhi in 644 AH/1246 AD. He completed his education under his grandfather and Qazi Sirajuddin. He was a well-known jurist and follower of Imam Shafii. He left Delhi in 667 AH/1270 AD for Yeman, where he met Sultaṅ Muẓaffar (713 AH/1314 AD). After performing Hajj, he visited Cairo, Rome, Quniya, Siwas, Damascus and finally settled there. He worked as teacher in different Madāris including

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143 Ibid, ff. 24a, 29, 30, 36 a, 40.  
144 K.B.L. XXXIII/12-13, No. 1714.  
145 Fuqahā-i-Hind 1/282-83.
Zāhirīyah, Jawāniyāh, Rawāhiyāh. Besides teaching, the learned Scholar showed interest in writing books on aqaid, (fundamental beliefs) Islamic jurisprudence and to its principles. In addition to the present one his other contribution included Al-Nihāyah, Al-Risālah al-Sabiyyah. He was well acquainted with ʿIlm-i-Kalām specially with the scholastic thought of Imām Abul Hasan Ashari.\(^1\)

51/264. *Taujih al-Kalām fi Sharḥ al-Manār*\(^2\)

Yūsuf b. Saiyyid Jamal Husaini al-Multani (d. 790 AH/1388 AD)

The author was a distinguished jurist of Multan who was born and brought up there. Later on, he shifted to Delhi and completed his education under the well-known Ulama' of that time including Jalaluddin Rumi and Qutubuddin al-Razi. Sultan Firuzshah (1351-1388 AD) was very much impressed by his scholarship and he appointed him as a teacher in Madrasah Firuzshahiya situated near Hauz-i-Qāzi in Delhi. Shaikh Yusuf was author of several works on Philosophy, logic and Islamic jurisprudence.\(^3\) The present work is a commentary on *Manār al-Anwār* of Abul Barakat al-Nasafi (d. 710 AH/1310 AD) the well-known book of *Uṣūl-i-fiqh*.

\(^{146} Nuzhat II/135, Fuqahā-i-Hind 1/282-83.\)

\(^{147} Nuzhat II/174-175.\)
52/256. *Sharh ala-Uṣūl al-Bazdawi* (MS)\textsuperscript{149}

Ilāhād Jaunpuri b Abdullah (d. 923 AH/ 1517 AD)

The author of the work was a well-known jurist and writer of pre-mughal period\textsuperscript{150}. The present work is a detailed commentary on *Uṣūl al-Bazdawi* of Abul Hasan Ali b. Muhammad al-Bazdawi (482 AH/ 1089 AD) which is considered an important work about the *Usul-i-Fiqh* of the Hanafi School and it was also popular as a part of the *Fiqh* curriculum in those days. The commentary is quite comprehensive and gives detailed explanation of text of the *Uṣūl-i-Bazdawi*. Its importance may be realised by the fact that it has reference to more than three hundred works on the subject\textsuperscript{151}.

53/252. *Al-Sharh Ala al-Manar*\textsuperscript{152}

Abdul Salam b. Abu Said al-Dewi (d. 1042 AH/1632 AD)

The author, contemporary of Shahjahan (1628-1658 AD) was a great scholar of traditional and rational (*manqūlāt* and *maqūlāt*) sciences. He belonged to Dewa (presently in Barabanki Distt). After getting early education under the Īlāmāʾ of Dewa, he went to Lahori and further studied under Ābdul Salām Lahori (1037 AH/1628 AD).

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\textsuperscript{149} Ibid II/174-175, *Tazkirah* p. 256.
\textsuperscript{149} K.B.L. XIX/5, No. 1494.
\textsuperscript{150} Brief account of the author is given in reference to Hashiyah al-Hidayah, on p.
\textsuperscript{151} K.B.L. XIX/5, No. 1494.
\textsuperscript{152} Nuzhat, V/228.
1627 AD). At the same place he worked as a teacher for a long time. He was also appointed by Shahjahan as Mufti but resigned after sometime and occupied himself with the work of teaching and writing books. He was very strict in following the Shariah and expressed his opinion fearlessly though it went against the opinion of other Ulama of his times.\footnote{Ibid, pp. 228-229}

The present work is a commentary of Manār al-Anwār of Abul Barakat al-Nasafi (d. 710 AH/ 1310 AD) which was very popular as a book of the principle of Islamic jurisprudence in those days.

54/262. Sharh al-Husamī (MS)\footnote{M.A.L. Subhanullah Collection, No. 297.32/2.}

Abū Yūsuf Yaqub al-Bannani al-Lahori (d. 1098 AH/ 1686 AD)

The commentator of this book was one of the noted jurists and scholars of 17th century India. Born at Lahore, he completed his education under different teachers of that period. He was a contemporary of Shāh Jahan (1628-1658 AD) and Aurangzeb (1659-1707 AD). Shahjahan has appointed him as teacher in Madrasah Shahjahaniya at Delhi. During Aurangzeb's period he worked as Nāzir (supervisor in the Mughal court of Justice). His
grave is located at Delhi. This is a commentary of a well-known Arabic book of *Usul-i-fiqh* which is commonly known as *al-Husāmī*. This commentary has very minutely discussed different source of *Uṣūl-i-Fiqh* including *Qurān, Hadīs, Ijmāʿ* and *Qiyās*. While discussing the main principles, the commentator defines various technical terms related to this subject such as *Muhkam, Makhṣūs, Mutashābah, Majāz-i-mursal*. The explanation of the text given in the commentary is quite detailed one and at different places it also deals with the etymological aspects which further helps to understand the text of the original work. In course of his discussion the compiler quotes the opinion of ʿUlamāʾ of Tansoxiana such as Shaikh Abu Manṣūr and that of Iraq such as Imam Abu Hanifa.

55/157. *Musallam al-Subut (MS)*

Muhibullah Bihari b. ʿAbdul Shakur (d. 1119 AH/ 1709 AD)

The author was a noted jurist of his times and was also well known for his deep interest in the field of rational sciences. He belonged to Kara (a place in the district of Allahabad). His teacher included Quṭubuddin Shamsabadi (1122 AH/ 1710 AD). After

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155 Nuzhat, V/453.
157 Ibid, ff. 10b, 72a, 75 b.
158 M. A. L. Habib Ganj Collection, No. 19/43.
completing his education he showed main interest in the field of *Fiqh* and became famous as a jurist. He also impressed Emperor Aurangzeb by his scholarship. So he was first appointed as *Qazi* of Awadh and then that of Hyderabad. He was given the title of *Sadārat-i-Mamālik-i-Hind* and *Fāzīl Khān* by Shah Alam b. Aurangzeb in 1118 AH/1708 AD). He died in Kara. He has to his credit several works on principles of Islamic jurisprudence and logic including *Sullam al-ʿUlūm*, *Jawāhir al-Fard*, and *Musallam al-Ṣubūt*. These books show his command over both the subjects\(^{159}\).

Apart from two main parts (known as *Mabādi* and *Maqāsid*), *Musallam al-Ṣubūt* contained an introduction and a supplement (*zamimah*). In the introduction the author has explained the historical development of Islamic jurisprudence and basic difference between *Fiqh* and *Uṣūl-i-Fiqh*. According to the compiler the derived commandments are called *Fiqh* while the rules and principles on the basis of which these commandments are framed, are termed as *Uṣūl-i-Fiqh*. The first part of the book 'Mabādi' deals with the nature and objectives of the commandments (*aḥkām*), and their different categories such as *farz*, *wājib*, *mustahabb*, *makrūh* and *ḥarām*. The second part of

the book, *maqāsid*, discusses the sources of Islamic jurisprudence. In course of his discussion, the compiler has also given viewpoints of well-known jurists of four Schools of *Fiqh* and that of the Ulama of some theological schools of thought such as Jahamiyya, Mūtazilah, Ashāirah. A good aspect of the work is explanation of special terms of *Fiqh* and *Uṣūl-i-Fiqh* and their correct usage.

The Musallam is considered a popular textbook of the principles of Islamic jurisprudence and is widely read by the students and teachers specially in the institutions of Islamic learning. It has been part of curricularm from the days of its compilation. Its popularity is evident from the fact that a number of commentaries were written about this work by the distinguished scholars including Nizāmuddin Farangi Mahli (d. 1199 AH/ 1784 AD), Ahmad Abdul Haq b. Muhammad Sāid (d. 1187 AH/ 1773 AD), Muhammad Hasan b. Ghulam Muṣṭafa Lakhnawi (d. 1209 AH/1794 AD), Muhammad Mubin Farangi Mahli (d. 1225 AH/ 1810 AD) Abdul Ali Bahrul Ūlum (d. 1278 AH/ 1861 AD) Mubin b. Muhibullah and Abdul Haq b. and Fazal Ḥaq Khairabadi (1316 AH/ 1898 AD). The weak aspect of the work is that it is mixed with three different commentaries which has made it more complicated.
This work is a commentary on *Musallam al-Subūt* written by the author himself to simplify the complicated texts of the book. It was mainly done under the earnest desire of some of the contemporary Ulama as stated by the commentator himself in the introduction. The compiler of this commentary does not provide any list of the content nor he gives any other indication which may be helpful in studying this commentary. The whole book of *Musallam al-Subūt* was explained without any reference to its chapter or contents in a clear way. The only thing which the commentator did in this work is that he used Qauluhū (his word) for the author which distinguishes the text from the commentary. In most part of the work the compiler quotes some incomplete sentences of *Musallam al-Subūt* and then explains it. The reader of the commentary feels difficulty to understand if he is not well familiar with the text of *Musallam al-Subūt*. Muhibbullah had made reference to a number of Fiqh works of reputed jurists. These books included *al-Bazdawi, Kashf al-Manār, al-Tauzih al-*

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*Maniyyat-o-Musallam al-Subut (MS)*

Muhibbullah Bihari (d. 1119 AH/ 1707 AD)

160 M.A.L. Habib Ganj Collection, No. 19/25.

161 For brief account of the biography of the author see my discussion under *Musallam al-Subūt* in this chapter, on p.
Talwih, al-Maḥṣūl, al-Aḥkām lil ῾Āmādi, al-Mukhtasar lil Qāżī, Sharh Taftāzani.

57/250. Nūr al-Anwār fi Sharḥ al-Manār (MS)¹⁶²

Aḥmad Jiwan Amethwi b. Abu Ṣaʿīd (d. 1130 AH/1718 AD)

The author, who belonged to Amethi (district of Lucknow) was a notable commentator, traditionist and jurist of 18th century India. At higher level of his education his main teacher was Lutfullah Jahanadabdi. He had the privilege of being teacher of Emperor Aurangzeb who paid high respect to him. His successor Shah ῾Ālam (1707-1712 AD) also held him in high esteem. He engaged himself mainly in teaching and writing books on different aspects of Islamic learning with special emphasis on Fiqh. Even his commentary of the Qurān known as al-Tafsirat al-Ahmadiyyah gives main focus on juridical points derived from the verses of the Quran. He died in Delhi in 1718 AD and was buried in Amethi¹⁶³

The present commentary provides useful explanation to the text of Manār al-Anwār. This is one of the important commentaries of the work which has detailed discussion about the sources of Fiqh and explains the terms used in relation to Usūl-i-Fiqh such as Khās, ‘Ām, Mushtarak, Zāhir, Muḥkam, Khafi, Mushkil, Mujmal,

¹⁶² M.A.L. Subhanullah Collection, 297.32 / 15.
Mutashābih, Haqiqat, Majāz, Istiāra, Dalālat an-nās, Iqtiza an-nās, ıtıhād. The compiler has strengthened his discussion by referring to the Qurān and the Ahādis of the Prophet (S.A.W.). At different places he makes reference to his famous Tafsir for explanation of the verses quoted by him\textsuperscript{164}. As the Manār was written mainly according to the Hanafi School, this commentary also highlighted the points of view of this school with occasional reference to the opinions of jurists of other schools\textsuperscript{165}. The commentary is quite popular among the scholars and it is also included in the courses of the Indian Madāris.

58/275. Sharh Zubdat al-Uṣūl (MS)\textsuperscript{166}

Hamdullah b. Shukrullāh Sandelwi (d. 1160 AH/ 1747 AD).

The Commentator was one of notable disciples of Nizamuddin b. Quṭubuddin Sihālwi (d. 1161 AH/ 1748 AD) and was well known as an experienced physican (Tabib-i-Hāzi) and distinguished scholar, he had established a great Madrasah in Sandila near Lucknow which was given financial assistance by Abū Maṣūr Nawāb of Awadh. Recognising his scholarship the Nawāb gave him the title of Fażīlullāh\textsuperscript{167}. The commentator

\textsuperscript{164} Nūr al-Anwār fi Sharḥ al-Manār ff. 9b, 12 b.
\textsuperscript{165} Ibid. f. 8 b.
\textsuperscript{166} K.B.L. XIX/80, No. 1583.
\textsuperscript{167} Tazkirah p. 52, Nuzhat VI/76-77.
engaged himself throughout his life in writing and teaching. His disciples included some of the eminent scholars of 18th century India such as Qazi Ahmad Ali Sandelwi (d. 1200 AH/1785 AD), Maulawi Ahmad Husain Lakhnawi, Qutubuddin Jaunpuri, Maulawi Muhammad ʿĀzam Qāẓīzādah Sandelwi and Maulawi Abdullah b. Zainul Abidin. He wrote several books on *Tafsir, mantīq* (logic) and *Fiqh*. He died at Delhi in 1747 AD.\(^\text{168}\)

The present work is a detailed commentary on an important work of *Uṣūl-i-Fiqh: Zubdat al-Uṣūl* of Bahauddin Muhammad b Hasan al-Āmili (d. 1031 AH/1621 AD). The work has attracted a number of scholars to write commentaries, glosses and annotations. This commentary was dedicated to Nawāb Abul Mansūr Khān Bahādur Safdarjung of Lucknow (d. 1169 AH/1753 AD).

59/268. *Sharh Musallam al-Ṣubut*\(^\text{169}\)

Nizāmuddin Sihālwi Farangi Mahli (d. 1161 AH/1748 AD)

The Commentator of the work, an eminent scholar of 18th century was the third son of Quṭubuddin Sihalwi (d. 1103 AH/1191 AD). His teachers included Quṭubuddin Shamsabadi (d. 1122 AH/1710 AD) and Hafīz Amānullah Banārsī (d. 1133 AH/1222 AD).\(^\text{168}\) Ibid, see also *K.B.L.* XIX/80, No. 1583.

\(^{169}\) *Nuzhat*, VI/385.
1720 AD). Later on he himself became famous as a teacher and students from distant places joined his lectures (dars). He was Khalifah of Shaikh Abdul Razzaq al-Qadiri (d. 1136 AH/ 1723 AD) and popularly known as founder of Dars-i-Nizāmiyah. He was given land grant by Emperor Ālamgir\textsuperscript{170} for establishing his educational institution. He has to his credit several works on ʾAqāʿid, Fiqh and Manṭiq\textsuperscript{171}.

The present commentary is related to Musallam al-Subut, a popular text of the Usul-i-Fiqh which was widely studied by the students and scholars of medieval period as stated earlier. The commentary was prepared according to the contents of the original work. The commentary also has marginal notes which further elaborates the points discussed in the work.

\textit{60/146. Asās al-Uṣūl (MS)}\textsuperscript{172}

Saiyyid Dildār Āli (d. 1235 AH/ 1819 AD).

The author of the work considered to be first Shiah Mujtahid of India was born in Nasirabad (Jais) in 1167 AH/ 1753 AD. In the field of Hadīs and Fiqh his teachers included Baqar Bahbahani, Saiyyid Ali Tabatabai, Saiyyid Mahdi b. Hidayatullah of Mashhad.

\begin{footnotesize}


\textsuperscript{172} M.A.L. Qutubuddin Collection, No. 18/10.
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For learning of rational sciences he joined the lectures of Ghulam Husain Dakni Ilahabadi and Haider Ali b. Hamidullah Sihalwi. He occupied himself with teaching and writing books and showed keen interest in propagating the shi’ite thought. Nawab Asif al-Daula of Awadh (1775-1797 AD) appointed him as the Imam of congregational prayers in Lucknow. In addition to Asas al-Usul, other works of the author are Ḭumād al-İslām, Ḥusam al-İslām, Ḥiyya al-Sunnah, Risālah, al-Jumuah, Risālah Zahabiyyah.

The present book consists of an introduction and four chapters which are named as maqasid. The work was prepared to meet the requirements of followers of the Shiah School of jurisprudence. It became popular as an authentic book of Shiah jurisprudence. The author has given main emphasis on the Shiite point of view in explaining ljma, Qiyās and Ijtihād. About the issue of ljma he is of the opinion that it comes under the jurisdiction of Prophet (nabi) or innocent leader (Imām-i-Maşūm) or a wasi. He thought that the consensus of the Muslim community cannot be considered ljma. The author is very much critical about the Sunni point of view on the scope of the ljma. Surprisingly the author has discussed the issues of Qiyās in a very detailed way (in about hundred pages) though this is not

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172 M.A.L. Qutbuddin Collection, No. 18/10.
recognized as a source of Fiqh in the Shiite jurisprudence and is given very title importance by the jurist of the Shiah school. Explaining his point of view about Qiyās, the author considered it helpful in determining the Shariāt's attitude towards different emerging issues. In relation to the Ijtihād he has discussed importance as well as qualification for a jurist who is entitled to exercise Ijtihād. In support of his opinion, the author frequently quotes traditions and pinpoints their categories on the basis of their strict scrutiny. The traditions (riwāyāt) are generally quoted from those collectios of Ḥadīṣ which are popular among the Shiī ʿUlamā' such as al-Kifāyah, Majmā al-Bayān, Basāʾir al-Darfāt, Kitāb al-Nawādir, Tafsir al-Sāfi.

61/272. Fawātīḥ al-Raḥmūt Sharḥ Musallam al-Ṣubūt (MS)

Bahruł ʿUlūm Abdul Āli Muḥammad b. Niẓamuddin (d. 1235 AH/1819 AD). This work as the title shows is a commentary on a well-known book of Uṣūl-i-Fiqh known as Musallam al-Ṣubūt. Systematically arranged into chapters and subchapters the work also contains marginal notes at different places. The commentary

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175 M.A.L. Abdul Hai Collection, No. 457/2.
176 A brief account of Bahrul Ulum may be seen in reference to his another work: Rasāil al-Arkān in this chapter, on p.
is quite detailed. First of all, the etymological and lexical aspects of the text have been fully explained. The commentator takes full care in defining all the technical terms which are of prime importance for understanding the main issues of Uṣūl-i-Fiqh. Such as mutlaq, muqayyad, takhūs, dalā'il-lafżiyyah\(^{177}\).

In reference to his discussion about the Hadis as a source of Fiqh, the commentator has shown special interest in explaining his point of view about Khabar-i-Āhād and its use for deduction of legal points. The work gives reference to the views of jurists of the well-known schools of Fiqh with regard to different aspects of Uṣūl-i-Fiqh but the Shafiite point of view is much highlighted. It shows that the commentator was follower of Imām shāfīī.

62/325. Ḥāshiyah āla'l-Tauzīḥ wa'l-Talwīḥ\(^{178}\)

Aminullah b. Muḥammad Akbar Lakhnawi (d. 1253 AH/1837 AD)

The author of the work, was a native of Lucknow who belonged to a learned family as his grandfather Mufti Ẓahurullah (b. 1760 AD), his father Muḥammad Akbar and his uncle Muhamamd Aşghar (d. 1839 AD) all were known for their deep interest in the field of Islamic learning especially Fiqh and Fatāwā. On their own part, they helped in educational upbringing

\(^{177}\) Fawātih al-Rahmūt, Op. Cit. ff 5a, 6b, 20b, 66b, 103 b.

of Aminullah. After completing education he engaged himself in teaching and writing commentaries and marginal notes (Shuruh wa Ḥawāshi). Some of them are Hashiyah ala'l Tausih wa'I-Talwih, Sharh Waqāyah, Hāshiyah 'âlā-Sharh Musallam al-Ṣubut. It was a matter of privilege for him that his grand father Maulawi Zahurullah (also his teacher) used to seek his help in imparting Fatawa179.

63/160. Al-Risālah fi Uṣūl al-Fiqh (Prtd.)180

Shah Muhammad Ismail Shahid (1247 AH/ 1831 AD)

The writer of the treatise was born at Phulat (Muzaffar Nagar) in 1196 AH/ 1781 AD. After the death of his father he was brought up under the guardianship of his uncle Shah Abdul Qadir (1243 AH/ 1827 AD). He was an eminent scholar and theologian, who fully devoted himself to the propagation of Islām and promotion of Islamic learning. He used to deliver speeches in Jamā'ā Masjid of Delhi, which was attended by thousand of people. He did great work for the reform of Indian Muslims particularly for eradication of innovation and other evils from the Muslim society. On account of these contributions he came to be known as Hujjat al-万辆. He had command over different subjects including

179 Nuzhat VII/87.
Tafsir, Ḥadīṣ, Fiqh, Falsafah, Maṇṭiq and Mathematics. He had to his credit many books on different subjects especially aqāid (beliefs) and Fiqh\textsuperscript{181}.

The present work is related to Ḫūṣūl-i-Fiqh. The work, though, in form of a short treatise has great importance for its useful discussion on the subject. In course of his discussion the learned scholar first of all, has explained fiqh and Ḫūṣūl-i-fiqh, then he discusses the primary and secondary sources of Islamic Shariāt Qurān, Ḥadīṣ, Ijmā', and Qiyās. The author has explained the nature of the rules of the Shariāt. He says that some Ahkām (commandments) are 'Ām (of common nature) while the other come under the category of Khas (of particular nature). Similarly the effect of Muṭlaq rule is different from the Muqayyad one.

64/277. Sharḥ Zubdat al-Ḫūṣūl (MS)\textsuperscript{182}

Jawwād Kāžīmi, (d. 1258 AH/ 1842 AD).

The compiler of this work was a well-known Shīa scholar of 18th century India. Born at Lucknow in 1174 AH/ 1760 AD he completed his education under a notable Shīa scholar Saiyyid Dīldār Āli b. Muḥammad al-Nāṣirābādī. The commentator contributed in the field of traditional (manqūlāt) as well as rational

(mâqūlāt) sciences. His works included commentaries and marginal notes (Shurūh and Hawāshi) on several important books included in the syllabus of those days Madrasah\(^{183}\). The present commentary was written on Zubdat al-Uṣūl, an important book of Uṣūl-i-Fiqh written by Bahauddin al-Amuli (d. 1031 AH/1621 AD). The work explains in detail each and every aspects of Usul-i-Fiqh given in the text. The major part of discussion relates to the sources of Fiqh, i.e. Qurān, Hadīṣ, Ijmā and Qiyās. In relation to Hadīṣ, the issue of Khabar-i-Āḥād has been taken up with much details. The commentator first of all, quotes important parts of the original text and then explains them in a detailed way. He discusses the related matters not only giving simple answer to it but deals with it very minutely taking different aspects of the problem into consideration. Thus the commentator tries to satisfy the reader through his thorough discussion. The main objective of the writing of this commentary was to highlight views of jurists of the Shiāh school about different aspects of Uṣūl-i-Fiqh. The work frequently quotes the sayings of Hazrat Āli, Hasan, Husain, Fatimah and Umm-i-Salmah (R.A.) in support of the points given therein. In addition to the Shiite Sources, the commentator has also quoted traditions from the well-known collections of Hadīṣ.

\(^{182}\) M.A.L. Zamima University Collection, No. 3.
\(^{183}\) Nuzhat, VII / 127.
such as Bukhāri, Muslim, Musnad Aḥmad Ibn-i-Hanbal. He has shown his disagreement with the Sunni jurists on different issues.

65/328. Ḥashīyah Shārḥ al-Ḥusāmī (MS)\textsuperscript{184}

Maulawi Jaun Malik al-Wahhāb, the author of this Ḥashīyah belonged to 19\textsuperscript{th} century AD. No information is available about him and that of the date of the compilation of the present work. But in the light of the date of its scribing (1277 AH/ 1855 AD) it may be said that it would have been written before that year.

This work is in the form of marginal note on the commentary of Husāmī, one of the popular texts of \textit{Usul-i-fiqh} written by Muhammad Husamuddin (d. 644 AH/ 1246 AD). The work was included in the curriculum of those days, and a number of scholars prepared commentary of the text but it is unconfirmed that on whose commentary the present Ḥāshīyah was written. The discussion of the present work is concentrated on the four well known sources of Islamic jurisprudence (\textit{Usul-i-fiqh}) various technical terms have been explained such as ‘Ām, Khāṣ, Naskh, Mujmal, Ishārat al-Nāṣṣ, Muṭlaq. The commentator has used some works to differentiate between the views of others and that of his own explanation such as qa’uluhū (his opinion) and qulnā (we said). The writer has supported his discussion by referring to

\textsuperscript{184} M.A.L. Sulaiman Collection, Fiqh ‘Arabia, No. 73/3.
the verses of the Holy Qurān and the well-known works of *Usul-i-fiqh* such as *Talwih, Tauzih*. The present manuscript is attached with the manuscript of other work of the same author under the little of *Hāshiyyah Mulla Jaun*.

9. School of *Fiqh* and their differences

66/185. *Zubdat al-Aḥkām fi Ikhtilāf al-Aimmah al-Ālām (MS)*

Sirajuddin 'Umar b. Ishaq Ghaznawi Dehlawi (d. 773 AH/1437 AD).

The author of the work was born at Delhi in 704 AH/1304 AD. He completed his education under the well-known scholars of his period such as Wajihuddin Dehlawi, Shamsuddin Dwali, Sirajuddin Saqafi and Ruknuddin Badauni. He wrote several books about Islamic jurisprudence from the Hanafi point of view. He was more well-known for writing commentaries on a number of works of Hanafi school such as *Al-Manar, Al-Mughni fi Usul al-Fiqh* and wrote some original works which included *Fatawa al--Hidayah al-Fātawā al-Sirājiya* and *al-Ghurrat al-Munifah fi Tarjih Maqhab-i-Abi Hanifa*.

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The present book *Zubdat al-Aḥkām* gives details about a large number of problems discussed by the jurists of different schools in their own way. Thus it is an important work on juridical differences and helps to understand the point of view of the well-known jurists of four schools of *Fiqh*. While discussing different problems the work explains point of agreement as well as that of disagreement among the jurists. For example in relation to purification (*Tahārat*) it was explained that according to the four schools the ablution (*waẓū*) has four obligations (*farz*) i.e. washing hand upto elbow, and that of face, *masaḥ al'al-Rās* and washing the legs. But in the case of *niyyat* (intention) and *tartib* (sequence) these four School have different opinions. The jurists of Hanafi School do not consider *niyyat* and *tartib* an obligatory while in view of the shafites both are obligator. In view of the Maliki jurists *niyyat* is obligatory but not the *tartib*.

67/174. *Fatḥ al-Mannān fi Tāʾīd al-Nūmān*  
ʿAbdul Ḥaq Muhaddīṣ Dehlawi b. Saifuddin (d. 1052 AH/ 1642 AD)

The author of the book was a distinguished scholar of 17th century AD. His father Saifuddin (d. 990 AH/ 1582 AD) himself was a great Alim who took special care in the educational

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188 ḤArabic Adabiyyāt p. 93.  
189 Fuqahā-i-Hind IV/217.
upbringing of his son. He memorized the Holy Quran within one year. At the age of 18 years he was able to complete the traditional education. With his deep interest in Hadis and other branches of Islamic learning he was also inclined toward mysticism from the early part of his life. In 996 AH/1587 AD he left for Hijaz. In the way he came into contact with Shaikh Wajihuddin Gujrati and in Makkah he met Shaikh Abdul Wahhab Muttaqi (b. 996-1587 AD) the two well-known scholars of Akbar's period and took advantage of their company especially in the field of Hadis.

After getting educational training under Shaikh Abdul Wahhab Muttaqi he returned to India in 1000 AH/1591 AD, he settled in Delhi and occupied himself with teaching and compiling works. The Shaikh was the contemporary of four Mughal Emperors including Humayun (1530-1556 AD), Akbar (1556-1606 AD), Jahangir (1605-1627AD) and Shahjahan (1628-1658 AD).

Though he mainly worked for the development of science of Hadis, he also contributed to other branches of Islamic learnings including Tafsir, Fiqh, Tasawwuf, logic and history. His main works on Fiqh were Fath al-Mannān fi Taid al-Nūman, Hidayah al-Nāsik ilā Tariq al-Manāsik and al-Fawā'id.
The present work aims at highlighting salient features of Hanafi School and explains in detail the point of view of Imām Abu Hanifa and his followers about the sources of Fiqh. The opinion of the jurists of other schools have been also referred to.\(^{190}\)

68/179. *Al-Insāf fi Bayān-i-Asbāb al-Ikhtilāf (Prtd.)*\(^{191}\)

Shah Waliullah the author of the work was born in Phulat (a village in Muzaffar Nagar distt.) on 21\(^{st}\) February 1703 AD. At the age of fifteen he was able to complete education from *Madrasah* Rahimiya founded by his father Abdul Rahim. He occupied himself with the work of teaching in the same *Madrasah*. Later on it became famous as a great seat of learning and students from far and wide were turning to it in large number. In 1731 AD he left for Hijāz for the performance of Ḥajj. In Hijaz he joined the lectures of two eminent traditionalist and jurists Wafadullah Maliki and Shaikh Abu Tahir Madani. His contributions are considered remarkable in different fields including *Quranic* studies, *Hadis* and *Fiqh*.\(^{192}\) He is also known as a great reformer especially for his


\(^{191}\) Ed. By Abul Fattah Abu Ghuddah, Dar al-Nafais, Beirut, 1977 AD.

earnest call to the Muslims of his time to turn to the *Quran* and *Sunnah* for seeking guidance in all walks of life.

The present work of Shah Waliullah Dehlawi (d. 1176 AH/1762 AD) is a scholarly and systematic study on the causes of juridical differences from the time of the *Sahabah* to the formation of the four Schools of *Fiqh*. It is divided into five chapters, the first discusses the nature of juridical differences among the *Sahābah*, *Tabiīn* and *Tabataiin*; the second deals with the emergence and development of four well-known school of *Fiqh* and explains the main causes of their differences, the third examines the kind of differences found between *Ahl-i-Hadīṣ* and *Ahl-i-Rai* in the juridical matters. In the fourth chapter, Shāh Waliullah has thoroughly discussed the issue of *Taqlid* including its causes and consequences. At present the most popular annotated translation of this work in Urdu is that of Maulana Sadruddin Islahi which was first published in 1952 AD under the title of *Ikhtilāfī Masā'il mein Aītidāl ki rah* from Maktabah Jamāti Islāmi Hind, Rampur.

10. *Ijtihad and Taqlid*

69/165. *Al-Durr al-Farid fi'l Mana'ī'l-Taqlid*¹⁹³

¹⁹³ *Nuzhat* VII/251.
10. *Ijtihad and Taqlid*

69/165. *Al-Durr al-Farid fi'l Manā'īn 'i'l-Taqlid*

Abdul Haq b. Fazlullah Banarsi Neotanawi (d. 1286 AH/ 1869 AD)

The author belonged to Neotani (a town of Unnao district) where he was born in 1206 AH/ 1791 AD. After completing elementary education he went to Delhi and joined the lectures of Ismail b. Abdul Ghani, Abdul Hai b. Habatullah, and Shah Abdul Qadir on *Hadis*. He then went to Sana (Yeman) for higher learning in the field of *Tafsir* and *Hadīs*. There he mainly took advantage of the dars (lectures) of Qāżī Muhammad b. Ali Shaukani. He performed *Hajj* at least seven times and twice he got opportunity to have company of Ismail Shahid and Sayyid Ahmad Shahid during these holy trips. Some of his notable disciples included Maulawi Jalaluddin Aḥmad Banarsi, Hamiduddin Ahmad and Saiyyid Saiduddin. He was opposed to *Taqlid* and used to solve the legal problems mainly in the light of the *Qurān* and *Hadīs*. The present book explains his viewpoints about *Taqlid* and shows his difference with the jurists of Hanafi School on this particular issue.

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193 Nuzhat VII/251.

The present work deals with the important issue of *ijtihad*. Each and every aspect of this issue has been thoroughly discussed by the learned author. The book was divided into five main chapters. The first chapter defines the four sources of Islamic Shariah. In the second chapter he throws light on the differences of jurists. The third chapter had detailed discussion about the *taqlid* and related issues. The learned author maintained that it would be wrong to believe that the door of *ijtihad* was closed after the emergence of the four schools of Islamic jurisprudence. He was of the opinion that anyone who fulfils the conditions of *ijtihad* can exercise it. The necessary qualifications for *mujtahid* are deep knowledge of the Qurān, Hadis, the rulings of the older doctors of law, Arabic language and an ability of deduction of legal points from the sources concerned. However according to him a layman is required to follow any one of the four schools of law. Blind following is bad but it is not altogether forbidden.

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195 Ed. by Ahmad Siddiqui with Urdu translation: *Silk-i-Marwarid*, Mujtubai Press, Delhi, 1892.
197 Ibid., pp. 7, 85.