Chapter-5

Development of *Fiqh*
Studies in Kerala
CHAPTER – V

DEVELOPMENT OF FIQH STUDIES IN KERALA

Historical overview

The Islamic jurisprudence or *Fiqh* is one of the fundamental sciences of Islam. *Fiqh* literally means understanding or knowing. As a technical term it means the study of injunctions which are destined to be promulgated in various aspects of life. Knowing the laws and principles derived by the Muslim jurist in the light of the first and second source of Islamic *Shariah*, besides the instruction and injunctions directly issued by the Almighty Allah and His final, is the real support in traditional or conventional sense. The explanation of an expert in Islamic law is notable in this regard\(^1\). In other words ‘*Fiqh* is the knowledge of things which are permissible for a man to do and of things that are forbidden to him, including both acts of commission and omission. In this sense it is the science which points out the extent and limits of a man’s liberty. In other words it is the science of right and obligations\(^2\). As far as the sources of Islamic jurisprudence are concerned it can be classified into four, viz the *Qur’an*, the *Hadith*, *Ijma* (consensus of opinion) and *Qiyas* (analogy). Besides this some other sources of law such as *Istiddlal* (inference), *Istihsan* (equity), *Istislah* (public good) and *Urf* (custom) are also considered to be sources to Islamic Jurisprudence.

To be precise, Islamic jurisprudence or *Fiqh* has significantly marked the working spirit, everlasting creativity and scholastic aptitude of

\(^1\) Dr. Towqueer Alam Falahi, *Studies in Muslim Theology*, Aligarh Muslim University, Aligarh, 1999, p.117.

Islamic society from time to time. As a result notable studies and academic pursuit are being originated from this intellectual exposure.

**Historical Development of Fiqh Studies in Kerala**

Islam is a religion which Integrates both belief and rules. Belief without rules and rules without belief is in complete in the sense of Islam. As the Qur'an and Hadith got tremendous influence and undergone significant studies on them which have naturally impacted the evolution of Islamic jurisprudence or Fiqh Studies in Kerala.

The Kerala Muslims interest in the Islamic jurisprudence goes back to the days of early settlement of the Arabs traders in Malabar and other coastal towns. Subsequently Ulama including Faqih (jurists) also settled in these regions to work as Qazis for Muslims and to guide them in the matter of Shariah. Malik bin Dinar and his disciples were the earliest Qazis of the region. In Malabar those Qazis were paid from the exchequer and permitted to carry out the laws of Shariah\(^3\).

In this regard further development was achieved by the relationship between local and Arab scholars. It is quite evident from the historical fact that Shaikh Zainuddin (1532-1618 A.D) had maintained cordial relation with the Arab scholars. On account of his incessant persuasion Allama Ibn Hajar al Haythami (d. 974/1566) visited Ponnani and stayed for a while here.\(^4\) Shaikh Zainuddin al Kabir (871-980A.H) also developed close relationship with the eminent scholars like Imam Nuruddin al Mahalli ,Kamaluddin al Dimashqi, Imam Shihabuddin al Himsi, Imam Badaruddin al Suyuti during his higher studies in Egypt and

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\(^4\) *Makhdumum Ponnaniyum*, Edited by Dr. Husain, Ponnani Juma Masjid Committee, 1998, p.34.
Development of Fiqh Studies in Kerala

Hijaz\(^5\). At the same time the spread of Yemeni scholars and *Sufis* who settled in different villages in the region of Kerala had also played their part in this regard. Such events resulted in spread of *Shaftii*’ School of Islamic jurisprudence in the region.

An important work on *Fiqh, Qurrat ala Ai’n*, compiled by Shaikh Zainuddin (d.1618A.D) the noted historian and author of ‘*Tuhafah al Mujahidin*’ is to be highlighted here. This celebrated work got several commentaries in Arabic. The author himself prepared a comprehensive commentary in simple Arabic language titled ‘*Fath al Mu’in*’. This version was acclaimed in different circles of Muslim scholars. One of the outstanding feature of this work is that author has collected the opinion of Imam Nawawi (676/1277), and Imam Rafii’ (d.632/1234) the eminent jurists of Shafii’ school. The other commentaries written on this book are: ‘*Al Zain ala Qurrat al A’in*’ by Shaikh Muhammed Nawawi(d.1314/1896), an Indonesian scholar. ‘*Al Ia’nat al Talibin*’ by Allama Sayyid al Bakari (d.1310/1892).The several editions of the work appeared in India and Makkah. Of them ‘*Tarshih al Mustafidin*’ by a Yemani scholar named Allama Sayyid Ali bin Sayyid Ahammad Saqaf is very popular among the Arab scholars. ‘*Al Tanshit al Matalie’n*’, is a noted commentary written by Ali alias Kunhuty bin Shaikh Abdurahman Tanuri (1347/1928). On account of the academic presentation and thematical importance this prestigious text has been included in the syllabi of Universities and reputed Arabic institutions in Egypt, Malaysia, Indonesia, Sri Lanka and Singapore\(^6\).

It is noteworthy that the Keralites have been historically adapted to Islamic jurisprudence from the very beginning onwards. They have

\(^6\) A.P Muhammed Ali Musliar, op.cit. p. 27-29.
shown their respect to the scholars of Islamic jurisprudence. The scholars of the region had generally followed any major school of Islamic jurisprudence. It was age of Taqlid and no effort was made in relation to Ijtihad. The scholars believed that Taqlid or following of an Imam is obligatory on every Muslims.

The Shafii' school of Islamic jurisprudence has been very popular among the Kerala Muslims in different period. The arrival of Bhatkals or Nawaites from Bhatkal in Karnataka also accelerated the spread of Shafii’ school of Islamic jurisprudence in Kerala. During the early period of 19th century this demographic section got great influence in the commercial centers of Kerala especially in Calicut where a separate slum was moulded as 'Bhatkal lines' behind big juma masjid, Valiyangadi in Calicut. At the dawn of 20th century the followers of Shafii’ school began to function in a more organised manner. They have formed ‘Malabar Bhatkal Muslims Jama’th’. This section of people have their role in the development of Shafii’ School of Islamic jurisprudence in the region.7

The presence of Hanafis in Kerala was confined to only some places are spotted. They emerged from Mysore and Bijapur after the mobilization of great Tippu Sultan (1750-1799A.D) into Kerala. This demographic group called Dekhnis or Deccanis or Pattanis are Urdu speaking Hanafi peoples. They have settled mainly in Palakkad, Kozhikode and Mattanchery and they still constitute around 400 houses in these cities.8

Qazi system prevailed in Kerala rightly from 9th century A.D onwards has also contributed to the development of Islamic jurisprudence

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7 Islamika Vinchana Kosham (Islamic Encyclopedia), vol. 9, I.P.H, Kozhikode, 2008, p.41.
8 Ibid.
here. The legal cases of Kerala Muslim were decided by Qazis in various regions. Qazis were not employees of government but were elected by scholars and regional leaders. The Qazis had great influence over Muslim masses. They also took their role in the religious training of the people. They played their role in conduct of marriages, declaration of the of moon sight at the special occasions and resolving the social and civil disputes of the people.\(^9\) The series of Kozhikode Qazis is an important traditional legal authority which is contributing in the present days also. In the southern part of Kerala is some of the functions of Qazis is performed by Khatib or Imam.\(^10\)

The spread of revivalist movements in Kerala contributed to develop a new trend in the field of Fiqh. Some of the religious organizations particularly Kerala Jamî’yatul Ulama (estd. 1924) and Jamat-e-Islami Al Hind Kerala chapter (estd. 1948) were opposed to Taqlid (blind following) and they were in favour of Ijtihad to solve new problems. Since then an immense of jurisprudential diversities and dialogue based on various jurisprudential matters being emerged.

It is also pertinent to note here that ‘debates and disputes are inherent nature of Islamic jurisprudence in every phase of Islamic history. This tradition was also prevalent in different region of Kerala in different periods. This led to an open debates on certain important issues. The much debated issues are 1. Taqlid 2. Ijtihad 3. Up holding of hands for salah 4. Optional group prayer after Salah 5. Media of the congregational sermons 6. Participation of women in congregational prayer 7. Collective zakah 8. Nercas or Urs 9. Divorce 10. The number of Raka of Tarwih


**A Study of Major Translated Works (Tarjamat)**

The following classical works on Fiqh were translated into Malayalam.

*Ishraq al Nuri Thajalli ala Sharhi al Minhaj al Mahalli* is an Arabic commentary of the great work *Al Minhaj of Imam Jalaluddin Al Mahalli* (d. 1459 A.D) was prepared by Muhammad Sufi Karingapara (d. 1405/1984) and published by Tanveer Publication, Thaliparamba in 1988. The work is a collection of explanatory notes on the said text. This is very popular in Darsi institution in Kerala as a text book of legal importance. On account of its tremendous use it came to be known as ‘Sharh al Karingapari’. In the Introduction the author has mentioned that he was assisted and guided by his teacher Shaikh Kunhi Ahmad Kulapurami (d. 1364/1944). The same was edited by Allama Meerankutty al Kaipattee (d. 1370/1950). The work will draw a special attention due to its scope as a lone commentary on a classical work written by an eminent Shafii’ scholar.

*Al ta’leeqat al Muhimmah li Fath al Muin* (Important explanatory note on Fath al Muin) is an attempt to explain the meaning of ‘Fath al Muin’, a classical work on Shafii’ school of Islamic jurisprudence by Shaikh Zainudhin Makhdum al Saghir (d. 1618 A.D). This was also prepared by Shaikh Muhammad’ bin Sufi Karingapari (d. 1405/1984) and published in 1388/1968. This work is considered as the great authority of Islamic jurisprudence in Kerala from 16th century A.D onwards and it has been handled as a compendium referring to the day to day activities in life. The same was also included in the syllabus of Dars from very beginning onwards. This revised version is also prepared for the benefits of the students in Dars. On account of its richness and
comprehensiveness of the content the work is widely circulated among the students of Islamic studies in Kerala.

*Umdah Paribhasha* is a Malayalam translation of a noted work *Umdah al Salik Wa Iddah al Nasik* (Reliance of the traveler and tools of the worshipper) of a Egyptian scholar Shihabuddin Abul Abbas Ahmed bin Naqi al Misri (702-769 A.H), translated by Ibrahim Puthur (d.2004) and published by Bayaniyya Book Centre from Parappanangadi in 1984. This text is based on the previous Shafii’s work of Imam Nawawi and Imam Abu Ishaq al Shirazi. Ibn Naqib follows the order of Shirazi’s ‘Al Muhadhabh’ (the rare faction) and the conclusion of Nawawi’s *Minhaj al Talibin* (the seeker’s road) and considers only the explanations of Imam Nawawi (631-676A.H). The translated work contains 126 chapters and it covers all jurisprudential issues related with a believer’s life. On account of its importance of this book it has been implemented as text book at the VIIth standard in Madrasas run by *Samastha Kerala Islam Educational Board* (estd. 1954) during 1980-1990.

**Works on Ibadath**

*Ibadath*, (sgr.Ibadat) literally means worship, the term is derived from ‘*abd*’ means slave, servant. In the Islamic perspectives *ibadat* (worship), *itaa’t* (obedience), *amamat* (trustship) are the fundamental duties of a believer. In the Islamic jurisprudence the term *Ibadah* denotes obligatory duties like Prayer, Fasting, *Zakah*, *Hajj*. The following books contains on these matters.

**1. The Prayer**

*Faiz al Bari* is an Arabic treatise work on prayer in Islam written by Kunhammed Parur (1879-1922) and Publisher in *Amirul Islam* from Ponnani 1340A.H. The work is a study of *Salah*, fasting, *Zakah* and *Hajj*
based on Shafii’ school of Islamic Jurisprudence. The author has supported his statements with reference from Quran and Sunnah.

Islamile Ibadath (Ibadat in Islam) is a Malayalam work on the different aspects of Prayer in Islam written by T. Muhammed and published by I.P.H, Kozhikode, in 1962. The work is divided in to twelve chapters. The first chapter considers the Quranic conception of Ibadah. The fear of God and the views of Jurists on Ibadah is discussed in second and third chapters. He has quoted largely from Ihya Ulum al Din of Imam Ghazali (d.1111A.D) and Sharah Muslim of Imam Nawawi (d.676/1277). The significant aspect of the study is the comparative analysis of Ibadah and Ubudiyah’. The work also examines the varied approaches of jurists about this matter.

Ibadath: Veekshananganalude Tharathamyam (Worship: Comparative Study of different concepts) is an attempt on the concept and practice of Ibadah in Islam written by Cheriyamundam Abdul Hameed Madani. The author is an authority of Salafi thought in Kerala. It was published by Yuvatha Book House from Kozhikode in 1998. The present work gives a detailed account of prayer and explain different verdiction like Fard, Wajib, Sunnah and Nafl. The content of the book may be given as:

1. **Fard Salah** is obligatory, non performance of which renders one a non muslim according to Hanbali School. In view of other Schools it renders one a sinner. The denial of its compulsory status however agreed upon by all Sunni Schools to render the denier outside of the Islam.

2. **Wajib al Salah** are compulsory, non performance of which makes one a sinner and the denial of its (obligatory nature or wujub) renders one a ‘fasiq’ or a transgresser whose witness would not be accepted in an Islamic court. There are some who
believe that as the five time prayers are obligatory, it automatically renders all other prayers optional.

3. *Sunnah Salah* are optional and were additional prayers performed by Prophet (SAW). They are of two types: The *Sunnah Mua’kkadah, Sunnah Ghair Muakkadah.* The first category means those prayers practiced on a regular basis and if one abandoned to them he is to be regarded as sinful by the *Hanafi school.* Those practiced by Prophet Muhammad (SAW) come under second category and their abandonment does not render one sinful.

4. *Nafl Salah* are optional or extra prayers which bring more reward for the performer.  

*Al Hukum Thaharatayn* is an Arabic treatise on cleanliness for the prayer was prepared by Maulana Ahmed Koya of Chaliyam (1847-1955A.D) and Printed from Ponnani in 1948. The author was a renowned scholar and Chief *Qazi* of Nizam, the ruler of Hyderabad. He used to issue the *Fatwa* based on the rulings of four Schools of Islamic jurisprudence. The present work is a noted for its systematic presentation and thematical oriented structure. It deals with the issue of ‘*Hadath al Asghar*’ (minor dirtiness) and ‘*Hadath al Akbar*’ (major dirtiness). He also discussed the manners going to toilet and bathing.

*Risalah al Qiblah* is an Arabic treatise on the direction for prayer done by Ahmed kutty Pullattu (1891-1952A.D). The author brings forth historical and theological importances of *Qiblah* and its easier assessment on the basis of *Ilm al Maradini.* The work is an off shoot of a juristically debate on the issue of direction of mosque to *Qiblah* whether it may be angled on within part of *Qiblah (Qiblah Jihat)* or its sharp center point

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(Qiblah a’īn). The matter became controversial among Chalilakat Kunhammed Haji (d.1919) and his contemporaries. In this work the author stressed his views favour of Qibla ai ‘n.

*Tuhfah al Musallin* (Victory of prayers) is a concise study of prayer and related issues prepared in Arabic by Ahmed, Nhamanakkad, son of Hyder (1912-1946) and Published from Ponnani in 1318/1900. The work deals mainly with the excellencies of prayer, Sunnah prayer and other related subjects. The work has special importance due to its conciseness, systematic presentation and Shafii’ orientation.

*Kashfal Ghamamahfi Adhan wal Iqamah* is a work on the call to the prayer and standing prepared by Shaikh Ahmed Muhammad Kalikoothi (1780-1869A.D). He was popularly known as Abban Veetil Kunjamutty Haji son of Muhammad and had received his education through Qazi Muhiyuddin (1765-1856) and Umar Qazi (1179-1273 A.H). The work is a short sketch on the Azan (the call) and Iqamah (the call for standing) and discussed the qualities of the Muazzin (one who call) for the prayer. In view of nature of the work it may considered a guide on the subject.

*Sampoorna Namaskara Kramam* (The Perfect Order of Prayer) is a detailed study of the prayers by Koya Kutty Faruqi and Published by Ayyubi Book House from Kozhikode in 1994. The work is divided into 42 chapters and discusses all issues related with prayer. The work takes in to account the views of jurists of various schools of Islamic Jurisprudences about the obligatory prayers. The author has supported Salafi interpretations of Ibadah.

*Adab al Jama’t* (Etiquettes of the congregational prayer) is a Malayalam treatise on Jamaa’t prayer written by E.K Hasan Musliar (1937- 1980). It was published from Kozhikode in 1983. The author was
an ardent advocate of the Sunni organisation of Kerala highlights the importance of the congregational prayer and also discusses the provision of Shariah for Masbuq (late comer in prayer), prostration for forgetfulness (Sujud al sahv), prostration after Quran recitation of the verses of Sajadah (Sujud al tilawah) and special adhkar to be performed after prayer.

Islamile Sthirapetta Sunnath Niskarangalum (Approved Optional Prayers in Islam) is a study of optional prayers approved by Quran and Sunnah written by Abdul Salam Sullami and Published by Ayyubi Book House from Kozhikode in 1989. The work is divided into four major sections; the first deals with issue of faith and its forms, the second covers optional prayers such as Tahiyah al Masjid, Rawatib, Vitr, Tarawih and others. The third is related to the prohibited times for prayers; and the last part discusses prayers not sanctioned by the Quran and Sunnah. The entire discussion is oriented on Salafi line of thinking.

Namaskaratinte Chaitanyam (Spirit of prayer) was compiled by K.C Abdullah (1929-1994) and published by I.P.H from Kozhikode in 1998. The work provides a detailed account on the principles and rules of prayer from Takbir al Ihram up to the end (Salam).

Niskaram Shafii’ Madhabil (Prayer according to Shafii’ school) is a work on the structure and form of prayer in the perspectives of Shafii’ School of Islamic jurisprudence prepared by K.P.F Khan and Published by I.P.H from Kozhikode in 1998. The work covers both juridical aspects of the prayer and illustration of the Shafii’ way of prayer. He also contributed another book titled Namaskaram Hanafi Madhabil (prayer according to Hanafi school). It was published by I.P.H from Kozhikode in 1998. Both of them constitute very first hand information about the Salah.
Prarthanakal Nithya Jeevidathil (Prayers in Daily life) is a collection of selected prayers as prescribed by Quran and Sunnah compiled by C.P Umer Sullami a leader of Salafi movement. It was published by Yuvatha Book House from Kozhikode in 1998. The work is very useful to common readers as a guide for the prayers in daily life.

Tarawih is a short study on the controversial issue of the number of Rakaa’ in the special prayer in Ramzan written by Shaikh Muhammed Maulavi (d.1999) and published by Yuvatha Book House from Kozhikode in 1997.

Taravih Namaskaram (Tarawih Prayer) is a Sunni refutation of the Salafi views by the Sunni Ulama on the issue of Tarawih. The book prepared as a team work was published by Noorul Ulama Students Association, Jamia’ Nuriya, Pattikkad, Malappuram in 1990. The work contains many traditions from ‘Muwatta’ of Imam Malik, ‘Sunan al Kubra’ of Imam al Baihaqi ‘Musannaf’ of Imam Abdul Razaq.

Bayan al mantuq li Mahalli Intizar al Masbuq is a detailed study on the issue of waiting for the late comers in the congregational prayer. The work was prepared by Maulana Ahmed Koya of Chaliyam (1847-1955). The book explains the procedure to be adopted by a late comer or masbuq in the jamaa’t prayer and also discusses the verdicts regarding the Imam’s conscious waiting for the Masbuq in Salah.

Mayyit Samskarana Murakal (Etiquettes upon Corpses) is a Malayalam translation of the famous work of Sayyid Sabiq (1915-2000)’s Fiqh al Sunnah, an Egyptian scholar, done by T. Ubaid and Published by I.P.H from Kozhikode in 1989.

Development of Fiqh Studies in Kerala

book throws light on the issue of medium of congregational sermons. The author has forcefully presented the Salafi view on the same.

*Khutubayude Basha* (Language of Friday Sermon) is a Malayalam treatise on the language of Friday sermons prepared by V. Musa Nattika (d.2003), a veteran Sunni leader and published by *Noorul Ulama Students Association* 1983. The work highlights the Sunni stand points on the matter of the congregational sermons. The author is of the view *khutubah* has to be delivered only in Arabic language.

*Al Nahj al Qaveem* (The Straight Path) is an Arabic treatise which discusses the language of the sermon prayer is written by Pangil Ahmed Kutty (1887-1946) and published in Cairo at the Press *Nastaf al Bab al Halab*. The author was a great scholar and leader of *Samastha Kerala Jami’yatul Ulama*. He was a product of traditional institutions. The author critically examines the arguments of Salafis and then refutes them. The work maintains a simple presentation and supports Sunni point of views.

*Arkan-i- Araba’* (The Four Pillars) is a Malayalam translation of noted work *Arkan –i- Arba’* of Abul Hasan Ali Nadwi Sahib (1913-1999) done by T. Ubaid. The Author has adopted a distinctive approach in discussing four primary obligations together with their logical advantages, significance and similarities and comparison with the modes of worship in other religions. The book is one of the author’s masterpieces.

*Mukhtasar al-Ahkam al-Fiqhiyah* (A Summary of Principles of Jurisprudence) is a work written in Arabic by Ali Maulavi Kochannur (1910-1987). This work deals with some important topics including ablution, form of prayer, congregational prayer, fasting, *Hajj*, *Zakah*, *Ishq*.
Sadaqah, Nikah and Talaq. The work is notable for its systematic presentation.

2. The Fasting

_Nobinte Chaithanyam_ (The Vitality of Fasting) is a treatise on the different aspects of the fasting written by K.C Abdulla (d.1994) and published by I.P.H from Kozhikode in 1993. The work is also examines the benefits of fasting from social and biological point of views.

_Nombum Samshayangalum_ (Fasting and Solutions for its doubts) is a brief work on Fasting prepared by Abdul Rasheed Baqvi. The work is in accordance with to Shafii’ School of Islamic law. The work clarifies entire doubts of the readers on Fasting.

_Nombu Karmashastra Jalakathilude_ (The Fasting in Islam) is a treatise on fasting prepared by Ibrahim Baqavi Chuzhali and Published by Nasiha publication Trissur in 1988.

3. Zakah

_Zakah: Thathwum Prayogavum_ (Zakah the Principles and practices) is a detailed study on Zakah prepared by Abdullah Hasan Published by I.P.H from Kozhikode in 1990. The work has discussed in details of the Quranic views on Zakah and its role in a Islamic state, conditions for being Zakah compulsory, deserving recipients of Zakah. The kinds of commodities on which Zakah is incumbent. The author has also taken into account on the relevance of Zakah in modern times.

*Al Hajj*

_Tuhfah al Hajjaj_ (Gift for the Hajj Pilgrims) is an Arabic treatise on Hajj written by Ibrahim bin Moideen Kalanthodika, Pattikkad (1897-1951) and Published by Haidariya Press, Irimbiliyam in 1926.

_Al Manasik al Malaiabar_ is an Arabic Malyalam guide on Al Hajj prepared by Sayyid Muhammed Fakhruddin alias Koyakutty padoor
Development of Fiqh Studies in Kerala

(1817-1880) and printed in 1278/1871. Firstly the author has given a historical overview on Hajj and explained the basic principles and conditions of the same. The work is a short hand book on Hajj.

Al Hajj is an exhaustive work on the various aspects of Hajj written by Shaikh Abu Bakr bin Ahmed Kanthapuram and published by S.Y.S Books from Kozhikode in 1996. The present work consists 30 chapters and covers all segments related with Hajj. The author has given various adhkar and prayers to be performed at different places.

Hajj: Oru Lakhupadanam (Hajj: A Short Study) was written by Kunju Muhammed Valanchery and published by I.P.H from Kozhikode in 1998. The work covers the all aspects of Hajj and the obligatory and optional functions of the same. This is a systematic work on obligatory Hajj Dikrs and Duas along with their Malayalam versions.

Hajj Umrah: Samagra Padanam (Hajj and Umrah: A Complete Study) is a comprehensive work on the Hajj and Umrah, written by Muhammad' Saleem Sullami and published by Yuvatha Book House from Kozhikode in 1998.

Mua’malat or Transaction

Mua’malat or civil affairs (transactions) is a major area in the Islamic jurisprudence. Literally Mua’malat is derived from amal meaning work. In the technical sense the term denotes laws relating to family life, civic life and the economic. In the Fiqh terminology, the Mua’malat are either contracts or agreements, to which the mutual consent of the contracting parties is required or matters depending on the will of a single person, or general laws and regulations. Under this topic the various transactions done by the individuals as a member of society are generally discussed. These may be explained as sale and purchase, commercial
dealings like leasing, rent, contract, share business, ownerships, joint farming. The following works are related to it.

*Adillathil Haqaib Ala Izalathil Hajaib* is an Arabic treatise on dressing of the ladies written by Maulana Ahmed Koya Shaliyathi (1847-1955). The work covers all the juristic aspects of clothing for women as given in the *Shafii‘* school. He has explained code of dressing for men and women in Islamic perspective.

**a. Munakahat (Matrimonial matters)**

*Munakahat* means, marriage affairs, generally comes under the *Mua‘malat*. Since marriage is one of the legal and social institutions in Islam, the Islamic Jurisprudence has given great stress and has undergone a lengthy discussion on the said matter. Under this titles the major and minor issues like the proposal, types of women, marriage contract, *mahar*, the role of *wali*, condition for *wilayah*, the rights and duties of husbands and wives, maintenance, *nafaqah* and annulment of marriage, *nafaqah* of children, co-habitation with co-wives, custody and upbringing of children, various kinds *talaq* or dissolutions of marriage, conditions for *talaq*, The *iddah* (waiting period) are coming under this sector. The following books deals with these matters.

*Kitab Khutubat al Nikah* (Book on Sermons of Marriage) is a short hand work on marriage and its sermons is prepared by Muhammad alias Vambichi, Puthanveetil (1882-1930) and printed in Ponnani in 1978. The work mainly discuss *Nikah*, *wakalah* for *Nikah* and virtues of *Nikah* in Islam. He appended some Arabic sermons for the *Nikah* in the end of the Book.

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Vaivahika Jeevitham Islamika Veekshanathil (Marriage life in Islamic Perspective) is written by Shaikh Muhammed, Karakunnu in Malayalam and published by I.P.H from Kozhikode in 1994. The author of this book discussed the issue of marriage and its socio-religious characteristics from the light of Islamic jurisprudence. The discussion is mainly based on the following Quran verses: 4:4, 32, 30:21, 42:11.

Islamile Dambathyā Niyamangal (Marriage Laws in Islam) is a jurisprudential account on the system of marriage in Islam written by Unneen Kutty P.K alias P.K Palathole and published by Poomkavanam Book from Kozhikode in 1993. The author has reviewed important aspects of family life in Islamic perspective. The work covers topics like family as a building, aims and mission of marriage, comparative analysis between 'Brahmacharya' and Islamic marriage, prohibited marital relations, right and duties of husband and wife, un lawful marriages, mahar, concept of polygamy in Islam and Islamic stand on family control and the use of contraceptives. The author has mainly referred the following verses in Holy Quran 4:2-6, 29, 124-129, 33:50, and 52.

Vivaha Mochanam (Divorce: A Study) is a book on divorce in the perspectives of Islam prepared by Shaikh Muhammed, Karakunnu published by I.P.H, Kozhikode in 1996. The book consists of three major sections that deal with the divorce in its different form which were put forward by other religions and ideologies. The second part studies the Islamic approach towards divorce. The third part deals the different forms of divorces in Islam. An important feature of the work is the tackling of the subject from theological and juridical perspectives. He studies Talaq al Rajae' (revocable divorce), Talaq al Batin (irrevocable divorce) and Talaq al Muyallaz (detestable divorce).
Bahu baryathwam (Polygamy) is a detailed study on polygamy in Islam done by Shaikh Muhammed Karakunnu and Published by I.P.H from Kozhikode 1994. The work throws light on the Islamic perspective of polygamy and its juridical bases. Author has mainly quoted from Fiqh al Sunnah of Sayyid Sabiq (b.1915-2000) and Yusuf al Qardawi.

Talaq (Divorce) is a detailed study of Talaq edited by Abdul Gafoor and Published by Noorul Ulama Students Association, Pattikkad in 1993. Here with various types of divorce are elaborately studied and the details regarding Iddah are clearly presented.

b. Faraidh (Inheritance)

Islamile Pinthudarchavakasham (Rights of Succession in Islam) is a work on right of succession in Islam and prepared by a group of scholars distributed by Islamic Study Circle, Kuttadi-in 1989. The work throws light the need, objectives and characteristics of inheritance law in Islam. Authors have illustrated charts, diagrams, tables of various figures indicating the shares of every individual.

Anantharavakasha Niyamangal Islamil (The laws of right of Succession in Islam) is another work on hereditary succession. The book is done by Shaikh Muhammad Karakkunnu and Published by I.P.H, from Kozhikode in 1993. The whole work is divided into three sections.1. Quranic injunctions on inheritance right.2. The rights of inheritance for women in Islam 3. The rights for sons, grand children, widows and others. The author has referred a large number of traditions to complete the study.

c. Dhabah (Animal slaughtering)

Kitab al Dhabah wal Isthiyad is a book about slaughtering and hunting prepared by Umer Qazi (1758-1852) and Printed in 1323/1905 from Manbaul Hidaya Ponnani. The work is a compendium of the
jurisdictions on slaughtering of animals as it prescribed by the scholars of Shafii’ school.

Al Hukm al Hayawan fil Halal wal Haram (Verdicts on Permissible and Prohibited Animals) is an Arabic-Malayalam treatise on permissible and forbidden animals enacted by the Islamic Shariah. The book was prepared by Sulaiman Alapuzha (d.1928) and published in 1306/1888. Author was a prominent scholar and founder of ‘Manivilakku’ an Arabic Malayalam weekly.

Tuhfah al Murid li Ahkam al Dhabih is a short account on animal slaughtering and related issues in Islamic perspectives compiled by Ismail Uddaram (1858-1938) and Printed in 1315/1897 in Ponnani. The author was a great religious scholar and Qazi of Ponnani and completed his religion education from Zainudhin Makhdum Akhir (1532-1618 A.D). The work is divided in to two parts, the first deal with a historical overview on animal slaughtering and the second part discuss detailed implications of Shariah on the matter.

Risalah fi Ahkam al Aqiqah (A treatise on Aqiqah) is an Arabic treatise on animal slaughtering on behalf of new born child done by Saidutty Edappal (1820-1929) and Published in 1919. The author was born in 1820 as the son of Bakkar and studied through traditional scholars. The work covers a short account on different aspects of Aqiqah and he lists the qualities for the animal. The second part discusses the shaving of head and ratio of gold and silver according to weight of the removed hair and then throws light upon the naming of child. The work maintains a sequential presentation in effective style.

**Works on Methodological issues**
The following works contain the different methodological stands, approaches on various Juristial fundamentals (*Usul*) such as *Ijtihad, Taqlid, Ijmah* and *Qiyas*.

**Taqlid: Oru Padanam (Taqlid: A Study)** is a Malayalam work on the issue of *taqlid* written by K.P Muhammad bin Ahmad and published by *Mujahid* Center from Kozhikode in 1971. The author debates the notion of *taqlid* and cited as a major hindrance in the intellectual realm of Muslim *Ummah*. The author was born in Valavannur in 1922 as a son of Ahmed Sahib and completed his education through traditional scholars of the time. The present attempt is a serious criticism against the arguments of traditional *Sunni Ulama* of region. As an authority of *Salafi* group, he has successfully carried out his task from the sources of *Salafism*. However the study covers meaning, historical background, development and consequences of *Taqlid*. The author criticized the authority of those *Ijma* which sanctions the validity of *taqlid*.

**Taqlid Samshayangalkku Marupadi (Taqlid: answers to the doubts)** prepared by Abdurahman Bava Kodampuzha and published by S.Y.S Book House from Kozhikode in 1992. The work counter the views of Salafis in the region and strongly argues for the establishment of *Taqlid among* the Muslim *Ummah*.

**Karmashastra Madhabukal:Orupadanam (A Study on Islamic jurisprudence)** is written by Abdul Razaq and published by I.P.H from Kozhikode in 1991. The work contains seven chapters related to the subject. The major of them are: *Madhab* meaning and reality, jurisprudence during the time of the Prophet(SAW), the jurisprudence of the fourth century of *Hijrah*, The Imams of *Madhab* and jurisprudence in 7th century.
Shafii’ Madhab (Shafii’ School of Islamic jurisprudence) is a brief study of Shafii’ school of Islamic jurisprudence compiled by K. Abdul Salam Sullami and published by Ayyubi Book House from Kozhikode in 1993. It is a critical account on the origin and historical development of Islamic jurisprudence with special reference to school of Imam Shafii’. The author has explained the life and mission of the Imam and has debated the notion of Taqlid from the light of Shafii’ views.

Karmashstra Madhabukal (The Different Schools of Jurisprudence) is written by M.S.A Razaq and published by Yuvatha Book House from Kozhikode in 1991. This work analyses the development of schools of Islamic jurisprudence and asses the role played by the jurists and scholars of Islam through the passage of time.

Islamika Shareeathum Samuhika Mattangalum (The law of Islam and Social change) prepared by T.K Ubaid and published by I.P.H from Kozhikode in 1993. The author inquires the application of Islamic Shariah in Indian context and its meritorious handling on emerging issues. The work is an intrinsic exercise to find the new scope of jurisprudence in the present times.

Shareeatum Indian Muslimkalum (The Shariah law and Indian Muslim) is a distinct study on the national controversial issues on Islamic Shariah as the criticism developed by different anti-Islamic Hindutva groups of the county. The work was written by V.A Kabir, a prolific writer and published by I.P.H from Kozhikode in 1991. He studies the different laws that applied in the pluralistic nation India and examine how to develop an ideal law for the Muslims. In the early days of British settlement the Muhammadan law was enforced in all its departments but in due course Muhammadan laws relating to the crimes and punishments, revenues, land tenures, procedure, transfer of property have been
gradually abandoned and replaced by the enactment of the legislature. Questions relating to family affairs and social issues like marriage, divorce, maintenance and guardianship of minors, succession and inheritance, religious role of institutions and dispositions of property by Ribah, will and Waqf law are still governed by the Muhammadan law. The author points out current drawbacks of such laws and underlines the need and necessity of timely amendments.

_Fatwa_

_Fatwa_ is an important sector in Islamic jurisprudence. Literally, _fatwa_ is derived from the root _fata_, which includes in its semantic field the meanings, youth, newness, clarification, explanation. Its development as a technical term originated from the _Quran_, where the word is used in two verbal forms meaning “asking for a definite answer and giving definite answer” (*Al Quran* 4:127, 176).

An overview of the history of factors suggests three different concepts associated with the term. Management of information about the religion of Islam in several, providing consultation to courts of law, and interpretation of Islamic law. The first concept, which has been central through history, has reappeared more prominently in modern times, as is evident from the contents as well as from the definitions given in modern collection of _fatwa_. For instance ‘_Fatawa Dar al Ulum_’ Deoband (Deoband, 1962) defines fatwa as “an issue arising about law and religion, explained in answer to question received about it” by the muftis of Deoband, a reformist school of religion learning established in 1867^{14}.

The following table consisted of the important *fatawa* compiled during this specific period.\(^{15}\) Observing the same, all these verdicts deducted by the theologians in the region focus on both jurisprudential and belief matters which has been debated by the *Ulama* who represent various religious organizations. As such the most of the *fatawa* compiled in the region manifest a organizational notion in related with diverse issues. Rests are keeping its genuineness and credibility.

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of Mufti</th>
<th>Life period</th>
<th>Title of the work</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Ahmed Koya Shaliyati</td>
<td>1217-1287 A.H</td>
<td><em>Al Fatawa al Azhariyah</em></td>
</tr>
<tr>
<td>2</td>
<td>Abdul Qadir Fadhfari</td>
<td>1313-1363 A.H</td>
<td><em>Majmua’ al Fatawa</em></td>
</tr>
<tr>
<td>3</td>
<td>KunhiPari bin Muhiyuddin</td>
<td>1772-1885</td>
<td><em>Al Fatawa</em></td>
</tr>
<tr>
<td>4</td>
<td>Haji Ahmed Musliar, Elapantakam</td>
<td>1803-1880</td>
<td><em>Al Fatawa</em></td>
</tr>
<tr>
<td>5</td>
<td>Sayed Hamid Bukhari</td>
<td>1832-1933</td>
<td><em>Majmua’ al Fatawa</em></td>
</tr>
<tr>
<td>6</td>
<td>Abdulla, Karupakam veettil, Ponnani</td>
<td>1839-1896</td>
<td><em>Risalah fi Hukumi Tarjamah al Quran</em></td>
</tr>
<tr>
<td>7</td>
<td>Unnipocker, Musliarakath</td>
<td>1841-1914</td>
<td><em>Al Fatawa</em></td>
</tr>
<tr>
<td>8</td>
<td>Abdu Rahman Alias Kunhanbava, Puthiyakath,Ponnani</td>
<td>1850-1923</td>
<td><em>Al Fatawa</em></td>
</tr>
<tr>
<td>9</td>
<td>Muhammed Alias Vambichi, Puthenveettil</td>
<td>1882-1930</td>
<td><em>Al Fatawa</em></td>
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</table>

LIST OF LOST WORKS
The following table consisted of the lost works in Islamic Jurisprudence.\footnote{Ibid.}

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name &amp; details of author</th>
<th>Period</th>
<th>Works</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Kunhipari bin Muhiyuddin, Vatakara.</td>
<td>1772-1885</td>
<td>Kitab al Farai’d</td>
</tr>
<tr>
<td>2</td>
<td>Ahmed bin Muhammad Kalikooti alias Abban Veettil, Kunjamutty Haji</td>
<td>1802-1870</td>
<td>Risalah fi Adabi thalib</td>
</tr>
<tr>
<td>3</td>
<td>Qadar bin Ahmed Makhdum, Ponnani.</td>
<td>1803-1880</td>
<td>Translation on Ashra al Kutub.</td>
</tr>
<tr>
<td>4</td>
<td>Sayyid Ahmed Bukhari Alias Koyamma Tangal</td>
<td>1820-1874</td>
<td>Jamu’ al Fawaid</td>
</tr>
<tr>
<td>5</td>
<td>Sayyid Ismail Bukhari bin Sayyid Muhammad’ al Bukhari.</td>
<td>1821-1881</td>
<td>1. Al Jawahir al Faraid</td>
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<td>2. Fath al Barriyah al Jawabat al Masail al Bariyya</td>
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<tr>
<td>No.</td>
<td>Person</td>
<td>Period</td>
<td>Works and Notes</td>
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</tr>
<tr>
<td>6</td>
<td>Abubakr Kunhi Qazi bin Qazi Muhiyuddin.</td>
<td>1822-1883</td>
<td>Fath al Quddus fi Hukumi Raski wal dabbus.</td>
</tr>
<tr>
<td>8</td>
<td>Abubakr Kunju bin Qazi Muhiyuddin, Kozhikode</td>
<td>1824-1884</td>
<td>Ma’rrij al Masalik.</td>
</tr>
<tr>
<td>9</td>
<td>Ahmad Kunhikoya Tangal bin Ahmad, Padoor, Chavakkad</td>
<td>1832-1903</td>
<td>Jamu’al Fawaid al Thalibeen fi Kaifiyat Salah al Maridh,</td>
</tr>
<tr>
<td>10</td>
<td>Chola Pareekutti Haji.</td>
<td>1839-1896</td>
<td>Kitab al Amaliyah</td>
</tr>
<tr>
<td>11</td>
<td>Abdulla Musliyar bin Ahmed, Karuppakam Veettil.</td>
<td>1839-1896</td>
<td>Risalah al Hukum Khatim al Makhdud fi Dhabah</td>
</tr>
<tr>
<td>12</td>
<td>Musliyarakath Unnipocker bin Abdullah, Kozhikode.</td>
<td>1841-1914</td>
<td>Kitab Fi Ilm al Faraid</td>
</tr>
<tr>
<td>13</td>
<td>Ahmed Koya Shaliyati bin Ali, Chaliyam, Kozhikode</td>
<td>1847-1955</td>
<td>Ifadat al Mustae’d</td>
</tr>
<tr>
<td>14</td>
<td>Abdurahman alias Kunhan Bava bin Mohammed Makhdum, Ponnani.</td>
<td>1850-1923</td>
<td>Al Noorul Islam</td>
</tr>
<tr>
<td>15</td>
<td>Ahmed Sheerasi bin Cheeran Kunnan Muhammad’</td>
<td>1851-1908</td>
<td>Hashiyah fath al Mui’n.</td>
</tr>
<tr>
<td>16</td>
<td>Abdulla Chalilakath bin Kussayi Haji</td>
<td>1855-1931</td>
<td>Sharh Tuhfah al Muhtaj</td>
</tr>
<tr>
<td>17</td>
<td>Ismail Uddaram bin Ali.</td>
<td>1858-1938</td>
<td>Tuhfah al Mureed li Ahkam al dhabih</td>
</tr>
<tr>
<td>18</td>
<td>Shujayi Moidu bin Abdul Qadar, Andathode, Trissur.</td>
<td>1860-1920</td>
<td>Kitab al Faraid</td>
</tr>
<tr>
<td>19</td>
<td>Sulaiman bin Adam Sait, Alapuzha</td>
<td>1861-1920</td>
<td>Naf al Qiram</td>
</tr>
<tr>
<td>No.</td>
<td>Name</td>
<td>Period</td>
<td>Books</td>
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<tr>
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<td>------------------------------------------------------------</td>
</tr>
<tr>
<td>20</td>
<td>Moideen Alias Bava bin Muhammad, Thekkeakam Ponnani,</td>
<td>1863-1924</td>
<td>Minhaj al Ibadah wal Fazai’l</td>
</tr>
<tr>
<td>23</td>
<td>Kuhahammad, Paroor</td>
<td>1879-1922</td>
<td>Fayz al bari.</td>
</tr>
<tr>
<td>24</td>
<td>Ahmed Kutty bin Ibrahim</td>
<td>1879-1938</td>
<td>Tuhfah al Atfal</td>
</tr>
<tr>
<td>25</td>
<td>Ahmed Areekkan bin Kunhahammed</td>
<td>1881-1901</td>
<td>Nalmun Qurrat al Ai’ni li fath al mui’n</td>
</tr>
<tr>
<td>28</td>
<td>Cherussery, Zainudheen Musliar bin Ahmed Cherussery,</td>
<td>1884-1955</td>
<td>Risalah fi Ahkam al Masbuq</td>
</tr>
<tr>
<td>29</td>
<td>Madathodika, Abdurahman bin Yusuf Fadhfari, Kuttipuram.</td>
<td>1886-1913</td>
<td>Jawaiz al Janaiz</td>
</tr>
<tr>
<td>30</td>
<td>Abdurahman Pallipuram bin Yusuf Pallipuram, Pallipuram, Pattambi, Malappuram.</td>
<td>1890-1912</td>
<td>Nafaisul Jawaiz fi Masail al Janae’z.</td>
</tr>
<tr>
<td>31</td>
<td>Haydar Kunnappalli bin Muhammad, Karimbanakkal, Tazhekode, Perinthalmanna.</td>
<td>1890-1971</td>
<td>1. ‘Mandumat Hadiyyah al bab fi Jawahir al Adab 2. Tanbih al Mutaa’lilmin</td>
</tr>
</tbody>
</table>
An exhaustive effort has been made on the development of *Fiqh* studies in Kerala. Also evaluated a brief historical overview on the same and its historical development, characteristics, trends developed through the passage of time.