

Contributions of Indian Scholars to Arabic Fiqh Literature: A Medieval historical perspective

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Abstract

The *fiqh* is a legislation laid down by religion to perform the complete practice of Islam. As Islam spread in the new areas of the world, people faced numerous problems in practicing religious rituals due to the geographical and climatic differences in the new areas. There required a new laws and *fatwas* to meet the new problems regarding religious practices of Islam. Hence the diverse Islamic laws concerning social, religious and political aspects had to come up with changes and modifications for the requirements of time and place. In medieval era the Arabic knowing scholars of India endeavours to contribute to the works on *fiqh* or religious ordinance which laid down by Islam and not comprised all the aspects of social, criminal, civil, political as well as financial phenomena as a whole. These scholars contributed a lot in framing new legislations in the non-Arabic speaking counties like India. They made remarkable outputs in the field of Jurisprudence in Arabic language, Persian as well as in Urdu. The immigrant Muslim scholars also have great contributions and were the leading scholars who spread the new ideas and knowledge in field of literature in India. The paper encompasses the eminent Indian Arabic scholars and their outstanding machinery in the field of Arabic *Fiqh* literature.

Keywords: Fiqh, fatâwâ, shari‘ah, medieval India, scholars

Introduction:

The term *fiqh* technically denotes the Jurisprudence of Islam, which acquaints us with all the branches of Islamic legislations with clear evidences for real practice of Islam. In fact, it is a religious science of Islam, known as *‘ilm al-fiqh*. In this connection, the Holy *Qur’ân* is the fountain head of Islamic laws and the Noble Ḥadīth performs the function of the Qur’ânic interpretation. It has been observed that the religious ordinances are laid down only about two hundred verses of the *Qur’ân*, which can not comprise all the aspects of social life - civil, criminal, political, financial etc. As and when Islam spread in Syria, Iraq and other subjugated countries some problems arose in the new situation of Islamic affairs. So, speculation has become necessary for finding out solutions to new problems and thus two more new fundamental principles came to the formation of Islamic legislation, they are namely *Ijmâ’* (i.e, consensus opinions of the companions of the Prophet Muhammad

(PBUH) or jurists' agreement to unsettled affairs on a point of law, and *Qiyâs* (i.e. analogical deduction which is generally done on the basis of the Holy *Qur'ân*, *Ḥadīth* and *Ijmâ'*). Here it needs to mention that both *Ijmâ'* and *Qiyâs* have no position in any points to break the basic principles of the *Qur'ân* and the *Ḥadīth*. In such a way, *Fiqh* has become a legal science of Islam to deal with all the affairs of religious, political and civil life. ⁽¹⁾ Besides regulating laws on religious rituals (*'Ibâdât*) it comprises the whole field of family law, the law of inheritance, of property, contracts and other obligations that arise in a social life including criminal law and procedure, constitutional law and laws related to the administrations of the state as well as the conduct of war. ⁽²⁾

The medieval period in India can be divided broadly into two phases – the early medieval period (eighth to thirteenth century) and the later medieval period (thirteenth to eighteenth century). The paper has dealt with the later period of Medieval India. In fact, Arabic knowing scholars of this period endeavoured utmost to contribute works on *fiqh* and to compile *fatâwâ* (i.e. formal legal opinions in Islamic law) either in the language of Arabic or Persian or Urdu. But some scholars preferred to carry out their works in Arabic language for circulating them widely throughout the Muslim World. This practice was more prevalent in India during Muslim rules of later medieval period.

Fiqh Literature in India:

As soon as Islam spread in India the proper knowledge of Islamic *fiqh* was felt very much. We are aware of the fact that the Muslim inhabitation in India started with the first part of Islamic era either in connection with trade and commerce or invasions and the growth of Muslim society took place through four phases - conquest, colonization, conversion and migration. ⁽³⁾ The peripheral Arab conquest of Sind (beginning in 711 AD.) was preceded by Muslim settlements on the western seaboard as were the Ghaznavid invasions (beginning in 1000 A.D.) preceded by small colonies of Muslims in the southern Punjab. The real growth of Muslim society took place after the conquest of Shihâb al-Dîn Ghurî (in 1192 A.D.) in Northern India because it gave a proper settlement to Muslim people. The founder of Delhi Sultanate, Shams al-Dîn Iltutmish (R. 1211 - 1236 A.D.) offered a refuge for scholarly Muslim fugitives from the Mongol catastrophe of the third decade of the thirteenth century. ⁽⁴⁾ The process of conversion from other faiths to Islam continued with the earnest propagation of Sufi-saints who handled the problem with great love and affections. Latter the Afghan rulers invited many Afghan families to come and settle in India. Many Shiyâ families migrated from Persia and settled in the south. In addition to this, the process of

Muslim settlement under the Hindu kings also continued later. ⁽⁵⁾ In this way India became a cultural colony of the Muslim world.

The immigrant Muslim scholars were the torch-bearers of Islamic civilization in India, who tried utmost to acquaint the overall knowledge of Islam with the Muslim populace. We are aware of the fact that the Muslim scholars of Medieval India were basically familiar and acquainted with the classical works of religious theology (i.e. commentaries of the *Qur'ân* and the Hadith, Fiqh, Kalâm, Tsawwuf etc.) contributed by the savants of the Muslim World. It is imperative to know that Fiqh deals with all the activities of religious life of Islam. To follow the injunctions regulated by the Holy Qur'ân and the Ḥadīth the study on *fiqh* literature inevitably started with the settlement of Muslims in India. So, it was quite natural for Muslims to acquire knowledge of *fiqh* for performing Islamic rituals and getting solutions to the problems that arose in their daily life. In fact, *Fiqh* literature in Medieval India traced back from the Hanafite school of jurisprudence in the first instance, and then the rest of the orthodox schools like Shâfi'î, Mâlikî and Hambalî. Generally Indian Muslims have been following the Hanafite School of jurisprudence since the earlier time of Muslim inhabitation in India except the people who started living in the coastal areas of Madras (Chennai), Malabar and Konkan migrating from Yemen and Hejaz because of their keeping wharfs and ferry-stations at the seaboards especially for their purpose of trade and commerce. Actually they were the followers of Shafi'ite school of jurisprudence. ⁽⁶⁾

During the period between Shihâb al-Dîn and Bahadur Shah II (d. 1862 AD.) the position of Fiqh literature was in culmination, because the Islamic Shari'a was executed fully in their administrations. Therefore, the proper knowledge of *Fiqh* was necessitated very much to meet the affairs of the court and administration respectively. For the post of Qâdî and Shaykhul Islam, the subject of *Fiqh* was studied with a great interest in *madâris* (Islamic Institutions) right from the elementary level of schools (*makâtib*). Generally the important laws of Islamic Shari'ah found in the moderate law books of Hanafite Jurisprudence were followed in the Courts of Qâdî and also taught to the students of *Madâris*, because most of the Muslims were the followers of Hanafite school. ⁽⁷⁾ From this point of view, the Muslim scholars were much interested in the study of *Fiqh* literature and they wrote a good number of works on *fiqh* to make the subject more comprehensive among the Muslim populace; but the contributions of Indian scholars were mostly of commentaries and abridgements of the earlier distinguished law books of Islamic jurisprudence. In addition to these works, a few *Fatâwâ* compilations were also contributed by the Indian scholars in medieval period.

Here it is imperative to know that the Indian scholars developed Fiqh literature in Medieval India especially from some important works which were mostly contributed by the Hanafite scholars; and they are classified into five broad categories as follows:

(1) **Zâhir al-Riwâyât** : Imam Muhammad Ibn al-Hasan al-Shaibânî (d. 187 A.H./ 805 A.D.) tried his level best to preserve the views of Imam Abu Hanifa (d.767 AD.), Abu Yûsuf (d.798 AD.) and Imam Muhammad about the legal problems of diverse nature in his a series of contributions namely *al-Mabsût*, *al-Jâmi‘ al-Saghîr*, *al-Jâmi‘ al-Kabîr*, *al-Siyar al-Saghîr*, *al-Siyar al-Kabîr* and *al-Ziyâdât*.⁽⁸⁾

(2) **Nawâdir** : Excluding *Zâhir al-Riwâyât* Al-Shaibânî preserved the views of Imam Abu Hanifa and his two disciples in his work including *al-Kaysaniyât* , *al-Amâlî* of Abu Yûsuf and other books of Hasan, Ibn Samâ‘a, al-Mu‘lî Ibn al-Mansûr etc.

(3) **Wâqi‘ât** : This class of works was devised by the latter scholars to offer solutions to the problems (*masâ’il*), but did not contain any *riwâyah* such as *al-Nawâzil* of Abu al-Laith (d.383 A.H.), *Majmu‘ al-Nawâzil*, *al-Wâqi‘ât* of Sadar al-Shahîd.

(4) **Fatâwâ**: The latter scholars contributed some works on juridical solutions to the problems which arose in later period and generally the works of *Fatâwâ* were prepared to present the legal verdicts or rulings in conformity with the principles of *Ijtihâd*, e.g. *Fatâwâ Qâdî Khân*, *al-Khulâsah* and *al-Zahîrîyyah*.

(5) **Masâ’il**: The latter scholars compiled some brief books on *masâ’il* (religious laws) which contained the legal verdicts of *riwâyah* while the jurists relied on rulings for considerate solutions to the problems e.g. *al-Wiqâyah*, *al-Kanj*, *al-Mukhtar*, *Majma‘ al-Bahrain* and *al-Qudûrî*. In addition to these works, a few commentaries were composed to the important books of jurisprudence, e.g. *al-Hidâyah* of al-Marghananî (d. 1197 A.D.), *al-Dur al-Mukhtar* of al-Haskafî and rare works like *Fath al-Qâdir* of Ibn Hammam and *Radd al-Mukhtar* of Ibn ‘Abidîn.⁽⁹⁾

Contribution of Indian Scholars:

Here an attempt has been made to shed light on commentaries cum abridgements of distinguished *Fiqh* and *Usûl al-Fiqh* literature which were produced by the scholars of medieval India. In this connection, we find some distinguished Indian scholars, they are as follows:

- (1) Maulana Ma'în al-Dîn al-'Umrânî wrote a series of commentaries on *Kanj al-Dakâ'iq*, *al-Husamî*, *Manâr* and *al-Talwîh*. He flourished during the period of Sultan Muhammad Bin Tughlaq (R. 1325-1351 A.D.).
- (2) Sirâj al-Dîn 'Umar Bin Ishâq al-Ghaznawî of Delhi (d. 773 A.H./ 1371 A.D) wrote several commentaries on jurisprudence like *Hidâya* of al-Marghinânî entitled *al-Talwih*, *Jâmi' Saghîr*, *Kabîr* and *Ziyâdât* of Imam Muhammad (d. 804 A.D.) and on the Usul al-Fiqh, entitled *al-Mughni fî Usûl al-Fiqh* and *al-Manâr*.⁽¹⁰⁾
- (3) Shaykh Wajih al-Dîn Ibn Nasr Allah al-Alwî (d. 1588 A.D.) of Gujarat wrote *Hâshiya al-Usûl al-Bazudî*, *Hâshiya 'Alâ Hidâya al-Fiqh* of Marghinânî, *Hâshiya al-Sharh al-Wiqâya* and *Hâshiya 'Alâ Talwîh*.⁽¹¹⁾
- (4) Shaykh 'Abd al-Haqq Muhaddith Dihlawî (d. 1642 A.D.) was the first traditionist to popularise the study of Hadith literature. He contributed an independent work to the field of Fiqh entitled *Hidâya al-Nâsik Ilâ Tarîq al-Manâsik*. His works entitled *Maraj al-Bahrayn* and *Lam'at al-Taqîh* have dealt with juridical problems of Islam for giving proper solutions.
- (5) 'Abd al-Hakîm Ibn Shams al-Dîn of Siyalkot flourished during the period of Shah Jahan as a prolific writer who wrote a marginal note to *al-Muqaddima al-'Arba'a min al-Talwîh* in view of developing the realm of Fiqh literature in medieval India.⁽¹²⁾
- (6) 'Allama Ahmad B. Abu Sa'îd of Amethy (d.1718 A.D) was generally known as Mullah Jiwan who wrote an important book in the subject of Usûl al-Fiqh entitled *Nûr al-Anwâr* which got a place as one of the subjects to be taught in the course of *Dars al-Nizâmî*. In fact, the work was prepared as a commentary of *Manâr al-Anwâr* written by Imam Abû'l -Barkât 'Abd Allâh ibn Ahmad Hafiz al-Dîn al-Nasafî (d. 1310 A.D) who was one of the followers of Hanafite School of jurisprudence.⁽¹³⁾
- (7) 'Abd Salâm al-Deowî also made an extension to the field of Indo-fiqh literature with his valuable works namely *Sharh al-Manâr al-Usûl* and *Hâshiya 'Alâ Hidâya al-Fiqh*.⁽¹⁴⁾
- (8) Hâfiz Amân Allah Bin Nûr Allah (d.1133 A.H./ 1721 A.D.) flourished as one the distinguished scholars of *fiqh* literature and was appointed to the post of Grand Vizier of Lucknow. He wrote an independent work on Principles of *Fiqh* entitled *al-Mufassar* and a commentary to this book named *al-Muhakkam*. Furthermore, he wrote another commentary to the famous book *al-Tawîh* related to the principles of jurisprudence.

- (9) Muhib Allâh Bihârî (d.1707 A.D.), a distinguished philosophical scholar of India, composed an independent work entitled *Musallam al-Thubût* on the principles of Jurisprudence. It is reported that the work was written in 1109 / 1697. As a matter of fact, the work got a warm acceptance from all readers of Fiqh literature and it was included in the curriculum of Dars al-Nizâmî for long two centuries. The contemporary scholars of the author acknowledged the book as one of the significant and high standard work as regards its depth of the subject matter and proper arrangement.⁽¹⁵⁾

***Fatâwâ* Books of Indian Scholars:**

In addition to the above mentioned commentaries, abridgements and marginal notes related to *Fiqh* and *Usûl al-Fiqh* literature, a good number of *fatâwâ* were also contributed by the Indian scholars and this matter gave a fillip to development of Indo-fiqh literature up to its level marks in medieval India. In fact, the term *Fatâwâ* (plural of *fatwâ*) implies legal opinions of jurists or muftis on any point of Islamic legislations. Gradually it has been a technical term to mean such a work which consists of the opinions of jurists or muftis responding to the questions of new problems. In this connection, Indian scholars and some political patrons endeavoured their utmost to have *fatâwâ* compilations for meeting the queries about Islamic *Sharî'a*. In this respect, we find only a few number of *Fatâwâ* compilations, which were produced in Arabic in medieval India they are brought to mention as follows:

(1) The *Fatâwâ* Ibrâhim Shâhî:

This is a voluminous Arabic work of *Fatâwâ* consisting solutions of the Hanafî School of jurisprudence. It was compiled by Qâdî Nizâm al-Dîn al-Kilânî (d. 875 A.H. / 1470 A.D.) who consulted one hundred and sixty books of various type of Fiqh literature for its full arrangement. Furthermore, to compile this *fatâwâ* necessary source of information and references were also taken from other works of *fiqh* and *fatâwâ* like *Khazanat al-Fiqh*, *al-Fatâwâ al-Zahiriyyah*, *al-Muhîl al-Qudurî*, *al-Fatâwâ al-Sirâziyyah*, *al-Khaniyyah*, *al-Fusûl*, *Kanz al-Daqa'iq* etc. The author of this *Fatâwâ* was very much close to the Sultan Ibrâhim Sharqî (d. 1438 A.D.) who appointed him Qâdî of Masli Shahar (Jaunpur). Moreover, the compiler was also a contemporary of Ibrâhim 'Adil Shâh who ruled over Bijapur from 1535 - 57 A.D. As such, the work was entitled so after his name.⁽¹⁶⁾

(2) Fatâwâ al-Sirâj al-Munîr:

This is a voluminous Arabic work of *fatâwâ* which represents Hanafî views of jurisprudence. It was compiled in 1128 A.H. / 1716 A.D. by Tabî‘ Muhammad, son of Muftî Muhammad Sa‘îd of Lucknow. He was an expert theologian in giving and teaching legal opinions of Islamic law. So, he was vested with the charge of Muftî office of Lucknow after the demise of his respectable father. The author of this *Fatâwâ* was known better as Muftî. The work begins with the text: *minka’l-hidâya wa ilaika’l-nihâya yâ man nawwara bi-‘ilmi’l-fiqhi qulûba ulî’l-albâb* (The guidance is from you and the finality goes to you and it is you to enlighten the hearts of wise-men with the knowledge of jurisprudence). The modern historian ‘Abd al-Hayy al-Hasanî informs that this book of *fatâwâ* is preserved in the Library of Nadwatul Ulama, Lucknow. ⁽¹⁷⁾

(3) Fatâwâ Majma‘ al-Barkât :

This is a well known Arabic work of *fatâwâ* compilation. It was compiled by Muftî Abu al-Barkât Bin Hussam al-Dîn al-Dihlawî in the year of 1116 A.H. / 1704 A.D. and the work was divided into two bulky volumes. The author of this *fatâwâ* belonged to the sectarian of the Hanafite orthodox school. During administrative tenure of the Mughal Emperor Awrangzib, the author took over the charge of the office of Mufti and judge together. ⁽¹⁸⁾ The present name of this *fatâwâ*, *Majma‘ al-Barkât* was entitled so in accordance with the suggestion of Muhammad Yâr Khan, the Nizâm of the Dar al-Khalifa (Delhi), because he desires to have a little change in its earlier name, the *Fatâwâ ‘Ajâ’ib al-Barkât*. While the compiler Muftî Abû al-Barkât had a great hand and profound knowledge in Islamic jurisprudence and its principles, he tried his best to make his work easy understanding and adorned it with the themes of some important *fiqh* works of Medieval India. ⁽¹⁹⁾

(4) Al-Fatâwâ al-‘Âlamghîriyyah:

The *Fatâwâ ‘Âlamghîrî* is also known outside India as *al-Fatâwâ al-Hindiyyah*. This work has topped the position after *Hidâya* of Marghinanî in the realm of *Fiqh* and *Fatâwâ* literature in India. It has also become famous all over Arab, Syria, Egypt and Cairo for its immense relevance and benefits. ⁽²⁰⁾ It was compiled in Arabic by a board of eminent jurists under the supervision of Maulana Nizâm al-Dîn of Burhânpûr (d. 1090 A.H./1679 A.D.) who was commissioned by the order of the Emperor Awrangzib (d. 1707 A.D.). This significant work is an accumulation of opinions and precepts of the Islamic law pertaining to

different branches of legislations comprising religious, civil, penal and international. It has been observed that the work aims at codifying the Islamic law in a single comprehensive compilation depending upon the earlier works of Fiqh and views of authoritative jurists for common use of Qâdîs, Muftis, and 'Ulamâ' at large. Though it is a compendium of Hanafite law, has not left to refer to the opinion of jurists of other schools on major cases. As a result, its relevance in medieval Indian courts increased more than any other Indo-fiqh works; nevertheless it is also being referred to the present day Muslim society. It was compiled and completed with six volumes within a period of eight years (1078 -1086 A.H./1667-1675 A.D.) and the work has been published repeatedly. ⁽²¹⁾

Apart from above mentioned works of Fatâwâ compilations, we find two more works namely *al-Fatâwâ al-Hammâdiyyah* and the *Khizânat al-Riwâyât*. The former was compiled by Abû'l-Fath Rukn ibn. Husâm al-Dîn. He was a Mufti of Nagore. It is known that at the instance of Qâdî Hammâd al-Dîn, he compiled the work along with the help of his son. As such, the Fatâwâ was named so after the name of Qâdî Hammâd. This work was compiled in the last part of eighth or in the beginning of the ninth century of Hijrah. The latter work of Fatâwâ was composed by Chakan al-Hindî al-Gujaratî (d.920 A.H./1514 A.D.). The work records the Hanafite laws in detail. ⁽²²⁾

Conclusion:

It has been revealed from the foregoing discussion that the Indian scholars made great contributions to the development of Arabic fiqh literature and their productions deserve due appreciation in the scenario of the past and present study of orientalism. During the Muslim rule in Medieval India, Islamic jurisprudence saw the brilliant chapter in expansion of Islamic knowledge and information. Here it may be mentioned that the Mughal Emperor, Awrangzib (d. 1707 A.D.) also gave importance for compilation of religious works of Islamic Jurisprudence.

Reference:

1. Hitti, P. K. History of the Arabs (London : Macmillan and Co. Ltd.), 1949, pp. 396 - 7
2. The Encyclopedia of Islam, Voll. II (Leaden : E.J.Brill),1965, p. 886
3. The Encyclopedia of Islam, Voll. III, (Leaden : E.J.Brill),1971, p. 428
4. Wm. Theodore de Bary (editor) : Introduction to Oriental Civilizations : Sources of Indian Tradition (New York : Columbia University Press),1958, pp. 377 - 8

5. The Encyclopedia of Islam, Voll. III, (Leaden :E.J.Brill),1971, pp. 428 - 9
6. Al-Hasanî, ‘Abd al-Hayy, *Al-Thaqafa al-Islamiyya fî'l-Hind*, (Damascuss : *Al-Majma‘ al-‘Ilmî al-‘Arabî*), 1958, p.103
7. Farooqî, Imad al-Hasan Azad, *Hindustan Meyn Islami ‘Ulûm wa Adîbât*, (New Delhi : Maktaba Jamia Ltd.) 1986, pp. 60 - 1
8. al-Hasanî, ‘Abd al-Hayy *Al-Thaqafa al-Islamiyya fî'l-Hind*, (Damascuss : *Al-Majma‘ al-‘Ilmî al-‘Arabî*), 1958, p.104
9. Ibid, pp. 104 – 105
10. al-Hasanî, ‘Abd al-Hayy *Nuzhatu’l-Khawâtir*, Vol. II (Raebareily : Maktaba Dar ‘Irfât), 1992, pp. 168 – 9 & Shams Tabriz Khan, ‘*Arabî Adab Meyn Hindustan Ka Hissa*, (Lucknow: Nizami Prees),1989, pp. 184 - 92
11. Ahmad, Shabbir Qadirabadî, ‘*Arabî Jaban Wa Adab Ahad-e-Mughaliya Meyn*, Part-I, (Lucknow : Nizami Press), 1982,pp. 120 – 22 & ‘Abd al-Hayy al-Hasanî, *Nuzhatu’l-Khawâtir*, Vol. IV, (Raebareily : Maktaba Dar ‘Irfât), 1992, pp. 343 - 4
12. Ahmad, Shabbir Qadirabadî, Op. Cit. pp. 161 - 2 ; 196 & ‘Abd al-Hayy al-Hasanî, Op. Cit. Vol.V, pp. 223 - 30
13. Ahmad, Shabbir Qadirabadî, Op. Cit. pp. 251-3
14. Ibid, pp. 257 - 60
15. Ibid, pp. 260 – 2
16. Islam, Dr. Zafarul Origin and Development of *Fatâwâ* Compilation in Medieval India, Hamdard Islamicus, edited by Hakim Mohammad Sa‘îd, Karachi, January - March, 1997, p. 9 & ‘Abd al-Hayy al-Hasanî, *Al-Thaqafa al-Islamiyya fî'l-Hind*, (Damascuss : *Al-Majma‘ al-‘Ilmî al-‘Arabî*), 1958, p.108
17. al-Hasanî, ‘Abd al-Hayy *Nuzhatu’l-Khawâtir*, Vol. IV, (Raebareily : Maktaba Dâr ‘Irfât), 1992, p. 54
18. Ibid, p. 6 and *Al-Thaqafa al-Islamiya Fî'l-Hind*, p. 108
19. Islam, Dr. Zafarul Op. Cit. p. 10
20. al-Hasanî, ‘Abd al-Hayy *Al-Thaqafa al-Islamiyya fî'l-Hind*, (Damascuss : *Al-Majma‘ al-‘Ilmî al-‘Arabî*), 1958, p.110
21. Islam, Dr. Zafarul Op. Cit. pp. 10 - 11
22. Ahmad, Zubaid Contribution of India to Arabic Literature (Lahore : Ashraf Press : Sh. Muhammad Ashraf), 1968, p.170 - 1
