Al-Muntakhab fī 'Uṣūl al-Madhhab

Also known as

(Al-Muntakhab al-Ḥusāmī)

By

Muḥammad bin Muḥammad bin 'Umar,

Ḥusām al-Dīn, al-Akhsīkathī (d. 644H/1247AD)

Analytical study and edition

Ahmad M N Abbas

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Dedication

This work is dedicated to:

My parents,

My wife,

My brothers, sisters and

children

Acknowledgement

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Declaration

1-This work has not previously been accepted in substance for any degree and is not being concurrently submitted in candidature for any degree.

Signed:

Date:

2-This thesis is the result of my own investigation, except where otherwise stated. Other sources are acknowledged by footnotes giving explicit references. A bibliography is appended.

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Date:

3-I hereby give consent for my thesis, if accepted, to be available for photocopying and for inter-library loans after expiry of a bar on access approved by the University of Wales on the special recommendation of the University concerned.

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Date:

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Transliteration

Arabic	Symbol	Arabic	Symbol
أ	A	ط	Ṭ
ب	B	ظ	Ẓ
ت	T	ع	‘
ث	Th	غ	Gh
ج	J	ف	F
ح	Ḥ	ق	Q
خ	Kh	ك	K
د	D	ل	L
ذ	Dh	م	M
ر	R	ن	N
ز	Z	ه	H
س	S	ـه	A
ش	Sh	و	W
ص	Ṣ	ي	Y
ض	Ḍ	ء	’

Short vowels:

ـَ	A
ـِ	I
ـُ	U

Long vowels:

آ	Ā
ي	Ī
و	Ū

Abstract

The aim of this thesis is to edit a manuscript in *'Uṣūl al-Fiqh* (principles of Islamic jurisprudence) written according to the Ḥanafī school. The main manuscript used on the edition dates back to (690H/1292AD). The author is Ḥusām al-Dīn Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī, who died in (644H/1247AD).

The thesis provides an account of the author's life and identifies his historical character and the epoch in which he lived, i.e. the 7th century H. (13th century AD). To explore that, it was necessary to dwell upon the region and context where the author lived. I endeavour to highlight the author's personality from different angles so as to understand the circumstances that produced such scholars at that time in history.

The study of the book required, first to attribute the work to its author and, second, to show its significance and its impact on the science of *'Uṣūl al-Fiqh*. I also tried to focus on the methodology employed by the author of this work and the reason that this book has gained wider prominence in this particular field than that of other writers. Through studying this book I discuss Muslims' interest in this work and its prolific number of editors and commentators, which indicates the value of the book to scholars and students.

The significance of any book relates to the subject that the book itself tackles; therefore, I start the study with an introduction in which I demonstrate the value of the subject of the book i.e. *'Uṣūl al-Fiqh*. Here, I discuss the time when it came into being, how it evolved, scholars' methods and approaches in studying this authority- whom many scholars consider as a fundamental pillar for many other sciences such as jurisprudence, interpretation and the *Ḥadīth* (Prophet's Traditions).

My methodology

I divided the thesis into two parts (Literature Review and Edition of the Manuscript):

Part I. Literature Review:

- I have divided this part into three chapters:

1.1 Chapter one: *'Uṣūl al-Fiqh*:

Its definition, value, growth and development, scholars' approaches, prominent figures in the field and their main contributions, the *Imām* (founder) of the Ḥanafī's school.

1.2 Chapter two: The author:

1.2.1: Author's name, examination of the name, birth and growth, quest for knowledge, his death.

1.2.2: Author's homeland

1.2.2.1 City (geographical location)

1.2.2.2 The value of the geographical location

1.2.2.3 Political, economic, social, scholastic life and the present situation

1.2.2.4 The impact of location on scholastic environment

1.2.3 His school and position among Ḥanafī scholars

1.2.4 His position of scholarship

1.2.5 His students

1.2.6 Some great contemporaneous Ḥanafī jurists

1.3 Chapter three: The book

1.3.1 The book's title

1.3.2 The value of the book

1.3.3 The most valuable books of *'Uṣūl al-Fiqh* relied on by Ḥanafī scholars

1.3.4 Copies of the book as a manuscripts

1.3.5 The main manuscript

1.3.6 *Shurūḥ* (commentaries)

1.3.7 Author's methodology in this book

1.3.8 Author's terminology

1.3.9 Presentation of the themes of the book

- In this part I have written the terms used by the scholars of *'Uṣūl al-Fiqh* in italicised form using the transliteration method provided on page (8) capitalising the first letter of each term, then giving its meaning between two brackets. The book's titles are italicised also.
- In the footnotes: I have given a biography for each scholar in detail for the first time he is mentioned in the text. I gave full details of the source I used in the text for the first time, then I mention just the author, the title, and the page number if the same source is used again. I defined some terms like Mongol, Volga, etc.
- At the end of this part I provided an index of the rules of *'Uṣūl al-Fiqh,* the bibliography, the resources and the appendices.
- It might be relevant to state that I did not endeavour to study the legal and jurisprudential input of the author, since this requires an entirely separate research which falls out side the scope of this study.

Part II. The Edition of the manuscript: (In Arabic)

In editing the manuscript *al-Muntakhab al-Ḥusāmī*, I have relied on the oldest copy available for considerations that will be mentioned when I discuss the main manuscript.

Establishing the authenticity of the text in the manuscript is undertaken by comparing the main copy with other copies of the manuscript, rather than relying on the most preferable text when there is descrepancy among the copies of the manuscript.[1] My methodology in editing the book is as follows:

1. What is in conflict with the text in the main manuscript is included in the footnotes. The only exceptions are some cases where the reading of the main does not uphold.
2. The differences among the copies ensue through mention of the difference and then attributing such a difference to the copy where it appears in the following form: "here is a phrase (or bare foot) in [Ts]". In other words, the phrase is added or appended in the Turkish copy.
3. I ignored variant readings which do not bear any relationship to the subject of the book, e.g. [May Allah give him blessings], [May Allah be pleased with him] or [Peace be upon him]. The same pertains to differences which do not affect the meaning of the text, including ['*idhā*] instead of ['*idh*], ['*inna*] instead of [*fa'inna*]. Some other differences are in agreement with dictation at the present time such as [*sā'ir*] instead of [*sāyir*], [*qallamā*] instead of [*qalla mā*] and [*yaḥtamil*] instead of [*taḥtamil*] according to text.
4. I have divided the topics in the book on the basis of the classical books on Islamic jurisprudence, especially Imām Bazdawī's book *Kanz al-Wuṣūl 'ilā Ma'rifat al-'Uṣūl*. The headings that I have added are put between square brackets as follows: [Chapter on *Ḥurūf al-Ma'ānī*]

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[1] See 'Usailān, 'Abdulla. (1415H/1994AD) *Taḥqīq al-Makhṭūṭāt baina al-Wāqi' wa al-Nahj al-Amthal*, (p.150). Saudi Arabia: Riyāḍ - King Fahad Library.

5. I have given each copy of the manuscript a symbol that is specific to it which is placed between square brackets as follows: [Tb] or [Ch]. These are outlined in the table below:

No	Source	Year of copying	Arabic	English
1	King Saud University (3797)	690 H	س	S
2	Bashīr Āghā, Turkey (187)	707 H	تب	Tb
3	Chester Beatty Library (5047)	732 H	ش	Ch
4	Princeton University Library (1705)	740 H	ب	P
5	Al-Mar'ashī Library, Iran (7887/2)	775 H	إي	Ir
6	Yinī Jami', al-Sulaimāniyya, Turkey (304)	844 H	تس	Ts
7	King Faiṣal Center (877/F)	12 BH	ف	F

6. The comments and footnotes encompass the following:

6.1 Attributing *Qur'ānic* verses to their places in the *Qur'ān* by mentioning the name of the *Sūra* (chapter) and the number of the *Āya* (verse) as follows: *Sūrat al-A'rāf*: 172.

6.2 Extracting *Ḥadīth* (Prophet's tradition) from the nine books: Imām Bukhārī's *Ṣaḥīḥ*, Imām Muslim's *Ṣaḥīḥ*, al-Tirmidhī, Ibn Māja, Abū Dāwūd, al-Nasā'ī, *Muwaṭṭa'* Imām Mālik, *Musnad* Imām Aḥmad, Dārimī's *Ṣaḥīḥ*. This is conducted by means of CDs produced by the Ṣakhr Computer Programs' Company.[1]

6.3 Identifying the names of all prominent scholars who are mentioned in the book on the basis of renowned biographies such as *al-A'lām* by al-Ziriklī which I rely on most of the time. The reason behind this is that it is one of the later works and is hence more comprehensive and accurate. It also provides a historical account of the

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[1] *Mawsū'at al-Ḥadīth al-Sharīf,* version one 1.2 (1991-1996).

prominent writers, making sure of the information relating to them. Other books include *Mu'jam al-Mu'allifīn* by Kaḥḥāla, *Siyar A'lām al-Nubalā'* by al-Dhahabī, *al-Fihrist* by Ibn al-Nadīm and others as mentioned in the bibliography.

6.4 Explaining the meanings of some words which require explanation and clarification on the basis of the books: *Lisān al-'Arab* by Ibn Manẓūr, *al-Qāmūs al-Muḥīṭ* by al-Fairūz Abādī and *al-Qāmūs al-Fiqhī* by Sa'dī Abū Jaib and others.

7. Every statement that is mentioned in the book and that is explicitly intended by its expression is put between quotations marks as in: [who said to his slave "Give me a thousand and you're free"] page [68/B].

8. In the edition I have indicated the place of the printed text that I produced and assigned it to the text in the main manuscript. This is done through provision of the page number and its location to the right [A] or the left [B] as follows: [56/A] and [66/B]. The purpose here is to make reference to the text in the main manuscript easy when such reference is necessary.

9. The part on the editing of the manuscript includes appendices regarding *Qur'ānic* verses, the *Ḥadīth* (Prophet's tradition), scholars' names which figure in the book, citation of the legal rulings mentioned in the text, listing of the book's contents, etc.

Part I

Literature Review

1.1 Introduction

Objective laws and regulations in primitive human societies developed gradually in the form of customs and traditions. When people's awareness and knowledge evolve, and gain authority and sovereignty, it resorts to the codification of these customs and traditions whereby the latter (codification) becomes a system that governs people's actions, transactions and relationships. As a result, the law takes the place of those customs and traditions, eradicates its identity and hence rejects what it deems unsuitable and establishes what it conceives suitable. Hence, *Aḥkām* (injunctions) are derived from legal texts, the legal spirit and the process of legislation.

Al-Zarqā states that "the law evolved and established the foundations of legislation and general legal rulings. These rulings attributed to leave aside the customs and traditions to take the role of delineating the boundaries for the rights and obligations regarding details, which are difficult for the jurist to interpret in the light of legal texts which it is deemed as better not to interpret".[1]

Legislation in any human society in general is a vivid reflection of a real social life. Its overall objective in such a society is to establish justice, to sustain a balance in regulations and obligations and also to maintain peoples' individual rights and society's well being by means of legal rules.

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[1] Al-Zarqā, M. (1998/1419) *al-Madkhal al-Fiqhī al-'Āmm* (First edition), (Vol.1, p.44). Damascus: Dār al-Qalam.

Some religions mantain that alongside these objective laws, there are divine laws passed on to humanity through the medium of the messengers who carry God's revelations to people, guiding, correcting and straightening what goes astray. These divine laws are enforced to perform certain functions. They may aim to straighten people's moral behaviour, to purify their souls and to further virtues, but they do not encompass a legal system that is similar to objective laws.

They may also comprise a legal system that is specific to a certain environment or community as is the case with Judaism. These laws contained a legal system and practical regulations corresponding to the time and environment of the Jews.

In addition, the divine laws may include, as al-Zarqā states, "a legal system founded on the basis of comprehensiveness and suitability to all environments and circumstances because it contains solid principles, temporary solutions, with regard to necessities; rulings tied to customs and special circumstances"[1].

The laws change and evolve according to the changes of these customs and the evolution of circumstances while at the same time preserving the main principle which is justice and impartiality which constitute the main core of the Islamic *Sharī'a*[2].

Schacht states that: "One of the most important bequests which Islam has transmitted to the civilised world is its religious law, the *Sharī'a*. It is a phenomenon so different from all other forms of law that its study is indispensable in order to appreciate adequately the full range of possible legal phenomena".[3]

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[1] *Al-Madkhal al-Fiqhī al-'Āmm.* (Vol. 1,p.44) by al-Zarqā.
[2] See *The New Encyclopedia Britannica.* (Founded 1768, 15th edition) (Vol. 10, p.701) by P. Gwinn and others.
[3] *The Legacy of Islam.* (Second edition 1974) (p.392) Oxford University Press. UK. By Joseph Schacht and C. E. Bosworth.

This law (*Islamic Sharī'a*) came subsequent to its predecessors as a call to humanity in general at a time when humans' intellectual readiness and development attained a sufficient level that allowed them to receive final rulings in the form of complete and rigid principles and rules.

Al-Zarqā also states that "Alongside these principles and general issues, Islamic law allows for *Ijtihād*[1] on elementary details. Reason also plays a major role in the application of these rules and principles. Injunctions are coupled with their evidence so that jurists can establish *Qiyās* (analogy) on their basis by means of reason according to the aims of the *Sharī'a* on issues of justice and benevolence, and to draw benefit and ward off harm. The rules and bases which can be used as evidence for these legal injunctions are called the principles of Islamic jurisprudence (*'Uṣūl al-Fiqh*) in Islamic *Sharī'a*".[2]

In this chapter, I shall define the term *'Uṣūl al-Fiqh*, its value, its growth, evolution and scholars' approaches to this field and the jurists who have contributed much to it. I shall then conclude this chapter with a brief biography of the founder of the Ḥanafī's school Imām Abū Ḥanīfa.

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[1] *Ijtihād:* Exertion of efforts by a qualified scholar or a group of qualified scholars to find out the Islamic point of view on a certain issue by applying the required knowledge. See the glossary page 221.
[2] Al-Zarqā, M. *al-Madkhal al-Fiqhī al-'Āmm* (Vol.1, p.44).

1.2 Defining the term *'Uṣūl al-Fiqh*

In this chapter an attempt will be made to highlight the term of *'Uṣūl al-Fiqh* due to the fact that this is the essence of the manuscript. In general "*'Uṣūl al-Fiqh,* or the roots of Islamic law, expound the indications and methods by which the injunctions of *Fiqh* are deduced from their sources"[1].

Leaving aside the two ways of dealing with the subject, which are the Arab writers who spoke about *'Uṣūl al-Fiqh* concerning the sources and methodology of the law, and the Western writers who were more concerned with the history of jurisprudence, I would like to deal with the term *'Uṣūl al-Fiqh,* itself.[2]

First we should realise that *'Uṣūl al-Fiqh* is a compound noun that consists of two component parts: *Fiqh* (jurisprudence) and *'Uṣūl* (principles) and, as such, the meaning of the compound word is understood on the basis of understanding its components.

1.2.1 Defining *Fiqh* (jurisprudence)

1. Literal meaning

From a literal point of view, *Fiqh* means absolute knowledge[3] whether such knowledge pertains to understand subtle things or otherwise. This is the deep level of understanding, which grasps the aims of words and deeds. In the following *Āya* the *Qur'ān* states: "*So what is wrong with these people that they fail to understand any*

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[1] *Principles of Islamic Jurisprudence.* (1997 Reprinted) (p. 1). By Muḥammad Hāshim Kamālī. UK, Cambridge, The Islamic Texts Society.
[2] See *Principles of Islamic Jurisprudence,* p. (xii), By Kamālī.
[3] See *al-Qāmūs al-Muḥīṭ* (1406H/1986AD) (p.1614), (First edition), by Fairūz Abādī Muḥammad bin Ya'qūb. Beirut, al-Risāla; *Lisān al-'Arab* (1300H/1883AD) (Vol.13, p.522) (First edition), by Ibn Manẓūr Muḥammad bin Mukarram. Beirut - Dār Ṣādir.

word".[1] Furthermore, Prophet Muḥammad [p.b.u.h.] says: "*When God favours one of His servants, He enables him to acquire knowledge in religion*".[2]

2. Technical meaning

Technically: *Fiqh* is knowledge of practical legal rulings[3] that is acquired from detailed evidence[4], which is relevant to the subject of the law (the individuals).

1.2.2 Defining *'Uṣūl* (principles)

1. Literal meaning

From a literal viewpoint, *'Uṣūl* is the plural form of *Aṣl*, which means the basis or foundation whether tangible or abstract, for example, the construction of a ceiling on the basis of a wall or the building of a legal ruling on concrete evidence. This meaning is consistent with the terminological meaning since the science of *'Uṣūl al-Fiqh* among jurists is the basis of Islamic jurisprudence.[5]

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[1] *Sūrat al-Nisā'*: 78. *Interpretation of the Meaning of The Noble Qur'ān* by Dr. Muḥammad T. D. Al-Hilālī & Muḥammad M. Khān. (1997), (Sixteenth Edition), (p.157). Saudi Arabia, Riyāḍ - Dārussalām pub.

[2] Prophet's tradition narrated by al-Bukhārī in his *Ṣaḥīḥ* (69) and Muslim in his *Ṣaḥīḥ*. *Mawsū'at al-Ḥadīth al-Sharīf* – The nine books. Ṣakhr computer programs company (1419H/1998AD).

[3] This includes worships and conduct rather than scientific rulings such as science related to faith and belief in God's messengers and God's messages.

[4] See *Minhāj al-Wuṣūl fi Ma'rifat 'Ilm al-'Uṣūl* by al-Baiḍāwī, published alongside *al-Ibtihāj bi Takhrīj Aḥādīth al-Minhāj* (1405H/1985AD) (First edition), (p.20) by 'Abdulla bin Muḥammad bin al-Ṣiddīq al-Ghumārī, comment by Samīr Ṭaha al-Majdhūb. Beirut: 'Ālam al-Kutub; *al-Iḥkām fī 'Uṣūl al-Aḥkām* (1332H/1914AD), (Vol.1, p.7) by Saif al-Dīn al-Āmidī. Cairo – Dār al-Kutub al-Khudaiwiyya, al-Ma'ārif print; *Irshād al-Fuḥūl ilā Taḥqīq 'Ilm al-'Uṣūl* (1415H/1995AD) (sixth edition), (p.17) by al-Shawkānī. Beirut - Mu'assasat al-Kutub al-Thaqāfiyya; *'Uṣūl al-Fiqh* (1417H/1997AD), (p.8) by Muḥammad Abū Zuhra. Cairo – Dār al-Fikr al-'Arabī. See also *'Uṣūl al-Fiqh al-Islāmī* (no date), (p.6) by Dr. Zakī al-Dīn Sha'bān. Cairo – Dār al-Kitāb al-Jāmi'ī; *al-Ilmām bi 'Uṣūl al-Aḥkām* (1410H/1989AD) (First edition), (p.9) by Dr. Muḥammad Fawzī Faiḍulla. Kuwait – Dār al-Taqaddum.

[5] See the references above with the same pages.

2. Technical meaning

On the basis of the above, it follows that the science of Islamic jurisprudence is the knowledge of the rules and basics that the jurist relies upon in order to reach legal injunctions through detailed basis and evidence.[1]

1.2.3 Extending the meaning of *'Uṣūl*

The definition of *'Uṣūl* provided above, which identifies it as a compound, has taken other forms that are broader than mere rulings; within Islamic jurisprudence it encompasses the means and tools evidence to reach practical legal injunctions. In *Encyclopedia of Islam* it is stated that: "*'Uṣūl al-Fiqh* is a literature that identifies the sources of law and the methodology for deriving injunctions from revelation".[2] It also contains requirements pertaining to who is entitled to examine such evidence among those who know how to draw benefit from it. Therefore, a distinction must be drawn between the former definition, which identifies *'Uṣūl al-Fiqh* as an additional compound as is stated above, and the labeling definition, which signifies a specialised science without looking at its component parts, including *Fiqh* and *'Uṣūl*. Jurists have defined *'Uṣūl al-Fiqh* in its labeling sense in many different ways, for example, Al-Rāzī[3] in his book *al-Maḥṣūl*,[4] al-'Āmidī[1] in his book *al-Iḥkām fī 'Uṣūl al-Aḥkām*,[2] al-

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[1] See also *'Uṣūl al-Fiqh*, (p.5) by Muḥammad Abū Zuhra.
[2] *Encyclopedia of Islam*. (vol. 11, p.323).
[3] Muḥammad bin 'Umar al-Taimī al-Bakrī, Abū 'Abdulla Fakhr al-Dīn al-Rāzī, a scholar and interpreter of the Qur'ān. Died in (606H/1210AD); *al-A'lām* (1418H/1997AD) (twelfth edition), (Vol.6, p.313) by Khair al-Dīn al-Ziriklī. Beirut: Dār al-'Ilm li al-Malāyīn; *Hostory of the Arabic Literature*. (1414H/1993AD), translated from German into Arabic by Dr al-Sayid Ya'qūb Bakr & Dr Ramaḍān 'Abduttawwāb, Egypt, General Egyptian Assosiation for Books, by Brockelmann, Carl. (Vol.1, p.666, 506), S. (Vol.1, p.920); Princeton (p.298, 449).
[4] *Al-Maḥṣūl fī 'Ilm 'Uṣūl al-Fiqh* (1399H/1979AD) (First edition), (Vol.1, p.94) by Fakhr al-Dīn al-Rāzī. Edited by Dr. Ṭaha Jābir al-'Alwānī. Published by the research committee at Imām Muḥammad Ibn Saud Islamic University in Riyāḍ.

Ghazālī[3] in his book *al-Mankhūl*,[4] Ibn al-Ḥājib[5] and others. It seems likely that the most comprehensive and precise definition is the one provided by Imām al-Baiḍāwī[6] in his book *Minhāj al-Wuṣūl fī Ma'rifat 'Ilm al-'Uṣūl* [7]. He defines it as follows: "It is knowledge of the significance of jurisprudence as a whole, and the way to deduce legal injunctions in accordance with such a significance and the competence of the person who deduces these injunctions."

1.2.4 Explaining the definition

"Knowledge of the significance of *Fiqh* (jurisprudence) as a whole" means knowing that the Holy *Qur'ān*, *Sunna*[8], *Ijmā'* (consensus) and *Qiyās* (analogy) are evidence that can be used to argue with and that the *Amr* (command) implies the *Wujūb* (obligation) and that negation entails the *Nahī* (prohibition), etc.

"The way to deduce legal injunctions in accordance with such a significance" means knowledge of how to deduce legal injunctions from evidence in case where *Ta'āruḍ* (conflict) arises; this can be achieved by giving priority to *Naṣṣ* (text) rather than what is

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[1] 'Alī bin Muḥammad al-Taghlibī, Abū al-Ḥasan Saif al-Dīn al-'Āmidī, a scholar in jurisprudence. He has around twenty classified books. His books on *'Uṣūl al-Fiqh* include *Mukhtaṣar al-Sūl* and *al-Iḥkām fī 'Uṣūl al-Aḥkām*, (d. 631H/1233AD) in Damascus; *al-A'lām* (Vol.4, p.332) by Ziriklī; *Mu'jam al-Mu'allifīn* (1414H/1993AD) (First edition), (Vol.2, p.479) by 'Umar Kaḥḥāla. Mu'assasat al-Risāla.
[2] *Al-Iḥkām fī 'Uṣūl al-Aḥkām* (Vol.1, p.8) by Saif al-Dīn al-'Āmidī.
[3] Muḥammad bin Muḥammad al-Ghazālī al-Ṭūsī, Abū Ḥāmid, Ḥujjat al-Islām. He is a philosopher, a *Ṣūfī* (mystic) and has around two hundred books on *'Uṣūl al-Fiqh*, including *Shifā' al-'Alīl* and *al-Mankhūl min Ta'līqāt al-'Uṣūl*, (d. 505H/1111AD); *al-A'lām* (Vol.7, p.22) by Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.671) by Kaḥḥāla; *History of the Arabic Literature*, (Vol.1, p.535, 419), S. (Vol.1, p.744) by Brockelmann.
[4] *Al-Mankhūl min Ta'līqāt al-'Uṣūl* (1390H/1970AD), (p.4 on the editing part) by Abū Ḥāmid al-Ghazālī. Edited by Dr. Muḥammad Ḥasan Haitū. Beirut: Dār al-Fikr li al-Ṭibā'a wa al-Nashr.
[5] 'Uthmān bin 'Umar bin Abī Bakr, Abū 'Amr Jamāl al-Dīn bin al-Ḥājib. He is a Mālikī jurist and one of the greatest scholars in Arabic. His publications in *'Uṣūl* include *Muntahā al-Sūl wa al-Amal fī 'Ilmay al-'Uṣūl wa al-Jadal* and *Mukhtaṣar Muntahā al-Sūl wa al-Amal*. He died in Alexandria in (646H/1249AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.211) and *Mu'jam al-Mu'allifīn* (Vol.2, p.366) by Kaḥḥāla.
[6] 'Abdulla bin 'Umar al-Shīrāzī, Abū Sa'īd Nāsir al-Dīn al-Baiḍāwī, a judge and interpreter, (d. 685H/1286AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.110) and *Mu'jām al-Mu'allifīn* (Vol.2, p.266) by Kaḥḥāla.
[7] *Minhāj al-Wuṣūl* (p.20) by al-Baiḍāwī.
[8] See the glossary.

Ẓāhir (apparent), what is *Mutawātir* (successive) rather than what is *'Āḥād* (single), what is *Muṭlaq* (absolute) rather than what is *Muqayyad* (restricted), what is *'Āmm* (general) rather than what is *Khāṣṣ* (specific) and similar other patterns in areas of *Ta'ādul* (equivalence) and *Tarjīḥ* (preference).

"The competence of the person who deduces these injunctions" means knowledge of the competence of the person who seeks the judgment of Allah [s.w.t.] on the basis of evidence and this is the *Mujtahid* (a qualified scholar who exercises *Ijtihād*) and *Muqallid* (imitator) because the *Mujtahid* deduces judgments from effective evidence while the *Muqallid* (imitator) deduces them from the *Mujtahid*.[1]

As stated in *Encyclopedia of Islam*: "Works of *'Uṣūl* usually contains four broad areas of discussion: the categories of the law; the sources of the law; the hermeneutical rules that permit extrapolation of norms from sources; and an elaboration of the theory of *Ijtihād*".[2] This shows the areas that are covered by *'Uṣūl al-Fiqh*.

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[1] *'Uṣūl al-Fiqh: its growth, its evolution and the need for it* (no date, p.10) by Dr. Sha'bān Muḥammad Ismā'īl. Egypt: Maktabat Ja'far al-Ḥadītha li al-Ṭibā'a wa al-Nashr wa al-Tawzī'; *Muqaddimāt 'Ilm 'Uṣūl al-Fiqh* (no date, p.158) by Dr. 'Ajīl al-Nashmī. Kuwait University, Faculty of *Sharī'a*; *al-Wajīz fī 'Uṣūl al-Tashrī'* (First edition, 1403H/1983AD), (p.28) by Dr. Ḥasan Haitū. Beirut: Mu'assasat al-Risāla.

[2] *Encyclopedia of Islam* (vol.11, p.324).

1.3 The value of *'Uṣūl al-Fiqh*

According to the Islamic tradition, *'Uṣūl al-Fiqh* is one of the most noble and dignified form of knowledge. Its objective is the establishment of practical injunctions of *Sharī'a* (Islamic law) on the basis of adjudicating evidence. It is through *'Uṣūl al-Fiqh* that judgments of *A'māl al-Mukallafīn* (people's deeds) can be attained[1]. The following are some further dimensions for *'Uṣūl al-Fiqh.*

1.3.1 A basis for the deduction of injunctions

'Uṣūl al-Fiqh is the basis upon which religious scholars relied for the deduction of legal rulings. This basis enables jurists to deduce injunctions from legal evidence. As Imām Abū Zuhra states: "'*Uṣūl al-Fiqh* is a science that shows the methods employed by the scholars who exercise *Ijtihād* in deducing legal rulings from texts and in making decisions on the basis of these rulings to establish *al-'Ilal* (causes) on which injunctions are established and to seek interests aimed at in *Sharī'a*, indicated in the *Qur'ān* and expressed in the *Ḥadīth* (Prophet's tradition)".[2]According to Dr. Sha'bān Muḥammad Ismā'īl: "Its objective – that is the objective of *'Uṣūl al-Fiqh – for the Mujtahid* (i.e. qualified scholar) is the ability to deduce correct injunctions through the ability to understand legal texts which evidence injunctions of the *Sharī'a* and to know what these texts signify on the basis of *'Ibārat al-Naṣṣ* (explicit meaning), *'Ishārat al-Naṣṣ* (alluded meaning), *Dilālat al-Naṣṣ* (inferred meaning), *Mu'awwal* (interpreted

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[1] This includes: *Wujūb* (strict obligation), *Nadb* (recommendation), *Ibāḥa* (permissiveness), *Karāha* (abomination) and *Taḥrīm* (prohibition).
[2] *'Uṣūl al-Fiqh*, (p.5).

meaning), non-interpreted meaning, knowledge of means of clarifying *Khafī* (hidden) or *Mushkil* (ambiguous) or *Mujmal* (synopsised), and the ability to use the *Tarjīḥ* (juristic opinions that are deemed more appropriate)."[1]

1.3.2 A measurement for the jurist

For the jurist '*Uṣūl al-Fiqh* is a measurement that enables him to know the basics relied upon by the Imāms in deducing legal rulings in order to ascertain their true meanings. Al-Nashmī states: "On the basis of this science, he – i.e. the jurist – can be aware of the ways in which the Imāms of the four schools deduced legal rulings. Through this science, the jurist will know about the bases on which the Imāms established their own schools".[2] In addition, Imām Abū Zuhra comments: "'*Uṣūl al-Fiqh* for the jurist is similar to logic for all philosophical sciences. Hence, it is the measurement that regulates the mind and prevents it from error. The same holds for '*Uṣūl al-Fiqh*: it is the measurement for the jurist because it regulates him and prevents him from committing error in drawing deductions and because it permits and distinguishes the right and correct deductions from erroneous ones in the same way that truth is distinguished from falsehood".[3]

1.3.3 A basis for *Takhrīj* (inference)

On the basis of understanding the foundations that the Imāms relied upon in their injunctions, the jurist can infer from their statements in matters on which there is no

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[1] *Al-Madkhal li Dirāsat 'Uṣūl al-Fiqh* (1416H/1995AD) (p.19), by Dr. Sha'bān Muḥammad Ismā'īl. Makka: al-Maktaba al-Faiṣaliyya.
[2] *Muqaddimāt 'Ilm 'Uṣūl al-Fiqh*, (p.165).
[3] '*Uṣūl al-Fiqh*, (p.9).

specific text or opinion. He can therefore regulate his search for *Aḥkām Shar'iyya* (legal rulings) relating to issues that emerge in actual fact. The scholar working on comparative jurisprudence can also gain a precise instrument by means of which he can conduct comparisons between diverse juristic opinions. In his discussion on the benefits of *'Uṣūl al-Fiqh*, Zakī al-Dīn defines it as "Knowledge of injunctions on matters for which there is no available text from the scholars. Such injunctions may be achieved by inference and deduction on the basis of the rulings set and followed by these Imāms".[1] Also, Al-Nashmī says: "'*Uṣūl al-Fiqh* enables the jurist to draw inference on the basis of the schools of the four Imāms on matters for which no *Naṣṣ* (text) is available and this is through inference from the juristic rules that they follow to deduce injunctions. It also enables him to know about the evidence used by the schools and their capability to opt for preferable juristic opinions so that when he adopts the view of a school this is undertaken according to evidence".[2] Similarly, Dr. Sha'bān Ismā'īl states: "For one who is concerned with *'Uṣūl al-Fiqh* in relation to one of the four schools or in relation to comparative jurisprudence, the aim behind this science is to understand how injunctions are deduced by the Imāms of the schools. The aim is also to know about their arguments in order to adequately understand the injunctions they deduce, to infer from them, to use a juristic option deemed preferable (*Tarjīḥ*), and to succinctly balance between the evidence for opinions provided by comparative jurisprudence scholars".[3]

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[1] *'Uṣūl al-Fiqh al-Islāmī*, (p.11).
[2] *Muqaddimāt 'Ilm 'Uṣūl al-Fiqh*, (p.165).
[3] *Al-Madkhal li Dirāsat 'Uṣūl al-Fiqh*, (p.19).

1.3.4 For comparing schools

One of the distinguishing features of *'Uṣūl al-Fiqh* – at the present time – is its use as a tool by scholars to compare Islamic schools in order to deduce legal rulings appropriate to emerging events for which there is no previous injunction including the fields of medicine, engineering, financial or commercial transactions, insurance contracts, etc.

Dr. Sha'bān Ismā'īl suggests: "Scholars working on comparing one Islamic school to another – in order to draw injunctions that correspond to public interest – are in dire need of studying and understanding the principles of this science, i.e. *'Uṣūl al-Fiqh,* in all its different schools.

The need for its study may arise even more acutely among students nowadays. Life changes so fast that a lot of various operations and transactions on which Islamic judgment is needed. Insurance contracts - for example - stock market, bank draft as well as cooperatives, and to know about the legal ruling that applies, it is necessary for the researcher who works in this field to have a detailed knowledge of the basics of *'Uṣūl al-Fiqh*".[1]

1.3.5 To safeguard proper Islamic knowledge

Muslim scholars view *'Uṣūl al-Fiqh* as a fence that protects Islamic scholarship from those who are less equiped to understand juristic evidence. Al-Nashmī states: "The study of this science also protects from scholastic mendicants and their illusions, for every statement not based on the basics of this science must be refuted because it is not

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[1] *Al-Madkhal li Dirāsat 'Uṣūl al-Fiqh*, (p.20).

based on evidence, on the one hand, and its holder does not satisfy the conditions to be met by those who issue legal rulings, on the other hand".[1]

Ismā'īl comments that: "'*Uṣūl al-Fiqh* is one of the most effective means of protecting Islam and safeguarding its evidence".[2]

1.3.6 To support other sciences

'Uṣūl al-Fiqh is essential for other sciences such as *Tafsīr* (interpretation), *Ḥadīth* (Prophet's tradition), *Fiqh* (jurisprudence), etc. because it is the tool that serves to distinguish between *Ta'āruḍ* (conflicting) views in any science regarding the meaning and significance of terms, the precedence of some terms over others in case of *Ta'āruḍ* (conflict), knowledge of the *Naṣṣ* (text), the *Ẓāhir* (apparent), the *Ḥaqīqa* (fact), the *Majāz* (metaphor), the *Mufassar* (explained), the *Mushtarak* (homonym), *Mafhūm al-Muwāfaqa* (agreement in meaning) and *Mafhūm al-Mukhālafa* (disagreement in meaning), etc. Al-Nashmī says: "It is obvious that if one seeks to be keen on juristic sciences such as *Tafsīr* (interpretation of the *Qur'ān*), *Ḥadīth* (Prophet's tradition) and jurisprudence, etc. the science of *'Uṣūl al-Fiqh* is a prime tool of understanding texts and their meanings".[3]

Zaidān maintains that: "The person concerned with legal rulings needs to know and make use of this science. Anyone who is concerned with objective law, including lawyers, judges and teachers, is also in need of *'Uṣūl al-Fiqh* because of the basics and principles established by this science such as *Qiyās* (analogy) and its principles, juristic injunctions to interpret texts, significance of terms and utterances for their meanings,

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[1] *Muqaddimāt 'Ilm 'Uṣūl al-Fiqh*, (p.165).
[2] *Al-Madkhal li Dirāsat 'Uṣūl al-Fiqh*, (p.21).
[3] *Muqaddimāt 'Ilm 'Uṣūl al-Fiqh*, (p.166).

aspects of such significance and rules of the *Tarjīḥ* (preference) on matters of evidence. These examples and many others require knowledge of *'Uṣūl al-Fiqh* to be able to counter those who oppose objective laws and who aim to interpret it and be familiar with its legislation. For this reason, the faculties of *Sharī'a* and Law in Iraq, Syria and Egypt, etc. have been keen on teaching this science to students".[1] Sha'bān states: "Some of the benefits that may be drawn from *'Uṣūl al-Fiqh* are interpretations of texts from objective law, a better understanding of these texts, knowledge of *Qiyās* (analogy) relating to injunctions which pertain to such texts, injunctions that constitute exceptions to general rules, knowledge of interest that may be relied upon in the deduction of legal rulings and the *'Urf* (custom) that may be relied upon in such deduction (law)".[2]

1.3.7 As a key to *Ijtihād*

The existence and continuity of the study and learning of *'Uṣūl al-Fiqh* itself provides solid evidence that can be used against those who maintain that *Ijtihād* should be refuted. The existence of this science as a tool employed by qualified scholars at any period of time provides a key to meet the requirements of this science and to deduce injunctions of *Sharī'a* for emerging daily events. Al-Nashmī states: "The study of *'Uṣūl al-Fiqh* enables one to realise the erroneous claims of those who pretend that *Ijtihād* is not of use any longer. Anyone who studies this science will know about the rules and principles of deduction, evidence of rulings in the light of which the learner can attribute injunctions to any event without constraints of time or location".[3]

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[1] *Al-Wajīz fī 'Uṣūl al-Fiqh*, (p.13).
[2] *'Uṣūl al-Fiqh al-Islāmī*, (p.11).
[3] *Muqaddimāt 'Ilm 'Uṣūl al-Fiqh*, (p.166).

1.4 Growth and evolution of *'Uṣūl al-Fiqh*

'Uṣūl al-Fiqh has gone through various stages since its emergence to the present time. The following is a brief account of its growth and evolution.

1.4.1 The period of the Prophet Muḥammad [p.b.u.h.]

The science of *'Uṣūl al-Fiqh* is considered as one of the sciences which were introduced in the late second century Hijrī (i.e. ninth century A.D), namely after the period of the Companions (of the Prophet) and the *Tābi'ūn*[1]. For the rulings at the time of the Prophet [p.b.u.h.] were taken from Him on the basis of what was revealed to him from the Holy *Qur'ān* and from what He clarified verbally, by his own deeds or in terms of his consent. The need didn't arise for foundations or methods the Prophet could rely upon in establishing injunctions.[2] In his renowned *al-Muqaddima*[3], Ibn Khaldūn[4] states: "Recognise that this is one of the arts innovated in Islam and the Companions and the *Tābi'ūn* were not in great need of it since understanding the significance of terms does not require more than the linguistic competence that they possessed. Most of the rulings needed in deducing legal injunctions in particular were employed, but the Prophet's contemporaries didn't need to rely on evidence because of the proximity in time and their own expertise. But after the death of the Companions and the *Tābi'ūn*, the Islamic

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[1] See *Encyclopedia of Islam,* (vol.11, p. 323). *Tābi'ūn:* is the generation after the Companions.
[2] *'Uṣūl al-Fiqh al-Islāmī,* (p.12) by Dr. Zakī al-Dīn Sha'bān.
[3] Ibn Khaldūn's *Muqaddima,* which is the introduction of the book named *Kitāb al-'Ibar wa Dīwān al-Mubtada' wa al-Khabar fī Ayyām al-'Arab wa al-'Ajam wa al-Barbar wa man 'Āṣarahum min thawī al-Sulṭān al-Akbar* (First edition) (1413H/1993AD). Beirut: Dār al-Kutub al-'Ilmiyya.
[4] 'Abdulraḥmān bin Muḥammad bin Muḥammad bin Khaldūn, Abū Zaid, Walī al-Dīn al-Ḥaḍramī al-Ishbīlī. He is the philosopher, historian, sociologist and researcher from Ishbīliya (Seville in Spain). He was born in Tunisia where he also grew up. He died in Cairo in (808H/1406AD). *Al-A'lām* (Vol.3, p.330) by al-Ziriklī; *History of the Arabic Literatuer.* (Vol.2, p. 314), S. (Vol.2, p.342) by Brockelmann.

sciences became skilled disciplines, jurists and scholars exercising *Ijtihād* needed to deduce these principles in order to infer legal injunctions from evidences. This became an independent disipline and was called '*Uṣūl al-Fiqh*."[1]

In saying that '*Uṣūl al-Fiqh* was innovated does not mean that this science did not already exist; rather, it is intimately linked with jurisprudence since the former is the basis on which the latter is founded, as has been mentioned in the section on the value of '*Uṣūl al-Fiqh*. What is meant here instead is that from a codification and classification perspective, this science did not exist till about the end of the second century Hijrī thanks to Imām al-Shāfi'ī[2]. Ibn Khaldūn comments: "Imām al-Shāfi'ī is one of the first who wrote about it and he devoted his famous *Risāla* to it".[3]

1.4.2 The period of the Companions

The deduction of jurisprudence grew at the time of the Companions, some of whom opposed deliverance of *Fatāwā* (legal opinions) and judgment among people, including 'Umar bin al-Khaṭṭāb[4], 'Abdulla bin Mas'ūd[5], and 'Alī bin Abī Ṭālib[6]. These

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[1] Ibn Khaldūn's *Muqaddima*, (p.360).
[2] Imām Muḥammad bin Idrīs bin al-'Abbās bin Shāfi' al-Hāshimī al-Qurashī al-Muṭṭalibī, Abū 'Abdulla. He is one of the four Imāms among the Sunnis. The Shāfi'ī school in general is named after him. He died in Egypt in (204H/820AD); *Al-A'lām* (Vol.6, p.26) by al-Ziriklī; *Mu'jam al-Mu'allifin* (Vol.3, p.116) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.188, 178), S. (Vol.1, p.303) by Brockelmann.
[3] Ibn Khaldūn's *Muqaddima*, (p.360).
[4] 'Umar bin al-Khaṭṭāb bin Nufail al-Qurashī al-'Adawī, Abū Ḥafṣ. He is the second of the four Caliphs and the leader of the Islamic triumphs. He was recognised as a Caliph in (13H/635AD) and died in (23H/645AD); *Al-A'lām* (Vol.5, p.45) by al-Ziriklī.
[5] 'Abdul'azīz bin Mas'ūd bin Ghāfil bin Ḥabīb al-Huthalī, Abū 'Abdulraḥmān. He was a Companion and the kindest, most knowledgeable and closest to the Prophet [p.b.u.h.]. He was from Makka and one of the first to embrace Islām. He died in Madīna in (32H/653AD); *Al-A'lām* (Vol.7, p.258) by al-Ziriklī.
[6] 'Alī bin Abū Ṭālib bin 'Abdulmuṭṭalib al-Hāshimī al-Qurashī, Abū al-Ḥasan, Commander of the faithful. He was the fourth of the Caliphs and one of the ten promised paradise. He is the Prophet's cousin and his in law. A great and courageous warrior, a prominent orator and knowledgeable in juicial matters. He was the first to embrace Islam after Khadīja, the Prophet's wife. He died in Kūfa in (40H/661AD); *Al-A'lām* (Vol.4, p.295) by al-Ziriklī.

Companions did not pronounce their *Fatāwā* (legal opinion) without constraints or regulators; rather they had comprehensive knowledge of the Arabic language, the language of the Holy *Qur'ān*, and the language through which *Sunna* could be clarified. They were also fully aware of the purposes of both the early and the recent revelation, namely the abrogating and the abrogated, the clear and the ambiguous, the absolute and the constrained. The Companions also knew about the inner dimensions of the *Sharī'a* and its objectives through accompanying the Prophet [p.b.u.h.] and living with him throughout his whole life in addition to their shrewdness and sharp vision. Therefore, they did not have to codify *'Uṣūl al-Fiqh* because when they wanted to know about an injunction they needed in any religious or material life, they resorted first to the Holy book (*Qur'ān*) for an injunction and if such an injunction was not found in the *Qur'ān*, they resorted to *Sunna* and if a legal ruling was not found again, they relied on *Ijtihād* and sought a match or parallel to the issue whose legal ruling they tried to find. When such a match or parallel was found, they attributed the issue in question to it and they equated the two injunction. However, when they did not find a match or parallel to it, they established an appropriate injunction for it which would secure the public interest while emphasising the basics, principles, objectives and interests which the *Sharī'a* takes into consideration in issuing legal rulings.

When the Prophet [p.b.u.h.] decided to send Mu'ādh bin Jabal[1] to Yemen, he said: "How will you judge if you are asked or the need arises for that?" He replied: "I will judge according to the *Qur'ān*." The Prophet then asked: "And if you can't find any

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[1] Mu'āth bin Jabal bin 'Amr bin Aws al-Anṣārī al-Khazrajī, Abū 'Abdulraḥmān. He was a noble Companion and the most knowledgeable about what is *Ḥalāl* (permitted) and what is *Ḥarām* (prohibited). He was one of the six who assembled the *Qur'ān* at the time of the Prophet [p.b.u.h.]. He died in Jordan in (18H/639AD); *Al-A'lām* (Vol.7, p.258) by al-Ziriklī.

judgment in the *Qur'ān*?" He added: "Then according to the *Sunna*." The prophet said: "And if you can't find it in the tradition or the *Qur'ān*?" He said: "I will do my utmost" The Prophet [p.b.u.h.] then tapped the chest of Mu'ādh bin Jabal and said: "Oh Allah, thank You for guiding the messenger of God's messenger to what pleases God's messenger [the Prophet]".[1]

Such *Ijtihād* by the Companions was not entirely without constraint or regulation. One who heard 'Alī bin Abī Ṭālib talking about the punishment of a person who drinks wine when he said: "If a person drinks, he sounds delirious and when he sounds delirious, he slanders and such slandering should therefore receive punishment for false accusation of unchastity", would realise that Imām 'Alī deduced his injunction on the basis of the resulting consequence. Similarly someone who heard 'Abdulla bin Mas'ūd talking about the *'Idda* (the period during which a widow may not remarry) of a pregnant widow, when he said that: "Her *'Idda* ends when she gives birth and not after the full four month and ten days", would observe that Ibn Mas'ūd relied in his injunction on the fact that the *Sūra* (chapter) of *al-Ṭalāq* (divorce) in the *Qur'ān* was revealed after the the *Sūra* (chapter) of *al-Baqara* (the cow) and therefore relied on a juristic ruling which states that the recent law refutes the early one, or specifies it. Therefore, Ibn Mas'ūd adheres to this technique as a rule for deduction. Hence, it may be said that in their *Ijtihād* the Prophet's Companions followed certain methods although they did not mention them explicitly in all circumstances.[2]

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[1] Narrated by Aḥmad, al-Ṭabarānī, al-Tirmithī, al-Baihaqī and Abū Dāwūd but weakened by some scholars. The majority, however, accepted it. See *Jāmi' al-'Uṣūl fī Aḥādīth al-Rasūl* (1389H/1969AD) (Vol.10, p.178 [footnote]) by Ibn al-Athīr. Edited by 'Abdulqādir al-Arnā'ūṭ. Maktabat al-Ḥalwānī. Beirut.

[2] *'Uṣūl al-Fiqh* (p.12) by Muḥammad Abū Zuhra.

This is how the period of the Prophet's Companions ended without codification of the science of *'Uṣūl al-Fiqh*.

1.4.3 The period of the *Tābi'ūn*[1]

Moving on to the time of the *Tābi'ūn* reveals that the deduction of legal injunctions expanded owing to the increase of incidents and the engagement of a section of the *Tābi'ūn* with the *Fatwā* (legal opinions), including Sa'īd bin al-Musayyib[2] and others in Madīna and 'Alqama[3] and Ibrāhīm al-Nakh'ī[4] in Iraq. The *Qur'ān*, the *Sunna* and the Companions' *Fatāwā* (legal opinions) were available to these *Tābi'ūn*, some of whom relied on the method of interest in cases where no text was available. Some other *Tābi'ūn* relied on *Qiyās* (analogy). The divisions that Ibrāhīm al-Nakh'ī and other jurists in Iraq used were meant to ensure the deduction of *'Ilal* (causes) of the *Aqyisa* (analogies) and the regulation of such analogies and divisions from them; the *'Ilal* (causes) were therefore applied to various *Furū'* (subsidiaries).

It is at this stage that the methods became more apparent than ever before, and whenever juristic schools differed on a certain issue, the difference was a factor that made deduction methods prominent in each school.[5]

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[1] The *Tābi'ūn:* is the generation after the Companions.
[2] Sa'īd bin al-Musayyib al-Makhzūmī al-Qurashī. The chief of the *Tābi'ūn* and one of the seven jurists in Madīna. He combined the Ḥadīth (the Prophet's tradition), jurisprudence and asceticism. He was the one who memorised 'Umar bin al-Khaṭṭāb's rules and judgments most and was therefore called 'Umar's narrator. He died in Madīna in (94H/713AD); *Al-A'lām* (Vol.3, p.102) by al-Ziriklī.
[3] 'Alqama bin Qais al-Nakh'ī al-Hamadānī, Abū Shibl. He was a Follower and Irāq's jurist. He died in Kūfa in (62H/681AD); *Al-A'lām* (Vol.4, p.248) by al-Ziriklī.
[4] Ibrāhīm bin Yazīd al-Nakh'ī, Abū 'Imrān. He was one of the best *Tābi'ūn* and one of those who memorised Ḥadīth (the Prophet's tradition). He was Iraq's jurist. He was an Imām who exercised *Ijtihād* and had his own school, (d. 96H/815AD); *Al-A'lām* (Vol.1, p.80) by al-Ziriklī.
[5] *'Uṣūl al-Fiqh* (p.13) by Muḥammad Abū Zuhra.

1.4.4 The period after the *Tābi'ūn*

After the time of the *Tābi'ūn* the lands that embraced Islam became larger eastwards and westwards. Many new events and incidents took place. Arabs and *'Ajam*[1] (non-Arabs) mixed to such an extent that Arabic no longer maintained its original integrity.[2] What contributed to the disintegration of Muslims and the divergence in their opinions is their division after the death of 'Uthmān bin 'Affān[3]. Hence, the Muslims were divided into *Sunna*[4], *Shī'a*[5] and the *Khawārij*[6], and each group laid foundations for its own school and adopted a methodology specific to it, which in turn led to a difference in the methods and origins of deduction[7]. All of this urged jurists and *Mujtahidīn* (scholars) exercising *Ijtihād* to establish rules and regulations which should be utilised

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[1] 'Ajam are non-Arabs, i.e. those who do not speak the Arabic language. The term is also used to designate those who are of non-Arab origin even if they speak Arabic fluently. See *Lisān al-'Arab* (Vol.12, p.385) by Ibn Manẓūr and *al-Qāmūs al-Muḥīṭ* (p.1466) by al-Fairūz Abādī.

[2] *Al-Wajīz fi 'Uṣūl al-Fiqh* (1419H/1998AD) (second edition) p.15, by Dr. 'Abdulkarīm Zaidān. Beirut - Mu'assasat al-Risāla.

[3] 'Uthmān bin 'Affān bin Abū al-'Āṣ, from Quraish. He was the Commander of the faithful. He was called (Thū al-Nūrain) because he married two of the Prophet's daughters. He was the third of the Caliphs and one of the ten promised paradise. He was of the great people who did a lot for Islam in its early days. During his Caliphate, Armenia, Caucasia, Khurasan, Karman, Sejestan, Africa and Cyprus were conquered. He concluded assembling the Holy Qur'ān and died in Madīna in (35H/656AD); *Al-A'lām* (Vol.4, p.210) by al-Ziriklī.

[4] *Sunna:* Menber of one of the two major branches of Islam, the branch that consists of the majority of that religion's adherents. *Sunnite* Muslims regard their sect as the mainstream and traditionalist branch of Islam, as distinguished from the minority sect, the *Shī'a*. See *The New Encyclopedia Britannica* (Vol. 11, p.397).

[5] *Shī'a:* Muslims who constitute the smaller of the two major branches of Islam, distinguished from the majority *Sunnites*. The Arabic term *Shī'a* also denotes the system or doctrine of such Muslims. See *The New Encyclopedia Britannica* (Vol. 10, p.734).

[6] *Al-Khawārij:* the members of the earliest of the religious sects of Islam, whose importance lies particularly, from the development of dogma, in the formulation of questions relative to the theory of the caliphate and to justification by faith or by works, while from the point of view of political history the principal part they played was disturbing by means of continual insurrections, which often ended in the temporary conquest of entire provinces, the peace of the eastern part of the Muslim empire during the two last years of the caliphate of 'Alī and during the 'Umayyad period, and involuntarily facilitating first Mu'āwiya's victory over 'Alī, then that of the 'Abbāsids over the 'Umayyads. See *The Encyclopedia of Islam* (Vol. 4, p.1074).

[7] *Muqaddimat 'Ilm 'Uṣūl al-Fiqh* (p.173) by Dr. 'Ajīl al-Nashmī.

as a basis for the deduction of injunctions from legal evidence so that *Ijtihād* can be regulated and that serenity reigns.[1]

This shows that various scholars exercised *Ijtihād* and that the ways and methods they followed were diverse and clearly more distinguished. In addition, with the distinction of such methods deduction rules became more manifest and the landmarks of deduction became obvious particularly from the explicit, clear and precise statements of the Imāms. For example, Imām Abū Ḥanīfa[2] delineate his basic deduction method by means of the holy *Qur'ān*, the *Sunna* and the Companions' *Fatāwa* (legal opinions). He utilised what they (the Companions) unanimously agreed on and selected from the arguments on which they differed without violating them. He did not follow the views of the *Tābi'ūn* because they were ordinary people like himself. It is also observed that he adopted a clear position regarding *Qiyās* (analogy) and *Istiḥsān* (juristic preference). Imām Mālik[3], on the other hand, followed a clear juristic method in referring to the traditions of the people of al-Madīna as his pretext. Imām Mālik explicitly stated this in his books and booklets as well as the conditions which he set relating to narration of the Prophet's traditions and his criticisms of these traditions.[4]

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[1] '*Uṣūl al-Fiqh al-Islāmī* (p.13) by Dr. Zakī al-Dīn Sha'bān.
[2] Al-Nu'mān bin Thābit, the Imām of the Ḥanafī school, (d. 150H/767AD). At the end of the present chapter a complete biography of Abū Ḥanīfa is provided.
[3] Malīk bin Anas bin Mālik al-Aṣbaḥī al-Ḥimyarī, Abū 'Abdulla, Imām Dār al-Hijra. He was one of the four Imāms among the Sunnis. The Mālikī school is named after him. He was born in Madīna, where he died in (179H/795AD); *Al-A'lām* (Vol.5, p.257) by al-Ziriklī; *Kashf al-Ẓunūn 'An Asāmī al-Kutub wa al-Funūn* (1360H/1941AD) (Vol.2, p.1907) by Ḥājī Khalīfa. Beirut – Dār Iḥyā' al-Turāth al-'Arabī.
[4] '*Uṣūl al-Fiqh* (p.13) by Muḥammad Abū Zuhra. See also *The Origins of Islamic Law*, 1999, (p.33). Curzon pub. Survy. By Dutton.

1.4.5 The period of codification

The codification of '*Uṣūl al-Fiqh* started in the form of scattered rules in the midst of jurists' arguments and their justifications regarding legal injunctions. The jurist exercising *Ijtihād* used to mention the legal injunction and the manner in which it could be utilised as evidence[1]. This is the reason why the rules are referred to as scattered. It is acknowledged among scholars that the first person who codified this science and wrote about it in an independent manner is Imām Muḥammad bin Idrīs al-Shāfi'ī (d. 204H/820AD). For he wrote his famous juristic *Risāla* in which he discussed the *Qur'ān* and its analysis of legal injunctions, the analysis of the *Qur'ān* in the *Sunna*, *Ijmā'* (consensus) and *Qiyās* (analogy), *Nāsikh* (abrogating) and *Mansūkh* (abrogated), *Amr* (command) and *Nahī* (prohibition), the strength of *Khabar al-Wāḥid* (single narration) as a proof, examination of the significance of terms such as *'Āmm* (general), *Khāṣṣ* (specific), *Mushtarak* (homonym), *Mujmal* (synopsised), *Mufaṣṣal* (explicit), and other juristic research on '*Uṣūl*[2]. The method adopted by Imām al-Shāfi'ī in *al-Risāla* is characterised by precision, depth, providing evidence for what is stated, counter-arguing the views of those who disagree with him in a sound, superb and scholastic style. Al-Shāfi'ī has other books on '*Uṣūl* such as *Ikhtilāf al-Ḥadīth* in which he brought together the apparently conflicting traditions. In his other book *Jimā' al-'Ilm* he shows the validity proof of the single narration. *Encyclopedia of Islam* states that: "The *Risāla* of

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[1] See *Encyclopedia of Islam*, (vol. 11, p.323).
[2] See Imām Shāfi'ī's *al-Risāla* (no date) edited by Aḥmad Shākir. Translated into English by Mājid Khaddūrī with two editions published. The first was published in (1380H/1961AD) by Johns Hopkins Press and the second by the Islamic Texts Society in Cambridge in (1418H/1997AD).

al-Shāfi'ī constitutes an apparently isolated early work which has most of the characteristics and covers many of the topics of a work of *'Uṣūl"*.[1]

After Shāfi'ī, Aḥmad bin Ḥanbal[2] wrote his books *Ṭā'at al-Rasūl Ṣallā Allāhu 'Alaihi wa Sallam, al-Nāsikh wa al-Mansūkh fī al-Qur'ān* and *al-'Ilal wa al-Rijāl.* Scholars then followed up in writing about *'Uṣūl al-Fiqh* and started organising, extending and adding to their research in this field.

"The *Mustaṣfā* of al-Ghazālī", stated in *Encyclopedia of Islam,* "was a well-organised work which, capturing and ordering all the topics of the discipline, in a mastrepiece of structure and expository detail, decisively influenced the subsequent development of the genre".[3]

1.4.6 Western point of view

Western scholars have their own point of view about *'Uṣūl al-Fiqh.* With the rise of modern scholarship on world history and religions Western scholars became interested in exploring Islamic heritage. This can be seen clearly in their contribution to the study of classical Islamic sciences either by publishing critically edited manuscripts and indexes or translating original books into European languages.[4]

Al-Nashmī, who critically examined the writings of the Orientalists related to *'Uṣūl al-Fiqh,* observed that the Orientalists' work on *'Uṣūl al-Fiqh* do not offer something

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[1] See *Encyclopedia of Islam,* (vol. 11, p. 324).

[2] Imām Aḥmad bin Muḥammad bin Ḥanbal, Abū 'Abdulla al-Shaibānī al-Wā'ilī. He was the Imām of the Ḥanbalī school and one of the four Imāms. He wrote *al-Musnad*, which contains thirty thousand Ḥadīth; *Al-Tārīkh*; *Al-Tafsīr*; *Faḍā'il al-Ṣaḥāba*; *Al-Manāsik*; *Al-Zuhd*; *Al-'Ashriba*; *Al-Masā'il*, etc, (d. 241H/855AD); *Al-A'lām* (Vol.1, p.203) by al-Ziriklī; *Hidāyat al-'Ārifīn* (1360H/1941AD) by Ismā'īl Bāsha al-Baghdādī. Beirut: Dār Iḥyā' al-Turāth al-'Arabī, published alongside *Kashf al-Ẓunūn* (Vol.1, p.48) by Hājī Khalīfa.

[3] *Encyclopedia of Islam,* (vol.11, p.324).

[4] Such as *Tārīkh al-Adab al-'Arabī* by Brockelmann and *al-Mu'jam al-Mufahras li Alfāẓ al-Ḥadīth al-Sharīf* by a group of Orientalists, which are still highly regarded in their field.

altogether new in this field. Their work more or less exclusively deals with the sources of Islamic law. It is well known that they have raised some doubts about these sources. In particular, they have been reluctant in accepting the traditional status of *Sunna* in Islamic jurisprudence.[1]

It could be said that J. Schacht's two books, namely *Origins of Muḥammadan Jurisprudence* and *An Introduction to Islamic Law* have been highly significant in symbolizing the Orientalist approach to the study of Islamic jurisprudence. Although Schacht, in these two books, was very much influenced by his predecessors such as Margoliouth and Goldziher he developed his own theory concerning the foundations and the early formation of *'Uṣūl al-Fiqh*.

Schacht in his work critically explores well-known themes of *'Uṣūl al-Fiqh*. The main thesis which underpins his arguments asserts that Islamic jurisprudence has risen and developed separately from the principle sources of Islam.[2]

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[1] See *al-Mustashriqīn wa Maṣādir al-Tashrī'*,(p.23) by al-Nashmī.

[2] *An Introduction To Islamic Law.* (Reprinted 1998, p.11). Oxford University Press. New York. USA. By Joseph Schacht. See *Encyclopedia of Islam* (vol.11, p.323). See also *On Schacht's Origins of Muḥammadan Jurisprudence*, (1996 p.36). The Oxford Centre for Islamic Studies, Cambridge, UK. By M. Mustafa al-Azamī.

1.5 Muslim scholars' methods in researching '*Uṣūl al-Fiqh*[1]

Muslim scholars did not confine themselves to one sole method in their research on '*Uṣūl al-Fiqh*. The following is a summary of their main methods:

1.5.1 The *Mutakallimūn*[2] *'s* method

Some scholars followed the method of establishing juristic principles sustained with proof and evidence without seeking the approval or disagreement of these principles vis-à-vis juristic *Furū'* (subsidiaries) recounted from the Imāms who exercised *Ijtihād*. This method is a theoretical stream whose objective is to recount the fundamentals of this science as proved by evidence and it established these rules as a measurement that regulates deduction and a governor over the *Ijtihād* of qualified scholars rather than a servant of the school's *Furū'* (subsidiaries). This school has been known as the method of the *Mutakallimūn*. The *Mu'tazila*[3], the Shāfi'īya and the Mālikīyya were all followers of this school.

A distinguishing feature of the *Mutakallimūn* school is reliance on reasoning as a matter of evidence, without fanaticism for one's school of thought, minimisation of mentioning juristic *Furū'* (subsidiaries), and when this is done it is for the sake of exemplification only.

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[1] See *al-Wajīz fi 'Uṣūl al-Fiqh* (p.16) by Dr. 'Abdulkarīm Zaidān.
[2] *Mutakallimūn:* A group of scholars who dealt with *'Ilm al-Kalām* (defensive apologetics) and were scholars of the *Shāfi'ī, Mālikī, Ḥanbalī and Mu'tazilī* schools. See *The Encyclopedia of Islam* (Vol. 4, p.468). See also *'Uṣūl al-Fiqh al-Islāmī* (p.15) by Sha'bān.
[3] *Mu'tazila:* A political or religious neutralists; by the 10th century the term came to erfer specifically to an Islamic school of speculative theology that flourished in Basra and Baghdad (8th-10th centuries AD). See *the New Encyclopedia Britannica* (Vol. 8, p.457). See also *The Encyclopedia of Islam* (Vol. 6, p.793).

1.5.2 Jurists' method

Some other scholars followed another method based on establishing juristic principles according to what is recounted from the Imāms regarding juristic *Furū'* (subsidiaries). This means that these scholars established the principles that they believed were observed by the Imāms in their *Ijtihād* and deductions of legal rulings in the light of what they reported about juristic *Furū'* (subsidiaries). The Ḥanafī scholars were renowned to have followed this trend to the extent that this method was known as the Ḥanafī method or the method of jurists.

A distinguishing feature of this school is its practical aspect since it is a practical study applied to the juristic *Furū'* (subsidiaries) recounted from the Imāms of the school as well as its establishment of legal rulings, principles and regulations observed and considered by these Imāms in their deductions. Therefore, this method set the principles, which served the *Furū'* (subsidiaries) of this school and defended the method adopted by the Imāms of the school in their *Ijtihād*. The method was also the most adequate for the *Furū'* (subsidiaries) and the most relevant to jurisprudence as Ibn Khaldūn argues.[1]

1.5.3 Combination of the two methods

A third method is found in the research literature and is based on a combination of the two methods mentioned above and benefits from the advantages of both. Hence, it is concerned with establishing abstract legal principles sustained by evidence so that these principles could serve as a measurement of deduction and a governor over any emerging opinion or *Ijtihād*. The method takes into account what is recounted from the Imāms

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[1] See Ibn Khaldūn's *Muqaddima* (p.361) by 'Abdulraḥmān bin Khaldūn.

regarding juristic *Furū'* (subsidiaries), accounts for the principles on which these *Furū'* (subsidiaries) are based, intertwines and applies rulings to them and makes the principles serve the *Furū'* (subsidiaries). Scholars from various schools – including the Shāfi'īs, the Mālikīs, the Ḥanbalīs and some of the Ḥanafīs – followed this method.

1.6 The scholars who contributed most to *'Uṣūl al-Fiqh*[1]

1.6.1 Following the method of the *Mutakallimūn*

The best books written in *'Uṣūl al-Fiqh* following the *Mutakallimūn*'s method are *al-'Umad* by 'Abduljabbār al-Mu'tazilī[2], its explanation *al-Mu'tamad*[3] by Abū al-Ḥusain al-Baṣrī al-Mu'tazilī[4], *al-Burhān*[5] by Imām al-Ḥaramain[6] and *al-Mustaṣfā*[7] by Abū Ḥāmid al-Ghazālī.

These (four) books constitute the fundamentals of this method (*al-Mutakallimūn*) and all that was subsequently written is a summary of these books, for example *al-Maḥṣūl*[8] by Fakhr al-Dīn al-Rāzī and *al-Iḥkām fī 'Uṣūl al-Aḥkām*[9] by al-'Āmidī. These two books were summarised by scholars and many other summaries followed, for example, (*al-Maḥṣūl*) by Sirāj al-Dīn al-Armawī[10] in *al-Taḥṣīl min al-Maḥṣūl*[1], also summarised by Tāj al-Dīn al-Armawī[2] in *al-Ḥāṣil*[3], known as *Ḥāṣil al-Maḥṣūl*.

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[1] See Ibn Khaldūn's *Muqaddimah* (p.361); *'Uṣūl al-Fiqh al-Islāmī* (p.20) by Dr. Zakī al-Dīn Sha'bān; and *al-Wajīz fī 'Uṣūl al-Fiqh* (p.16) by Dr. 'Abdulkarīm Zaidān.

[2] 'Abduljabbār bin Aḥmad al-Hamadānī al-Istrabādī, Abū al-Hasan. He was a juristic judge nicknamed the judge of judges, (d. 415H/1025AD); *Mu'jam al-Mu'allifīn* (Vol.2, p.46); *Al-A'lām* (Vol.3, p.273) by al-Ziriklī.

[3] See *Kashf al-Ẓunūn* (Vol.2, p.1732) by Ḥājī Khalīfa.

[4] Muḥammad bin 'Alī al-Tayyib Abū al-Ḥasan al-Baṣrī al-Mu'tazilī. He wrote *Taṣaffuḥ al-Adilla*, *Gharar al-Adilla*, *Sharḥ al-'Uṣūl al-Khamsa*. All of these books are written on *'Uṣūl*, (d. 436H/1044AD); *Al-A'lām* (Vol.6, p.275) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.518) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.600, 458), S. (Vol.1, p.829) by Brockelmann.

[5] See *Kashf al-Ẓunūn* (Vol.1, p.242) by Ḥājī Khalīfa.

[6] 'Abdulmalik bin 'Abdulla al-Juwainī Abū al-Ma'ālī Rukn al-Dīn. He was nicknamed Imām of Makka and Madīna (al-Ḥaramain). He was a (close friend) to al-Shāfi'ī. He wrote *al-Burhān* and *al-Waraqāt* on *'Uṣūl al-Fiqh*, (d. 478H/1085AD); *Al-A'lām* (Vol.4, p.160) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.318) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.486), S. (Vol.1, p.671) by Brockelmann.

[7] See *Kashf al-Ẓunūn* (Vol.2, p.1673) by Ḥājī Khalīfa.

[8] See *Kashf al-Ẓunūn* (Vol.2, p.1615) by Ḥājū Khalīfa.

[9] *Iḥkām al-Aḥkām fī 'Uṣūl al-Aḥkām*; see *Kashf al-Ẓunūn* (Vol.1, p.17) by Ḥājī Khalīfa.

[10] Maḥmūd bin Abū Bakr Abū al-Thanā' Sirāj al-Dīn al-Armawī. Knowledgeable in *'Uṣūl* and logic. He was a Shāfi'ī. He wrote *al-Taḥṣīl min al-Maḥṣūl* on *'Uṣūl*, (d. 682H/1283AD); *Al-A'lām* (Vol.7, p.166) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.801) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.614, 467), S. (Vol.1, p.848) by Brockelmann.

From these two books Shihāb al-Dīn al-Qarāfī[4] extracted introductions and principles in his booklet called *al-Tanqīḥāt*[5]. Al-Qāḍī al-Baiḍāwī, the jurist, in his book *Minhāj al-Wuṣūl ilā 'Ilm al-'Uṣūl*[6], while Ibn al-Ḥājib summarised *al-Iḥkām* in his book *Muntahā al-Su'l wa al-'Amal fī 'Ilmay al-'Uṣūl wa al-Jadal* and then in his book *Mukhtaṣar al-Muntahā*[7]. Other *Shurūḥ* (commentaries) of these summaries followed.

1.6.2 Following the method of the Ḥanafī (jurists) school

Among the books that were written following the Ḥanafī school are *Ma'ākhidh al-Sharā'i'*[8] by Abū Manṣūr al-Māturīdī[9]; *al-Fuṣūl fī al-'Uṣūl*[10] by Abū Bakr al-Jaṣṣāṣ[11], *Taqwīm al-Adilla*[12] by Abū Zaid al-Dabūsī[13] and *Tamhīd al-Fuṣūl fī al-'Uṣūl*[14] by

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[1] See *Kashf al-Ẓunūn* (Vol.2, p.1615) by Ḥājī Khalīfa; *Al-Taḥṣīl min al-Maḥṣūl* (1408H/1988AD) (First edition) by al-Armawī. Edited by Dr. 'Abdulḥamīd 'Alī Abū Zunaid. Beirut - Mu'assasat al-Risāla.

[2] Muḥammad bin Ḥusain al-Armawī, Tāj al-Dīn, Abū al-Faḍāyil, a jurisprudence scholar and a judge. He died in Baghdad in (656H/1258AD); *Kashf al-Ẓunūn* (Vol.2, p.1615) by Ḥājī Khalīfa; *Mu'jam al-Mu'allifīn* (Vol.3, p.252) by Kaḥḥāla.

[3] See *Kashf al-Ẓunūn* (Vol.2, p.1615) by Ḥājī Khalīfa.

[4] Aḥmad bin Idrīs, Abū al-'Abbās, Shihāb al-Dīn al-Ṣinhājī al-Qarāfī. He was a Mālikī scholar and had a number of classified books in jurisprudence and *'Uṣūl*, (d. 684H/1285AD); *Al-A'lām* (Vol.1, p.94) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.1, p.100) by Kaḥḥāla.

[5] Or *Tanqīḥ al-Fuṣūl fī al-'Uṣūl* as in *Kashf al-Ẓunūn* (Vol.1, p.499) by Ḥājī Khalīfa.

[6] See *Kashf al-Ẓunūn* (Vol.1, p.1878) by Ḥājī Khalīfa.

[7] See *Kashf al-Ẓunūn* (Vol.2, p.1853) by Ḥājī Khalīfa.

[8] See *Kashf al-Ẓunūn* (Vol.2, p.1573) by Ḥājī Khalīfa.

[9] Muḥammad bin Muḥammad bin Maḥmūd, Abū Manṣūr al-Māturīdī, one of the leaders of the philosophers. He died in Samarkand in (333H/944AD); *Al-A'lām* (Vol.7, p.19) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.692) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.209, 195), S. (Vol.1, p.346) by Brockelmann.

[10] See *Kashf al-Ẓunūn* (Vol.1, p.111) by Ḥājī Khalīfa.

[11] Aḥmad bin 'Alī al-Rāzī, Abū Bakr al-Jaṣṣāṣ. He was one of the Ḥanafī leaders. He died in Baghdad in (370H/980AD); *Al-A'lām* (Vol.1, p.171) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.1, p.202) by Kaḥḥāla. (His book was edited by Dr. 'Ajīl Jāsim al-Nashmī and published by the Ministry of Mortmain and Islamic Affairs in Kuwait).

[12] See *Kashf al-Ẓunūn* (Vol.1, p.467) by Ḥājī Khalīfa.

[13] 'Abdulla bin 'Umar bin 'Īsā, Abū Zaid al-Dabūsī. He was the first to lay the foundations of the science of al-Khilāf (debate), and bring it into existence. He was a jurist and a researcher. He wrote *al-Asrār* on *'Uṣūl* and died in Bukhārā in (430H/1039AD); *Al-A'lām* (Vol.4, p.109) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.265) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.184) by Brockelmann.

[14] See *Kashf al-Ẓunūn* (Vol.1, p.112) by Ḥājī Khalīfa.

Shams al-A'imma al-Sarkhasī[1] known as *'Uṣūl al-Sarkhasī*. Another book is *Kanz al-Wuṣūl*[2] known as *al-'Uṣūl* by Fakhr al-Islām al-Bazdawī[3], the best and most comprehensives of all of the books mentioned above. This book is commented on by 'Abdul'azīz al-Bukhārī[4] in his book *Kashf al-Asrār*[5] edited by Muḥammad al-Mu'taṣim Billāh al-Baghdādī and published by Dār al-Kitāb al-'Arabī in Beirut.

1.6.3 Both methods

One of the books written about the two methods is *Nihāyat al-Wuṣūl ilā 'Ilm al-'Uṣūl*[6] known as *Badī' al-Niẓām al-Jāmi' baina Kitābay al-Bazdawī wa al-Iḥkām* by Muẓaffar al-Dīn Ibn al-Sā'ātī[7]. Another book written on the two methods is *Tanqīḥ al-'Uṣūl*[8] and its explanation *al-Tawḍīḥ* by Ṣadr al-Sharī'a[9]. In this book the author summarised *'Uṣūl* by al-Bazdawī, *al-Maḥṣūl* by al-Rāzī, *al-Mukhtaṣar* by Ibn al-Ḥājib and *Jam' al-*

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[1] Muḥammad bin Aḥmad bin Sahl, Abū Bakr al-Sarkhasī, Shams al-A'imma. He was a judge and one of the greatest Ḥanafī scholars. He exercised *Ijtihād* and died in Farghana in (483H/1090AD); *Al-A'lām* (Vol.5, p.315) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.52, 68) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.460, 373), S. (Vol.1, p.638) by Brockelmann. (His book was edited by Abū al-Wafā al-Afghānī and published by the Iḥyā' al-Ma'ārif al-Nu'māniya committee in India in (1372H/ 1953AD).

[2] See *Kashf al-Ẓunūn* (Vol.1, p.112) by Ḥājī Khalīfa.

[3] 'Alī bin Muḥammad bin al-Ḥusain, Abū al-Ḥasan, Fakhr al-Islām al-Bazdawī. A jurisprudence scholar. He was one of the greatest Ḥanafī scholars, (d. 482H/1089AD); *Al-A'lām* (Vol.4, p.328) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.501) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.460) by Brockelmann.

[4] 'Abdul'azīz bin Aḥmad bin Muḥammad, 'Alā' al-Dīn al-Bukhārī. He was a Ḥanafī scholar. He wrote *Sharḥ al-Muntakhab al-Ḥusāmī* by al-Akhsīkathī (which is the subject of the present research) on *'Uṣūl,* (d. 730H/1330AD); *Al-A'lām* (Vol.4, p.13) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.157) by Kaḥḥāla.

[5] See *Kashf al-Ẓunūn* (Vol.1, p.112) by Ḥājī Khalīfa.

[6] See *Kashf al-Ẓunūn* (Vol.2, p.1991) by Ḥājī Khalīfa.

[7] Aḥmad bin 'Alī bin Taghlib, Muẓaffar al-Dīn Ibn al-Sā'ātī. He was knowledgeable in Ḥanafī jurisprudence and was commonly quoted as an example of intelligence, eloquence and good handwriting, (d. 694H/1295AD); *Al-A'lām* (Vol.1, p.175) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.1, p.199) by Kaḥḥāla. His book was edited by Dr. Sa'ad bin Ghurair al-Sulamī in 'Umm al-Qurā University in Saudi Arabia in (1418H/1997AD).

[8] See *Kashf al-Ẓunūn* (Vol.1, p.496) by Ḥājī Khalīfa.

[9] 'Ubaidullāh bin Mas'ūd bin Maḥmūd Aḥmad al-Maḥbūbī al-Bukhārī al-Ḥanafī, Ṣadr al-Sharī'a al-Aṣghar. He was a jurist and died in Bukhārā in (747H/1346AD); *Al-A'lām* (Vol.4, p.197) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.296) by Kaḥḥāla.

Jawāmi'[1] by Tāj al-Dīn al-Subkī,[2] at the outset of which he states that the book was a collection of information from about one hundred selections. The book is published and includes a *Sharḥ* (commentary) by Jalāl al-Dīn al-Maḥallī[3]; the *Sharḥ* (commentary) contains marginal notes regarding the scholar al-Banānī[4] and is edited by Muḥammad 'Abdulqādir Shāhīn[5].

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[1] See *Kashf al-Ẓunūn* (Vol.1, p.595) by Ḥājī Khalīfa.

[2] 'Abdulwahhāb bin 'Alī bin 'Abdulkāfī al-Subkī, Abū Naṣr. He was the judge of judges, a historian, and a researcher. He wrote *Man'al-Mawāni'*, which is a commentary on *Jam'al-Jawāmi'*. He also wrote *Tawshīḥ al-Taṣḥīḥ* on *'Uṣūl al-Fiqh*. He died in Damscus in (771H/1370AD); *Al-A'lām* (Vol.4, p.184) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.343) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.2, p.108), S. (Vol.2, p.105) by Brockelman.

[3] Muḥammad bin Aḥmad bin Ibrāhīm al-Maḥallī al-Shāfi'ī, Jalāl al-Dīn. He was a jurist and interpreter. He was born and died in Cairo. In his book *al-Badr al-Ṭālī'*, (in which) he interpreted *Jam' al-Jawāmi'*. He also wrote *Sharḥ al-Waraqāt* on jurisprudence, (d. 864H/1459AD); *Al-A'lām* (Vol.5, p.333) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.93) by Kaḥḥāla.

[4] 'Abdulraḥmān bin Jād Allāh al-Banānī al-Maghribī. He was a jurisprudence scholar, (d. 1198H/ 1784AD); *Al-A'lām* (Vol.3, p.302) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.86) by Kaḥḥāla.

[5] *Ḥāshiyat al-Banānī* (1418H/1998AD), (First edition). Edited by Muḥammad bin 'Abdulqādir Shāhīn. Beirut - Dār al-Kutub al-'Ilmiyya (two Volumes).

1.7 Abū Ḥanīfa the eponym of the Ḥanafī school

It is essential to provide a biography of the eponym of the Ḥanafī school, to which our present author belongs and is regarded as one of its prominent figurs.

1.7.1 His name

He was Imām al-Nu'mān bin Thābit, loyal to the Taimī stream, from Kūfa, Abū Ḥanīfa was the Imām (leader) of the Ḥanafī school; he was a jurist, qualified scholar practising *Ijtihād*, editor and one of the four Imāms in *Sunna*. It is said that he was of Persian origin[1] and it is also said that he was from Kabul in Afghanistan[2]. He was born in Kūfa in (80H/699AD) and used to sell silk. He sought knowledge at an early age, after which he began issuing *Fatwā* (legal opinion).

1.7.2 Generation

He was one of the *Tābi'ūn* and a contemporary of four of the Prophet's Companions: Anas bin Mālik[3], 'Abdulla bin Abī Awfā[4] in Kūfā, Sahl bin Sa'd al-Sā'idī[1] in Madīna

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[1] *Al-A'lām* (Vol.8, p.36) by al-Ziriklī.
[2] *Al-Fihrist* (1415H/1994AD) (p.251) by Ibn al-Nadīm, Muḥammad bin Isḥāq. Edited by Ibrāhīm Ramaḍān. Beirut - Dār al-Ma'rifa; *Wafayāt al-A'yān wa Anbā' Abnā' al-Zamān* (1414H/1994AD) (Vol.5, p.405) by Abū al-'Abbās Shams al-Dīn Aḥmad bin Muḥammad bin Abū Bakr known as Ibn Khillikān. Edited by Dr. Iḥsān 'Abbās. Beirut - Dār Ṣādir.
[3] Anas bin Mālik bin al-Naḍr bin Ḍamḍam al-Najjārī al-Khazrajī al-Anṣārī, Abū Thumāma. He was a friend of the Prophet [p.b.u.h.] and his servant. (2286) Ḥadīth (Prophet's traditions) were narrated about him by narrators. He was the last of the noble Companions to die in Baṣra and that was in (93H/712AD); *Al-A'lām* (Vol.2, p.24) by al-Ziriklī.
[4] 'Abdulla bin Abū Awfā his father's name was 'Alqama bin Khālid bin al-Ḥārith, al-Aslamī, Abū Mu'āwiya. His father and himself were companion of the Prophet. He was the last of the Companions to die in Kūfa and that was in (86H/705AD); *Durr al-Saḥāba fī Manāqib al-Qarāba wa al-Ṣaḥāba* (1411H/1990AD) (p.788) by Muḥammad bin 'Alī al-Shawkānī. Edited by Dr. Ḥusain 'Abdulla al-'Umarī. Damascus - Dār al-Fikr.

and Abū al-Ṭufail ʻĀmir bin Wāthila[2] in Makka, but he did not meet or recount from any of them[3].

1.7.3 Characteristics

He was a studious, ascetic, worshipping, pious and devout scholar. He was also in continuous supplication to God [s.w.t.][4], of solid evidence and a master in the use of logic. In his description of Imām Abū Ḥanīfa, Imām Mālik states: "I have known him as a man who if asked to turn this pillar into gold, he will provide convincing evidence." He was very well-mannered, generous and with a strong voice. Imām Shāfiʻī comments: "People are dependents of Abū Ḥanīfa in Jurisprudence"[5].

1.7.4 Positions

ʻUmar bin Hubaira[6] (the Emir of Iraq) wanted him in charge of justice in Kūfa at the time of Marwān bin Muḥammad[7], the last king in the Banī 'Umayya dynasty, but he refused in reverence. As a consequence, ʻUmar bin Hubaira whipped him a hundred and ten lashes, ten lashes a day while he persistently refused to accept to serve as judge.

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[1] Sahl bin Saʻd al-Khazrajī al-Anṣārī from Banī Sāʻida. He was a noble Companion from Madīna. He lived about one hundred years and narrated (188) Ḥadīth (Prophet's traditions), (d. 91H/710AD); *Al-Aʻlām* (Vol.3, p.143) by al-Ziriklī.

[2] ʻĀmir bin Wāthila bin ʻAbdulla bin ʻAmr, al-Laithī al-Kinānī al-Qurashī, Abū al-Ṭufail. He was the poet of Kināna and one of its horsemen. He narrated (9) Ḥadīth (Prophet's traditions) and was the last Companion to die and that was in Makka in (100H/718AD); *Al-Aʻlām* (Vol.3, p.255) by al-Ziriklī.

[3] *Wafayāt al-Aʻyān* (Vol.5, p.406) by Ibn Khillikān.

[4] ibid.

[5] *Al-Aʻlām* (Vol.8, p.36) by al-Ziriklī.

[6] ʻUmar bin Hubaira bin Saʻd bin ʻAdī al-Fazārī Abū al-Muthannā. He was a courageous and shrewd ruler. He was governor of the Arabian Peninsula at the time of ʻUmar bin ʻAbdulʻazīz and a governor of Iraq and Khurāsān at the time of Yazīd bin ʻAbdulmalik, (d. 110H/728AD); *Al-Aʻlām* (Vol.5, p.68) by al-Ziriklī.

[7] Marwān bin Muḥammad bin Marwān bin al-Ḥakam al-'Umawī, Abū ʻAbdulmalik. He was known as al-Jaʻdī and al-Ḥimār. He was the last of the Banī 'Umayya kings in Syria, (d. 132H/750AD); *Al-Aʻlām* (Vol.7, p.208) by al-Ziriklī.

When 'Umar realised this, he eventually set him free.[1] Then, Abū Ja'far al-Manṣūr al-'Abbāsī[2] also wanted him in charge of justice in Baghdad but he refused again. Abū Ja'far swore solemnly that Abū Ḥanīfa would accept, but the latter also swore not to and said: "I am not qualified for this position". He then imprisoned him till his death.[3]

1.7.5 His books

Al-Musnad in *Ḥadīth* (the Prophet's tradition) is narrated by Ḥasan bin Ziyād al-Lu'lu'ī and Qāsim bin Qaṭlūbghā al-Ḥanafī classified it along the chapters on jurisprudence according to al-Ḥārithī's narration. Many old publications of the book were undertaken in India[4]. *Al-Makhārij* is a manuscript on jurisprudence narrated by his pupil Abū Yūsuf. *Al-Fiqh al-Akbar* is also attributed to him. This is published but the attribution is not correct as is pointed out by al-Ziriklī[5]. *Al-Qaṣīda al-Nu'māniyya*, in praise of the Prophet [p.b.u.h.], is also attributed to him.

1.7.6 His death

He died in Baghdad and Ibn Khillikān[6] states that his death is more likely to have taken place in Abū Ja'far al-Manṣūr al-'Abbāsī's prison, as has already been mentioned, and that was in (150H/767AD).

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[1] *Wafayāt al-A'yān* (Vol.5, p.407) by Ibn Khillikān.
[2] 'Abdulla bin Muḥammad bin 'Alī bin al-'Abbās, Abū Ja'far, al-Manṣūr. He was the second of the 'Abbāsī Caliphs and the first Arab king to be interested in sciences. He died in Makka while performing pilgrimage in (158H/775AD); *Al-A'lām* (Vol.4, p.117) by al-Ziriklī.
[3] *Al-A'lām* (Vol.8, p.36) by al-Ziriklī.
[4] *Mu'jam al-Maṭbū'āt al-'Arabiyya wa al-Mu'arraba* (no date) (Vol.1, p.303) by Yūsuf 'Ilyān Sarkīs. Al-Thaqāfa al-Dīniyya. Cairo.
[5] *Al-A'lām* (Vol.8, p.36) by al-Ziriklī.
[6] Aḥmad bin Muḥammad bin Ibrāhīm bin Abū Bakr Ibn Khillikān al-Barmakī, Abū al-'Abbās. He was a historian and a shrewd writer. He is the author of *Wafayāt al-A'yān wa Anbā' Abnā' al-Zamān*, which is one of the best and most famous biographies. He was appointed a judge in Egypt and later in Syria. He

1.8 Conclusion

I conclude this chapter by saying that the value of '*Uṣūl al-Fiqh* can be identified within the following points:

One. it is the basis relied upon by the Imāms who exercised *Ijtihād* in their deduction of practical legal injunctions;

Two. it is relied upon by legislators in codifying personal status laws[1] in all Arab countries and many Islamic countries; and

Three. it is the tool which identifies the fundamentals utilised to sustain rulings regarding daily events for which there is no available legal injunction, which makes the *Sharī'a* (Islamic law) capable of keeping pace with the requirements of modern life.

In order to understand the value of this text within Islamic jurisprudence I glanced at the growth and the evolution of '*Uṣūl al-Fiqh* as well as the methods adhered to by scholars, including the *Mutakallimūn* and the *Fuqahā'* (jurists). Then, I have moved to discuss the most prominent scholars who wrote on '*Uṣūl al-Fiqh* following the two methods. In the next chapter, I shall talk about the author of the book who is regarded as one of the most outstanding examples of authors who followed the method adopted by the jurists.

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died in Damascus in (681H/1282AD); *al-A'lām* (Vol.1, p.220) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.1, p.237) by Kaḥḥāla.

[1] A law concerned with personal status including marriage, divorce, the rights of the husband, wife, children, inheritance and so on. See *Principles of Islamic Jurisprudence,* by Kamālī, the preface, page (xii).

Chapter Two

The author [1]

2.1 Introduction

Having discussed the science of *'Uṣūl al-Fiqh* and its value in daily life, this chapter will identify the author of one of the books written following the method of jurists. I shall define his homeland as a geographical context and its value and provide an account of this context and its effect on the author from a political, economic, social and scholastic perspective. The current situation of the region will also be described in order to have a clear idea of the new developments in this area. I will then discuss the impact of the context on the region as a whole. The focus will further be laid on his school, his position among scholars in his school and his scholastic value. Finally, I will talk about his pupils and some leading contemporary scholars of *'Uṣūl al-Fiqh*.

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[1] See his biography in: *Al-Fawā'id al-Bahiyya fī Tarājim al-Ḥanafiyya* (1324H/1906AD), (p.188), (First edition), by al-Laknawī, Muḥammad 'Abdulḥay. Al-Sa'āda. Egypt; *al-Jawāhir al-Muḍiyya fī Ṭabaqāt al-Ḥanafiyya* (1413H/ 1993AD) (Vol.3, p.334), (second edition), by al-Qurashī, 'Abdulqādir bin Muḥammad. Edited by Dr. 'Abdulfattāḥ al-Ḥilū. Al-Risāla; *Tāj al-Tarājim* (1412H/1992AD) (p. 196), by Qaṭlūbghā, Zain al-Dīn Qāsim. Edited by Ibrāhīm Sāliḥ. Dār al-Ma'mūn li al-Turāth. Damascus; *al-A'lām* (Vol.7, p.28) by al-Ziriklī; *History of the Arabic Literature,* (Div.3, p.718) by Brockelmann; *Miftāḥ al-Sa'āda* (Vol.2, p.170) by Ṭash Kubrī Zāda, Aḥmad bin Muṣṭafā. Dār al-Kutub al-'Ilmiyya. Beirut; *Kashf al-Ẓunūn* (Vol.2, p.1848) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.2, p.123) by Ismā'īl Bāshā; *Mu'jam al-Mu'allifīn* (Vol.3, p.663) by Kaḥḥāla; *Mu'jam al-Maṭbū'āt* (Vol.1, p.406) by Sirkīs; *History of the Arabic Literature,* (Vol.1, p.474), S. (Vol.1, p.654) by Brockelmann; Princeton (p.509).

2.2 Author's name

He is Muḥammad bin 'Umar al-Akhsīkathī in association with Akhsīkath[1]. His surname was Ḥūsām al-Dīn and his nickname was Abū 'Abdulla[2]. He was a Ḥanafī Imām in the fundamentals as well as *Furū'* (subsidiaries) of *'Uṣūl al-Fiqh*.

2.3 Examination of the name

The biographies written about al-Akhsīkathī agree on his surname and nickname but disagree on his name in association with his place of origin. Therefore, most of those who wrote the biographies on the author mentioned his name with a 'th' (i.e. al-Akhsīkathī) while others referred to it with a 't' (i.e. al-Akhsīkatī). In his book *Mu'jam al-Buldān*[3], Yāqūt al-Ḥamwī[4], for example, states that the 't' is more accurate because the 'th' is not a part of the *'Ajam* (non-Arab) alphabet. From the researcher's point of view, however, the name is more likely to be pronounced with a 'th' for a number of reasons:

1. On the basis of the history books, which refer to these regions in the first and second Hijri centuries (seventh and eighth centuries AD), it can be seen that the names of many cities end in 'th' in the land beyond the river Amudarya (Transoxania). For

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[1] A city in the region of Fargana in the land beyond the river Amudarya (Transoxania) as it has been known since the Islamic conquest in (77H/697AD); *Mu'jam al-Buldān* (Vol.1, p.121) by Yāqūt al-Ḥamwī.

[2] In his *Mu'jam al-Maṭbū'āt* (p.406) Serkīs mentions that his nickname is Abū al-Wafā known as Ibn Abū al-Manāqib.

[3] *Mu'jam al-Buldān* (1374H/1954AD) by Yāqūt al-Ḥamwī. Dār Beirut. Beirut.

[4] Yāqūt bin 'Abdulla al-Rūmī al-Ḥamwī, Abū 'Abdulla, Shihāb al-Dīn. He was a reliable historian, a geographer, a linguist and a scholar of literature. He died in Ḥalab in (626H/1229AD); *al-A'lām* (Vol.8, p.131) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.4, p.83) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.630, 479-480), by Brockelmann.

example, Nūkath, Jabghūkath, Jinā Najkath, Tūnkath,[1] which Barthold[2] mentioned in his book *Turkestan down to the Mongol invasion*[3]. Searching for these names on modern updated maps reveals that these places have different names, respectively as follows: Tuytepa, Salar, Chinaz, Olmaliq[4]. Barthold (*ibid.*) states: "Rishtan, which has kept its name to the present day, was a large village..."[5]. Moreover, in his book *Mu'jam al-Buldān*, Yāqūt al-Ḥamwī mentions some cities whose names end in 'th' such as Benkath, Tumushkath, Nuzkāth[6] and many others. These names have changed over the years from their previous states in earlier centuries since they are no longer known by the names that they used to carry. As is evidenced by what Barthold says in his book *Turkestan* when he describes the city of Jurjānya (p.146), he says: "Gurgānj, called by the Arabs Jurjānīya and by the Mongol[7] and Turks at a

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[1] See map of Central Asia in *Turkestan* (p.816) by Barthold (The Arabic Edition); see also modern maps: *Atlas of the world.* (1993), (second edition) (p.18) Oxford University Press. London. UK; *Illustrated Atlas of the world.* (1992), (p.55) Library of Congress Cataloging-in-Publication Data. Rand McNally. USA.

[2] Barthold, Vassili Vladimirovich, (d. 1349H/1930AD). He wrote *Turkestan down to the Mongol invasion.* Higher education thesis, translated from Russian into Arabic by Ṣalāh al-Dīn 'Uthmān (1401H/1981AD) (First edition). Kuwait - National Council for Culture, Arts and Literature – The Arab Heritage Department. The english edition by EJW Gibb Memorial Trust (1977 Fourth Edition).

[3] 'Turkestan' refers to the land of the Turks and includes modern Turkmen, Khawarisms, the land beyond the river Amudarya and the plains of the Qafqās tribes (Caucasians). See *al-Tārīkh al-Islāmī* (1411H/1991AD) (Vol.21, p.73) (sixth edition), by Maḥmūd Shākīr. Beirut, al-Maktab al-Islāmī. See *The GSP Multimedia Encyclopedia, 1996 Software* which states: Turkestan: area of central Asia divided among Kazakhstan, Kyrqyzstan, Tajikistan, Turkmenistan, Uzbekistan, Afganistan, and China. Stretching from Tukey to W China in the Middle Ages, Turkestan was from the 19th Century administered by Russia as a single colony of smaller extent. After the Russian Revolution, the Turkestanis applied for autonomy, and in 1918 declared a Turkestan independent Islamic Republic, which was forcibly put down 1918-25. Stalin subsequently carved up the area into separate republics to prevent a resurgence of separatist sentiment.

[4] *World Atlas* (1999), *Encarta 99* (Microsoft) – Scientific Encyclopedia. USA.

[5] *Turkestan down to the Mongol invasion* (p.158). By Barthold.

[6] *Mu'jam al-Buldān* (Vol.1, p.500, Vol.2, p.46, Vol.5, p.310) by Yāqūt al-Ḥamwī.

[7] Mongol dynasty: Indian dynasty 1526-1858, established by Babur, Muslim descendant of Tamerlane, which was the 14th-century Mongol leader. The Mongol emperors ruled until the last one, Bahadur Shah II, was dethroned and exiled by the British; they included Akbar, Aurangzeb, and Shah Jahan. The Mongols established a more extensive and centralized empire than their Delhi sultanate forebearers, and the Mongol era was one of great artistic achievement as well as urban and commercial development. When Akbar died 1605 the Mongol empire had a population of 70-100 million, but it was at its largest under Aurangzeb (ruled 1658-1707), who briefly subdued the Deccan and the south- central states of Bijapur and Golconda. However, Mongol authority never extended into the far south and, although more

later day Urgench". It can, therefore, be observed that the writer mentions many cities by their names and then proceeds to explain that their names have changed to such and such or that they have remained unchanged to the present time. Furthermore, it can be seen that the river, which the Arabs labelled Sīḥūn is now called Syrdarya while they called the other river Jīḥūn and is now known as Amudarya.

2. The majority of the sources, which the researcher has managed to accumulate mention the city Akhsīkath with a 'th' at the end. First, *Mu'jam al-Buldān* (Vol.1, p.121), by Yāqūt al-Ḥamwī, states the city with a 'th' but states: "That it has a 't' is prior because 'th' does not belong to the alphabet of the *'Ajam* (non-Arabs)." The writer of this book is the first to have used the name with a 'th' since he died in (626H/1229AD) and it may be argued that what is regarded as the earliest carries more weight than the latest. In addition, in his book *al-Ansāb* Abū al-Wafā al-Qurashī, the writer of *al-Jawāhir al-Muḍiyya*, argues: "Al-Akhsīkathī with an [A] vowel, a [kh] consonant, an [s] consonant, an [ī] vowel, a [k] consonant, and a [th] consonant with respect to Akhsīkath, which is located in the land of Fargana"[1]. He describes (Akhsīkath) here in minute detail as dictionary writers normally do. He states that the word ends in a 'th' and this is why it can be seen that all those who came after Yāqūt al-Ḥamwī are in two groups. Some accepted the name that was passed on to them with a 'th' while some others embraced Yāqūt al-Ḥamwī's opinion, and therefore accepted the view including the 't'.

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bureaucratized than the Delhi sultanate, power waxed and waned between central and local rulers. As the Dutch trader Francisco Pelsaert (1595-1630) commented, while Mongol emperors were 'kings of the plains and open roads', they effectively ruled barely a half of the dominions over which they claimed sovereignty, there being 'nearly as many rebels as subjects'. See *The GSP Multimedia Encyclopedia, 1996 Software.*

[1] *Al-Jawāhir al-Muḍiyya* (Vol.4, p.129).

3. The sources which mention the city with a 'th' are as follows: *Taqwīm al-Buldān* (p.500) by Abū al-Fidā' (d. 732H/1332AD); *al-Jawāhir al-Muḍiyya* (Vol.3, p.334) by al-Qurashī (d. 775H/1374AD); *Miftāh al-Sa'āda* (Vol.2, p.170) by Tāsh Kubrī Zāda (d. 968H/1561AD). Also *Kashf al-Ẓunūn* (Vol.2, p.1848) by Ḥājī Khalīfa (d. 1067H/1657AD); *al-Fawā'id al-Bahiyya* (p.188) by al-Laknawī (d. 1304H/ 1887AD); *Hadiyyat al-'Ārifīn* (Vol.6, p.123) by Ismā'īl Bāshā (d. 1339H/1921AD); *Turkestan* (p.156) by Barthold (d. 1349H/1930AD); *Mu'jam al-Mu'alifīn* (Vol.3, p.663) by Kaḥḥāla (d. 1376H/1956AD); *al-A'lām* (Vol.7, p.28) by al-Ziriklī (d. 1396H/1976AD); *Aṭlas al-'Ālam al-Islāmī*[1] by 'Abdulmun'im Mājid and 'Alī 'Alī al-Bannā (map No.8); *Dā'irat al-Ma'ārif al-Islāmiyya al-Mutarjama*[2] (foreign publication): *The Encyclopedia of Islam* (Vol.1, p.330).
4. The sources that mention the city with a 't' are: *Tāj al-Tarājim* (p.196) by Qaṭlubghā (d. 879H/1474AD); *Mu'jam al-Maṭbū'āt al-'Arabiyya* (Vol.1, p.406) by Serkīs (d. 1351H/1932AD). Also *History of the Arabic Literature* (Div.3, p.718) by Brockelmann (d. 1375H/1956AD); and *Dā'irat al-Ma'ārif al-Islāmiyya* (Vol.1, p.512).[3]

2.4 Birth and growth of author

The biographies available do not mention anything about his birth or growth; however, his relationship may indicate his birthplace, which is Akhsīkath because this is common

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[1] Egypt: Dār al-Fikr al-'Arabī.
[2] Translated into Arabic by Aḥmad al-Shintināwī, Ibrāhīm Zakī Khūrshīd and 'Abdulḥamīd Yūnis. Arabic translation published by Ministry of al-Ma'ārif, Egypt.
[3] In spite of this I have noticed that al-Ziriklī, in his biography of Aḥmad bin Muḥammad bin al-Qāsim al-Akhsīkathī, states: "He is from Akhsīkath in Fargana, pronounced with a [th] or [t]"; see *al-A'lām* (Vol.1, p.215).

in associating scholars with their birthplaces. Al-Akhsīkathī's date of birth can be determined through consideration of his contemporary 'Abbāsī Caliphs towards the end of the second 'Abbāsī period. A general discussion of this period will ensue when I examine the political environment later. One of these Caliphs is Caliph al-Nāṣir li Dīn Allah[1] Aḥmad Abū al-'Abbās bin al-Mustaḍī' bi-Amr Allah who was born in (553H/1158AD). He was nominated Caliph after the death of his father in (575H/1180AD) till (622H/1225AD).[2] The writer also lived at the time of the Caliph al-Ẓāhir bi Amr Allah[3] Abū Naṣr Muḥammad bin al-Nāṣir li Dīn Allah, who was born in (571H/1176AD). He was appointed as successor to his father in (622H/1225AD) and died nine months after his succession. He also lived at the time of the ruler al-Mustanṣir bi Allah[4] Abū Ja'far Manṣūr bin al-Ẓāhir, who was born in (588H/1192AD) and was a Caliph from (623H/1226AD) till (640H/1243AD). He also lived at the time of the ruler al-Musta'ṣim bi Allah[5], Abū Aḥmad 'Abdulla bin al-Mustanṣir bi Allah, who was born in (609H/1213AD). He became Caliph in (640H/1243AD) and remained in power till the fall of the 'Abbāsī Caliphate in Baghdad in (656H/1258AD).[6]

During the second 'Abbāsī period, the author lived within the Khawarizmī state, which ruled Transoxania from around (470H/1077AD) until the conquest of Transoxania by

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[1] Aḥmad bin al-Mustaḍī' bi Amr Allah al-Ḥasan bin al-Mustanjid, Abū al-'Abbās al-Nāsir li Dīn Allah. He was the longest serving governor of all Banī al-'Abbās, (d. 622H/1225AD); *al-A'lām* (Vol.1, p.110) by al-Ziriklī.

[2] *Al-Bidāya wa al-Nihāya* (1397H/1977AD), (Vol.12, p.304) (second edition) by Ibn Kathīr Ismā'īl bin 'Umar. Maktabat al-Ma'ārif. Beirut.

[3] Muḥammad bin Aḥmad, Abū Naṣr, al-Ẓāhir bi Amr Allah bin al-Nāṣir bin al-Mustaḍī' al-'Abbāsī, (d. 623H/1226AD); *al-A'lām* (Vol.5, p.320) by al-Ziriklī.

[4] Manṣūr (al-Mustanṣir) bin Muḥammad (al-Ẓāhir) bin Aḥmad (al-Nāṣir) bin al-Mustaḍī', The 'Abbāsī Caliph. He built al-Mustanṣiriyya School in Baghdad. He defended Baghdad when it was attacked by the Mongol, he died in Baghdad in (640H/1242AD); *al-A'lām* (Vol.7, p.304) by al-Ziriklī.

[5] 'Abdulla (al-Musta'ṣim) bin Manṣūr (al-Mustanṣir) bin Muḥammad (al-Ẓāhir) bin Aḥmad (al-Nāṣir), the 'Abbāsī Caliph, Abū Aḥmad. He was the last of the 'Abbāsī Caliphs in Iraq, (d. 656H/ 1258AD); *A'lām* (Vol.4, p.140) by al-Ziriklī.

[6] *Tārīkh al-Khulafā'* (1371H/1952AD), p.444 (First edition) by al-Suyūṭī 'Abdulraḥmān bin Abū Bakr. Edited by Muḥammad Muḥyī al-Dīn 'Abdulḥamīd. Al-Sa'āda. Egypt.

the Mongols (628H/1231AD), who advanced upto Baghdad in (656H/1258AD) and overthrew the 'Abbāsī Caliphate.[1]

2.5 Quest for knowledge

Biographies will not prove of much use to anyone seeking to find this scholar's quest for knowledge and the way he reached the highest scholastic level. However, a person who examines the author's book under discussion can infer that the author wrote his famous complementary after mingling with contemporary scholars and ascending high levels of knowledge from his childhood to the great stage he reached later in life. The writer of *Kashf al-Ẓunūn*[2] says about al-Akhsīkathī's book: "It excludes unnecessary waffle, includes precise and clear parts, organises content accurately" (Vol.2, p.1848). Similarly, the author of the book *al-Taḥqīq,* which is a *Sharḥ* (commentary) on *al-Muntakhab*, 'Abdul'azīz bin Aḥmad al-Bukhārī[3] (d. 730H/ 1329AD), argues: "The *Mukhtaṣar* (epitome) which is mentioned surpasses all other books in its precision and excellent organisation, solid structure..."[4].

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[1] *Al-Bidāya wa al-Nihāya* (Vol.13, p.200) by Ibn Kathīr; *Tatimmat al-Mukhtaṣar fī Akhbār al-Bashar* (1389H/1970AD), (First edition), (Vol.2, p.282) by Ibn al-Wardī Zain al-Dīn 'Umar. Edited by Aḥmad Rif'at al-Badrāwī. Dār al-Ma'rifa. Beirut; *al-Tārīkh al-Islāmī,* (Vol.2, p.143), by Maḥmūd Shākīr; *Tārīkh al-Islām* (1384H/1964AD), (seventh edition), (Vol.4, p.94), by Dr. Ḥasan Ibrāhīm. Maktabat al-Nahḍa al-Miṣriyya. Cairo.

[2] Muṣṭafā bin 'Abdulla Kātib Chalabī, known as Ḥājī Khalīfa. He was a historian and a researcher of Turkish origin. He died in Constantine in (1067H/1657AD); *al-A'lām* (Vol.7, p.236) by al-Ziriklī; *History of the Arabic Literature,* (Vol.2, p.563), S. (Vol.2, p.635) by Brockelmann.

[3] A full biography of the writer will ensue in the course of the discussion on the impact of the location on the author's life.

[4] *Kashf al-Ẓunūn* (Vol.2, p.1849) by Ḥājī Khalīfa.

2.6 His death[1]

The author died on Monday 23[rd2] Dhū al-Qi'da, (644H), i.e. April, the second, (1247AD)[3], and was buried in the Seven Judges cemetery, close to Qāḍīkhān[4].

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[1] Refer to his death in the sources provided in his biography.
[2] Qaṭlūbghā, the author of *Tāj al-Tarājim*, states that his death was on the thirteenth; however, al-Laknawī, the writer of *al-Fawā'id al-Bahiyya*, mentions the twelfth. The rest of the sources indicate the twenty-third.
[3] *History of the Arabic Literature,* (Div.3, p.718), by Brockelmann (The Arabic version).
[4] *Al-Jawāhir al-Muḍiyya* (Vol.3, p.334) by al-Qurashī; Qāḍīkhān is Ḥasan bin Manṣūr bin Abū Qāsim Maḥmūd bin 'Abdul'azīz, Fakhr al-Dīn, known as Qādī Khan al-'Uzjandī al-Farghānī. He was a great Ḥanafī scholar (died in 592H/1196AD); *al-A'lām* (Vol.2, p.224); *Mu'jam al-Mu'allifīn* (Vol.1, p.594) by Kaḥḥāla; *History of the Arabic Literature,* (Vol.1, p.376), S. (Vol.1, p.643, 644) by Brockelmann.

2.7 Author's homeland

An overview of the homeland where the author grew up is essential in order to have a clear picture of the factors that had an impact on the life of this scholar and that shaped his personality. The general context surrounding his life had the strongest influence on the scholar's methodology, his knowledge, his writing, his style as well as his personality. Therefore, I shall shed light on the context where he lived from a geographical point of view. I shall then talk about the value of such a context and the political, economic, social, cultural and scholastic aspects of the region. The effect of the context on the intellectual and cultural activity of the Islamic State, especially Transoxania, will also be discussed. I should say that it was not possible to link the context of this book directly to the ethos on which it was composed. This was due to the fact that the book was purely written on the subject of *'Uṣūl al-Fiqh*.

2.7.1 The impact of the geographic location and the city of Akhsīkath

The author lived in Transoxania, as I have already mentioned when talking about his name and birth, and the Arabs used the appellation 'the land beyond the river' to designate the region located between the Srydarya and Amudarya rivers, which flow into the Aral sea in Central Asia. In the term 'beyond the river' the reference to the Amudarya river. Furthermore, the city of Akhsīkath, which the author is associated with, is now called Akhsī.[1] The cluster 'kath' at the end of the city's name (Akhsīkath) means 'city', namely the name of the city is Akhsa or Akhsī. The cluster figures in

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[1] See *The Encyclopedia of Islam* (1979) (new edition), Vol.1, p.330, by a number of leading orientalists. The Netherlands, Leiden: E.J.Brill.

many names of cities in Transoxania, as has beed stated earlier in the discussion pertaining to the editing of the name. In his book *Turkestan*, Barthold claims: "From the statements of the Muslim geographers it is evident that the wall reached the bank of the Chirchik near the town of Jabghūkath (properly "Town of the Jabghū") two farsakhs (leagues) above Binkath..."[1]. It appears that the writer identifies Jabghūkath as Jabghū city, so Kharghānkath means Kharghān city while Khātūnkath means Khatūn city.

Akhsīkath is located on the banks of the Syrdarya river to the north (latitude 40: 53 northwards and longitude 71: 22 eastwards) in the Farghanah province 54.7 kilometers northeast of the famous Kokand city in the modern Republic of Uzbekistan. And 28 kilometers away to the southwest is the famous Namangan city, which is 18 kilometers to the northwest of Chust city. 54 Kilometers away is Marghilon city and Fargana city 65 kilometers to the southeast.[2]

The author of *Mu'jam al-Buldān* described Akhsīkath city as a flat land[3] that had a fort of which few remnants still exist and that had running rivers, numerous reservoirs as well as four gates, each leading to winding gardens and orchards that extend about a mile from all different sides. The gardens and orchards are also described as the best in Transoxania[4]. (See map 1, 2).

2.7.2 The value of the geographic location

The geographic location mentioned in the section above with regard to Transoxania had a great impact on various aspects of life in the region, because of its proximity to the

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[1] *Turkestan* (p.173) by Barthold.
[2] *World Atlas* (1999), *Encarta 99* (Microsoft) – Scientific Encyclopedia. USA.
[3] *Mu'jam al-Buldān* (Vol.1, p.121) by Yāqūt al-Ḥamwī.
[4] *Turkestan* (p.145) by Barthold; *Mu'jam al-Buldān* (Vol.1, p.121) by Yāqūt al-Ḥamwī.

land of Khurasan[1]. Islam came to the region at an early stage of the rise of the Islamic state, at the time of the Caliph 'Umar bin al-Khaṭṭāb. Dr. Ḥasan Ibrāhīm[2] comments: "There were trade relations between the people of Bukhārā and China. When the Arab rule reached Syrdarya river, traders could easily travel to China without constraints from the authorities... Silk trade was the prime reason that urged caravans to go to China".

Being at the intersection of Khurasan and China, the region was a passageway for trade caravans that attributed great value to the region. Traders from northern Russia went eastwards through the Caspian Sea and then Mary, Bukhārā and Samarkand Transoxania and then on to China. These traders used to carry marten and fox skins as well as swords, candles and honey. What gave this route a great trade value is the fact that the people of the Volga-Valley[3] embraced Islam at the beginning of the fourth Hijri century alongside the efforts exerted by al-Sāmāniyyīn,[4] who established security in Khurasan and Transoxania and hence trade caravans could travel in peace. In addition, the wedding of Naṣr bin Aḥmad al-Sāmānī's[5] son to the daughter of China's King played a major part in the intermarriage of traders from China and the homeland of al-

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[1] Khurasan refers to Turkestan, parts of northeast Iran and northern Afghanistan other than Amudarya. *Al-Munjid fī al-A'lām,* (Ninth edition 1976) (p.267). Dār El-Mashreq. Beirut. Lebanon.

[2] His book *Tārīkh al-Islām* (Vol.2, p.317).

[3] Volga: longest river in Europe; 3,685 km /2,290 miles, 3,540 km/2,200 miles of which are navigable. It drains most of the central and eastern parts of European Russia, rises in the Valdai plateau, and flows into the Caspian Sea 88 km/55 miles. Below the city of Astrakhan. See *The GSP Multimedia Encyclopedia, 1996 Software.* See also *al-Munjid fī al-A'lām,* (p.534). See also *The New Encyclopedia Britanica* (Vol. 12, p.421).

[4] In association with Ismā'īl bin Aḥmad bin Asad bin Sāmān, Abū Ibrāhīm. He was the second ruler in al-Sāmānī state in the land beyond the river. He was born in Fargana. He succeeded to power after the death of his brother Naṣr bin Aḥmad and was endorsed in his access to power by al-Mu'taḍid al-'Abbāsī, who appointed him ruler of Khurasan annexed to the land beyond the river. He was very successful in repressing revolts, determined in his policies, which earned him the trust of al-Mu'taḍid and reliance of al-Muktafī. This paved the way for his reign in Khurasan and the land beyond the river till his death in Bukhārā in (295H/907AD); *al-A'lām* (Vol.1, p.308) by al-Ziriklī. See *The Islamic Dynasties,* 1980 (reprinted) (p.127), by C. E. Bosworth. Clark Constable Ltd. Edinburgh. U K.

[5] Naṣr bin Aḥmad bin Ismā'īl al-Sāmānī, Abū al-Ḥasan, the ruler of Khurasan and the land beyond the river (Transoxania). He died in Bukhārā in (331H/943AD); *al-A'lām* (Vol.8, p.21) by al-Ziriklī.

Sāmāniyyīn[1]. This leads me to discuss the political, social, economic and scholastic activity in the region.

2.7.3 The political, economic, social and scholastic activity in the region

The following is a general overview of the different aspects of the society in which the author of the book lived. This society obviously had a direct influence on his life in general and on his scholastic life in particular. The overview provided here encompasses political, economic, social and scholastic aspects of the author's life.

2.7.4 Political aspects[2]

1. Before the Islamic conquest

Many different principalities governed Transoxania, and the majority of the inhabitants of the region lived in oases run by commanders. Outside of these oases pastoral tribes shifted from place to place and were themselves under the government of the rulers of the neighbouring region. Muslims conquered these places and returned to the area lying behind the Amudarya River. The first conquest took place in (77H/697AD) at the hands of 'Umayya bin 'Abdulla.[3] Later on Muslims entered the region many times, but these invasions did not aim at conquest or settlement; rather they sought to demoralise the enemy and to study the battlefield in case of a future attack.

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[1] *Tārīkh al-Islām* (Vol.3, p.327) by Dr. Ḥasan Ibrāhīm.
[2] *Wafayāt al-A'yān* (Vol.4, p.87) by Ibn Khillikān; *Azminat al-Tārīkh al-Islāmī* (1401H/1981AD) (Vol.1, p.130), (First edition), by al-Tirmānīnī 'Abdulsalām. National Council for Culture, Arts and Literature – The Arab Heritage Department – Kuwait; *Turkestan* (p.723) by Barthold; *al-Tārīkh al-Islāmī* (Vol.4, p.220) by Maḥmūd Shākir; *Qasamāt al-'Ālam al-Islāmī* (1394H/1974AD), (p.26), (First edition), by Muṣṭafā al-Mu'min. Dār al-Fatḥ. Beirut.
[3] 'Umayya bin 'Abdulla bin Khālid bin Asīd al-'Umawī al-Qurashī, ruler of Khurasan under the rule of 'Abdulmalik bin Marwān, (d. 87H/706AD); *al-A'lām* (Vol.2, p.23) by al-Ziriklī.

2. The arrival of Islam

The actual arrival of Islam occurred in (94H/713AD) at the hands of Qutayba bin Muslim al-Bāhilī[1] at the end of al-Walīd bin 'Abdulmalik's[2] reign at the time of the 'Omawīs,[3] who ruled the Islamic state from (41H/662AD) to (132H/750AD).[4]

After the arrival of Islam in Transoxania came the period of the Islamic state, which was characterised by a high culture and science. This period extended from the end of the first Hijri century (eighth century AD) to the mid-sixth Hijri century (around the twelfth century AD) when the troops of Chingiz Khān the Mongolian[5] invaded the land of the Muslims and overthrew the Khawarizmī state, which was the greatest of all Muslim states that had arisen in Transoxania. During that long epoch, which lasted five centuries, this region had a great impact that shaped the landmarks of the rich Islamic civilisation at a time when other contemporary nations were still wading through the obscurity of ignorance and backwardness.

However, the epoch of the 'Abbāsī rule, which reigned the Islamic state from (132H/750AD to (656H/1258AD). The second period of the 'Abbāsī rule, from (232H/847AD) to (656H/1258AD), was characterised by some aspects of political weakness, which helped the governors of certain principalities to declare their partial

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[1] Qutaiba bin Muslim bin 'Amr bin al-Ḥuṣain al-Bāhilī, Abū Ḥafṣ, Commander of Khurasan at the time of 'Abdulmalik bin Marwān and at the time of his son al-Walīd. He conquered many cities such as Khawārizm, Sajistan, Samarkand and Bukhārā and even conquered the borders of China. He remained in power in the region about thirteen years and died in (96H/715AD); *al-A'lām* (Vol.5, p.189) by al-Ziriklī.

[2] Al-Walīd bin 'Abdulmalik bin Marwān. He succeeded to the Caliphate after the death of his father in (86H/705AD) during al-'Umawī period of the Islamic state, (d. 96H/715AD); *al-A'lām* (Vol.8, p.121) by al-Ziriklī.

[3] *Wafayāt al-A'yān* (Vol.4, p.87) by Ibn Khillikān.

[4] *Tārīkh al-Khulafā'* (p.254) by al-Suyūṭī; *al-Kāmil fi al-Tārīkh* (1399H/1979AD) (Vol. 3, p.404), Ibn al-Athīr 'Alī bin Abū al-Karam. Beirut - Dār Ṣādir; *al-Tārīkh al-Islāmī* (Vol.4, p.61) by Maḥmūd Shākir.

[5] Timujīn bin Bisukay from the people of Qiyāt from the Mongol hunters. He was born in (550H/1155AD). Later on he received the surname he was most known for: Chingiz Khān, (d. 625H/ 1227AD); *Atlas Tārīkh al-Islām* (1407H/1987AD) (p.239), (First edition), by Dr Ḥusain Mu'nis. Cairo, al-Zahrā' li al-I'lām al-'Arabī; *Siyar A'lām al-Nubalā'* (1419H/1998AD) (Vol.22, p.243), (eleventh edition), by al-Dhahabī Muḥammad bin Aḥmad. Beirut - Mu'assasat al-Risāla.

independence from the 'Abbāsī state in the eastern and western parts of the Islamic world. This resulted in the rise of small semi-independent countries. The Caliph was compelled to accept this fact and have the governors themselves ruled local provinces.[1]

3. Al-Ṭāhiriyya state[2]

Al-Ṭāhiriyya state was at the forefront of the semi-independent states, which were established in Khurasan and Transoxania. It lasted from (205H/820AD) to (259H/873AD)[3] when the Sultanate of Banī Ṭāhir extended as far as Khurasan and Kirman alongside their first reign in Ṭabaristan. Their capital was al-Ray prior to its shift to Nisabur the capital of Khurasan. The fall of the al-Ṭāhiriyya State came at the hands of Ya'qūb bin al-Laith al-Ṣaffār,[4] the founder of the al-Ṣaffāriyya state.[5]

4. Al-Ṣaffāriyya and al-Sāmāniyya States

The al-Ṣaffāriyya state did not last more than two years in Transoxania (259H/873AD) to (261H/875AD). However, it ruled till (379H/989AD) in Khurasan, Sīstān, Persia and Kirmān. Afterwards, al-Sāmāniyya state arose in Transoxania from (261H/875AD) to (389H/999AD).

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[1] *Al-Tārīkh al-Islāmī* (Vol.6, p.5) by Maḥmūd Shākir.
[2] Al-Ṭāhiriyya people are related to Zuraiq bin Māhān Mawlā Ṭalḥa bin 'Ubaidullāh al-Khuzā'ī. They were loyal to the 'Umawī state. With the call for the raise of the 'Abbāsī state, they immediately responded favourably. See *al-Islām in central Asia* (no date) by Dr. Ḥasan Aḥmad Maḥmūd. Al-Hai'a al-Miṣriyya al-'Āmma li al-Kitāb. Egypt.
[3] See *The Islamic Dynasties,* (1980) (p.99). By C. E. Bosworth. Edinburgh University Press. UK.
[4] Ya'qūb bin al-Laith al-Ṣaffār, Abū Yūsuf. He was one of the world's great leaders and a great and shrewd leader. At a very early age in his life he worked in the Copper industry in Khurasan, (d. 265H/ 879AD); *al-A'lām* (Vol.8, p.201) by al-Ziriklī.
[5] See *The Islamic Dynasties,* (p.103), by C. E. Bosworth.

5. Al-Ghaznawiyya State[1]

Towards the end of al-Sāmāniyya state indications of the increasing power of al-Ghaznawiyya[2] state began to emerge. Subaktakīn,[3] who conquered parts of India and Afghanistan in successive invasions in (389H/999AD), was one of the most famous rulers in the al-Ghaznawiyya State. This state continued dominating Khurasan, most of Transoxania, Afghanistan and wide parts of the Indian subcontinent for more than a century but its domination shrunk because of domestic disputes and wars, which used to erupt among the rulers until the rise of the state of al-Salājiqa.[4]

6. Al-Salājiqa state[5]

The state of al-Salājiqa arose in (455H/1063AD) when Sultan al-Saljūqī Alb Arsalān[6] seized Khurasan, all of Transoxania and Afghanistan. His reign extended to Diyār Bakr and Syria, and al-Saljūqiyya State reached its peak at the hands of Malikshāh,[7] the son of Alb Arsalān.[8]

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[1] See *The Islamic Dynasties,* (p.107), by C. E. Bosworth.

[2] Related to Maḥmūd bin Subaktakīn al-Ghaznawī, Abū al-Qāsim, the conqueror of India and one of the greatest leaders. He was the sultan of the al-Ghaznawī state, (d. 421H/1030AD); *al-A'lām* (Vol.7, p.171) by al-Ziriklī.

[3] Subaktakīn the ruler of Balakh, Ghazna, etc. He accomplished great triumphs in Afghanistan, India and the land beyond the river. He was nicknamed Nāṣīr al-Dīn wa al-Dawla (i.e defender of religion and the state). He was fair, courageous and noble, (d. 387H/997AD); *Turkestan* (p.398) by Barthold; *al-A'lām* (Vol.7, p.171) by al-Ziriklī; *Siyar A'lām al-Nubalā'* (Vol.16, p.500) by al-Dhahabī.

[4] Al-Salājiqa related to Muḥammad bin Michael bin Saljūq, Abū Ṭālib. He was the first king in al-Saljūqiyya state, (d. 455H/1063AD); *al-A'lām* (Vol.7, p.120) by al-Ziriklī; al-Salājiqa surfaced in Iran in the tenth century, embraced Islam following the Sunni stream and then dominated Khawārizm as well as Iran after wiping out the Buwaihiyya state in Persia; *al-Mawsū'a al-'Arabiyya al-Muyassara* (Vol.1, p.993) by Muḥammad Shafīq Ghirbāl.

[5] See *The Islamic Dynasties,* (p.113), by C. E. Bosworth.

[6] Alb Arsalān bin Muḥammad bin al-Sulṭān Jaghrībek Dāwūd bin Saljūq al-Turkumānī al-Ghazzī, Abū Shujā', the great courageous Sultan, 'Aḍud al-Dawla, (d. 451H/1059AD); *Siyar A'lām al-Nubalā'* (Vol.8, p.414) by al-Dhahabī.

[7] The great sultān, Jalāl al-Dawla, Abū al-Fatḥ, Malikshāh bin al-Sulṭān Alb Arsalān Muḥammad bin Jaghrībek al-Saljūqī al-Turkī. He succeeded to power in (465H/1072AD) and died in (485H/1092AD); *Siyar A'lām al-Nubalā'* (Vol.19, p.54) by al-Dhahabī.

[8] *Muslims in the Soviet Union through History* (Vol.1, p.289) by Dr. Muḥammad 'Alī al-Bārr.

7. Al-Khawarizmiyya state

Al-Salājiqa ruled Khurasan and Transoxania for some time and their state witnessed times of agreement and disagreement until the rise of al-Khawarizmiyya state in Khawarizm in (536H/1141AD). The reign of al-Khawarizmiyya state expanded to encompass Transoxania, Khurasan and northern Afghanistan. The capital of the state of al-Khawarizmiyya was al-Jurjāniyya,[1] which attained great aspirations within this state.

Al-Khawarizmiyya state went through wave of overmuch sumptuousness and a fierce struggle for power with its rivals (i.e. al-Salājiqa and others), which weakened their state and turned it into an easy prey for Chingiz Khan's troops when they invaded the country in (618H/1221AD).[2]

8. The fall of Transoxania into the hands of the Tartars[3]

Chingiz Khan managed to unify the Mongol tribes in the Mongolian desert under his reign and many of the Tartars who used to live east of Mongolia joined him. He

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[1] Al-Jurjāniyya is the name of the borough of the Khawārizm province (i.e. its capital). It is a great city on the bank of Amudarya river; it is called Kirkānj by the people of Khawārizm in their mother tongue and is later Arabicised into al-Jurjāniyya. Yāqūt al-Ḥamwī says: "I visited the place in (616H/1219AD) before the Tartars seized and demolished it. I don't know if I ever saw a greater, richer or better city, which became part of the past after the Tartars' destruction of the city. As far as I know all that is left are the landmarks"; *Mu'jam al-Buldān* (Vol.2, p.122) by Yāqūt al-Ḥamwī.

[2] See *The Islamic Dynasties,* (p.109), by C. E. Bosworth.

[3] Tatar or Tartar: member of a Turkic people, the descendants of the mixed Mongol and Turkic followers of Chingiz Khan, called the Golden Horde because of the wealth they gained by plunder.
Russia in 1552 conquered the vast Tartar State. The Tartars now live mainly in the Russian autonomous republic of Tartarstan, W Siberia, Turkmenistan, and Uzbekistan (where they were deported from the Crimea in 1944). There are over 5 million speakers of the Tartar language, which belongs to the Turkic branch of the Altaic family. The Tartar people are mainly Muslim, although some have converted to the Orthodox Church.
Following the Tartar demonstrations in Moscow July 1987 demanding the restoration of the Crimea as an autonomous republic to which they could return, a special commission was established under Andrei Gromyko to look into the community's grievances. It reported that such a move was not feasible because Russians and Ukrainians had repopulated the Crimea since 1944. In 1988 a federal ruling confirmed the right of deported Tartars to residency in the Crimea. See *The GSP Mutimedia Encyclopedia* (Version 1.24) Software Copyright 1996 AirteQ ltd. See also *The Islamic Dynasties*, (p.141) by C. Bosworth.

attacked China and captured the capital Beijing. Then he marched over all the other cities in China as far as the borders with Transoxania. Later on, he sent a message to Khawārizm-Shāh Muḥammad bin Tukush,[1] the last Sultan in the Khawarizmī state, proposing reconciliation. This was of no avail after Khawarizm-Shāh ordered the killing of a group of merchants sent by Chingiz Khān to the Islamic State under the pretext that these were acting as spies for Chingiz. This occurred in (614H/1218AD)[2] and the killing of the merchants infuriated Chingiz, who sent sweeping troops to the land of Islam. The troops crossed Srydarya river and entered Transoxania; Khawarizm Shāh failed to ward off the attack and fled while Chingiz Khan and his troops forcefully conquered Bukhārā city in (616H/1219AD) and killed a lot of the inhabitants in the city[3]. The Tartar troops pursued their march under the leadership of Hulaku (Hulegu) as far as Baghdad, the capital of the Islamic State. The Tartars conducted a gruesome massacre against the dwellers of Baghdad and killed the last 'Abbāsī caliph, namely Caliph al-Musta'ṣim.[4] The Tartars ruined and devastated the country; they wiped out cultivation, people and animals. This happened in (656H/1258AD) and brought the 'Abbāsī Caliphate to an end.[5]

With the fall of Jurjāniyya city (Kirkānj), the capital of Khawarizm, into the hands of Jochi bin Chingiz Khān, the latter (Jochi) ruled Khawarizm and Khurāsān and attempted to gain the independence of these two areas from the kingdom of Chingiz Khān. Jochi

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[1] Muḥammad Khawarizm Shāh bin Tukush bin 'Utsez, 'Alā' al-Dīn. He became ruler of the land beyond the river in (596H/1200AD) after the death of his father; *al-Bidāya wa al-Nihāya* (Vol.13, p.132) by Ibn Kathīr.
[2] *Turkestan* (p.568) by Barthold.
[3] See *The Islamic Dynasties* (p.142) by C. Bosworth.
[4] 'Abdulla (al-Musta'ṣim), bin Manṣūr (al-Mustanṣir), Bin Muḥammad (al-Ẓāhir) Bin Aḥmad (al-Nāṣir). A descendent of Hārūn al-Rashīd al-'Abbāsī. He was the last of the 'Abbāsī caliphs in Iraq. He was killed by Hulāku after capturing Baghdad in (656H/1258AD); *al-A'lām* (Vol.4, p.140) by al-Ziriklī.
[5] See *The Islamic Dynasties* (p.149) by Bosworth.

did not object to any agreement with Muslims, which infuriated his father who poisoned him to death. After the death of his father, Baraka Khan bin Jochi succeeded to power and ruled Turkestan and central Asia. He embraced Islam and changed the direction of the Mongols. He remained in power from (654H/1256AD) till (665H/1267AD) and Islam therefore spread widely among the Mongol tribes during his reign, particularly inside the Dhahabiyya Mongol tribe (Golden Horde) in the north of the Caspian sea. The Mongol Empire therefore became an Islamic state and continued until (761H/1360AD) when the reign of Tamerlane[1], i.e. Taimur the lame, started.[2] Tamerlane was a descendent of Baraka Khan and a Muslim but his faith was only superficial. He followed the path of Chingiz Khān in terrorism and destruction and ruled wide areas, which extended from India to Europe. When he died in (807H/1405AD) his country was divided so that his children and grandchildren were in power till they were crushed by the Shaibāniyyīn, who were related to Muḥammad bin Shaibān bin Jochi bin Chingiz Khān,[3] who killed the last of the Taimūriyyīn sultans in (906H/1501AD).[4]

After the reign of the Shaibāniyyīn, who are regarded as being related to the Uzbek who ruled the country for approximately a century, the Jāniyyūn – in association with Jān bin Yār al-Astrakhanī – ruled Transoxania. The Jāniyyūn are considered in-laws of the Shaibāniyyīn but they belong to the Astrakhan family because the origin they are traced back to is Astrakhan. Their reign lasted from (1006H/1598AD) to (1099H/1688AD).

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[1] Tamerlane or Tamburlaine or Timur i Leng ('Timur the Lame') 1336–1405: Mongol ruler of Samarkand, in Uzbekistan, from 1369 who conquered Persia, Azerbaijan, Armenia, and Georgia. He defeated the Golden Horde 1395, sacked Delhi 1398, invaded Syria and Anatolia, and captured the Ottoman sultan in Ankara 1402; he died invading China. He was a descendant of the Mongol leader Chingiz Khan and the great-grandfather of Babur, founder of the Mongol Empire.

[2] Tamerlane was born in a city south of Samarkand in Uzbekistan in (737H/1336AD), (d. 807H/1405AD); *Atlas Tārīkh al-Islām* (p.243) by Dr. Ḥusain Mu'nis.

[3] Muḥammad al-Shaibānī died in (916H/1510AD); *Tārīkh al-Islām* (Vol.8, p.375) by Maḥmūd Shākir.

[4] See *The Islamic Dynasties* (p.155) by Bosworth.

A principality governed by the Uzbek Khans was established in Kokand in (1112H/1700AD). However, the Jāniyyūn were expelled from this country in (1200H/1786AD) and the Khans of Kokand remained in power until (1293H/1876AD) when the Russians occupied their country. The last Khan was Nāṣir al-Dīn Khan, who ruled the country for one year only.[1]

9. The rise of the Ottoman state

The Ottoman state emerged as a powerful Islamic state. Muḥammad al-Fātiḥ succeeded in conquering Constantine in (857H/1453AD)[2] and changed its name to Istanbul, meaning house of Islam, and made it the capital of the Ottoman state. The Russians carried the banner of the crusades in the east after the fall of the seat of crusades in western Asia, i.e. Constantine. The Russians had started embracing Christianity in (378H/988AD).[3]

10. The conquest of the Russians in Transoxania

The Russians took advantage of the weakness of the Tartar and Ottoman Muslims in general and the dispersion of the Tartars in the north of the Caspian sea, the area known as the Volga river reservoir. In fact, the fall of Constantine was a direct cause that urged officials to kindle the spirit of crusades in their citizens. This in turn led to the Russians' conquest of Siberia in (988H/1580AD) and then the Caucasus[4] too, which were

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[1] *Al-Tārīkh al-Islāmī* (Vol.8, p.373) by Maḥmūd Shākir.
[2] See *The Islamic Dynasties* (p.138) by Bosworth.
[3] *Al-Tārīkh al-Islāmī* (Vol.21, p.73) by Maḥmūd Shākir.
[4] Caucasus is located between the Caspian Sea and the Black Sea. See modern maps: *Atlas of the world.* Oxford University Press. (1993), second edition, (p.18) - London - UK; *Illustrated Atlas of the world.* Rand McNally, (1992), (p.55)- Library of Congress Cataloging-in-Publication Data, USA. See also *The GSP Multimedia Encyclopedia, 1996 Software* which states: Caucasus: series of mountain ranges between the Caspian and Black seas, in the republics of Russia, Georgia, Armenia, and Azerbaijan; 1,200

subjugated to Russian rule in (1276H/1859AD). Hence, the Russians started with the conquest of central Asia in a gradual manner for fear that Muslim Tartars and Ottomans would unite against them. They occupied Tashkent in (1282H/1865AD), Khawarizm in (1337H/1918AD) and, in the following year Bukhārā, where the Russians established a government known as the Soviet Republic of Khurasan. Their occupation of Kokand, or Fargana, was in (1293H/1876AD), as has already been mentioned above.

Through this occupation the Russians dominated the land of Turkestan, which includes Transoxania; however, this period witnessed certain revolutions on the part of the Uzbek tribes against the communist rule but these uprisings were all suppressed. This led to the surrender of the country to Russian colonisation.[1]

2.7.5 The economic situation

1. Agriculture

Al-'Abbāsī rulers took great care of agriculture and farming based on scholastic study thanks to the spread of schools of agronomy, which were concerned with theoretical research as well as the study of plant taxonomy, the suitability of soil for cultivation and the use of various fertilizers. They also set up an organised system of irrigation in Egypt, Iraq, Yemen, northeastern Persia and Transoxania, which is the focus of the present research. For example, they initiated a register of irrigation to systematise the

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km/750 mi long. The highest peak is Elbruz, 5,633 m/18,480 ft. Arabian thoroughbreds are raised at Tersk farm in the northern foothills.

[1] *Al-Tārīkh al-Islāmī* (Vol.21, p.73) by Maḥmūd Shākir.

process of irrigation in the Islamic State.[1] Sugar cane, cotton and grains were the most valuble agricultural products cultivated in Transoxania thanks to the proliferation of water resources.

2. Industry and minerals

Owing to the spread of cotton planting, Transoxania was renowned for the industries related to cotton textile, clothing and wool carpets as well.[2] Persia and Khurasan also were famous for some metals such as silver, copper, lead and iron. In addition, the 'Abbāsī people extracted china and marble in Tabrīz, and salt and sulfur in northern Persia. The region of Fargana was also known for its mineral wealth; hence, the area of Akhsīkath was rich with gold and silver while mercury was extracted in the area in the proximity of Sūkh. Oil, asbestos, gold, silver, turquoise, iron, brass and lead in upper Nisya. Furthermore, Fargana was also one of the few lands of Islam where salt ammoniac was extracted close to Uzkend.[3]

However, due to the state of political instability in the region, it is the researcher's belief that the region is not likely to have benefited from its natural resources, especially precious minerals, in addition to the continued looting and pillage on the part of the rulers who ruled the country, as has been clarified in the section on the political situation in the country.

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[1] *Tārīkh al-Islam* (Vol.4, p.387) by Dr. Ḥasan Ibrāhīm.
[2] *Tārīkh al-Islam* (Vol.4, p.392) by Dr. Ḥasan Ibrāhīm.
[3] *Tārīkh al-Islam* (Vol.4, p.391) by Dr. Ḥasan Ibrāhīm, from Ibn al-Ḥawqal in his book *al-Masālik wa al-Mamālik.*

3. Trade

The 'Abbāsī attached great value to trade and facilitating its means to merchants in various parts of the Islamic lands by protecting trade from thieves and robbers. This contributed to the prosperity of marine and land trade routes. For example, throughout the region of Transoxania the dwellers of Bukhārā became known, more than other people in the region, as having a class of merchants, who possessed much property and who lived in impervious palaces. These did not belong to the class of estate agents or ordinary landowners.[1] What is of concern in this research is the trade route, the famous silk route, that crossed Transoxania, which permitted Muslim traders to go to China passing through the Tibet plateau and the Turk tribes in order to buy silk. Hence, Muslims managed to settle in the south of Shanghai in China, where they had a Muslim judge who judged among them according to Sharī'a (Islamic law) and who led them in prayer.[2]

2.7.6 The social situation

Discussion of the social situation will center on the inhabitants who lived before the conquest of Islam in Turkestan. It will also focus on the social situation of the Islamic state, wealth-based social class structure, cities and construction, and some other aspects of social life such as food, dress and housing.

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[1] *Turkestan* (p.299) by Barthold.
[2] *Tārīkh al-Islam* (Vol.4, p.400) by Dr. Ḥasan Ibrāhīm.

1. Before the Islamic conquest

Before the coming of Islam, the region had never witnessed what may be called the state's official religion even though the ruling class adopted the Zradisht (religion).[1] The doctrines that emerged in Iran found a haven in Transoxania and conflict took place between Buddhists[2] and the Zradisht in the region. Consequently, the clergymen did not play any role in resisting the Arab conquerors. Moreover, the aristocracy, which was made up of traders who had a strong influence on commerce with China and other countries, had a special place.[3]

2. During the Islamic conquest

As a result of its expansion, the Islamic State encompassed different people from incongruous origins such as Arabs, Persians, Turks, Copts, Berbers, black Africans and others. Most of these peoples embraced Islam, a religion which secured those who adhered to their own religions total freedom of faith while urging them all to work together without fanaticism or prejudice.

On the other hand, this diversity in population led to a fertilile blend of peoples that provided the Islamic civilisation with new veins, which guaranteed its existence, continuity and evolution. As a result of this, all of these different people participated actively in the politics of the Islamic State for various periods of time; therefore, such a contribution was not confined to a specific nation or people. This was mainly due to the

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[1] Zradisht: Ibn Bursheb, from Azerbedjan. He is the founder of the Zradisht religion in Persia. He claimed to be the messenger of God to humanity. His religion was founded on the worship of God and disbelief in Satan, ordering virtues and forbidding abominable acts and avoidance of malice; *Dā'irat Ma'ārif al-Qarn al-'Ishrīn* (Vol.4, p.550) by Farīd Wajdī.

[2] Buddhism: is a religion of Asian origin. It is based on the worship of its founder Buddha, which means a scholar who has acquired Buddha, [i.e. complete knowledge] in Sanskrit. *Dā'irat Ma'arif al-Qarn al-'Ishrīn* (Vol.2, p.384) by Farīd Wajī.

[3] *Al-Islām fī Asia al-Wusṭā* (p.136) by Dr. Ḥasan Aḥmad Maḥmūd.

humanistic principles as well as noble values of Islam promoting understanding, goodwill and interaction towards the nation's development and prosperity. The *Qur'ān* says: "*We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honourable of you with Allah (God) is that (believer) who has the pious* ".[1]

The Arabs at the time of early stages of Islam constituted the first major power that adopted the mission of Islam and contributed to its spread worldwide after establishing an immense empire. Prior to the coming of Islam, Arabs were grouped into dispersed and clashing tribes that soon became united under the banner of Islam. The Arabs are credited for realising blood relation unity after intermingling with people from the areas conquered due to migration to and settlement in these areas. The Arabs are also credited for political unification and for defending such unification in a military manner after assuming responsibility for the reigns of government and administration. Moreover, they played a major part in the process of Arabicisation, for Arabic became the language of science and conversation. No wonder then some consider the Arabs as the driving force behind the rise of Islam.

However, towards the end of the first 'Abbāsī period the Arabs lost political leadership and military might when new roles emerged on the scene with Persians in charge of the administration and Turks the armed forces. Later on, Persia assumed a more active role and their authority became obvious in the political, administrative and cultural fields at the time of the 'Abbāsī state. Yet, the influence of the Persians faded at the end of the second 'Abbāsī period with the emergence of the power of the Turks, whose assistance

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[1] *Sūrat al-Hujurāt*:13. *Interpretation of the Meaning of The Noble Qur'ān.* (p.816) by Dr. Muḥammad T. D. Hilalī and Dr. Muḥammad M. Khan.

the 'Abbāsī caliphs resorted to in retrieving their dominance over Turkestan. Nonetheless, Persia contributed to the rise of independent movements since they established small states of an independent character such as the Ṭāhiriyya and the Ṣaffāriyya states as has been mentioned in the section on the political situation.

These are the main segments of the population in the Islamic state, which made immense contributions in Islamic history and Arab-Islamic civilisation; this secured the continuity and renewal of this civilisation.[1]

3. Social classes in Islamic society

As far as Islamic society is concerned, the economic situation played a major role in social class divisions, which were categorised into three types:

a. Upper class

This class encompassed caliphs, sultans, ministers and governors. In other words, it contained the ruling class in the early stages of Islam. A characteristic of this segment in society is its achievements in enlightenment and reform at times when the Arab-Islamic civilisation was at its height. Various achievements were made in political, administrative, economic, social and cultural areas, mainly due to the assistance that the authorities sought from scholars, noblemen as well as qualified, competent and religious people. In addition, they also encouraged sciences, arts and literature.

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[1] *Tārīkh al-Ḥaḍāra al-'Arabiyya al-Islāmiyya* (1413H/1992AD), third edition, (p.123), by Dr. Maḥmūd Ismā'īl. Kuwait: Maktabat al-Falāh li al-Nashr wa al-Tawzī'.

b. Middle class

This class included great traders, as has been said about the merchants in Bukhārā in the discussion on the economic situation, handicraft chiefs, jurists, scholars and writers. These constituted the pillars of Arab-Islamic civilisation. The capital of the Islamic society was in the hands of this class, which engineered the reform policies of the enlightened rulers. These people were also credited for scholastic renaissance, economic prosperity and social homogeneity.

c. Lower class

This class carried the heavy weight of agricultural, pastoral, industrial and commercial production. It represented the majority of the population, namely peasants, craftsmen, small traders and shepherds. Peasants lived in the countryside and the plains surrounding big cities. Some of these peasants received small pieces of farmland and were therefore regarded as small land owners. On the other hand, craftsmen lived in cities where they performed their traditional jobs including smithery, carpentry, construction, butchery, weaving and so on. Some people worked in state factories in textiles, copper or arms. A prominent figure from this class is the founder of the Ṣaffāriyya State who worked in the copper industry, as has been stated in the section dealing with the political situation.

d. Non-Muslims (enjoying Muslim protection under Muslim rule)

Another segment of the population pertains to non-Muslims, i.e. Christians and Jews, who enjoyed many rights under the policy of religious tolerance and performed their religious rituals in peace and tranquility. Many caliphs used to attend the parades of

non-Muslims, participated in their religious festivities, visited their shrines on specific occasions and generously gave donations and endowments.[1]

e. Cities and construction

As far as cities and construction are concerned it is widely known that the Islamic civilisation was centralised in cities and that specific Islamic traits influenced the Islamic city. Also, Islamic jurisprudence played an important role in this respect eg. The height of buildings was limited to maintain the privacy of people who lived in neighbouring houses. The windows were designed in such a way that they opened onto the inside court of houses. This was in accordance with the call of Islam for adherence to the veil. Separate rooms were made for men and women and oriel windows were used to prevent visitors from seeing those inside. These rules were observed attentively by inspectors and those who violated them were punished.

From construction and engineering perspectives, Islamic architecture was affected by previous civilisations, especially the Greek civilisation. For instance, the city was divided into a centre from which streets branched off in a very subtle and organised system. Aspects of Persian architecture also influenced construction of palaces. Therefore, buildings, palaces, forts and mosques started featuring this unique Islamic Character, which combined aspects of various civilisations from the eastern as well as western parts of the globe. The mosque of Samarkand in Uzbekistan[2] still bears witness to excellence in Islamic construction creativity to the present time. The Islamic City also had many general utilities such as bathrooms regarded as an aspect of cleanliness and

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[1] *Tārīkh al-Islam* (Vol.4, p.627) by Dr. Ḥasan Ibrāhīm.
[2] See picture of the mosque.

purity. In addition, general hospitals were built for the treatment of patients and hostels for foreigners and passers-by.[1]

f. Dress

With regard to some aspects of social life, garments were mainly made from silk, linen or wool and there was wide proliferation of the fabric industries especially the cotton industry, as can be seen from the current economic situation of the area. In fact, the regions of Fargana and Uzbekistan are the largest cotton exporters in the world. The popularity of wool was due to the extensive pastoral lands in the plains near the Syrdarya River and the Fargana valley in particular.

In general, garments were characterised by designs, ornaments and drawings without portraits of humans and animals. Types of garments included the Jilbāb (a type of gown), shirt, turban, hood, sandals and slippers. The upper class wore fancy garments made of precious fabric embroidered with gold and silver and studded with gems. Moreover, women were dressed in precious garments adorned with gold and silver threads. They wore headbands embellished with pearls and corundum and other precious stones. They were also decorated with precious collars, diadems, crowns, girdles and bracelets. Ordinary women wore loose Jubbas (loose outer garment slit in the front) and wraps. They were keen on putting on veils imitating the wives of the Prophet [p.b.u.h.] and they wore pants, collars and slippers.[2]

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[1] *Tārīkh al-Ḥaḍāra al-'Arabiyya al-Islāmiyya* (p.172) by Dr. Maḥmūd Ismā'īl.
[2] *Dirāsāt fī Tārīkh al-Ḥaḍāra al-Islāmiyya al-'Arabiyya* (1406H/1986AD) (p.263), (second edition), by Dr. Sa'īd 'Āshūr. Kuwait - Dhāt al-Salāsil; *Tārīkh al-Ḥaḍāra al-'Arabiyya al-Islāmiyya* (p.182) by Dr. Muḥammad Ismā'īl.

There were various types of turbans for men and the manner in which these turbans were rolled up differed from one person to another depending on the social and financial status.

g. Food

Food varied according to social class. The upper class enjoyed the luxury of a diversity of food and drinks including meat, poultry, fruit and various types of sweets. The values of Islam were taken into consideration in the food habits, for example, eating with the right hand, chewing well and cleaning teeth with Sewāk (cleaning stick for teeth).

h. The position of women

It is necessary to talk briefly about the position of women in Islamic society. Islam honoured and liberated women from the chains that curtailed their freedom before the coming of Islam. It granted them all the rights in their general and private lives according to the principles of chastity, modesty, the spirit and values of this religion. Women took an active part in wars and played a major role in accordance with their physical nature. They bandaged the wounds of the Muslims fighting their holy wars and encouraged them to persevere in their fighting. Women also attended public meetings and listened to religious sermons and the Eid (Muslim festival) prayers. Islam prohibited the practice of forcing women into prostitution in the same way that it prohibited forced marriage. In addition, Muslim women played an important role in the Islamic society on the political, scholastic, cultural and religious levels. This constitutes the subject of discussion in the following sections.

2.7.7 The scholastic and cultural situation

In my discussion of the political situation during the second 'Abbāsī period, it was stated that one of the most significant factors behind the weakness of the 'Abbāsī caliphs in this period is the emergence of emirs who gained their independence from the 'Abbāsī caliphate. The only authority that the caliph had over them was to recognise them as rulers of their respective regions.[1] This independence had a profound effect on the vigour of the intellectual activity at the time. Therefore, culture became widespread and the palaces in these states were filled with scholars, poets, writers, etc. This rich civilisation had a strong echo in the palaces of the Sāmāniyyin, the Ghaznawiyyin, the Buwaihiyyin, the Ḥamdāniyyin in the east; in the palaces of the Tuluniyyin, the Ikhshīdiyyin, the Fātimiyyin in Egypt and in the palaces of the 'Umawiyyin in Andalus (Spain).[2]

The political scene in the second half of the 'Abbāsī caliphate wavered with a subsequent shift of power in Transoxania from the state of the Ṭāhiriyya to the states of the Ṣaffāriyya, the Sāmāniyya, the Ghaznawiyya, the Saljūqiyya and finally the Khawārizmiyya. Such wavering almost crippled the intellectual, scholastic and cultural activities, which normally distracts nations from interest in science, development and prosperity. However, the opposite happened as each of the rulers ruling those states competed with his predecessors in approaching scholars, jurists, writers, and intellectuals. Each was keen on convening scholastic sessions and intellectual and literary debates among scholars at the time.

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[1] *Al-Tārīkh al-Islāmi* (Vol.5, p.6) by Maḥmūd Shākir.
[2] *Tārīkh al-Islam* (Vol.3, p.332) by Dr. Ḥasan Ibrāhīm

1. The Ṭāhiriyya state

The Ṭāhiriyyīn had a great influence on the prosperity of the scholastic, agricultural and constructional revival in Transoxania. They were also characterised by wisdom, encouragement of science and passion for scholars. Trade boomed during their reign and many irrigation projects were set up.[1]

2. The Sāmāniyya state

The Sāmān people displayed great skill and expertise in matters of government and they secured peace and stability in the country. Trade grew and great value was attached to agriculture and industry. At the time Bukhārā attained such a high level of prosperity that it became a meeting place for all types of science. In his book *Tārīkh Bukhārā,* Vamberi, an orientalist, says: "The number of schools in Bukhārā at the time of Ismā'īl al-Sāmānī exceeded their counterparts in all the cities of Asia".[2]

3. The Ghaznawiyya state

The emir (ruler) Mas'ūd al-Ghaznawī[3] was a Muslim. He took care of science and scientists. He also took so much care of building and construction that his country was congested with the many schools and mosques that he established. Various types of industry also flourished and agriculture and trade revived both internally as well as externally.

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[1] *Muslims in the Soviet Union through history* (Vol.1, p.281) by Dr. Muḥammad 'Alī al-Bārr.
[2] *Muslims in the Soviet Union through history* (Vol.1, p.284) by Dr. Muḥammad 'Alī al-Bārr.
[3] Mas'ūd bin Maḥmūd bin Subaktakin, one of the kings of the Ghaznawī state, (d. 432H/1040AD); *al-A'lām* (Vol.7, p.220) by al-Ziriklī.

4. The Salājiqa state

At the time of the Salājiqa state scholastic activity developed and the rulers gave a lot of importance to sciences, arts and literature. Schools abounded and students traveled across the country, in search of knowledge at the hands of a group of prominent Muslim scholars in various fields of knowledge.[1] Dr. Ḥusain Mu'nis argues: "At the time of the Salājiqa, ... the country enjoyed extensive periods of development, prosperity and stability. No wonder then, this epoch, which lasted from the fifth Hijri century (eleventh century AD) to the seventh Hijri century (thirteenth century AD), was rife with science, scholastic achievements, scholars, large buildings, especially mosques and other edifices".[2]

5. The Khawārizmī state

The Shahs of Khawarizm had a great impact on the boom and development mentioned in the section above, especially with respect to intellectual activities. They played a major role in safeguarding Islamic culture, encouraging scholars, writers and intellectuals and also encouraging the activity of translation in the country.

Therefore, the scholastic, intellectual and cultural activity witnessed great development and fierce competition in the service of science and scholars. Islamic culture expanded in this period at an amazing rate mainly thanks to the interest shown by the sultans (rulers) who succeeded in ruling the region. A second factor, which contributed to such an expansion, is the activity of translation from foreign languages, especially Greek, Persian and Hindi into Arabic. Another factor is the growth of Muslims' competence in

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[1] *Mūjaz fī Tārīkh Duwailāt al-Mashriq al-Islāmī* (p.192) by Dr. Aḥmad Muḥammad 'Adwān.
[2] *Atlas Tārīkh al-Islam* (p.238) by Dr. Ḥusain Mu'nis.

research and publication as well as the encouragement offered by Caliphs, sultans, emirs, scholars and writers, on the one hand, and the abundance of edifices and the breadth of the horizons of Islamic intellect owing to the migration of Muslims in eastern and western parts of the globe,[1] on the other hand.

2.7.8 The effects of intellectual and cultural development

Clear illustrations of the effects of intellectual and cultural evolution are mosques, libraries, cultural centres and chambers where scholastic and intellectual sessions as well as *Ṣūfī* (mystic) rituals were held. At the time there also emerged the Kuttāb (teachers) who taught pupils in the mosques and who later established schools, the first of which was the Baihaqiyya School in Naisabūr.[2]

Translation activity

A general characteristic of the 'Abbāsī period is the interest in translation and publication. The paper industry developed and as a consequence many Warraqīn (people who sold and edited books) emerged on the scene. A clear example of this is the abundance of copies of al-Ḥusāmi's book *al-Muntakhab* - and these may exceed twenty four copies of the same book.[3] Scholars and writers chose certain places where they met to learn and conduct debates, arguments and discussions, which led to the multitude of

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[1] *Tārīkh al-Islam* (Vol.3, p.332) by Dr. Ḥasan Ibrāhīm.
[2] *Al-Mawā'iẓ wa al-I'tibār bi Dhikr al-Khuṭaṭ wa al-Āthār* known as *al-Khuṭaṭ al-Maqrīziyya* (no date) (Vol.2, p.363), two volumes. By Taqī al-Dīn Abū al-'Abbās Aḥmad bin 'Alī al-Maqrīzī. Beirut: Dār Ṣādir; *Tārīkh al-Islam* (Vol.4, p.420) by Ḥasan Ibrāhīm; *Tārīkh al-Khulafā'* (p.461) by al-Suyūṭī.
[3] This will be elaborated on in further detail in the discussion of the copies of the manuscript.

religious, scholastic, literary libraries and so on. These libraries later became some of the most valuble Islamic cultural centers.[1]

A prominent characteristic of this period – the second 'Abbāsī reign (which is a result of the Islamic conquest in the east and west) - is the intermingling of Arabs with other nations such as Persians, Romans, Indians, Chinese and others. Alongside, new sciences started making their way to Islamic society then. Sciences were classified into two categories; first, *Naqliyya* (traditional) sciences related to legislation, for example reading sciences, interpretation, the Prophet's tradition, jurisprudence, *'Uṣūl*, grammar, language and literature; second, *'Aqliyya* (intellectual) sciences, including medicine, chemistry, philosophy, mathematics, astronomy, music, history, geography, etc.[2]

2.7.9 The political, economic, social and scholastic situation at the present time

In order to complete the picture I shall discuss each of these in turn

1. The political situation of the region

The republic of Uzbekistan, where the author's hometown is located, was established as a unified republic in (1343H/1924AD) when the emirates of Bukhārā and Khawarizm were united and parts of these were taken to establish the republics of Tajikistan and Turkmanistan and the republic of Qarah Qalabaq was annexed to them later.[3] The republic of Uzbekistan joined the United Nations in (1413H/1992AD) after breaking

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[1] *Tārīkh al-Islam* (Vol.4, p.430-433) by Dr. Ḥasan Ibrāhīm.
[2] *Tārīkh al-Islam* (Vol4, p.439) by Dr. Ḥasan Ibrāhīm.
[3] Al-*Tārīkh al-Islāmī* (Vol.21, p.231) by Maḥmūd Shākir.

away from the Soviet Union. Its space is (408,000) square kilometers; its population is approximately twenty one million,[1] which makes it densely populated. About 71% of the whole population are Muslims and they speak Uzbek, which belongs to the Turkish cluster of languages. Uzbek used to be written in Arabic script but was later replaced by the Latin alphabet in (1346H/1927AD). The capital of the republic of Uzbekistan is Tashkent, which used to be called Benketh. Barthold comments: "Thus it is quite possible that Binkathwas on the site of the present Tashkent".[2]

2. The political situation in Uzbekistan

The political situation in Uzbekistan is generally stable except for a certain fear from some domestic incidents in the neighbouring republic of Tajikistan, which suffers from internal unrest between the Tajik and Uzbek communities. This urged the Uzbek authorities to stop the influx of refugees from Tajikistan, to ban Tajik political and social organisations on its soil and to close the Tajik University in Samarkand.[3]

3. The economic situation

The economy in Uzbekistan nowadays is relatively weak, and the country is striving hard to boost the deteriorating economy, as is the case throughout the various parts of Russia in general. While neighbouring ex-Soviet republics try to implement economic reforms by adopting policies of the free market, the republic of Uzbekistan has not tried these reforms; rather, it still firmly clings to its solid economic ties with Russia. Despite the existence of some heavy industry, such as textiles, textile machinery, some air-

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[1] According to the (1992) census. Refer to Encarta 99, Microsoft Company.
[2] *Turkestan* (p.171) by Barthold.
[3] Encarta 99, Microsoft Company.

crafts, natural gas and gold as well as the recent discovery of oil in the Farghana valley, the state relies heavily on agriculture, especially cotton planting. In fact, Uzbekistan is the fourth largest cottonseed exporting country in the world and the largest cotton exporting country.[1] Uzbekistan alone produces approximately three million tones of cotton a year, (300,000) tones of wheat and (250,000) of corn. It is also considered a main exporter of sheep and cattle to ex-Soviet republics and it tends nine million sheep and 2.4 million cattle.[2]

In spite of this economic activity, importation has been the main source of different types of food, oil, etc. because the Russians would seize the riches of the republic, including agriculture, grazing and minerals. However, since its independence from the Soviet Union in (1413H/1992AD) the republic has been striving to raise the standard of its economy by all possible means.

4. The social situation

At present, the population of Uzbekistan suffers from generally deteriorating health care and a high rate of infant mortality due to contagious epidemics. It is believed that this is mainly due to drought, which affects the Aral Sea and the subsequent decline of the quantity and quality of drinking water, especially in the western part of the republic.[3]

5. The scholarly and cultural state

Statistics indicate that the rate of literate people among those aged (9) to (49) is (99.7%) and that (53.8%) of the Uzbek republic hold a secondary school certificate or a

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[1] *Encarta 99, Microsoft Company.*
[2] *Al-Tārīkh al-Islāmī* (Vol.21, p.259) by Maḥmūd Shākir.
[3] Encarta 99, Microsoft Company.

university degree. (230) Newspapers are issued inside the country, (144) of which are in the Uzbek language, and (124) different periodicals, of which (31) are published in Uzbek.[1]

[1] *Rusia wa al-Muslimūn fī Asia al-Wusṭā* (p.40) by Dr. Muhammad 'Abdū Yamānī; *Muslims in the Soviet Union through history* (Vol.2, p.415) by Dr. Muhammad 'Alī al-Bārr.

2.8 The impact of location on scholastic activity

Undoubtedly, location has a great significance for scholastic life. Cultural and scholastic activity was so vigorous that the region became the focus of scholars and learners' interest. In fact, many unparalleled scholars who enriched Islamic history in various fields completed their studies in this country. The scope of this research only allows for reference to some of these scholars.

1. Abū 'Abdulla Muhammad bin Mūsā al-Khawarizmī. He was a famous astronomer, historian, geographer and mathematician.[1] He was originally from Khawarizm but moved to Baghdad and people called him the master. The caliph al-Ma'mūn al-'Abbāsī appointed him a keeper of his own library and entrusted him with the collection of Greek books and their translations. He ordered him to summarise Betlimous's *al-Majasṭī*, which he summarised and called *al-Sind Hind*. This book, as the geographer Malte Brun argues, constituted the basis of astronomy after Islam. He wrote *al-Tārīkh* (the history) narrated by Ḥamza al-Aṣfahani. His book *al-Jabr wa al-Muqābala* (algebra) was translated into Latin and later into English. He also wrote *al-Jamhara* (biography), *al-Zīj* (astronomy) narrated by al-Mas'ūdi, *Ṣūrat al-Arḍ min al-Mudun wa al-Jibāl* (the earth's picture from cities and mountains). He wrote other books on astronomy, for example, *al-'Amal bi al-Isṭirlāb* (aviation) and *Waṣf Ifriqya* (description of Africa).[2]

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[1] He died in (232H/847AD). However, Riḍā Kaḥḥāla in his book *Mu'jam al-Mu'allifīn* states that al-Khawārizmī died in (235H/850AD) while Ismā'īl Bāshā, in his *Hadiyyat al-'Ārifīn*, argues that he died in (205H/1820AD).

[2] *Hadiyyat al-'Ārifīn* (Vol.2, p.9) by Ismā'īl Bāshā; *al-A'lām* (V0l.7, p.116) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.741) by Kaḥḥāla. *History of the Arabic Literature,* (Vol.1, p.215, 216) S. (Vol.1, p.381, 382) by Brockelmann.

2. Imām Bukhārī, the great compiler of *Ḥadīth* (Prophet's tradition), Abū 'Abdulla Muḥammad bin Abū al-Ḥasan Ismā'īl bin Ibrāhīm bin al-Mughīra bin al-Aḥnaf al-Ju'fī al-Bukhārī. He memorised *Ḥadīth* (Prophet's tradition); he was a historian and a jurist. He was born in Bukhārā in (194H/810AD). He traveled a long distance in (210H/826AD) seeking knowledge about the *Ḥadīth* and visited Khurasān, Iraq, Egypt, Syria and the Arabian peninsula. He learnt from over a thousand scholars and collected approximately six hundred thousand Ḥadīth, from which he selected the most accurate ones in his book (Ṣaḥīḥ). He is the first to have written a book in this form in the service of Islam. He wrote *al-Jāmi' al-Ṣaghīr* known as *Ṣaḥīḥ al-Bukhārī*, which is the most reliable source second to the Holy *Qur'ān* as most scholars agree. His books include *al-Adab al-Mufrad* (the single art), *al-'Awālī*, *al-Mabsūṭ* and *Thulāthiyyat al-Bukhārī* on Ḥadīth, *al-Tārīkh al-Ṣaghīr* (the small history), *al-Ḍu'afā'* on the scholars of Ḥadīth, *al-Sunan* on jurisprudence, *Asmā' al-Ṣaḥāba* (the companions' names), *al-Asmā' wa al-Kunā* (the names and the nicknames), *Bir al-Wālidain* (parents' obedience), *al-Tārīkh al-Kabīr* (the great history), *Tafsīr al-Qur'ān* (the *Qur'ān* interpretation), *Khalq Af'āl al-'Ibād* (creating human doings), *al-Fawā'id* (the benefits), etc. He died on the eve of 'Īd al-Fiṭr and was buried in Khertenk, a village two leagues[1] away to the north of Samarkand in (256H/870AD).[2]

3. Al-Tirmidhī Abū 'Īsā Muhammad bin 'Īsā bin Sawra bin Mūsā bin al-Dahhāk al-Sulamī al-Darīr al-Būghī al-Tirmidhī, one of the great scholars and memorisers of the

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[1] One league equals three miles.
[2] *Hadiyyat al-'Ārifīn* (Vol.2, p.16) by Ismā'īl Bāshā; *al-A'lām* (Vol.6, p.34) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.130) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.1, p.48) by Ḥājī Khalīfa; *The encyclopedia of Islam* (Vol.3, p.419-426).

Ḥadīth. He was also a historian and a jurist. He was born in approximately (209H/824AD). He learnt from Imām al-Bukhārī and narrated from him and from other scholars. He traveled and learned in Khurasan, Iraq and the holy mosques, and Imām Bukhārī also learnt from him. Towards the end of his life he lost his sight and died in Tirmidh in (279H/892AD). His writings include *al-Jāmi' al-Ṣaḥīḥ*, which is one of the six authentic books relied upon by Muslim scholars.[1] He also wrote *al-Shamā'il* on the qualities of the Prophet [p.b.u.h.], *al-'Ilal* on *Ḥadīth*, *Risāla fī al-Khilāf wa al-Jadal* (arguments) and *al-Tārīkh* (the history).[2]

4. Abū Yā'qūb 'Ishāq bin Ibrāhīm al-Khurasānī al-Shāshī al-Samarkandī, a Ḥanafī scholar. He left the Shāsh (Chust)[3] in the north of Fargana behind Syrdarya river to Egypt where he was appointed judge over certain parts of the latter. He died in Egypt in (325H/937AD). He was a leader of the Ḥanafī scholars and wrote his renowned book *'Uṣūl al-Shāshī* on the science of *'Uṣūl* (jurisprudence).[4]

5. Abū Zaid 'Abdulla[5] bin 'Umar bin 'Īsā al-Dabūsī, in association with Dabūsiyya, a village located between Bukhārā and Samarkand al-Bukhārī, a famous Ḥanafī scholar and a jurist. He was born in (367H/978AD). He was the founder of the science of *al-Khilāf* (debate). He participated in many debates with outstanding scholars in

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[1] The six authentic books relied upon in Ḥadīth are: al-Bukhārī's *Ṣaḥīḥ* (he died in 256H/870AD), Muslim's *Ṣaḥīḥ* (he died in 261H/875AD), Abū Dāwūd's *Sunan* (he died in 275H/889AD), al-Tirmidhī's *Sunan* (he died in 279H/892AD), Ibn Māja's *Sunan* (he died in 273H/887AD) and al-Nasā'ī's *Sunan* (he died in 303H/916AD).

[2] Some aspects of his life are mentioned in the section concerned with the editing of the author's name. See also *History of the Arabic Literature* (Vol.1, p.161-162) S. (Vol.1, p.267-269) by Brockelmann; *al-A'lām* (Vol.6, p.322) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.573) by Kaḥḥāla.

[3] It is also called Chust nowadays. See modern maps: *Atlas of the world.* Oxford University Press. (p.18); *Illustrated Atlas of the world.* Rand McNally, (1992), p.55.

[4] *Hadiyyat al-'Arifīn* (Vol.1, p.199) by Ismā'īl Bāshā; *Mu'jam al-Mu'allifīn* (Vol.1, p.338) by Kaḥḥāla; *al-A'lām* (Vol.1, p.293) by al-Ziriklī.

[5] ('Abdulla) or ('Ubaidulla) in *History of the Arabic Literature* (Vol.1, p.184) by Brockelmann.

Samarkand and Bukhārā. He was appointed in charge of justice and died in Bukhārā in (430H/1039AD). His books include *Taqwīm al-Adilla* (evaluating evidence) on jurisprudence, *al-Asrār* (the secrets) on *'Uṣūl* and *Furū'* (subsidiaries) in the Ḥanafī school, *al-Amad al-Aqṣā, Ta'sīs al-Naẓar* on disagreement among the Imāms and *al-Anwār* on jurisprudence.[1]

6. Zain al-Mashāyikh Abū al-Fadl Muhammad bin al-Qāsim Babjuk al-Biqālī, a Ḥanafī jurist, known as al-Ādamī. He was *Mufassir* (an interpreter) of the *Qur'ān*, a writer, a grammarian and a linguist. He was from Khawarizm, born in (490H/1097AD). He learnt inflection and language from al-Zamakhsharī and later took his position. In addition, he learnt the Ḥadīth from this scholar as well as from others. He died in Jurjān in (562H/1167AD)[2]. His writings include *Tafsīr al-Qur'ān* (interpretation of the *Qur'ān*), *Miftāḥ al-Tanzīl* (the key of Revelation), *al-I'jāb fī al-I'rāb*, *Manāzil al-'Arab wa Miyāhuhā*, *al-Hidāya* on meaning and oration *Taqwīm al-Lisān* on grammar, *Kāfī al-Tarājim bi Lisān al-A'ājim*, *al-Fatāwā* and *al-Tanbīh 'ala I'jāz al-Qur'ān*.[3]

7. Sirāj al-Dīn Abū al-Hasan 'Alī bin 'Uthmān al-Awshī al-Fargānī, a Ḥanafī jurist, from Fargana. He died of plague in (575H/1179AD).[4] His writing include *Bad' al-Amālī* (a poem on the beliefs of Muslims), *Tuḥfat al-A'ālī,* which is a *Sharḥ* (commentary) on *Bad' al-Amālī*, *al-Fatāwā al-Sirājiyya,* which is a collection of *Fatāwā* (legal opinions) following the Ḥanafī school; *Mashāriq al-Anwār Sharḥ Niṣāb al-Akhbār li Tadhkirat*

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[1] *Mu'jam al-Mu'allifīn* (Vol.2, p.265) by Kaḥḥāla; *Mu'jam al-Maṭbū'āt* (Vol.1, p.866) by Serkīs; *al-A'lām* (Vol.4, p.109) by al-Ziriklī; *History of the Arabic Literature,* (Vol.1, p.184), by Brockelmann.
[2] Hājī Khalīfa, in his book *Kashf al-Ẓunūn*, argues that he died in (562H/1167AD) and in *Mu'jam al-Mu'allifīn* the date is specified as (523H/1129AD) by Kaḥḥāla.
[3] *Mu'jam al-Mu'allifīn* (Vol.3, p.593) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.1, p.120) by Hājī Khalīfa; *al-A'lām* (Vol.6, p.335) by al-Ziriklī; *History of the Arabic Literature,* S. (Vol.1, p.513) by Brockelmann.
[4] The author of *Mu'jam al-Mu'allifīn* states that he died in (569H/1173AD); *al-A'lām* states his death took place after (569H/1173AD).

al-Akhyār, Thawāqib al-Akhbār, Ghirar al-Akhbār wa Dawr al-Ash'ār on Ḥadīth, *Niṣāb al-Akhbār li Tadhkirat al-Akhyār fi Mukhtaṣar Ghirar al-Akhbār, Yawaqīt al-Akhbār* and an explanation of 'Umar al-Nasafī's[1] poem on debating, which he called *Mukhtalaf al-Riwāya.*[2]

8. Burhān al-Dīn Abū al-Hasan 'Alī bin Abū Bakr bin 'Abduljalīl al-Fargānī al-Marghinānī.[3] He was a Ḥanafī scholar, a jurist, a *Muḥaddith* (narrator), a *Ḥāfiẓ* (memoriser) of the *Ḥadīth* and *Mufassir* (an interpreter) of the *Qur'ān*. Ibn Kamāl Bāshā said that he belongs to the class of scholars that rely on the *Tarjīḥ* (preference) of a variant rather than another, (d. 593H/1197AD) and his writings encompass *Bidāyat al-Mubtadi'* on Ḥanafī jurisprudence, *al-Hidāya Sharḥ al-Bidāya* (an explanation for *al-Hidāya*), which is one of the most famous Ḥanafī books on jurisprudence, *Sharḥ al-Jāmi' al-Kabīr li al-Shaibānī, Mukhtārāt Majmū' al-Nawāzil, Manāsik al-Ḥajj, Muntaqa al-Marfū', al-Farā'iḍ* and *Nashr al-Dhahab.*[4]

9. Burhān al-Dīn Mahmūd bin Ahmad bin 'Abdul'azīz bin 'Umar bin Māza al-Bukhārī al-Marghinānī, a Ḥanafī jurist. He was born in Marghinan in (551H/1156AD) and died in Bukhārā in (616H/1219AD). He was probably one of the teachers of Imām al-Akhsīkathī, the author of *al-Muntakhab*, since the time difference between their deaths is twenty eight years and the city of Marghinan is only (54) kilometers away from Akhsīkath. His writings include *al-Wajīz* (the summary) on Fatāwā, *al-Muḥīt al-*

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[1] His life is discussed in the section on the great contemporary scholars of 'Uṣūl.
[2] *Hadiyyat al-'Ārifīn* (Vol.1, p.700) by Ismā'īl Bāshā; *Mu'jam al-Mu'allifīn* (Vol.2, p.475) by Kaḥḥāla; *al-A'lām* (Vol.4, p.310) by al-Ziriklī.
[3] In association with Marghinan in the land of Fargana.
[4] *Mu'jam al-Maṭbū'āt al-'Arabiyya* (Vol.2, p.1739) by Serkis; *Hadiyyat al-'Ārifīn* (Vol.1, p.702) by Ismā'īl Bāshā; *Mu'jam al-Mu'allifīn* (Vol.2, p.411) by Kaḥḥāla; *al-A'lām* (Vol.4, p.266) by al-Ziriklī.

Burhānī fī al-Fiqh al-Nu'mānī, which he called *al-Dhakhīra*, *Tatimmat al-Fatāwā*, *Dhakhīrat al-Fatāwa*, *al-Tajrīd*, *al-Ṭarīqa al-Burhāniyya*.[1]

10. Muhammad bin 'Alī bin 'Umar Abū Hāmid Najīb al-Dīn al-Samarkandī, a scholar in medicine. He had many books in medicine, including *al-Najībiyyat*, *al-Asbāb wa al-'Alāmāt* (the causes and the symptoms), which is published, *al-Adwiya al-Ma'rūfa al-Musta'mala* (the used, known drugs), a manuscript in the Congress Library in Washington, *'Uṣūl Tarkīb al-Adwiya* (fundamentals of mixing drugs), *al-Adwiya al-Mufrada* (the single drugs), *Qawānīn Tarkīb al-Adwiya al-Qalbiyya* (the laws of mixing heart drugs). He also wrote a booklet on the treatment of arthritis; an article on layers in the eye; *al-Aghdhiya wa al-Ashriba li al-Aṣiḥḥā'* (the foods and drinks for the healthy people); *Aghdhiyat al-Marḍā* (nutrients for patients); *al-Ṣinā'a*; *Ghāyat al-Aghrāḍ fī Mu'ālajat al-Amrāḍ* and *Sharḥ al-Asbāb wa al-'Alāmāt* by Nafīs bin 'Awaḍ al-Karmānī and so on. He died as a martyr in present day Harāt in the north of Iran when it was attacked by the Tartars in (619H/ 1222AD).[2]

11. 'Abdul'azīz bin Ahmad bin Muhammad 'Alā' al-Dīn al-Bukhārī al-Hanafī, a jurist from Bukhārā. He acquired jurisprudence at the hands of famous scholars, (d. 730H/1330AD). His writings include *al-Taḥqīq* (the edition), *Mukhtaṣar* (an epitome) on *al-Muntakhab al-Ḥusāmī*, which is under study, *Kashf al-Asrār*, an explanation of Imām al-Bazdawī's book, which is one of the most renowned explanations of *'Uṣūl al-Bazdawī*. He also wrote *al-Afniya,* in which he mentioned the mosque courtyard and the

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[1] *Al-A'lām* (Vol.7, p.161) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.796) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.2, p.2002) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.2, p.404) by Ismā'īl Bāshā.

[2] *Al-A'lām* (Vol.6, p.280) by al-Ziriklī; *Kashf al-Ẓunūn* (Vol.1, p.113) by Ḥājī Khalīfa; *Mu'jam al-Mu'allifīn* (Vol.3, p.524) by Kaḥḥāla; *History of The Arabic Literature* (Vol.1, p.490), S. (Vol.1, p.895) by Brockelmann.

house courtyard, etc., and *Sharḥ al-Hidāya* on *Furū'* (subsidiary) of Ḥanafī jurisprudence as far as the divorce chapter.[1]

12. Abū Muhammad Mansūr bin Ahmad Mu'ayyad al-Khawārizmī bin al-Qā'ānī, a Ḥanafī jurist. He died in Makka in (775H/1373AD). He wrote marginal notes on *al-Muntakhab,* which is a *Sharḥ* (commentary) on *al-Muntakhab fī 'Uṣūl al-Madhhab*, which is the book I shall be editing in this research. He also wrote *Sharḥ* (commentary) on *al-Mughnī* by al-Khabbāzī[2] on jurisprudence.[3]

These and many other scholars enriched the Muslim world with their great works, most of which remained essential references for many centuries after their deaths and even to the present time.

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[1] *Mu'jam al-Mu'allifīn* (Vol.2, p.157) by Kaḥḥāla; *al-A'lām* (Vol.4, p.13) by al-Ziriklī; *Mu'jam al-Maṭbū'āt* (p.537) by Serkīs; *Kashf al-Ẓunūn* (Vol.2, p.1849) by Ḥājī Khalīfa.
[2] Jalāl al-Dīn 'Umar bin Muḥammad al-Khabbāzī al-Khajandī al-Ḥanafī, (d. 691H/1292AD); *al-A'lām* (Vol.5, p.63) by al-Ziriklī.
[3] *Mu'jam al-Mu'allifīn* (Vol.3, p.912) by Kaḥḥāla; *al-A'lām* (Vol.7, p.297) by al-Ziriklī; *Kashf al-Ẓunūn* (Vol.2, p.1749) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.2, p.474) by Ismā'īl Bāshā.

2.9 His school and his position among Ḥanafī scholars

2.9.1 His school

The Ḥanafī school underwent great developments throughout the different stages of Islamic history due to four main reasons:

1. The great number of followers of Abū Ḥanīfa, the founder of the Ḥanafī school, and their concern to publish his works and to report his principles.

2. The great number of those who came after the first generation and who then branched off the school according to new events in agreement with different locations.

3. The fact that the Ḥanafī school was the official school adopted by the 'Abbāsī state led to its wide expansion in the east and west of the centre of the 'Abbāsī state. The situation remained unchanged for more than five hundred years because it was adopted throughout the Islamic State.

4. Al-Rashīd,[1] the fifth 'Abbāsī caliph[2]who succeeded to the Caliphate in (170H/786AD), appointed Abū Yūsuf[3] judge of Baghdad – the centre of the 'Abbāsī caliphate. Abū Yūsuf was one of Abū Ḥanīfa's two main students who accompanied him. These two students took care of the school Abū Ḥanīfa founded and passed on the

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[1] Hārūn (al-Rashīd) bin Muḥammad (al-Mahdī) bin (al-Manṣūr) al-'Abbāsī, Abū Ja'far. He was the most famous 'Abbāsī caliph. He was also very courageous and fought in many conquests, performing pilgrimage one year and fighting in a conquest another. He died in Sanabath, a village in Ṭūs, in (193H/809AD); *al-A'lām* (Vol.8, p.62) by al-Ziriklī.

[2] *Tārīkh al-Islam* (Vol.2, p.20) by Dr. Ḥasan Ibrāhīm.

[3] Yaqūb bin Ibrāhīm bin Ḥabīb al-Anṣārī al-Kūfī al-Baghdadī, Abū Yūsuf, a companion and a student of Abū Ḥanīfa. He was the first to promulgate the Ḥanafī school and the first to be called the judge of judges, (d. 182H/798AD); *al-A'lām* (Vol.8, p.193) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.4, p.128) by Kaḥḥāla; *History of the Arabic Literature* S. (Vol.1, p.288) by Brockelmann.

teachings they acquired from him to their own students. The teachings of the school expanded thanks to these two. This accounts for the fact that judges could not be appointed in the other regions without a prior proposal from Abū Yūsuf, the chief judge who appointed only those following the Ḥanafī school.

Because of its great development, the Ḥanafī school spread across all the countries that came under the reign of the 'Abbāsī state. So, it became officially adopted in Iraq, Transoxania, the countries that were conquered in the east as well as Syria.[1]

It is natural therefore, that most of the scholars in Transoxania belong to the Ḥanafī school and one of these scholars is the author of *al-Muntakhab al-Ḥusāmī*. In addition, all the writers who wrote his biographies stated that he was a Ḥanafī jurist and no one disagrees with this.[2]

His book also provides much evidence to indicate that his school is Ḥanafī. For instance, he states: "And this is the school we adhere to" and "And in our viewpoint" The writer made this statement often in contrast to the view of Imām al-Shāfi'ī or in contrast to the opposing view of the Ḥanafī scholars. For instance, in page [1/A] he states: "The *Ḥukm al-'Āmm* (general judgment) certainly and definitely necessitates legal rulings with respect to what is contained within it, as in *al-Khāṣṣ* (specific judgment). In our viewpoint, in contrast to the school of al-Shāfi'ī" A further look at the author's statement reveals that by 'in our view' he meant the Ḥanafī school, which indicates that he belongs to the Ḥanafī school without doubt.

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[1] *Tārīkh al-Madhāhib al-Islāmiyya* (1417H/1996AD) p. 381, by Muḥammad Abū Zuhra. Cairo: Dār al-Fikr al-'Arabī.

[2] See the references mentioned in the section dealing with the author's biography.

2.9.2 Author's class

The Ḥanafīs classified their leaders and scholars into seven classes[1], which included all the scholars of the Ḥanafī school, the former and the later, and specified the positions and status, which they attained in the school as follows:

First class: This class includes the scholars exercising *Ijtihād* in Islamic law such as the four Imāms[2] and those who followed their path in establishing the *'Uṣūl al-Fiqh* and deducing *Furū'* (subsidiary) legal injunctions from the *Qur'ān*, the *Sunna*, *Ijmā'* (consensus) and *Qiyās* (analogy). This was in accordance with these principles without imitation of anyone as far as *Furū'* (subsidiaries) or principles are concerned.

Second class: This class includes the scholars who exercised *Ijtihād* within the school, for example, Abū Yūsuf, Muḥammad al-Shaibānī[3] and all of Abū Ḥanīfa's companions, who were capable of deducing legal injunctions from the four types of reliable evidence mentioned above according to the principles established by their teacher Abū Ḥanīfa. Although they disagreed with him on certain minor injunctions, they nevertheless imitated him in the *'Uṣūl al-Fiqh*; hence they are distinguished from their opponents within the school including al-Shāfi'ī and his peers who disagree with Abū Ḥanīfa on the issue of injunctions without imitating him on the principles.

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[1] *Al-Fatḥ al-Mubīn fī Ḥalli Rumūz wa Muṣṭalaḥāt al-Fuqahā' wa al-'Uṣūliyyīn* (p.18) by al-Ḥafnāwī.
[2] These are Abū Ḥanīfa, Mālik, al-Shāfi'ī and Aḥmad bin Ḥanbal.
[3] Muḥammad bin al-Ḥasan bin Farqad, from the clients of Banī Shaibān, Abū 'Abdulla. He was a scholar in *Fiqh* (jurisprudence) and *'Uṣūl al-Fiqh*. He is the one who made Abū Ḥanīfa's teachings known, (d. 189H/804AD); *al-A'lām* (Vol.6, p.80) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.229) by Kaḥḥāla; *History of the Arabic Literature* S. (Vol.1, p.288, 298) by Brockelmann.

Third class: This class includes the scholars who exercised *Ijtihād* in matters on which no account was provided by the Imām of the school, including al-Khaṣṣāf,[1] Abū Ja'far al-Ṭaḥāwī,[2] Abū al-Ḥasan al-Karkhī,[3] Shams al-A'imma al-Ḥalwānī,[4] Shams al-A'imma al-Sarkhasī, Fakhr al-Islam al-Bazdawī, Fakhr al-Dīn Qāḍī Khān and others. These scholars could not disagree with any Imām on *'Uṣūl* (principals of jurisprudence) or *Furū'* (subsidiaries), but they deduced legal injunctions for matters on which no text is available from Abū Ḥanīfa or his companions depending on the principles they set and the rulings they simplified. This class served Ḥanafī jurisprudence well since it laid the foundations for its development, established logical reasoning on its principles, and relied on its teachings. This class also laid the foundations of the *Tarjīḥ* (preference) or *Qiyās* (analogy) among different views, consolidating some and weakening others. In addition, the class contributed to the prominence of jurisprudence in the Ḥanafī school.[5]

Fourth class: This is the class of scholars who relied on imitation and who utilised logical reasoning in matters for which no legal injunction was available, for example, Al-Jaṣṣāṣ and similar other scholars who were not able to exercise *Ijtihād*. However, due to their comprehensive knowledge of *'Uṣūl* and their mastery of jurists' opinions, they were capable of clarifying overall ambivalent statements and valuble injunctions

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[1] Aḥmad bin 'Umar al-Khaṣṣāf, Abū Bakr, a scholar knowledgeable about the Ḥanafī school, (d. 261H/875AD); *Mu'jam al-Mu'allifīn* (Vol.1, p.219) by Kaḥḥāla; *al-A'lām* (Vol.1, p.185) by al-Ziriklī.

[2] Aḥmad bin Muḥammad bin Salāma al-Ṭaḥāwī, Abū Ja'far, a jurist, a narrator, a memoriser of the Qur'ān, a historian. He led the Ḥanafī school in Egypt and died in (321H/933AD); *al-A'lām* (Vol.1, p.206) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.1, p.267) by Kaḥḥāla.

[3] 'Obaidullah bin al-Ḥusain al-Karkhī, Abū al-Ḥasan, a jurist who led the Ḥanafī school in Iraq, (d. 340H/952AD); *al-A'lām* (Vol.4, p.193) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.351) by Kaḥḥāla.

[4] 'Abdul'azīz bin Aḥmad bin Naṣr al-Ḥalwānī al-Bukhārī, Abū Muḥammad, named Shams al-A'imma, a Ḥanafī jurist. In his time, he was the leader of Ḥanafī scholars in Bukhārā, (d. 448H/1056AD); *al-A'lām* (Vol.4, p.13) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.158) by Kaḥḥāla.

[5] *Al-Fatḥ al-Mubīn fī Ḥalli Rumūz wa Muṣṭalaḥāt al-Fuqahā' wa al-'Uṣūliyyīn* (1419H/1999AD) (p.22), first edition, by Dr. Muḥammad Ibrāhīm al-Ḥafnāwī. Egypt: Maktabat al-Ish'ā' al-Fanniyya; narrated by Ibn 'Ābdīn in his *Ḥāshiya* (Vol.1, p.77).

which imply two judgements as quoted from the Imām of the school or one of his companions exercising *Ijtihād* on the basis of their views and opinions regarding *'Uṣūl* as well as *Qiyās* (analogy) with the analogues and counterparts of that which is quoted as far as *Furū'* (subsidiaries) are concerned.

In fact, the difference between the third and fourth classes is very subtle and can hardly be deciphered. People who count the two as one are not to be undermined because resorting to the principle of *Ijtihād* among opinions in *'Uṣūl* is no less important than the choice of the deduction principle on matters of *Furū'* (subsidiaries) for which no injunctions are quoted from the Imāms. For instance, al-Jaṣṣāṣ, who is considered a representative example of this class (the third), has the same weight as al-Karkhī or any other scholar belonging to the fourth class.[1]

Fifth class: This class includes those who adopted the principle of *Ijtihād* including imitators such as Abū Ḥasan al-Qaddūrī,[2] al-Marghinānī, the author of *al-Hidāya*,[3] and others. These displayed the *Tarjīḥ* (preference) of some versions over others by showing that a certain version is more prior, more correct and clearer and that it agrees more with *Qiyās* (analogy) and it is more tolerant for people.

Sixth class: This is the class of the imitators who were able to draw distinctions between the most powerful, the powerful and the meager, the manifest in the school, the narration's manifest meaning and the narration's infrequent meaning. For example,

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[1] *Al-Fatḥ al-Mubīn fī Ḥalli Rumūz wa Muṣṭalaḥāt al-Fuqahā' wa al-'Uṣūliyyīn* (p.23) by al-Ḥafnāwī.
[2] Aḥmad bin Muḥammad bin Aḥmad bin Ja'far bin Ḥamdān al-Qaddūrī, Abū al-Ḥusain, a Ḥanafī jurist, (d. 428H/1037AD); *al-A'lām* (Vol.1, p.212) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.1, p.242) by Kaḥḥāla.
[3] Shaikh al-Islam Burhān al-Dīn 'Alī bin Abī Bakr al-Marghinanī al-Ḥanafī, (d. 593H/1197AD); *Mu'jam al-Mu'allifīn* (Vol.2, p.411) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.2, p.2031) by Ḥājī Khalīfa.

some of these imitators are the recent holders of reliable *Fatāwā* (legal opinions) such as al-Nasafī,[1] the writer of *Kanz al-Daqā'iq*, al-Mūṣilī,[2] the writer of *al-Mukhtār*, al-Maḥbūbī,[3] the writer of *Wiqāyat al-Riwāya fī Masā'il al-Hidāya* and Ibn al-Sā'ātī,[4] the writer of *Majma' al-Baḥrain wa Multaqa al-Nayyirayn*. These scholars decided not to include inadmissible statements and meager narrations in their books.

Seventh class: This class includes the imitators who were not able to pronounce legal injunctions and therefore relied on imitation. These could not distinguish between the meager and the healthy, but instead gathered what ever they came across.[5]

2.9.3 Where do we place the Author?

With regard to the classification of the author within one of the seven Ḥanafī classes mentioned above, it can be observed that he was constrained within the confines of the principles of Ḥanafī jurisprudence as identified by the Imāms of the school and did not transcend them. He didn't state what could be considered as principles; rather he builds on the works of his predecessors in this respect. Indeed he followed the principles set out by Imām al-Bazdawī without being constrained by the text in his book, as will be demonstrated in the section dealing with the writer's methodology. The fact that he

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[1] 'Abdulla bin Aḥmad bin Maḥmūd al-Nasafī, Abū al-Barakāt, Ḥafiẓ al-Dīn, a Ḥanafī jurist and an interpreter. He was from Nasaf near Samarkand, (d. 710H/1310AD); *al-A'lām* (Vol.4, p.67) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.228) by Kaḥḥāla. *History of the Arabic Literature* (Vol.2, p.196, 197), S. (Vol.2, p.263-268) by Brockelmann.

[2] Majd al-Dīn 'Abdulla bin Maḥmūd bin Muderd al-Mūṣilī al-Baldajī, Abū al-Faḍl, a Ḥanafī jurist, (d. 683H/1284AD); *al-A'lām* (Vol.4, p.135) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.295) by Kaḥḥāla.

[3] Burhān al-Sharī'a Maḥmūd bin Ṣadr al-Sharī'a Aḥmad bin Jamāl al-Dīn 'Obaidullah al-Maḥbūbī al-Bukhārī al-Ḥanafī. He was still alive in (630H/1233AD); *Kashf al-Ẓunūn* (Vol.2, p.2020) by Ḥājī Khalīfa; *Mu'jam al-Maṭbū'āt* (Vol.2, p.1199) by Serkis.

[4] Muẓaffar al-Dīn Aḥmad bin 'Alī bin Taghlib known as Ibn al-Sā'ātī, a scholar in Ḥanafī jurisprudence, (d. 694H/1295AD); *al-A'lām* (Vol.1, p.175) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.1, p.199) by Kaḥḥāla.

[5] *Al-Fatḥ al-Mubīn fī Ḥalli Rumūz wa Muṣṭalahāt al-Fuqahā' wa al-'Uṣūliyyīn* (p.18), by al-Ḥafnāwī, (narrated by) Ibn 'Ābdīn in his footnote (Vol.1, p.77).

belongs to a class which is constrained within the principles of the Ḥanafī jurisprudence excludes him from membership to the first of the Ḥanafī classes since its adherents established juristic principles on the basis of which they deduced *Furū'* (subsidiary) injunctions. The writer built on their principles and ramified juristic injunctions, as in his statement page [17/A]: "The act of making practical capabilities a *Sharṭ* (condition) for a necessary on time *Adā'* (performance) rather than a *Qaḍā'* (execution)". Such an act is called *al-Takhrīj 'ala al-Madhhab* (logical reasoning). The author made of these ramifications solid foundations for *Furū'* (subsidiary injunctions) on juristic matters.

In his book *al-Muntakhab*, the writer disagrees with the views of Imām Abū Ḥanīfa and Imām Muḥammad bin al-Ḥasan al-Shaibānī on the themes of the *Ḥaqīqa* (fact) and the *Majāz* (metaphor) in their discussion that the pronunciation of the *Ḥaqīqa* (fact) and the *Majāz* (metaphor) cannot be used in a single word to imply two meanings at the same time" The two Imāms argue that it is *Jā'iz* (permissible) while in his view it is *Mustaḥīl* (impossible) page [4/B] of the book. His objection to the views of two Ḥanafī scholars, though on *Furū'* (subsidiaries) rather than on *'Uṣūl* (principles), elevates the position of the author's class in comparison to the fifth of the Ḥanafī classes. As has already been stated previously, those belonging to the fifth class displayed the *Tarjīḥ* (preference) of some versions over others by showing that a certain version is more prior, more correct and clearer and that it agrees more with *Qiyās* (analogy).

On the basis of the ensuing discussion the author may be classified within the fourth of the Ḥanafī classes. A distinguishing feature of this class is the ability of those belonging to it to prefer some statements over others within the Ḥanafī school because of their inability to exercise *Ijtihād*. However, due to their comprehensive knowledge in *'Uṣūl*

and their mastery of jurists' opinions they were capable of clarifying overall ambivalent statements and valuble injunctions.

2.10 His scholarly position

The writer lived in an age that is relatively recent in terms of the historical development of Islamic law. In fact legislation went through various stages of evolution; the first stage, for instance, was a stage of growth and formation at the time of the Prophet [p.b.u.h.] and its duration was approximately twenty-two years. This period started at the time of the Prophet's mission (13 before Hijra/610AD) and ended with his death (11H/632AD). The second is a stage of the *Tafsīr* (interpretation) and completion. This occurred at the time of the noble Companions and lasted around ninety years from (11H/632AD) to the end of the first Hijri century in (100H/719AD). The third stage was a stage of codification and the Imāms who exercised *Ijtihād*; it was also a stage of growth and legislative maturity. The science of Islamic jurisprudence started to emerge at this stage and its duration was approximately two hundred and fifty years from (100H/719AD) to (350H/961AD). Stage four was a stage of imitation, stagnation and inactivity and it lasted from the middle of the fourth Hijri century (350H/961AD) till the present time.[1]

Imām al-Akhsīkathī lived in the seventh Hijri century (the thirteenth century AD), that is after the establishment of juristic schools in the fourth Hijri century, as is stated above. The time of the writer was not an age of *Ijtihād* or deduction, but rather imitation, correction, redaction, summarising and correction even if there were some people who exercised *Ijtihād*. However, as Shaikh Muḥammad al-Khuḍarī argues, "There is no doubt that some of the jurists who played this role, i.e. in the fourteenth

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[1] *Khulāṣat Tārīkh al-Tashrī' al-Islāmī* (1402H/1982AD), p.8, second edition, by 'Abdulwahhāb Khallāf. Kuwait: Dār al-Qalam li al-Ṭibā'a wa al-Nashr.

century (tenth century AD), were great scholars and I do not believe that they were less knowledgeable than their predecessors in the principles of legislation and means of deduction. However, they did not have the freedom, which their predecessors enjoyed."[1] The scholastic position of the writer can be felt in his book *al-Muntakhab*. Indeed, many scholars commented on this book and such *Shurūḥ* (commentaries) approximate to about sixteen.[2] They made numerous comments on the book and provided marginal notes that are abundant in most of the copies of the manuscript, which the researcher manages to find.[3] In his praise of al-Akhsīkathī and his display of this author's scholastic position, the writer of *al-Fawā'id al-Bahiyya* argues: "He was a noble scholar and an Imām in *Furū'* (subsidiaries) and *'Uṣūl* (principles)".[4] Also, in his *al-Jawāhir al-Muḍiyya fī Ṭabaqāt al-Ḥanafiyya*, al-Qurashī says: "The author of *al-Mukhtaṣar* (the epitome) is Imām, Ḥusām al-Dīn."[5] He described the author as "Imām" which is a high class of a scholarship. In addition, al-Sighnāqī,[6] one of the *Shurrāḥ* (commentators) of the book *al-Muntakhab*, says in the introduction to his *Sharḥ* (commentary): "He is the knowledgeable Imām, the ascetic, the expert and the erudite. He is an explorer of the depths of knowledge, aware of subtleties, perceptive; he is also a people's Muftī, the

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[1] *Tārīkh al-Tashrī' al-Islāmī* (1414H/1994AD) p.219, second edition, by Muḥammad al-Khuḍarī. Beirut: Dār al-Kutub al-'Ilmiyya.
[2] This will be further clarified in the discussion of commentaries of the manuscript in Chapter three.
[3] See appendix – pages Xeroxed from copies of the manuscript.
[4] *Al-Fawā'id al-Bahiyya* (p.188) by al-Laknawī.
[5] *Al-Jawāhir al-Muḍiyya* (Vol.3, p.334) by al-Qurashī.
[6] Al-Ḥusain bin 'Alī bin Ḥajjāj al-Sighnāqī, Ḥusām al-Dīn, a Ḥanafī jurist. He was from Ḥalab where he died. His writings include *al-Tasdīd fī Sharḥ al-Tamhīd*, that is *Tamhīd al-Ḥaqā'iq*, *al-Kāfī* (*Sharḥ 'Uṣūl al-Bazdawī*), *al-Muwaṣṣil*, an interpretation of *al-Mufaṣṣal* by al-Zamakhsharī on grammar; *al-Najāḥ* on conjugation; *al-Nihāya*, an interpretation of *al-Hidāya*, by al-Marghinānī, (d. 711H/1312AD); *Hadiyyat al-'Ārifīn* (Vol.1, p.314) by Ismā'īl Bāshā; *Mu'jam al-Mu'allifīn* (Vol.1, p.566) by Kaḥḥāla.

Sharī'ia's contributor, and the *Sunna's* defender..."[1] These words of praise prove the value of this unique scholar and his mastery of knowledge.

[1] *Al-Wāfī,* an interpretation of *al-Muntakhab* by al-Sighnāqī, This book was proceeded to the Ph.D. in (1417H/1996AD) by Aḥmad Muḥammad Ḥumūd al-Yamānī. Saudi Arabia – 'Umm al-Qurā University.

2.11 His students

The biographies available mention few of his students only. However, the wide distribution of his books in various countries and the multitude of its copies and copy writers provide ample evidence of the great number of his pupils and students. The author of *al-Fawā'id al-Bahiyya* mentioned some of these students:

1. Al-Nūḥabādhī, Abū al-Muẓaffar Muḥammad bin 'Umar bin Muḥammad al-Nūḥabādhī, in association with Nūḥabādh in Bukhārā. Ẓahīr al-Dīn al-Ḥanafī, the leader of al-Mustanṣiriyya school in Baghdad. He was born in (616H/1219AD) and he visited Damascus, but later settled in Baghdad where he died in (668H/1270AD). His writings include *Kashf al-Ibhām li Raf' al-Awhām*, *Kashf al-Asrār* on *'Uṣūl* and *Talkhīṣ al-Qaddūrī* (summary of al-Qaddūrī's book).[1]

2. Abū Bakr Muḥammad bin Aḥmad bin 'Umar al-Bukhārī, Jalāl al-Dīn al-'Īdī the narrator, (d. 668H/1270AD) and wrote *Jāmi' al-'Ulūm* in Persian.[2] The author of *al-Jawāhir al-Muḍiyya* argues that he was one of the students of the writer (Vol.3, p.334) and the author of *al-Fawā'id al-Bahiyya* states the same (p.188) although both authors refer to him under the name Muḥammad bin Muḥammad al-'Īdī.

The author of *al-Fawā'id al-Bahiyya* also mentions that one of his students is:

3. Muḥammad bin Muḥammad al-Qubbāwī al-Ḥanafī from Marghinan, (d. 730H/1330AD).[3] His writings include *al-Jāmi' al-Kabīr* on *Furū'* (subsidiaries), *Naẓm al-*

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[1] *Hadiyyat al-'Ārifīn* (Vol.2, p.192) by Ismā'īl Bāshā; *al-A'lām* (Vol.6, p.313) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.565) by Kaḥḥāla. The author of *al-Fawā'id al-Bahiyya* states that he was one of the writer's students (p.188).

[2] *Hadiyyat al-'Ārifīn* (Vol.2, p.129) by Ismā'īl Bāshā; *Kashf al-Ẓunūn* (Vol.1, p.565) by Ḥājī Khalīfa; *al-Jawāhir al-Muḍiyya* (Vol.3, p.349) by al-Qurashī.

[3] The writer of *Mu'jam al-Mu'allifīn* (Vol.3, p.684) states that he died in (726H/1326AD).

Jāmi' al-Ṣaghīr li al-Shaibānī on *Furū'* (subsidiaries), too.[1] In my point of view he was not one of the author's students because the difference between their dates of death is (86) years, which accounts for the difficulty to consider him a student of the author.

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[1] *Hadiyyat al-'Ārifīn* (Vol.2, p.147) by Ismā'īl Bāshā; *Kashf al-Ẓunūn* (Vol.1, p.564, 571) by Ḥājī Khalīfa; *Mu'jam al-Mu'allifīn* (Vol.3, p.684) by Kaḥḥāla; *al-Jawāhir al-Muḍiyya* (Vol.2, p.126) by al-Qurashī; *al-Fawā'id al-Bahiyya* (p.191) by al-Laknawī.

2.12 Some prominent Ḥanafī scholars who were his contemporaries

The aim of the present section is to identify some distinguished Ḥanafī scholars who lived at the time of the author and were close to the region where he lived. This will allow us to see the value of the epoch in which the author lived from a scholastic perspective, especially the science of *'Uṣūl al-Fiqh*, with respect to the following chronological order:

1. Rukn al-Dīn al-Karmānī [1]

His name: 'Abdulraḥmān bin Muḥammad bin Amīrawayh bin Muḥammad bin Ibrāhīm al-Karmānī, Rukn al-Dīn, Abū al-Faḍl, the Imām of the Ḥanafī followers in Khurasan. He was born in Karman in (457H/1065AD) and came to Mary where he acquired knowledge at the hands of the judge Muḥammad bin al-Ḥusain al-Ardistānī Fakhr al-Quḍāt and 'Umar al-Ḥalajī.

His position: After coming to Mary and his concentration on acquiring knowledge his reputation increased and jurists came to him in great numbers and learners swarmed around him. As a result, he gained a lot of prominence in Mary and became known to everyone and his companions spread in various places. His writings appeared in Khurasan and Iraq. Abū al-Fatḥ Muḥammad bin Yūsuf bin Aḥmad al-Qanṭarī al-Samarkandī is one of the scholars who acquired knowledge of jurisprudence at his hands.

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[1] *Al-Jawāhir al-Muḍiyya* (Vol.2, p.388) by al-Qurashī; *al-A'lām* (Vol.3, p.327) by al-Ziriklī; *Tāj al-*Tarājim (p.122) by Qaṭlubghā; Kashf *al-Ẓunūn* (Vol.1, p.96) by Ḥājī Khalīfa.

His writings: *Al-Jāmi' al-Kabīr*, *al-Tajrīd* on jurisprudence *al-'Īḍāḥ Sharḥ al-Tajrīd*, *Sharḥ al-Jāmi' al-Kabīr* and *al-Fatāwā*.

His death: He died in Mary on Friday in Dhū al-Qa'da in the school of al-Qāḍī al-Shahīd, A'lā Makhan, in (543H/1149AD).

2. Al-Ṣadr al-Shahīd al-Ḥanafī [1]

His name: Burhān al-A'imma 'Umar bin 'Abdul'azīz bin 'Umar bin Māza, Abū Muḥammad Ḥusām al-Dīn, known as al-Ṣadr al-Shahīd, a great Ḥanafī scholar. He was born in (483H/1090AD) and he was from the region of Khurasan. He acquired knowledge at the hands of Ibn Burhān al-Dīn al-Kabīr 'Abdul'azīz bin 'Umar. He exaggerated in exercising *Ijtihād* to the extent that he became unique in his time; he was a great scholar in the principles as well as *Furū'* (subsidiaries). He is credited for his contributions to jurisprudence by supporters and opponents alike, and even kings relied upon his *Fatāwā* (legal opinions).

His students: The scholar Abū Muḥammad bin Muḥammad bin 'Umar al-'Aqīlī acquired knowledge from him as did the writer of *al-Hidāya* who learnt the sciences of contemplation and jurisprudence from him. The reputation of al-Ṣadr al-Shahīd expanded to Transoxania, and rulers honoured him and relied on his *Fatāwā* (legal opinions). Some people thought he was a Shāfi'ī scholar, but in fact he was a Ḥanafī.

His writings: He wrote on *Fiqh* (jurisprudence) and *'Uṣūl* (principles), etc. such as *Sharḥ Adab al-Qaḍā'* by al-Khaṣṣāf, *al-Fatāwā al-Ṣughrā wa al-Kubrā*, *al-Jāmi'* in

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[1] *Al-Fatḥ al-Mubīn fī Ṭabaqāt al-'Uṣūliyyīn* (1394H/1974AD) (Vol.2, p.25), second edition, by 'Abdulla Muṣṭafā al-Marāghī. Beirut - Muḥammad Amīn wa Shuraka'uh; *al-A'lām* (Vol.5, p.51) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.562) by Kaḥḥāla; Kashf *al-Ẓunūn* (Vol.2, p.1228) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.1, p.783) by Ismā'īl Bāshā.

jurisprudence and has three *Shurūḥ* (commentaries) on *al-Jāmi'*. He also wrote *al-Wāqi'āt al-Ḥusāmiyya*, *al-Muntaqā*, *'Umdat al-Muftī wa al-Mustaftī*, *al-Tazkiya*, *al-Nafaqāt*, *'Uṣūl Ḥusām al-Dīn*. By mistake a manuscript copy of *al-Muntakhab al-Ḥusāmī*, which is located in the Royal Library in Berlin No. (4372),[1] is attributed to him.

His death: Throughout his life, he was respected and dignified. He died as a martyr after the Qaṭwān battle in Samarkand and his corpse was taken to Bukhārā. His death took place in the month of Ṣafar (September) in (536H/1141AD).

3. Abū al-Mafākhir al-Kardarī al-Ḥanafī [2]

His name: 'Abdulghafūr bin Luqmān bin Muḥammad, Sharaf al-Quḍa, Tāj al-Dīn, Abū al-Mafākhir al-Kardarī al-Khawarizmī, a Ḥanafī scholar and a jurist. He acquired knowledge at the hands of Abū al-Faḍl 'Abdulraḥmān bin Muḥammad al-Karmānī. He narrated from Abū Ṭāhir Muḥammad bin Muḥammad al-Sinjī al-Mirwazī. He was an erudite and a distinguished Ḥanafī scholar and was therefore called Shams al-A'imma. He was a very ascetic and pious person and was in charge of justice in Ḥalab at the time of the just Sultan Nūr al-Dīn Maḥmūd bin Zenkī.

His writings: His books cover various sciences, including a book on *'Uṣūl al-Fiqh* and a *Sharḥ* (commentary) of al-Karmānī's *al-Tajrīd,* which he called *al-Mufīd wa al-Mazīd*, a *Sharḥ* (commentary) of *al-Jāmi' al-Ṣaghīr*, *al-Jāmi' al-Kabīr* in jurisprudence.

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[1] *History of the Arabic Literature* (Vol.3, p.718) by Brockelmann.
[2] *Al-Fatḥ al-Mubīn* (Vol.2, p.34) by al-Marāghī; *al-A'lām* (Vol.4, p.32) by al-Ziriklī; Kashf *al-Ẓunūn* (Vol.1, p.114) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.1, p.587) by Ismā'īl Bāshā; *Mu'jam al-Mu'allifīn* (Vol.2, p.175) by Kaḥḥāla.

He also wrote *al-Ziyadāt*, *Hīrat al-Fuqahā'*, in which he discussed the issues over which scholars were perplexed, *al-Intiṣār li Abī Ḥanīfa fī Akhbārih wa Aqwālih.*

His death: He died in (562H/1167AD) in Ḥalab where he was also buried; however, his place of birth is not known. His name, al-Kardarī, is associated with Kardar like Ja'far, a village in Khawarizm.

4. 'Abdul'azīz al-Nasafī [1]

His name: 'Abdul'azīz bin 'Uthmān bin Ibrāhīm bin Muḥammad bin Aḥmad bin Abū Bakr Muḥammad bin al-Faḍl bin Ja'far bin Rajā' known as al-Qāḍī al-Nasafī al-Ḥanafī from Kufa.

His tutors: He acquired his knowledge of jurisprudence in Bukhārā at the hands of Abū al-Mafākhir 'Abdul'azīz bin 'Umar. He learnt from him and from Abū Bakr Muḥammad bin 'Abdulla bin Fā'il al-Sarkhakī and Abū al-Ṭāhir bin Aḥmad al-Kalābādhī. He narrated *Ḥadīth* (the Prophet's tradition) from his father, from Abū Sa'īd Aḥmad bin 'Abduljabbār al-Ṭuyūrī and from Rizq bin Mu'āwiya al-Maghribī. Imām al-Ḥaramain Abū al-Qāsim Maḥmūd bin 'Abdulla bin Ṣā'id al-Sarkhasī and Abū Bakr Muḥammad bin 'Umar al-Qalānsī and others narrated from him.

His scholarship: He was a prominent Ḥanafī scholar. He was in Baghdad but left it for Khurasan and Transoxania. He excelled in the sciences of contemplation, jurisprudence and *'Uṣūl* (principles). He lived a long life and when his peers died he became a source of reference on matters regarding *Fatāwā* (legal opinions) and real life

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[1] *Al-Fatḥ al-Mubīn* (Vol.2, p.35) by al-Marāghī; *Mu'jam al-Mu'allifīn* (Vol.2, p.164) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.1, p.424) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.1, p.578) by Ismā'īl Bāshā; *al-A'lām* (Vol.4, p.22) by al-Ziriklī; *History of the Arabic Literature* S. (Vol.1, p.639) by Brockelmann.

incidents. He was appointed in charge of justice in Bukhārā and was the leader of his time.

His writings: These include *al-Munqidh min al-Zalal fī Masā'il al-Jadal*, *al-Fuṣūl* on *Fatāwā* (legal opinions) and *Kifāyat al-Fuḥūl fī 'Ilm al-'Uṣūl*.

His death: He died in Rabī' al-Awwal (December) in (563H/1167AD).

5. Aḥmad al-Ghaznawī [1]

His name: Aḥmad bin Muḥammad bin Maḥmūd bin Sa'd al-Ghaznāwī, a Ḥanafī scholar, jurist, philosopher and a scholar in *'Uṣūl al-Fiqh*. Born in Ghazna.[2] He acquired his knowledge at the hands of Muḥammad bin Yūsuf al-'Alawī al-Ḥusainī and he learnt from Abū Bakr, the writer of *al-Badā'i'*. He was a dignified Imām; his reputation was so widely known that he attained a position of leadership in the Ḥanafī school.

His writings: He wrote books, which the Ḥanafī scholars and others benefited from, for example, his brief introduction on jurisprudence, called *al-Muqaddima al-Ghaznawiyya fī al-Fiqh*, *Rawḍat al-Mutakallimūn* on the fundamentals of Islam and *al-Rawḍa,* which tackles disagreement among scholars. He also wrote a book on *'Uṣūl al-Fiqh*.

His death: In order to spread knowledge, he travelled as far as Ḥalab in Syria where he died in (593H/1196AD). He was buried in the graveyard of the Ḥanafī scholars close to the station of Prophet Abraham [p.b.u.h.]. No reference to his date of death is found.

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[1] *Al-Fatḥ al-Mubīn* (Vol.2, p.37) by al-Marāghī; *Mu'jam al-Mu'allifīn* (Vol.1, p.296) by Kaḥḥāla; Kashf *al-Ẓunūn* (Vol.1, p.932) by Ḥājī Khalīfa; *al-A'lām* (Vol.1, p.217) by al-Ziriklī.
[2] Ghazna is a great city in Khurasan on the borders with India.

6. Ṣadr al-Afāḍil [1]

His name: Al-Qāsim bin al-Ḥusain bin Aḥmad al-Khawārizmī, Majd al-Dīn, called Ṣadr al-Afāḍil. He was born in Khawarizm in (555H/1160AD).

His scholarship and his writings: He was knowledgeable in Arabic and Ḥanafī jurist. He wrote *Sharḥ al-Mufaṣṣal* by al-Zamakhsharī in three volumes, *Ḍirām al-Ṣaqṭ*, a *Sharḥ* (commentary) on *Ṣaqṭ al-Zand* by al-Ma'arrī, *al-Tawḍīh*, a *Sharḥ* (commentary) of *al-Maqāmāt*, *Badāi' al-Milaḥ*, *al-Zawāyā wa al-Khabāyā* in grammar, *al-Sirr* in inflection, *al-Muḥaṣṣil fī al-Muḥaṣṣila* in eloquence, *'Ujālat al-Safar* in poetry and *Lahjat al-Shar'* in the explanation of juristic terminology.

His death: The Tartars killed him during their march over Transoxania in (617H/1220AD). It may be possible that he was one of the teachers of the author whose book I am dealing with in this research, because the time separating the dates of their deaths approximates twenty seven years and also because Khawarizm is considered one of the famous cities in Transoxania.

7. Al-Muwaffaq al-Khāṣṣī [2]

His name: Al-Muwaffaq bin Muḥammad bin al-Ḥasan bin Abū Sa'īd bin Muḥammad bin 'Alī Abū al-Mu'ayyad al-Khāṣṣī (in association with the Khawarizm village) al-Khawārizmī, called Ṣadr al-Dīn. He was born in Jurjān Khawarizm in Ṣafar (May) (579H/1183AD). He was a competent Ḥanafī jurist, a poet, well versed in *'Uṣūl al-*

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[1] *Al-A'lām* (Vol.5, p.175) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.640) by Kaḥḥāla; Kashf *al-Ẓunūn* (Vol.1, p.230) by Ḥājī Khalīfa; *Hadiyat al-'Ārifīn* (Vol.1, p.828) by Ismā'īl Bāshā.

[2] Al-Khāṣṣī in relation to Khāṣṣ, which is a village in Kawarizm; *al-Fatḥ al-Mubīn* (Vol.2, p.59) by al-Marāghī; *Mu'jam al-Mu'allifīn* (Vol.3, p.940) by Kaḥḥāla; *al-A'lām* (Vol.7, p.333) by al-Ziriklī.

Fiqh, knowledgeable in debates and literature and a good writer whom learners resorted to in order to benefit from his profound knowledge and the values of 'Alī bin Abū Ṭālib.

His writings: These include *al-Fuṣūl fī 'Ilm al-'Uṣūl*, *Sharḥ al-Kalim al-Nawābigh* by al-Zamakhsharī and *Durar al-Daqā'iq* on meaning and eloquence.

His death: He died in Egypt in (634H/1236AD) and was buried there.

It is possible that the writer was a tutor of the author of the manuscript under investigation in this research because the lapse of time extending between their dates of death does not exceed ten years and also because Jurjān is considered one of the cities in Transoxania.

8. Jamāl al-Dīn al-Ḥaṣīrī [1]

His name: Maḥmūd bin Aḥmad bin 'Abdulsayyid 'Uthmān bin Naṣr bin 'Abdulmalik al-Ḥusainī al-Bukhārī al-Ḥaṣīrī, called Jamāl al-Dīn, nicknamed Abū al-Maḥāmid. He was born in Bukhārā (546H/1151AD) and his father was known as a merchant trading in Ḥaṣīr (straw mats), which explains why he was called al-Ḥaṣīrī. Abū al-Maḥāmid was a Ḥanafī jurist, a scholar in *'Uṣūl* and a narrator. He studied at the hands of al-Ḥasan bin Manṣūr Qāḍīkhan. He studied Muslim's *Ṣaḥīḥ* and other Ḥadīth books in Naisāpūr including al-Mu'ayyad al-Ṭūsī, and he also heard from the honourable Abū Hāshim in Ḥalab.

His position: He came to Syria where he became famous. He was eventually in charge of the Ḥanafī school at his time. He was assigned the duty of teaching in the Nūriyya

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[1] *Al-Fatḥ al-Mubīn* (Vol.2, p.61) by al-Marāghī; *al-A'lām* (Vol.7, p.161) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.796) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.1, p.563) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.2, p.405) by Ismā'īl Bāshā. *History of the Arabic Literature* (Vol.1, p.473) by Brockelmann; Princeton (p.503).

school and assumed responsibility over *Iftā'* (giving legal opinion). He instructed the great king 'Īsā, the jurist Ibn Ābid al-Tamīmī, al-Sarkhadī and Imām Yūsuf Sibṭ (grandson) Ibn al-Jawzī.

His writings: He was interested in writing and teaching; he studied *al-Jāmi' al-Kabīr* in Damascus and wrote a great *Sharḥ* (commentary) on it in seven volumes entitled *al-Taḥrīr fī Sharḥ al-Jāmi' al-Kabīr*. He also wrote *Khair Maṭlūb fī al-'Ilm al-Marghūb* on *Fatāwā* (legal opinions); *al-Ṭarīqa al-Ḥaṣīriyya* (on disagreement between the Ḥanafī and Shāfi'ī schools on *'Uṣūl*), *Sharḥ al-Siyar al-Kabīr* on *Furū'* (subsidiaries), *Manāsik al-Ḥajj*, *al-Najm al-Hādī al-Sārī 'ilā Ḥall Alfāẓ Ṣaḥīḥ al-Bukhārī*, *al-Wajīz* on *Fatāwā* according to Ḥanafī jurisprudence.

His death: He died on Sunday (8) Ṣafar (September) in (637H/1239AD) and was buried in the *Ṣūfi's* cemetery in Syria.

9. Muḥammad al-Kardarī [1]

His name: Muḥammad bin Muḥammad bin 'Abdussattār, Abū al-Wajd, Shams al-A'imma, al-'Imādī al-Kardarī, a Ḥanafī scholar from Bukhārā.

His writings: *Al-Radd wa al-Intiṣār* in which he defends Imām Abū Ḥanīfa and states his qualities, *Mukhtaṣar Ḥusām al-Dīn al-Akhsīkathī* (summary of al-Akhsīkathī's book), *al-Ḥaqq al-Mubīn fī Daf' Shubuhāt al-Mubṭilīn* or *al-Saif al-Maslūl fī al-Radd 'ala Ṣāḥib al-Mankhūl*, also called *al-Durra al-Munīfiyya* on *al-Intiṣār* (triumph for Imām Abū Ḥanīfa).

His death: He died in Bukhārā on (8) Muḥarram (June) in (642H/1244AD).

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[1] *Mu'jam al-Mu'allifin* (Vol.3, p.410) by Kaḥḥāla; *al-A'lām* (Vol.7, p.28) by al-Ziriklī; *History of the Arabic Literature* (Vol.1, p.474, 381), S. (Vol.1, p.653) by Brockelmann.

10. Mukhtār al-Ghazmīnī [1]

His name: Mukhtār bin Maḥmūd bin Muḥammad Abū al-Raja' Najm al-Dīn al-Zāhidī al-Ghazmīnī, a Ḥanafī jurist, and a scholar in *'Uṣūl*. He grew up in Ghazmīn and moved to Baghdad and Syria; he acquired knowledge at the hands of prominent scholars such as Muḥammad bin 'Abdulkarīm al-Turkestānī, Nāṣir al-Dīn al-Maṭrizī, Ṣadr al-Qurrā' Sanad al-A'imma Yūsuf al-Khawārizmī, Sirāj al-Dīn al-Sakākī and Fakhr al-Dīn Badī' al-Qāḍī.

His writings: These include *al-Ḥāwī fī al-Fatāwī*, *al-Mujtabā* on *'Uṣūl al-Fiqh* through which he commentated al-Qaddūrī's *Mukhtaṣar* (epitome), *Zād al-A'imma*, *Qunyat al-Munabbih li Tatmīm al-Ghunya*, which he selected from *al-Baḥr al-Muḥīṭ* by al-Badī' al-Qazwīnī, *al-Risāla al-Nāṣiriyya* on prophecy and miracles, *al-Jāmi' fī al-Ḥaiḍ* (on menstruation), *al-Ṣafwa* on *'Uṣūl al-Fiqh*, *al-Farā'iḍ* (inheritance science) and *Faḍā'il Shahr Ramaḍān* (the fasting month).

His death: He died in (658H/1260AD).

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[1] Ghazmīn: a fort in Khawarizm; *al-Fatḥ al-Mubīn* (Vol.2, p.71) by al-Marāghī; *al-A'lām* (Vol.7, p.193) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.838) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.1, p.577) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.2, p.423) by Ismā'īl Bāshā. *History of the Arabic Literature* (Vol.1, p.382), S. (Vol.1, p.656) by Brockelmann.

2.13 Conclusion

In this chapter I have given an account of the author's life. I have talked about his homeland, the geographical location of the region within present-day Turkestan, its value for trade and its effect on the author. I have also discussed the political, economic, social and scholastic status of the region in the mid-seventh Hijri century (fourteenth century AD) through to the eighth Hijri century (fifteenth century AD) up to the present day.

I have shed light on his school, his advanced class among other scholars in his school, and some of his contemporaries.

Having talked about the life of the author, it is necessary to tackle the author's book (*al-Muntakhab*), which is the concern of the present investigation and which is considered as one of the famous books on *'Uṣūl al-Fiqh* from the Ḥanafī perspective. This will be discussed in the following chapter.

Chapter three

The book

3.1 Introduction

In this chapter I shall talk about the title of the book and the controversy surrounding it. I shall discuss the value of the book that led me to its study and edition. I shall also examine the most valuble books relied upon by the Ḥanafī school in jurisprudence and the position of the book under study among them, the copies of the book and the reason behind the researcher's choice of the main copy. I shall then shed light on the *Shurūḥ* (commentaries) written on the book, which approximate sixteen. Finally, an account of the author's methodology in his book alongside the terminology and research will also follow.

3.2 The book's title

The author did not provide a title or even an introduction for his book, as will be explained in the discussion on the author's methodology. In addition, nothing is said about the title throughout the book, which urged his biographers and writers of copies of the book (copywriters) to provide a title for the book in accordance with its content. They, therefore, disagreed on many titles, but any one scrutinising them will realise that they are all very approximate with similar meanings as follows:

1. *Al-Muntakhab fī 'Uṣūl al-Madhhab*: This is the title agreed upon by a number of sources and references which mentioned the book title and provided the author's biography[1] as well as some manuscripts.[2]

2. *Al-Mukhtaṣar fī 'Uṣūl al-Fiqh*: Al-Laknawī states: "He wrote *al-Mukhtaṣar fī 'Uṣūl al-Fiqh* known as *al-Muntakhab al-Ḥusāmī*".[3]

3. *Al-Mukhtaṣar*: Al-Qurashī comments: "The author of '*al-Mukhtaṣar*'"[4] and Qaṭlubghā states: "The author of '*al-Mukhtaṣar*' on *'Uṣūl al-Fiqh*".[5] Serkis argues: "He wrote *al-Mukhtaṣar* on *'Uṣūl al-Fiqh*..."[6]

4. *Al-Muntakhab*: Ṭāsh Kubrī Zada states: "One of these is *al-Muntakhab* by al-Akhsīkathī, the author of *al-Mukhtaṣar*".[7]

5. *Al-Ḥusāmī*: According to Brockelmann: "He is the author of *al-Muntakhab fī 'Uṣūl al-Madhhab* commonly known as *al-Ḥusāmī*".[8]

6. *'Uṣūl al-Fiqh*: On the cover page of the copy [P] is written: "'Uṣūl al-Fiqh by Muḥammad Ḥusām al-Dīn al-Akhsīkathī". "*Al-Akhsīkathī fī 'Uṣūl al-Fiqh*" also appears on the cover page.

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[1] See *Kashf al-Ẓunūn* (Vol.2, p.1848) by Ḥājī Khalīfa; *Hadiyyat al-'Ārifīn* (Vol.2, p.123) by Ismā'īl Bāshā; *al-A'lām* (Vol.7, p.28) by al-Ziriklī; *History of the Arabic Literature* (Vol.3, p.718) by Brockelmann; *Mu'jam al-Mu'allifīn* (Vol.3, p.663) by Kaḥḥāla.
[2] Copy [CH] and copy [Ir].
[3] *Al-Fawā'id al-Bahiyya* (p.188).
[4] *Al-Jawāhir al-Muḍiyya* (Vol.3, p.334).
[5] *Tāj al-Tarājim* (p.196).
[6] *Mu 'jam al-Maṭbū'āt al-'Arabiyya wa al-Mu'arraba* (Vol.1, p.406).
[7] *Miftāḥ al-Sa'āda* (Vol.2, p.170).
[8] *History of the Arabic Literature* (Div.3, [5-6], p.718).

7. *Akhsīkathī fī 'Uṣūl al-Fiqh*: This is written on the cover page of the copy [P], in small script, and also on the cover page of the copy [Tb]. However, the copy [Ts] displays '*Akhsīkathī fī al-'Uṣūl*'.

8. *Al-Muntakhab al-Ḥusāmī*: It may be argued that this is the title that the book is most famous for and by which it is known among scholars, for example, al-Laknawī[1] quotes this title and says: "Known as *al-Muntakhab al-Ḥusāmī*". In addition, al-Ziriklī,[2] 'Umar Riḍa Kaḥḥāla[3] and Serkis[4] mention the same.

Due to the fact that the main manuscript carried the title "*Kitāb fī 'Uṣūl al-Fiqh*", a title that does not specify a particular book, I have decided to choose "*Al-Muntakhab fī 'Uṣūl al-Madhhab*" as a title of the book because some of the other titles mentioned are also found in other books such as *al-Mukhtaṣar fī 'Uṣūl al-Fiqh* by Muḥammad Ḥakīmī al-Kailānī,[5] *al-Mukhtaṣar* referring to *Mukhtaṣar al-Qaddūrī* on Ḥanafī's *Furū'* (subsidiaries),[6] *al-Muntakhab* by Abū Bakr Aḥmad bin Sa'īd al-Akhmīmī, *al-Muntakhab* by Shihāb al-Dīn al-Shāghūrī, [7] and '*Uṣūl al-Fiqh* by al-Dumyāṭī.[8]

The other titles, including "*Al-Ḥusāmī*" and "*Akhsīkathī fī 'Uṣūl al-Fiqh*", refer to this book according to the scholars the researcher has contacted;[9] however, these titles are less renowned than "*Al-Muntakhab*". Therefore, owing to its wide use under this name

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[1] *Al-Fawā'id al-Bahiyya* (p.188).
[2] *Al-A'lām* (Vol.7, p.28).
[3] *Mu'jam al-Mu'allifīn* (Vol.3, p.663).
[4] *Mu 'jam al-Maṭbū'āt al-'Arabiyya* (Vol.1, p.406).
[5] See *Kashf al-Ẓunūn* (Vol.2, p.1629) by Ḥājī Khalīfa.
[6] *Mu 'jam al-Maṭbū'āt* (Vol.2, p.1498) by Serkis.
[7] See *Kashf al-Ẓunūn* (Vol.2, p.1850).
[8] *Mu 'jam al-Maṭbū'āt* (Vol.1, p.886) by Serkis.
[9] For example, Shaikh 'Abdulbāṣiṭ al-Afghānī, the caller to prayers in the Ministry Complex's mosque. He taught *Sharḥ al-Muntakhab* to many students and to Dr 'Ināyatullah Iblāgh. He works on the juristic encyclopedia in the Ministry of Awqāf and Islamic Affairs in Kuwait.

among scholars; I have chosen "*Al-Muntakhab al-Ḥusāmī*" as a title of the book analogous to the main title, namely "*Al-Muntakhab fī 'Uṣūl al-Madhhab*" known as "*Al-Muntakhab al-Ḥusāmī*".

3.3 The book's value

The following points illustrate the value of the book:

1. Scholars' praise of the book.
2. The circulation of book among learners seeking knowledge.
3. Various commentators on the book.
4. Various copies of the book.

3.3.1 Scholars' praise of the book

Many scholars who wrote biographies of the author praised the book, including al-Laknawī, who comments in his biography: "I read his *Mukhtaṣar* renowned as *al-Muntakhab al-Ḥusāmī* ... and it is a respected *Mukhtaṣar* which is circulated among jurists...".[1] Ḥājī Khalīfa states: "It - i.e. *al-Muntakhab* - excludes unnecessary waffle, includes precise and clear parts, organises content accurately".[2] Also, Ismā'īl Bāshā argues that: " one of his writings is *al-Muntakhab fī 'Uṣūl al-Madhhab* which is famous among scholars".[3] In addition, 'Abdul'azīz al-Bukhārī (d. 730H/1330AD), who is a commentator on his book, states: "It surpasses all other books in this field in terms of its superior and excellent organisation and solid structure, which makes it widely known among people, close and distant, and renowned in the Islamic world, east and west alike".

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[1] *Al-Fawā'id al-Bahiyya* (p.188).
[2] *Kashf al-Ẓunūn* (Vol.2, p.1848).
[3] *Hadiyyat al-'Ārifīn* (Vol.2, p.123).

It is therefore obvious from the definitions above that the words 'renowned', 'respected', 'circulated', and 'famous' do not come out of the blue; rather, these words are clear evidence indicating the significance of the book and its wide use among scholars.

3.3.2 The circulation of the book among learners

What proves the wide circulation of the book among learners is Ḥājī Khalīfa's comment that shows its significance: "People flocked to learn and teach it; they engaged in its narration and used it heavily".[1] In fact, people do not rush to learn or teach a book unless it is of great use and significance to the *'Uṣūl al-Fiqh*.

3.3.3 Various commentators on the book [2]

The interest of scholars and commentators in *al-Muntakhab* provides evidence of its value. The *Shurūḥ* (commentaries) written about the book amount to sixteen and these are listed below; their details, however, will be discussed in this chapter that deals with the *Shurūḥ* (commentaries).

1. *Sharḥ al-Muntakhab* by 'Abdulla bin Aḥmad al-Nasafī (d. 710H/ 1310AD).
2. *Al-Wāfī* by al-Ḥusain bin 'Alī al-Saghnāqī (d. 710H/1310AD).
3. *Al-Muntakhab Sharḥ al-Muntakhab li al-Akhsīkathī* by Muḥammad bin Muḥammad bin Mubīn Abū al-Faḍl al-Nūrī al-Ḥanafī.

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[1] *Kashf al-Ẓunūn* (Vol.2, p.1848).
[2] See the biographies written about the author, particularly *Kashf al-Ẓunūn* (Vol.2, p.1848) by Ḥājī Khalīfa and *History of the Arabic Literature,* (Dev.3, p.718) by Brockelmann.

4. *Al-Taḥqīq* or *Ghāyāt al-Taḥqīq* by Imām Alā' al-Dīn 'Abdul'azīz bin Aḥmad bin Muḥammad al-Bukhārī (d. 730H/1330AD).

5. *Al-Tabyīn* by Amīr Kātib al-Itqānī (d. 758H/1357AD).[1]

6. *Sharḥ* (commentary) by Manṣūr bin Aḥmad al-Qā'ānī al-Khawārizmī.

7. *Sharḥ al-Muntakhab al-Ḥusāmi* by Muḥammad bin al-Sharīf al-Ḥusainī al-Jurjānī al-Samarkandī (d. 838H/1435AD).

8. *Miftāḥ al-'Uṣūl* by Abū al-Faḍā'il 'Abdulla bin 'Abdulkarīm al-Dahlawī (d. 891H/1486AD).

9. *Sharḥ al-Muntakhab* by Yūsuf bin Shāhīn (d. 899H/1493AD).

10. *Al-Nāmī* by 'Abdulḥaq bin Muḥammad al-Hindī, who died after (1289H/ 1872AD).

11. *Daqā'iq al-'Uṣūl fī Sharḥ al-Muntakhab al-Ḥusāmī* by Afḍal al-Ḥaqq Akhund Zada.

12. *Al-Taḥqīq* by Muḥammad bin Ya'qūb al-Banānī or al-Banbānī, who died after (1081H/1670AD).

13. *Al-Taḥqīq* by Fakhr al-Dīn al-Māimatī.

14. *Sharḥ al-Muntakhab fī 'Uṣūl al-Madhhab* by Muhtadīn bin Amīn bin Khawāja Muḥammad bin Ismā'īl.

15. *Faraḥ al-Maslīl wa al-Mas'ūl fī Sharḥ al-Muntakhab fī al-'Uṣūl* by Muḥammad Nūr Ghazinī.

16. *Sharḥ al-Muntakhab fī 'Uṣūl al-Madhhab* by unknown commentator.

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[1] Edited by Dr, 'Uthmān, Ṣābir Naṣr Muṣṭafa. (First edition) (1420A.H./1999A.D.) and published by the Ministry of Mortmain and Islamic Affairs in Kuwait.

3.3.4 Various copies of the book

From the researcher's correspondence with various manuscript centers, it became clear that there are more than (24) deferent copies of the book *al-Muntakhab* spread in the whole world[1]. Some of these are copies of the main versions in other libraries and centers.

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[1] Based on a bibliographical list from King Faişal Center for Research and Islamic Studies (1418H/1997AD).

3.4 The most significant books written by Ḥanafī scholars on *'Uṣūl al-Fiqh*

In this section I discuss the place of the book *al-Muntakhab* among the many famous books written by Ḥanafī scholars as is the case with Shāfi'ī scholars. In fact, the two schools were in disagreement with regard to who first wrote on the *'Uṣūl al-Fiqh*; hence in their claim the Ḥanafīs refer to Imām Abū Ḥanīfa's book (*al-Rā'y),* which, though incomplete, illustrates deduction methods and later to his companions Abū Yūsuf and Muḥammad bin al-Ḥasan al-Shaibānī. The Ḥanafīs therefore claim that they were the first to write on the *'Uṣūl al-Fiqh* after their leader Imām Abū Ḥanīfa.[1] On the other hand, the Shāfi'īs argue that the book *al-Risāla* by Imām al-Shāfi'īprovides clear and ample evidence against those who maintain that the first who wrote on *'Uṣūl al-Fiqh* are other than the Shāfi'īs.[2]

Scholars successively reviewed their respective schools and deduced the legal rulings of their Imāms. In this respect, the Ḥanafīs suffered a lot particularly since their scholars did not bequeath comprehensive principles and coherent injunctions. Rather, they left a lot of issues scattered in their books and a lot of juristic *Furū'* (subsidiaries) disseminated in their writings. Since the third Hijri century (ninth century AD) scholars started to gather such dispersed issues and to deduce the legal rulings relating to such issues. For instance, the first autonomous book on *'Uṣūl* of Ḥanafī jurisprudence was associated with Imām Abū al-Ḥasan al-Karkhī, who wrote a booklet on *'Uṣūl al-Fiqh.*[3]

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[1] See *'Uṣūl al-Sarkhasī* (Vol.1, p.3), by Muḥammad bin Aḥmad al-Sarkhasī, edited by Abū al-Wafā al-Afghānī.
[2] See *al-Muqaddima* by Ibin Khaldūn (p.360).
[3] This refers to a number of legal injunctions over which there is some disagreement among the Imāms of the four schools, as indicated by al-Karkhī.

Later on Imām Abū Bakr al-Jaṣṣāṣ, a scholar, came and wrote his book *al-Fuṣūl fī al-'Uṣūl* called *'Uṣūl al-Jaṣṣāṣ*. This book is considered the first most reliable source among Ḥanafī scholars. Al-Jaṣṣāṣ supported his book with intellectual and textual evidence for all existing issues. The issues contained in his book comprised most of those in tackled in *'Uṣūl al-Fiqh*. In his book the author mentioned the views of his tutor Abū al-Ḥasan al-Karkhī – including what he agrees and disagrees with him on – and the book is par excellence one of the best and most reliable in the field of *'Uṣūl al-Fiqh*.[1]

The noble Imām and Judge Abū Zaid 'Ubaidull al-Dabūsī came later and wrote *Taqwīm al-Adilla*, which became the second most reliable source among Ḥanafī scholars. The book contains jurists' views despite the fact that they are in conflict with those of the Imāms of his own school.[2] Ḥanafī scholars took great care of this book. For example, Imām Fakhr al-Islam al-Bazdawī commented on it, and this is a reliable *Sharḥ* (commentary),[3] summarised by Imām Saif al-Dīn Abū Bakr Muḥammad bin al-Ḥusain al-Arsābandī.[4]

Al-Dabūsī is succeeded by Imām Fakhr al-Islam 'Alī bin Muḥammad bin al-Ḥusain al-Bazdawī and wrote his famous book *Kanz al-Wuṣūl ilā 'Ilm al-'Uṣūl*, known as *'Uṣūl Fakhr al-Islam*,[5] which is a reliable source circulated and famous among people. This is the main book from which Ḥusām al-Dīn al-Akhsīkathī summarised his book *al-*

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[1] This book is published in four volumes by the Ministry of Mortmain and Islamic Affairs in Kuwait (edited by Dr 'Ajīl Jāsim al-Nashmī).
[2] This book is edited as an academic dissertation in the Islamic University in Madīna (Saudi Arabia) in (1404H/1983AD).
[3] As described by Ḥājī Khalīfa in *Kashf al-Ẓunūn* (Vol.1, p.467).
[4] Muḥammad bin al-Ḥusain bin Muḥammad al-Arsābandī (Arsāband is a village in Mary), al-Ḥanafī, Fakhr al-Dīn, Abū Bakr, a jurist, a scholar in *'Uṣūl al-Fiqh* and a judge, (d. 512H/1118AD); *Mu'jam al-Mu'allifīn* (Vol.3, p.116) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.1, p.111) by Ḥājī Khalīfa; *al-Jawāhir al-Muḍiyya* (Vol.3, p.145) by al-Qurashī.
[5] See *Kashf al-Ẓunūn* (Vol.1, p.112) by Ḥājī Khalīfa.

Muntakhab, which is the concern of this research. Many scholars commented on *al-Bazdawī's* book including al-Sighnāqī in his book *al-Kāfī*. 'Alā' al-Dīn 'Abdul'azīz bin Aḥmad al-Bukhārī[1] also commented on this book in his famous *Kashf al-Asrār*. Ṭāsh Kubrī Zāda argues that this is: "the best and most famous *Sharḥ* (commentary)".[2] Moreover, Akmal al-Dīn Muḥammad bin Muḥammad al-Bābirtī[3] commented on the book in his *al-Taqrīr*.[4]

Later on came *al-'Uṣūl*[5] by Shams al-A'imma Abū Bakr al-Sarkhasī which is a book of large size and simple style. In this book, the writer states juristic issues that he illustrates by tens of examples and a lot of supporting evidence, which makes it a comprehensive book that is essential to everyone who belongs to the Ḥanafī school. This is followed by *Mīzān al-'Uṣūl fī Natā'ij al-'Uqūl* known as *al-Mīzān* written by 'Alā' al-Dīn al-Samarkandī,[6] and this is a valuable book relied upon by many recent jurists.[7]

Finally, Ḥusām al-Dīn al-Akhsīkathī's *al-Muntakhab* follows and it is the last of the reliable books. The author excelled in his book and I have already referred to a statement by a commentator on the book, i.e. 'Abdul'azīz al-Bukhārī, who comments: "It surpasses all other books in its field in terms of its superior refinement and solid structure". The book is constrained to *'Uṣūl al-Fiqh* and is considered one of the most

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[1] Details of his life were mentioned in the section on the impact of location on the author's life. The book is published in four volumes by Dār al-Kitāb al-'Arabī, Beirut (1417H/1997AD), edition and commentary by Muḥammad al-Mu'taṣim Billah al-Baghdādī.

[2] *Miftāḥ al-Sa'āda* (Vol.2, p.185).

[3] Muḥammad bin Muḥammad bin Maḥmūd, Akmal al-Dīn, Abū 'Abdulla bin al-Shaikh, Shams al-Dīn bin al-Shaikh Jamāl al-Dīn al-Rūmī al-Bābirtī (in association with a village in the vicinity of Baghdad), a scholar knowledgeable in Ḥanafī jurisprudence and in literature. He died in Egypt in (786H/1384AD); *al-A'lām* (Vol.7, p.42) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.3, p.691) by Kaḥḥāla.

[4] *Kashf al-Ẓunūn* (Vol.1, p.112) by Ḥājī Khalīfa.

[5] See *Kashf al-Ẓunūn* (Vol.1, p.112) by Ḥājī Khalīfa.

[6] Muḥammad bin Aḥmad al-Samarkandī, a Ḥanafī scholar, 'Alā' al-Dīn and a jurist, (d. 553H/ 1158AD); *Mu'jam al-Mu'allifīn* (Vol.3, p.67) by Kaḥḥāla; *Kashf al-Ẓunūn* (Vol.1, p.1916) by Ḥājī Khalīfa.

[7] The book is published in one volume by Idārat Iḥyā' al-Turāth al-Islāmī, State of Qatar (1404H/1983AD), edited by Dr Muḥammad Zakī 'Abdulbarr.

valuble Ḥanafī books on *'Uṣūl* owing to the fact that it is recent and it provides a comprehensive summary of its predecessors.

3.5 Copies of the book

Due to the reputation and value of the book, its copies scattered in libraries in different parts of the world. From the researcher's correspondence with various manuscript centers, it became clear that there are more than twenty-four copies of the book *al-Muntakhab* spread in the whole world. Some of these are found in Arab countries such as Egypt and Saudi Arabia, others in some Muslim countries, for example Turkey and Iran, and some in other countries such as India, Ireland, England, Germany, and the USA.

I visited some of these countries and I wrote to some others. I managed to get seven copies that I believe are suitable for use as a solid basis that can be relied upon in the editing of the book. Correspondence is still ongoing in order to get all the copies of the book.

The following is a description of the copies, classified in terms of the way I relied on them in the editing. Preference is given to chronological order, and I show the difference between them (copies):

1. King Saud University copy in Riyāḍ. I consider this to be the main copy and which I represent by the letter [S]

I give this copy a preference over (4.5) due to the fact that it is close to the author's date and highly well written although it is not clearer than (4.5).

- Its title: *Kitab fī 'Uṣūl al-Fiqh* by the righteous Imām al-Akhsīkathī.
- The author: Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī (d. 644H/ 1247AD).
- Copywriter: unknown.

- Copy date: 10 Rabī‘ al-Awwal, 690H = 13 March, 1291AD.

- Number of sheets:74 plates – Number of lines:11 lines - Number of words per line = 8.

- Paper size: 18.5 × 13 cm.

- Script type: good.

- Source: King Saud University- Riyāḍ- Kingdom of Saudi Arabia.

- File number: 3797.

- Observations:

  - Good copy overall.

  - The oldest copies in my possession.

  - On its cover figures a mortmain dedication bearing the name: (.?.)[1] Yaḥya bin al-Mirghanī al-Sīwāsī.[2] Date of dedication: 13 Ramadan (812H/1409AD).

  - Its marginal notes contain many clarifications and comments.

  - The copy shows lake of pages starting from line 6 on page [60/a] in what approximates one page which I completed by referring to the other copies, and this is from the writer's words: "*Wa in Kāna Shuri'a...*" to: "... *likhtilāf Ḥalihimā*".

  - The copy shows corrections,[3] which proves that the copier dictated or recited it to a scholar, for example his words on line seven, page [9/b]: "wa lihādhā law ḥalafa lā yabī', fabā'a bisharṭ al-khiyār (yaḥnath)...". Hence the word 'yaḥnath' is written in the marginal notes to the left of page [9/b] followed by the word 'ṣaḥ'(correct) which is not found in the sentence. Another example is found in

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[1] An unclear name.
[2] I could not find his biography.
[3] Correction means that the copy writer states the word *Ṣaḥ* (correct) in the marginal notes, indicates proof of correction above or under a word that carries a mistake, or adds a missing word or phrase.

line ten, page [10/b]: "ay muḥtamil lil wujūd wa lam yatabaddal al-'adam faṣār...". After the word 'lil wujūd' there is an indication to the marginal note and on the marginal note to the left margin is written "qablahu wa lil 'adam al-aṣlī wa kan muḥtamilan lil wujūd". The word 'ṣaḥ'(correct) is used to confirm correction. Such correction consolidates the copy under study, which eliminates many of the mistakes committed by copywriters.

- It is observed that the copier of this copy modifies Hamza [ء] (i.e. Glottal stop), in other words, changing it to a [ي] (Y) as in the word (listighnāyihi) meaning (listighnā'ihi) in line five, page [3/b] and in the phrase ('ala abnāyihim) instead of ('ala abnā'ihim) in line ten, page [4/a]. This type of correction is common and well known among copywriters.

- The copy writer used the symbol (///) at the end of line three on page [13/b] to fill the gap which is not sufficient for a complete word in the line. The symbol is also used at the end of line nine, page [15/a] and at the end of line eight, page [15/b]. The writer of this copy used the three dots [∴] to indicate the end of a line in which there is a plain gap which is not suitable for the start of a new chapter. This is the case in line two of page [15/a], which provides evidence that the writer was extremely cautious that no other word should be added to the written text or that the reader of the copy does not believe there is omission or obliteration in this position in the line.

- The writer of the copy used a horizontal line above the first word of every new paragraph even if the word appears in the middle of a line, as in line nine of page [1/a] when he states: "fī ḥaqq jawāz al-ṣalāt khāṣṣa, wa aqsām al-naẓm wa al-

ma'nā...". He put a horizontal line above the word 'wa aqsām' to indicate this is the beginning of a new paragraph.

- The writer made a mistake in the *Qur'ānic* verse where Allah [s.w.t.] says: "wa man..",[1] for the writer writes 'fa man' in line three, page [9/a].

2. Bashir Āghā Library copy in Turkey, al-Sulaimaniyya Number 187. I indicate this copy by the letter [Tb]

- Its title: Sharḥ li al-Akhsīkathī ma'a al-Matn li Ḥāfiẓ al-Dīn al-Nasafī.

- The author: Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī.

- Copy writer: Khālid bin Ya'qūb.[2]

- Copy date: Sunday nineteen Ṣafar 707H (1308AD).

- Number of sheets: (32) plates – Commentary (*Sharḥ*) on *al-Muntakhab* by al-Nasafī[3] from page (35) to page (180). Number of lines: (20) lines.

- Paper size: Unknown.

- Script type: Naskh (a type of Arabic writing).

- Source: Imām Muḥammad bin Saud Islamic University Library, Riyāḍ, Kingdom of Saudi Arabia. File number: 7406 - F

- Manuscript source on microfilm: King Faiṣal Center for Research and Islamic Studies, file number 994- F

- Observations:

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[1] Sūrat *al-Nisā':25.*
[2] I could not find his biography.
[3] His biography has been mentioned in the section on Ḥanafī classes.

- This copy is written in an old script and has some lines that are difficult to read. The cover also has more than one seal but none of them is clear. The copy is characterised by the limited number of marginal notes on the margins in contrast to the previous copies, and most of the pages do not bear any marginal notes.

- The introduction to this copy is written in the first line with: "The noble Imām Shaikh Ḥusām al-Dīn Muḥammad bin Muḥammad bin 'Umar al-Akhsīkatī" And the name Akhsīkathī is written with a 'tī' not 'thī'.

- This copy contains a lot of messing pages starting from the page facing [1/a] and it matches pages [1/b] to [11/a] in the main copy.

- A distinguishing feature of this copy is that the writer split some words at the end of a line, for example the word 'al-Rasūl' In line four, page [1/a], where the writer writes the letters 'sūl' at the beginning of line five; the word 'Taqrīrihi' in line ten, page [2/a] where he writes the letters 'īrihi' in line eleven; and the word 'al-Awqāt' in line four, page [2/b] where he writes 'qāt' in line five.

- Lack of page ordering in this copy, for example page [9/b] should be in the place of page [7/b].

- The copywriter shortens the phrase (peace be upon him) into (p.b.u.h.) as in line seventeen on page [12/b] and modifies the Hamza (Glottal stop) 'Jāyiz' instead of 'Jā'iz' in lines three and four on page [14/b].

- The writer uses the line closure symbol (//) so that no word can be added to the text as in line twelve, page [25/a].

- This copy ends at page [32/a] and page [33] is blank except for some marginal wise statements. Page [34] is a *Sharḥ* (commentary) on *al-Muntakhab* in

approximately one page only. Imām 'Abdulla bin Aḥmad al-Nasafī's *Sharḥ* (commentary) on *al-Muntakhab*, which a very long *Sharḥ* (commentary), starts at page [35]. It appears that the writer of this copy completed the writing process during the life of the writer of the *Sharḥ* (commentary) since at the end of his copy he states that he completed it in (707H/1308AD). The writer of the *Sharḥ* (commentary), died (710H/1311AD).

3. Chester Beatty Library copy – Dublin, Ireland - Number 5047. I indicate this copy by the letter [Ch]

- Its title: *Al-Muntakhab fī 'Uṣūl al-Madhhab*.

- The author: Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī Ḥusām al-Dīn.

- Copy writer: unknown.

- Copy date: 2 Jumāda al-Thānī, 732H (1332AD).

- Number of sheets: 87 plates – Number of lines: 11 lines.

- Paper size: 17.8 × 13 cm.

- Script type: good writing.

- Source: Imām Muḥammad bin Saud University, Riyāḍ, Kingdom of Saudi Arabia.

- File number: 6867 – 5047 / F.

- Observations:

  - The copy is good overall but it is characterised by loss of some pages, lack of page ordering and traces of moisture in the upper marginal notes on many pages. Some comments on the marginal notes figure in this copy, but these comments are fewer than those found in the other copies of the book.

- Loss of ten sheets approximately at the beginning of the book; the side facing page [1/a], namely page [1/b] starts with a word from the main book on page [13/b] which means that this copy reveals advancement of some sheets and delay of others. On the other hand, page [9/b] should be positioned in the place of [19/b]; in the same way, page [12/b] should be positioned in the place of [16/b] and so on.

- It is noticed that words in this copy have vowels and they have corrections in some of the marginal notes as in line nine on page [32/b] when he states: "Aw ghairihi" (or someone else), then he uses a sign between 'Aw' and 'ghairihi' indicating the marginal notes where he writes 'min' (from) and further on 'Ṣaḥ' (Correct) so that the phrase becomes 'Aw min ghairihi' (or form someone else).

- The copy writer uses a circle containing a dot in its centre at the end of a line when the space left is not sufficient to start a new section, as in the end of line ten on page [23/a] prior to the beginning of the section on *'Azīma* (decisive judgement) and *Rukhṣa* (allowance).

- It is noticed that the writer of this copy uses *Ta'qība* (prior repetition of the first word that occurs on page [b] in the extreme left bottom corner of page [a]). This process implemented at the end of every page [a] to indicate the word with which the writer will start the page facing the present one – as is commonly done by most copy writers – and Ta'qība has revealed many pages that were not in their correct position.

4. Princeton University Library copy – USA. Number 1705. I indicate this copy by the letter [P]

- Its title: Ḥusām al-Dīn / Al-Akhsīkathī in 'Uṣūl al-Fiqh.

- The author: Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī.

- Copywriter: Sāwjī bin Ya'qūb bin Muḥammad called Sirāj al-Mālṭī.[1]

- Copy date: Thursday morning, 17 Sha'bān 740H (1340AD).

- Number of sheets: 48 plates – Number of lines: 15 lines.

- Paper size: 17.7 × 11.5 cm.

- Script type: Naskh.

- Source: Manuscript Administration, King Fahad National Library – Riyāḍ-Kingdom of Saudi Arabia.

- File number: 1705

- Observations:

  - The copy displays the possession name: Muḥammad al-Ḥusainī bin al- 'Aṭṭār.

  - Some pages contain marginal notes and the writer of this copy uses a Ta'qība at the end of page [a] and vocalises many letters.

  - The copy shows corrections as in line seven, page [2/a].

  - The copy writer shortens the Hamza (Glottal stop) in the word 'listighnā'ihi' which he writes as 'listighnāyihi' with a 'Y' in line fourteen on page [2/b] and crosses out when there is a mistake as in line nine, page [6/a].

  - Lack of ordering of some pages in the book as in page [12/b] which should be positioned instead of page [11/b]. In addition, this copy reveals loss of some

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[1] I could not find his biography.

pages such as the one facing page [27/a] in what approximates a whole plate, which equals the pages ranging from [38/a] to [39/a] in the main copy. Page loss is also found in the pages following pages [35/a] in what approximates the front and back of the facing page which matches what comes before page [50/a] to page [51/a] in the main book.

5. Al-Mar'ashī Library copy – Iran – (7887/2). I indicate this copy by the letter [Ir]

- Its title: Al-Muntakhab fī 'Uṣūl al-Fiqh.

- The author: Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī. Al-Farghānī.

- Copywriter: 'Abdulla bin Naṣr bin Muḥammad bin Abū al-Fatḥ al-Dūsānī.[1]

- Copy Date: Monday 4 Ṣafar 775H (1374AD).

- Number of sheets: 160 plates – Number of lines: 6-7 lines.

- Paper size: 22 × 14.5 cm.

- Script type: good Naskh.

- Source: General Āyat Allah al-'Uẓmā al-Mar'ashī al-Najafī - Qum- Iran.

- File number: 7887- 2

- Observations:

- I believe this copy is the best of all the copies I managed to find because it is very clear and it is almost complete. Also, most of the words in it are vocalised; it is the most precise; and it has the most accurate text in my opinion.

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[1] I could not find his biography.

- This copy contains numerous marginal notes on the margins.

- It contains the Ta'qība and the writer shortens the Hamza (Glottal stop).

- It seems that the writer of the copy in Turkey (Yanī Jāmi' library) quoted a lot from this copy since there is great resemblance between the loss of the pages in the two copies. For example, notice line five on page [76/a] of this copy and line three in the Turkey copy, page [89/a].

- This copy shows addition that amounts to one page and a half and that is written in a script which is different from the rest of the manuscript since it is written in a horizontal form. It also seems to me that this chunk is interpolated in the manuscript and is not part of it. It looks as if this is an external page attached to the pages in the manuscript although it deals with the theme of *'Uṣūl al-Fiqh*. However, it is in conflict with the principle of *Qiyās* (analogy) as it is an argument against those who blame the Ḥanafī scholars for relying on *al-Tarjīḥ* (preference). It is also observed that no word is omitted from the book I am studying and that the external page does not cover any word contained in the main text as page [87/b] is delayed till [89/b].

6. Turkesh copy – Yanī Jāmi' (al-Sulaimāniyya) Library – Number (304). I indicate this copy by the letter [Is]

- Its title: *Akhsīkathī fī al-'Uṣūl*.

- The author: Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī.

- Copywriter: Unknown.

- Copy Date: 844H / 1440AD.

- Number of sheets: 170 plates – Number of lines: starts with 3 lines and reaches 7 lines on page [15/b] and continues in such a way as far as the end of the manuscript.

- Paper size: Does not exist.

- Script type: Naskh Ta'līq (Arabic writing).

- Source: King Faiṣal Center for Research and Islamic Studies, Riyāḍ, Saudi Arabia – Series number: 21568 - File number: 984 - F.

- Copied on microfilm from: Al-Sulaimāniyya Library (Yanī Jāmi') – Turkey – Number 304.

- Observations:

  - The copy is clear in general and contains many marginal notes. On the first page is the dedication seal in the name of Sulṭān Aḥmad Khān bin Ghāzī Sulṭān Muḥammad Khān; the seal is also found in the last page of the copy.

  - The chapter titles are written in red ink, which makes them unclear in the Xeroxed copies, for example the section on *Ijmā'* (Consensus), page [90/a]; the section on *Tarjīḥ* (Preference), page [110/a]; and the section on *al-'Awāriḍ al-Muktasaba* (acquired contingencies), page [145/b].

  - The copy encompasses Ta'qība at the extreme bottom left corner side of pages [a], namely the right pages of the manuscript.

  - The copy displays loss of many pages in many positions indicated on the footnotes to the Arabic version of the editing part, but a major portion of loss occurs in page [81/b] in what approximates ten plates of this copy. In the main copy these range from the beginning of page [28/b] as far as what comes before the end of page [33/b].

- Some pages are not clear and are therefore illegible as in pages [86], [87], [104] and [114].

7. Copy in King Faiṣal Center for Research and Islamic Studies, Riyāḍ, Saudi Arabia – Number 877- F - I indicate this copy by the letter [F]

- Its title: *Akhsīkathī fī 'Uṣūl al-Fiqh* – Imām Ḥusām al-Dīn Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī, the author of *al-Mukhtaṣar* the well known in *'Uṣūl al-Fiqh* and the tutor of Muḥammad bin Muḥammad al-'Abdī,[1] who (al-Akhsīkathī) died in 644 (H).

- The author: Muḥammad bin Muḥammad bin 'Umar al-Akhsīkathī.

- Copy writer: Unknown.

- Copy Date: 12th century H / 18th century AD.

- Number of sheets: 77 plates – Number of lines: 13 lines.

- Paper size: Unknown.

- Script type: Persian

- Source: King Faiṣal Center for Research and Islamic Studies, Riyāḍ, Saudi Arabia.

- Source number: 877- F.

- Observations:

- In general, the copy is very good from the point of view of the clarity of script, line ordering and borders for every page. However, this copy does not have a specific copy date although the script indicates the twelfth Hijri century (eighteenth century AD).

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[1] Al-'Īdī is the one meant here, and his biography was mentioned in the section on the author's students.

- There is a seal on the cover page in the name of Aḥmad ‘Abdu on which is written: “One of the books of al-Faqīr (humble) Muftī Zāda Aḥmad”.

- The copy is characterised by a list of contents in its beginning in the form of a beautiful table which states the section in the marginal notes and specifies its contents, for example, the first section is divided into the *al-Khāṣṣ* (specific), the *al-‘Āmm* (general), the *al-Mushtarak* (homonym) and the *Mu’awwal* (interpreted).

- This copy does not have any type of marginal notes, comments or marginal explanations.

- The writer of this copy committed some errors which reveal that he did not have a solid background in jurisprudence and its corresponding disciplines, for example, in line four of page [1/b] the word ‘jam‘an’ is written as ‘jamī‘an’, which does not fit in the sentence context. In line three, page [8/b], the word ‘al-Ahal’ is written as ‘al-Aṣl’, which does not make sense in this context. Moreover, in line thirteen, page [22/b], the word ‘idhā’ is written as ‘adā’’ and this does not make sense either. Many other examples are found in this copy, especially at the end where errors of this type are obvious.

- The Ta‘qība is occurs at the bottom of page [a] and the writer puts a horizontal line at the beginning of every paragraph, chapter or part.

- This copy may be one of the old editions of the book, as is evidenced by the clarity of script, ordering, table of contents (although it does not contain page numbers) and the borders around the writings in each line. Brockelmann argues that this copy is of a lithography type of print and other old printing types, for example, Laknaw in India (1294H/1877AD) and others in

(1317H/1899AD), (1318H/ 1900AD) and (1325H/ 1907AD). The book (al-Muntakhab) was printed alongside one of its *Shurūḥ* (commentaries) in Delhi in (1326H/1908AD). However, I did not manage to find any of these editions.[1]

It is observed that there is some agreement among certain copies regarding word difference, loss and addition and so on, which shows that some of these copies were used as sources by others.

[1] *History of the Arabic Literature*, (Div. 3 [5-6], p.718).

3.6 The main copy of the manuscript

In order to select the main copy used in edition I tried to bear in mind the following Arabic manuscript conventions:[1]

1. The writer's own copy, which is written by him in person, if available is considered to be the most preferred and most likely to be the main copy.

2. The next in priority is a copy dictated by the writer to one of his students. This is known by the author's own handwriting on this copy, which confirms his dictation of it.

3. In case none of the copies mentioned above exists, priority is given to one that is copied from the author's copy and then to a copy that is compared and contrasted with it.

4. The copies written by famous scholars during the author's lifetime or at a time close to his epoch, followed by the copies which were written by other writers and which contained indications proving the credibility of these copies by some famous scholars.

5. With respect to the diverse copies quoted from lost, unknown or existing sources, it is necessary to adopt scrutiny in the choice of the one which may serve as a basis for the editing from perspectives of similarity, errors, shortage and completion. This can suggest that there is some inter-copying among different copies of the book, particularly when aspects of resemblance appear among them in terms of errors, misspellings,[2] distortions, shortenings, additions, advancements, delays and repetitions. Such instances

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[1] *Taḥqīq al-Makhṭūṭāt* (p.122) by Dr. 'Abdulla 'Usailān.

[2] Taṣḥīf: alteration of a word in order to change the desired meaning, for example, writing a word without a dot or moving a dot to another word as in 'Bāb', 'Nāb' and 'Tāb', etc. See *al-Qāmūs al-Fiqhī Lughatan wa Iṣṭilāḥan* (1408H/1988AD), second edition, by Sa'dī Abū Jaib. Damascus: Dār al-Fikr; *Taḥqīq al-Makhṭūṭāt* (p.287) by Dr. 'Abdulla 'Usailān.

require classifying the copies available into fundamentals and divisions; to attain this aim the copy date, paper type, script, etc. are resorted to.[1]

On the basis of the discussion above, I have in the study of the present book relied on the oldest copy (which is the nearest to the author) of the book for the following reasons:

First, this copy is the closest copy of the book to the life of the book's author because it was written in (690H/1291AD), that is (46) years approximately after the death of the writer of book. The overriding rule is that the copy with the oldest date precedes the copies that carry scholars' lines and corrections.[2]

Second, it is a complete and clear copy. In fact, completeness and clarity are determining factors in prioritising copies over others.[3]

Third, what makes one copy more preferable than another copy is that it is compared with other copies or that it contains explanations, comments or corrections. In fact, most of the copies that I managed to find have their share in comments, corrections and comparisons. However, the rule states that when copies approximate each other in terms of clarity, completeness, corrections and comments, the oldest copy takes priority over the others.[4]

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[1] *Taḥqīq al-Makhṭūṭāt* (p.122) by Dr. 'Abdulla 'Usailān.
[2] *Taḥqīq al-Nuṣūṣ wa Nashruha* (1415H/1995AD) (sixth edition), (p. 37) by 'Abdulsalām Hārūn. Cairo - Maktabat wa Maṭba'at al-Khānjī.
[3] *Taḥqīq al-Makhṭūṭāt baina al-Wāqi' wa al-Nahj al-Amthal* (p.133) by Dr. 'Abdulla 'Usailān.
[4] See the two references above.

3.7 Book commentaries (*Shurūḥ)*

Evidence of the value of the book, as has already been said above, is the large number of *Shurūḥ* (commentaries) written about it. Sixteen commentaries were written about the book under study; some of these identify their authors, others do not. I talked about these *Shurūḥ* (commentaries) in my discussion of the value of the book and here I shall discuss each in some detail following a chronological order:

1. Copy by Imām Ḥāfiẓ al-Dīn 'Abdulla bin Aḥmad bin Maḥmūd al-Nasafī. He wrote two commentaries on *al-Muntakhab*, a brief one and a lengthy one[1]. Ḥājī Khalīfa comments on the first: "It is a brief and useful *Sharḥ* (commentary)".[2] A copy of this manuscript is found in La Leh Lee Library in Istanbul, Turkey (File number 750) and another in Egypt – Cairo- in al-Azhariyya Library, (File number 1600) 'Arūsī (42259).

On the other hand, the lengthy *Sharḥ* (commentary) is the copy that I have and which I indicate with the symbol [Tb]. It has (144) plates, each containing (20) lines and each line has (15-16) words. This was copied during the commentator's lifetime since the copywriter (Khālid bin Ya'qūb) completed writing his copy in (707H/1308AD), and al-Nasafī –the author of the *Sharḥ* (commentary) - (d. 710H/ 1311AD). The source of this copy is Bashīr Āghā Library in Turkey (File number 187).

2. *Al-Wāfī* by al-Ḥusain bin 'Alī bin Ḥajjāj bin 'Alī al-Sighnāqī,[3] who dictated it in the author's Mosque in (690H/1291AD). At the end of the *al-Wāfī*, he states: "I've got

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[1] The lengthy commentary was edited and proceeded to the Ph.D. certificate in the Kingdom of Saudi Arabia, the University of Umm al-Qurā in (1408H/1987AD) by the student Sālim 'Oghūt.
[2] *Kashf al-Ẓunūn* (Vol.2, p.1849).
[3] In association with Sighnāq in Turkestan.

some copies of *Shurūḥ* (commentaries) of the book which I found very useful for this commentary..".[1]

A copy of this manuscript is found in the National Library in Paris in France (File number 6452), a copy in the Khudaiwiyya Library in Cairo in Egypt (File 2/269; number 31, 347), a copy in al-Āsfiyya Library in Haidarabad in India (File 1/96; number 58-59), a copy in the Manuscript Institute in Baku in Azerbidjan (File 6690-b; its number in Jum'a al-Mājid center in Dubai is 642), and another copy of the *Sharḥ* (commentary) on *al-Muntakhab al-Ḥusāmī* in La Leh Lee Library in Istanbul in Turkey (Number 749) and it is attributed to al-Ḥasan bin 'Alī al-Ṣāghānī,[2] or perhaps to al-Sighnāqī.

3. *Al-Muntakhab*, a *Sharḥ* (commentary) on al-Akhsīkathī's *al-Muntakhab* by Muḥammad bin Muḥammad bin Mubīn Abū al-Faḍl al-Nūrī al-Ḥanafī. Ismā'īl Bāshā states: "One of his writings is *al-Muntakhab*, which is a *Sharḥ* (commentary) on al-Akhsīkathī's *al-Muntakhab* on *'Uṣūl al-Fiqh*. He completed writing this book in Mardin in (694H/1295AD)".[3] A copy of this manuscript is found in Fātiḥ Library in al-Sulaimāniyya in Turkey (Number 1429). Other copy is found in Salīm Āghā Library in Istanbul in Turkey too (File number 274), a copy in the Public Library in Damascus in Syria (File number 16-57), and a copy in Qūla Library in Cairo in Egypt (File number 1/291).

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[1] *Kashf al-Ẓunūn* (Vol.2, p.1849).
[2] I did not find his biography in the sources I relied on.
[3] *Hadiyyat al-'Ārifīn* (Vol.2, p.138); *'Īḍāḥ al-Maknūn* (Vol.2, p.569) by Ismā'īl Bāshā.

4. *Al-Taḥqīq* or *Ghāyat al-Taḥqīq* by Imām 'Alā' al-Dīn 'Abdul'azīz bin Aḥmad bin Muḥammad al-Bukhārī. Four manuscript copies of the book are found in the manuscript library in Kuwait University filed under the following numbers:

The first, number (445) and it dates to (774H/1373AD), the second, number (1099) and it dates to (1122H/1710AD), the third number (1098) and it dates to (1308H/ 1890AD), and the fourth number (1277) and it dates to about the tenth Hijri century (15th AD).[1]

5. *Al-Tabyīn* by Amīr Kātib bin Amīr Ghāzī al-Fārābī, Abū Ḥanīfa, Qiwām al-Dīn al-Itqānī.[2] He covertly wrote this book in (716H/1316AD) during a trip to Saudi Arabia. A copy of this manuscript is found in the Royal Library in Berlin in Germany (Number 4858), a copy in La Leh Lee Library in Istanbul, Turkey (File number 745), a copy in Yani Jami' Library in Istanbul, Turkey (File number 339-341), a copy in the National Library in Paris, France (Number 802), a copy in the British Museum in London, England (Number 207), a copy in the Municipality Library in Alexandria, Egypt (Number: 'Uṣūl-5), a copy in al-Khudaiwiyya Library, Cairo, Egypt (2/239), a copy in Dār al-Kutub al-Miṣriyya, Cairo, Egypt (1/372) and another copy in Jerusalem, Palestine (Number 27, 15).[3]

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[1] 'Umar Kaḥḥāla stated that *Ghāyat al-Taḥqīq* is one of Ḥusām al-Dīn al-Akhsīkathī's books; *Mu'jam al-Mu'allifīn* (Vol.3, p.663); *Tāj al-Tarājim* (p.127) by Qaṭlubghā. Two students in the Islamic University in Madīna, Saudi Arabia edited this book, in (1407H/1986AD).

[2] Qiwām al-Dīn, Amīr Kātib bin Amīr 'Umar al-'Amīdī, al-Fārābī, al-Itqānī, Abū Ḥanīfa, a Ḥanafī jurist. He was born in Itqān in Fārāb and visited Egypt and Baghdad. He lived and studied in Damascus and later returned to Cairo where he stayed till his death in (758H/1357AD). *al-A'lām* (Vol.2, p.14) by al-Ziriklī; *al-Badr al-Ṭālī'* (1418H/1998AD), first edition, (Vol.1, p.106) by Muḥammad bin 'Alī al-Shawkānī. Beirut – Dār al-Kutub al-'Ilmiyya; *al-Fatḥ al-Mubīn* (Vol.2, p.173) by al-Marāghī; *al-Jawāhir al-Muḍīyya* (Vol.4, p.128) by al-Qurashī.

[3] The book is edited by Dr Ṣābir Naṣr Muṣṭafā, for which he was awarded a Ph.D. from al-Azhar University in (1400H/1980AD).

6. A *Sharḥ* (commentary) by Manṣūr bin Aḥmad al-Qā'ānī al-Khawārizmī; a copy of this book is located in Nour 'Uthmāniyya Library in al-Sulaimāniyya, Turkey (Number 1329).

7. *Sharḥ al-Muntakhab al-Ḥusāmī* by Muḥammad bin al-Sharīf al-Ḥusainī al-Jurjānī al-Samarkandī.[1] A copy is located in Fātiḥ Library in al-Sulaimāniyya, Turkey (Number 1310), a copy in 'Ārif Hikmat Library in Madīna (Number 36/251) and a microfilm copy in the Islamic Studies Center at Umm al-Qurā University (Number 342- *'Uṣūl*).

8. *Miftaḥ al-'Uṣūl* by Abū al-Faḍā'il 'Abdulla bin 'Abdulkarīm al-Dahlawī,[2] a copy of which is found in La Leh Lee Library in Istanbul, Turkey (File number 744).[3]

9. A comentary by Yūsuf bin Shāhīn.[4] The author of *Mu'jam al-Mu'allifīn* states that Shāhīn wrote *Sharḥ al-Muntakhab* (by al-Akhsīkathī) *fī 'Uṣūl al-Madhhab*. It is possible that this is *Sharḥ al-Muntakhab* by al-'Alā' al-Turkumānī in Ḥadīth, as al-Shawkānī comments.[5] Further evidence that Shāhīn's book (*Sharḥ al-Muntakhab*) is more likely to be a *Sharḥ* (commentary) in *Ḥadīth* is the fact that Ibn Shāhīn belongs to the Shāfi'ī school.

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[1] Muḥammad bin al-Sayid al-Sharīf 'Alī bin Muḥammad al-Jurjānī al-Ḥusainī al-Samarkandī. He wrote many books; Ismā'īl Bāshā wrote his biography, but he didn't mention his book *Sharḥ al-Muntakhab al-Ḥusāmī*, (d. 838H/1435AD). *Hadiyyat al-'Ārifīn* (Vol.2, p.189) by Ismā'īl Bāshā; *Mu'jam al-Mu'allifīn* (Vol.3, p.543) by Kaḥḥāla; *al-A'lām* (Vol.7, p.180) by al-Ziriklī.

[2] Sa'd al-Dīn al-Dahlawī, a jurist, a Ḥanafī scholar in *'Uṣūl al-Fiqh*. He wrote *Sharḥ Manār al-Anwār lil Nasafī* on jurisprudence which he entitled *Ifāḍat al-Anwār fī Iḍā'at 'Uṣūl al-Manār*, (d. 891H/1486AD); *Mu'jam al-Mu'allifīn* (Vol.1, p.758) by Kaḥḥāla; *Kashf al-Ẓunūn* (p.1824) by Ḥājī Khalīfa.

[3] 'Umar Kaḥḥāla states that *Miftaḥ al-'Uṣūl* is one of the books written by Ḥusām al-Dīn al-Akhsīkathī; see *Mu'jam al-Mu'allifīn* (Vol.3, p.663) by Kaḥḥāla.

[4] Yūsuf bin Shāhīn, Jamāl al-Dīn, Abū al-Maḥāsin, grandson of Ibin Ḥajar al-'Asqalānī, a jurist, narrator, a historian, from Cairo, (d. 899H/1493AD); *Mu'jam al-Mu'allifīn* (Vol.4, p.164) by Kaḥḥāla; *Kashf al-Ẓunūn* (p.1932) by Ḥājī Khalīfa.

[5] *Al-Badr al-Ṭāli'* (Vol.2, p.198).

10. *Al-Nāmī* by 'Abdulḥaq bin Muḥammad al-Hindī.[1] The author of *Mu'jam al-Maṭbū'āt* argues that in (1289H/1872AD) al-Hindī completed his *Sharḥ* (commentary), which is printed in India without a date.[2]

11. *Daqā'iq al-'Uṣūl fī Sharḥ al-Muntakhab al-Ḥusāmī* by Afḍal al-Ḥaqq Akhund Zāda.[3] A microfilm copy is located in the Central Library in Umm al-Qurā University (Number 2491).[4]

12. *Sharḥ al-Muntakhab al-Ḥusāmī* by Muḥammad bin Ya'qūb al-Banānī or al-Banbānī.[5] A copy of this book is found in the Central Library in Jeddah, Saudi Arabia (Number 348), a copy in the Indian Office in London, England (Number 1437), a copy in Manchester Library in London too (Number 152). Other copy in Alikra Library in Alikra, India (Number 101/2), a copy in Rampur Library in Rampur, India (Number 2/517-124) and a copy in al-Āṣfiyya Library in Haidarabad, India (Number 1/96-49).

13. *Al-Taḥqīq* by Fakhr al-Dīn al-Maymatī.[6] There is one copy only in al-Khaldiyya Library in Jerusalem in Palestine (Number 15, 26).

14. *Sharḥ al-Muntakhab fī 'Uṣūl al-Madhhab* by Muhtadīn bin Amīn bin Khawāja Muḥammad bin Ismā'īl.[1] A copy of this book is located in Rampur Library in Rampur, India (Number 1/274-65).

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[1] 'Abdulḥaq bin Muḥammad al-Hindī, a scholar in *'Uṣūl al-Fiqh* and logic and a Ḥanafī scholar. He died after (1289H/1872AD); *al-A'lām* (Vol.3, p.282) by al-Ziriklī; *Mu'jam al-Mu'allifīn* (Vol.2, p.59) by Kaḥḥāla; *'Īḍāḥ al-Maknūn* (Vol.2, p.617) by Ismā'īl Bāshā.
[2] Serkis (Vol.2, p.1272).
[3] No biography of his was found in the sources that I managed to find.
[4] 'Umar Kaḥḥāla states that *Daqā'iq al-'Uṣūl* is one of the books written by Ḥusām al-Dīn al-Akhsīkathī; *Mu'jam al-Mu'allifīn* (Vol.3, p.663).
[5] No biography of his was found in the sources that I managed to find.
[6] No biography of his was found in the sources that I managed to find.

15. *Farḥ al-Maslīl wa al-Mas'ūl fī Sharḥ al-Muntakhab fī al-'Uṣūl* by Muḥammad Nūr Ghazīnī.[2] The book begins: "Praise be to God who.." and ends: "... O God! Forgive its writer". Number of sheets: (117); the marginal notes contain some comments; the book also reveals a lot of spelling mistakes; and important words are written in red. The main manuscript is found in India and a copy of it is currently found in the Manuscript Library at Kuwait University (Number 1206).

16. *Sharḥ al-Muntakhab fī 'Uṣūl al-Madhhab* (author unknown) in the Indian Office in London, England (Number 1438).

3.8 Mukhtaṣar (epitome) al-Muntakhab

'Umar Kaḥḥāla states that Imām Muḥammad 'Abdulsattār al-Kardarī wrote *Mukhtaṣar Ḥusām al-Dīn al-Akhsīkathī,*[3] which is a summary of al-Akhsīkathī's book. However, I have noticed that no biographer has mentioned the same statement, but Qaṭlubghā argues that al-Kardarī has a *Sharḥ* (commentary) on the book *Mukhtaṣar Ḥusām al-Dīn al-Akhsīkathī.*[4]

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[1] No biography of his was found in the sources that I managed to find.
[2] No biography of his was found in the sources that I managed to find.
[3] *Mu'jam al-Mu'allifīn* (Vol.3, p.410).
[4] *Tāj al-Tarājim* (p.223).

3.9 The writer's methodology in the book

3.9.1 General overview

Authors often start their books with an introduction that identifies the aim behind their books, the methodology followed, topic division, the strategy adopted in tackling the themes, the references used and the reasons for commenting on the book. Some other writers do not follow these steps; rather, they start with the themes instead, as in the case of the book under study in this research. The writer of this book does not provide an introduction, but instead begins his book with the statement: "Praise be to Allah (s.h.w.t.)... The principles of legislation are three...". This may suggest that he was keen on adhering to the methodology of summarising which he adopted, and this is the reason that made his book known as *al-Mukhtaṣar*[1] (epitome), as stated by the author of *al-Jawāhir al-Muḍiyya* in his biography of al-Akhsīkathī when he says: "The writer of *al-Mukhtaṣar*". Few other scholars such as the author of *Tāj al-Tarājim*, *Miftāḥ al-Sa'āda*, *Mu'jam al-Mu'allifīn*, and *al-Fawā'id al-Bahiyya* made a similar statement. It is therefore necessary to mention that this book may be a complementary of another book, namely *Kanz al-Wuṣūl ilā Ma'rifat al-'Uṣūl*, known as *'Uṣūl al-Bazdawī* by Imām Fakhr al-Islam 'Alī bin Muḥammad al-Bazdawī al-Ḥanafī (d. 482H/1089AD). Although none of the author's biographers has mentioned that his book is a complementary of Imām al-Bazdawī's *'Uṣūl*, I tend to agree with the viewpoint that this book may be a complementary of al-Bazdawī's *'Uṣūl* for the following reasons:

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[1] A *Mukhtaṣar* or epitome is a concise exposition of a book, often expressed in a self-consciously elegant and syntactically compressed language. See *Encyclopedia of Islam* (vol.11, p.324).

1. Imām al-Bazdawī started in theology and moved to scholastic writing; so the impetus of al-Akhsīkathī's writing is similar as al-Bazdawī's when he talks about classes as follows: "The principles of legislation are three: the holy book (*Qur'ān*), the *Sunna* and *Ijmā'* (consensus). The fourth principle is *Qiyās* (analogy) deduced from the three principles ... ".

2. In another paragraph on defining the *Qur'ān* as one of the principles of Islamic law, he states: "The holy book is the book revealed to the Prophet, written in the copy of the *Qur'ān*, narrated from the Prophet by many lines of narrators (*Tawātur*) ...".

3. Leaving aside the compatible definitions between *al-Muntakhab* and Bazdawī's *'Uṣūl*, the divisions are also congruent to a large extent as in the parts on composition and meaning with respect to knowledge of legal injunctions as well as the aspects included in each of the four parts, and so on.[1]

4. In his organisation of the book, it is also observed that Imām al-Akhsīkathī followed the same sequence and order adopted by Imām al-Bazdawī in his *'Uṣūl*. However, Imām al-Akhsīkathī omitted some points and added others according to what he considered suitable in specific contexts as is indicated in the details on the author's methodology. Here, it should be noted that Imām al-Akhsīkathī delayed discussion of the section on *Ḥurūf al-Ma'ānī* to the end of the book, which contrasts with Imām al-Bazdawī's methodology.

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[1] See *al-Muntakhab*[1/a]; *Kashf al-Asrār 'An 'Uṣūl Fakhr al-Islām al-Bazdawī* (1417H/1997AD), (Vol.1, p.80) on wards, third edition (1997AD), by 'Abdul'azīz al-Bukhārī, commentary by Muḥammad al-Mu'taṣim al-Baghdādī. Beirut – Dār al-Kitāb al-'Arabī.

3.9.2 The difference between *al-Muntakhab* and Imām al-Bazdawī's *'Uṣūl*

To say that *al-Muntakhab* is a complementary of al-Bazdawī's *'Uṣūl* does not entail that Imām al-Akhsīkathī imitated Imām al-Bazdawī; rather, he was an inquisitive faithful and scrutinising critic. He disagreed with Imām al-Bazdawī in the way of presenting themes, organising chapters, and dividing sections. As he points out, Imām al-Bazdawī begins with an introduction on the principles of faith and then he discusses *al-Ra'y* (subjective opinion) and what it means; he also argues that the Ḥanafī scholars more than others deserve such a description (*Ahl al-Ra'y*). Later on, he examines the themes on *'Uṣūl al-Fiqh* and begins with the first chapter on the Holy *Qur'ān*, followed by the sections on the verses of the Qr'ān and meaning which he divided into four parts:

Section one: on aspects of the *Naẓm* (word order) of the *Qur'ān*, *Ṣīghatan* (formally) and *Lughatan* (linguistically). He divides this section into *'Āmm* (collective), *Khāṣṣ* (specific), *Mushtarak* (homonym) and *Mu'awwal* (interpreted).

Section two: on *Wujūh al-Bayān* (aspects of verses) of the *Qur'ān*. This part is divided into *Ẓāhir* (apparent), *Naṣṣ* (text), *Mufassar* (explained) and *Muḥkam* (firm).

Section three: on aspects of the use of such verses. He divides this section into *Ḥaqīqa* (fact), *Majāz* (metaphor), *Ṣarīḥ* (declared) and *Kināya* (metonymy).

Section four: on aspects of inference and the meanings intended behind these sections. This section is divided into *'Ibārat al-Naṣṣ* (textual expression), *'Ishāratuhu* (its hint), *Dilālatuhu* (its implication), and *'Iqtiḍā'uhu* (its requierment).

Imām al-Bazdawī discusses and displays these sections. Of the rulings tackled in the sections, he focuses on the ruling of the *al-Khāṣṣ* (specific) only. He then deals with the subsection on the *Amr* (command) and the *Nahī* (prohibition). Before closing his

discussion of these themes the writer goes back to the previous sections and starts mentioning their rulings. Hence, he begins with the rulings on the *Khāṣṣ* (specific) and the *'Āmm* (general) and the rulings on the *Ḥaqīqa* (fact) and the *Majāz* (metaphor). In his discussion, he includes the subsection on *Ḥurūf al-Ma'ānī* between the subsections on the *Ḥaqīqa* (fact) and the *Majāz* (metaphor), on the one hand, and on *Ṣarīḥ* (declared) and *Kināya* (metonymy), on the other. He mentions an aspect of this inclusion and states at the end of the subsection on *Majāz* (metaphor): "The section of *Ḥurūf al-Ma'ānī* is related to this subsection because it is divided into *Ḥaqīqa* (fact) and *Majāz* (metaphor) and a branch of jurisprudence issues is based on this theme". Later he completes the ruling on *Ṣarīḥ* (declared) and *Kināya* (metonymy). He continues his discussion of the *Aḥkām* (rulings) regarding the other sections and returns to the section on *Amr* (command) and *Nahī* (prohibition). He allocates a section to *Amr* (command) and *Nahī* (prohibition) opposites. Then, he sets out to tackle the section on the *Asbāb al-Sharā'i'* (sources of legislation) and proceeds his examination of the other sections.

In contrast, Imām al-Akhsīkathī does not mention the introduction mentioned by Imām al-Bazdawī. Instead, after stating the name of God and praising Him, he started with the first source of the Islamic law, namely the Holy *Qur'ān*. He then follows Imām al-Bazdawī's method in listing section and dividing the book into subsections, he presents his discussion of the whole subject in its place. For example, when he starts with the first of the sections on verses of the *Qur'ān* – the *'Āmm* (general), the *Khāṣṣ* (specific), the *Mushtarak* (homonym) and the *Mu'awwal* (interpreted) – he mentions all that is related to these themes and does not move to the next unless he has dwelt on the subject in sufficient detail; he does not delay any discussion till later as does Imām al-Bazdawī.

Another area of difference is the section on *Ḥurūf al-Ma'ānī*. While Imām al-Bazdawī states it immediately after the section on the *Ḥaqīqa* (fact) and the *Majāz* (metaphor), Imām al-Akhsīkathī mentions it at the end of the book. In this regard, one of the writers of a *Sharḥ* (commentary) on *al-Muntakhab* – al-Sighnāqī – explains: "Imām al-Akhsīkathī delays this section in contrast to the other sections because it is confined to juristic themes and legal rulings and because the section of *Ḥurūf al-Ma'ānī* is related to grammar rather than jurisprudence".[1] This entails that the section of *Ḥurūf al-Ma'ānī* is related to the linguistics more than to *'Uṣūl al-Fiqh*.

He also disagrees with him on certain scholastic issues and juristic *Furū'* (subsidiaries). Hence, in his discussion of the *Ma'mūr bihi* (commanded) related to the time that specified for it, he divides it into two types: *Muṭlaq* (absolute) and *Muqayyad* (restricted). Imām al-Bazdawī characterises the *Muqayyad* (restricted) into four categories in accordence to the time:[2]

1. A commanded on which time is a main modifier, a *Sharṭ* (condition) as well as a *Sabab* (reason) that leads to its *Adā'* (performance), for example prayer.
2. A commanded on which time is a measure as well as a *Sabab* (reason) of it, for example fasting.
3. A commanded on which time is a measure but not a *Sabab* (reason).
4. A commanded on which time is *Mushkil* (ambivalent), for example pilgrimage.

Imām al-Akhsīkathī also divides the *Ma'mūr bihi* (commanded) into two categories: *Muṭlaq* (absolute) and *Muqayyad* (restricted), however he disagrees with Imām al-

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[1] See *al-Wāfī* by al-Sighnāqī, a commentary on *al-Muntakhab* by al-Akhsīkathī (p.45).
[2] See *Kashf al-Asrār* (vol.1 p. 448), by al-Bukhārī. .

Bazdawī as far as the *Muqayyad* (restricted) is concerned; he distinguishes three categories only [12/a]:

The first, the second and the fourth of those mentioned by al-Bazdawī. What Imām al-Bazdawī quoted as an example of the third type, Imām al-Akhsīkathī stated as *Muṭlaq* (absolute).

As far as themes relating to *Sabab* (reason) and *Sharṭ* (condition) are concerned, Imām al-Bazdawī makes certain juristic *Furū'* (subsidiaries) as form of *Sabab Maḥḍ* (definite reason). He illustrates this point by giving the examples of liberating a *'Abd* (slave) and opening the door of a barn or a cage. On the other hand, Imām al-Akhsīkathī makes them amenable to *Sharṭ* (condition) which caries the rule of the *Sabab* (reason).

3.9.3 Author's specific methodology

In this section, I discuss the points that highlight the significance of the book as follows:

1. As has been mentioned earlier[1], the writer does not initiate his book with an introduction, which in contrast to what is common among most writers.

2. What distinguishes the writer in his *al-Muntakhab* is that he mentions a juristic issue and then comments on it in terms of agreement or disagreement with Ḥanafī scholars. He states the school's opinion first, followed by the view of those who disagree providing supporting evidence sometimes, and some other times he responds without mentioning the evidence he relies upon, as in the ruling on the *Majāz* (metaphor) when he talks about generic metaphor. Imām Shāfi'ī disagrees

[1] See p. 154.

with this and says: "There is no generic metaphor since the only cases it is resorted to are those of necessity."Al-Akhsīkathī reacts arguing that the *Majāz* (metaphor) occurs in the *Qur'ān* and the might of Allah, the Most Exalted, is par excellence well beyond all types of necessity (pages [3/b] and [42/a] in the manuscript). This shows the author's mastery of his school's teachings, his knowledge of other schools and his acquaintance with their arguments and ways of responding to them.

3. The author often attributes statements to their sources as in page [36/b] where he states: "Abū al-Ḥasan al-Karkhī argues that it is not permissible to *Taqlīd* (imitatation of) a Companion of the Prophet except in matters that cannot be captured by *Qiyās* (analogy)". This provides evidence of his scholastic credibility in attributing statements to their sources. In few cases, he says 'in our viewpoint', 'Our scholars say', 'It is said', 'We said', or 'Some say' whose meanings I shall explain in the chapter on the terminology used by the author.

4. It is noticed that the author does not confine himself to what may be a main source of his own book, for he quotes certain things from *'Uṣūl al-Bazdawī*, alters certain other things, adds and omits according to what he deems appropriate. So, it can be seen that he has his own specific point of view that may disagree with al-Bazdawī's view, which shows his depth of knowledge of juristic principles and his ability to deduce their corresponding rulings. For example, in his discussion of *Majāz* (metaphor) in his book, Imām al-Bazdawī defines *Majāz* (metaphor) reflecting on its linguistic origins, the way it can be identified and how it is related to the *Ḥaqīqa* (fact). Al-Akhsīkathī, on the other hand, defines it

technically and identifies its *Sabab* (reason), i.e. relationship. He classifies such relationship into three categories [3/a]: *Ma'nan* (meaning), *Dhātan* (self) and *Sababan* (reason) and he illustrates each of the three by giving examples. He then divides *al-'Ittiṣāl al-Sababī* (reasonal relationship) into: first, the relationship between the injunction and the *'Illa* (cause), and second, the relationship between the *Far'* (subsidiary) and ordinary *Sabab* (reason) that is not *'Illa* (cause), and he gave examples of each. He also mentions *Ḥukm al-Majāz* (metaphorical injunction) and clarifies Imām al-Shāfi'ī's disagreement regarding *'Umūm al-Majāz* (generic metaphor). By means of examples, he then shows that the pronunciation of *Ḥaqīqa* (fact) and *Majāz* (metaphor) cannot be used in a single word to imply two meanings at the same time and he provides some examples. Moreover, he explains situations in which the occurrence of the *Ḥaqīqa* (fact) can never be possible and situations relating to whether or not a word refer to a *Ḥaqīqa Musta'mala* (used fact) and to a *Majāz Muta'āraf* (common metaphor). He then shows divergence of opinions on this matter and mentions the five meanings on the basis of which *Ḥaqīqa* (fact) cannot be utilised. Therefore, he does not confine himself to Imām al-Bazdawī's book, but instead adds the details which he finds necessary in this particular position in the book in spite of the fact that his own book is a complementary of the original, as I have mentioned previously.

5. In comparing *al-Muntakhab* with al-Bazdawī's *'Uṣūl* it can be seen that *al-Muntakhab al-Ḥusāmī* is present in most of the issues which Imām al-Bazdawī refers to; however, he does not refer to certain matters and leaves them aside, including:

a. Imām al-Bazoudi's introduction on theology and the attributes of Allah.

b. Explanation of the *Ḥukm al-Amr* (command injunction) from *Adā'* (performance) and *Qaḍā'* (execution perspectives).

c. Explanation of the fourth division of the *Sunna* containing that, which is related to the statement itself and that which is related to its meaning.

d. The section of writing and script.

6. This versed scholar's knowledge attained such a high level of competency that he redresses the views of Imām Abū Ḥanīfa and his companion Imām Muḥammad bin al-Ḥasan al-Shaibānī. For instance, he reacts against them in what he believes to be correct as in page [4/b] in the book with regard to the issue of combining *Yamīn* (oath) and *Nadhr* (vow) in single word where he denies their arguments. In his discussion of the impossibility to combine *Ḥaqīqa* (fact) and *Majāz* (metaphor) in a single word, he states that in case of a combination of the two, oath overwhelms. This argument confirms al-Akhsīkathī's mastery of the discipline and his command of it urged the researcher to consider this scholar as a member of the advanced class of the Ḥanafī scholars, as has been mentioned in the discussion on the author's school and his position among Ḥanafī scholars.

7. A distinguishing characteristic of the author is his reliance on giving proofs in order to account for many juristic principles. For example, in his discussion of the permission granted to travelers to shorten prayer while on journey (page [26/a]), he attempts to account for the reasons of injunctions and states: "The implication is that permission is intended for leniency, and leniency is intended in order to shorten prayers. As a consequence, this in the first instance refutes

completion of the prayer because choice between shortening or completion of the prayer without entailing some kind of leniency is not suitable to worship of God". So, it can be noticed that he mentions proofs, which support his choices of juristic principles. The same applies to the ruling on the well-known *Sunna* and al-Akhsīkathī's proof conforming that whoever denies the well-known *Sunna* is regarded as an aberrant but not an atheist (page [28/a]). See also the ruling with regard to whimsical people who crave for lust in life (page [29/b]) and his reasoning in rejecting these people's narration.

8. Although the book *al-Muntakhab* is on the *'Uṣūl al-Fiqh*, the method adopted by Ḥanafī scholars include juristic *Furū'* (subsidiaries) within their books. They use these *Furū'* (subsidiaries) as evidence in support of their *'Uṣūl al-Fiqh*; hence, they resort to juristic principles on the basis of which their juristic *Furū'* (subsidiaries) are chosen, as in the following juristic principles:

a. A ruling is not established without an *'Illa Mu'athira* (effective cause) [3/a].

b. The relationship between the *Aṣl* (principle) and the *Far'* (subsidiary) is so meager that the former does not depend on the existence of the latter [3/b].

c. The *Ḥaqq*[1] becomes effective only when there is such a condition [17/b].

d. Donation of what is not likely to be a subject of ownership. Example to that is forgiving retaliation [26/a].

9. In certain case of *Khilāf* (divergence) the author points to the issue and states the correct view in his opinion but does not mention the contradictory view, as in the

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[1] Part of the author's terminology seems to indicate that this word means the conditional injunction.

ruling on the Prophet's [p.b.u.h.] actions which can be used as guidance (end of page [35/b]).

10. Areas of divergence may be pointed out on most juristic principle's issues, for example, the issue of imitating the Prophet's Companions page [36/b]. Here, he discusses the various views on this matter and comments: "Disagreement regarding all that has been quoted from them without divergence among them and without confirmation that such a disagreement has reached any companions with no apparent reaction". This is how it is observed that al-Akhsīkathī points to sources of disagreement on a number of juristic principles.

11. He quotes some citations from the Holy *Qur'ān* in eighteen positions and some citations from Ḥadīth in ten positions. In so doing he adopted the method used by Imām al-Bazdawī in his proofs regarding some of his juristic opinions.

12. Another characteristic of the author is that he asks God to bless all the scholars mentioned in his book, both those who agree as well as those who disagree with his own views. This is a trait that does not characterise many of those who were intolerant of other schools and who belittled their opponents without asking God to bestow His blessings on them when mentioning their names. This proves his profuse good manners and his respect of others' views. Whenever he mentions Imām al-Shāfi'ī, for instance, he prays for God's blessings on him while stating their disagreement in opinion. Therefore, he gives priority to the scholars of his own school.

13. Often, he uses the words *'Alā Tarā* (it should be observed) in order to draw the attention of the reader or listener to the matter being discussed.

3.9.4 Observations on the author's methodology

The following are some observations about the methodology employed by the author:

1. As far as certain controversial cases, the author does not adopt an opinion and prefers it to other opinions in princeples of jurisprudence, but simply presents them, for example, when he refers to the rule pertains to *Taqlīd* (imitating) the Prophet's [p.b.u.h.] Companions page [36/b]. Here he states quotes the view of those who argue for the necessity to *Taqlīd* (imitate) the Companions and ignore *Qiyās* (analogy) such as Abū Sa'īd al-Barda'ī. He then mentions those who reject imitating the Companions, except in matters which cannot be understood by *Qiyās* (analogy), and this is the view of Abū al-Ḥasan al-Karkhī. He further states that the opinion of those who reject imitating any Companion, and this is the view adopted by Imām al-Shāfi'ī. After reporting such disagreement the author does not opt for one of the view mentioned above, but instead moves on to another issue concerning the disagreement among the Companions in their statements and the effects of this disagreement on those who come later.
2. I have traced the author's presentation of the topics of the book and I have noticed that – contrary to what is common among scholars of *'Uṣūl al-Fiqh* – he has delayed the section of *Ḥurūf al-Ma'ānī* to the end of his book. Contrasting this method to three scholars of *'Uṣūl al-Fiqh* relied upon in the Ḥanafī school, I have noted the following:
   a. In his book *al-Fuṣūl fī al-'Uṣūl*, Imām al-Jaṣṣāṣ (d. 370H/981AD) places the section on the meanings of coordinating conjunctions, etc., after the synopsis, i.e. in section four of the book.

b. In his book *Kanz al-Wuṣūl ilā 'Ilm al-'Uṣūl*, Imām al-Bazdawī (d. 482H/1089AD) places the section on *Ḥurūf al-Ma'ānī* after the section dealing with situations in which the occurrence of the *Ḥaqīqa* (fact) can never be possible, and this is done in the first quarter of the book.

c. Imām al-Sarkhasī (d. 490H/1097AD), on the other hand, places the section on *Ḥurūf al-Ma'ānī* after clarifying what is implied by words in general.

From this short presentation it appears that the three scholars place the section on *Ḥurūf al-Ma'ānī* after the themes related to words and their implications. Hence, Imām al-Jaṣṣāṣ places the section on *Ḥurūf al-Ma'ānī* after the synopsis, Imām al-Bazdawī after the section on the *Ḥaqīqa* (fact), and Imām al-Sarkhasī after the section words in general. These are all themes connected with words and their implications. Al-Akhsīkathī concludes his book with the section on *Ḥurūf al-Ma'ānī* and places it after the section on compulsion, which is one a subsection dealing with acquired contingencies. In my view, this subsection is related to the themes of words and their implications. The author should have placed the section of *Ḥurūf al-Ma'ānī* After the subsection on the themes of words such as the *Amr* (command), the *Nahī* (prohibition), the *Ḥaqīqa* (fact), the *Majāz* (metaphor) and so on.

3. Contrasting the themes in al-Muntakhab al-Ḥusāmī with some other books in Ḥanafī *'Uṣūl al-Fiqh* reveals that the author did not tackle some issues that are essential in *'Uṣūl al-Fiqh*, for example:

(a) *Ijtihād*, *Taqlīd* (imitation) and *Shurūṭ* (conditions) for *Mujtahid* (person exercising *Ijtihād*).

(b) Clarification of precision in writing and script.

4. The author lists some sections in a certain order, but in his explanation of the subsections proceeds along a different order, as in the subsections on clarification (page [32/b]). Here he presents them as follows: *Bayān Taqrīr* (statement of justification), *Bayān Tafsīr* (statement of explanation), *Bayān Taghyīīr* (statement of interchange), *Bayān Tabdīl* (statement of abrogation) and *Bayān Ḍarūra* (statement of necessity). Later on, when he explains and exemplifies them, he places the statement of necessity (page [33/b]) before the statement of interchange (page [34/b]). Furthermore, in explaining what *Qiyās* encompasses, he places the *Rukun* (pillar) of *Qiyās* before the *Ḥukm* (injunction) of *Qiyās*. See the manuscript, page [38/a] onwards. The same applies to divine contingencies (page [54/b]) since he places insanity before infancy.

3.10 Author's terminology

Every science has its own specific terminology that is employed by its scholars, including the science of the *'Uṣūl al-Fiqh*, which is closely connected with jurisprudence; in other words, most terms are shared among jurists and scholars of *'Uṣūl al-Fiqh*. However, terminology also varies from one school to another, for example, Ḥanafī, Mālikī, Shāfi'ī and Ḥanbalī scholars have their terminology, but what is of concern here is the Ḥanafī terminilogy considering its relationship to the book under investigation in the present research. Therefore, the aim of this section is to be acquainted with some terms used by scholars of *'Uṣūl al-Fiqh* in their writings; these terms may differ from one writer to another. My approach in this sense is to present most of the terms agreed upon among Ḥanafī jurists and to examine the terms used by the author in his book *al-Muntakhab* through tracing the word in books on *'Uṣūl al-Fiqh* in order to recognise its implication.

3.10.1 Ḥanafī scholars' terminology[1]

1. The term [*al-Imām*]: in the books written by Ḥanafī scholars it is used to refer to Imām Abū Ḥanīfa al-Nu'mān the pioneer of the Ḥanafī school.
2. By [*al-Shaikhān*] (the two major scholars) is meant Abū Ḥanīfa and Abū Yūsuf.
3. [*Al-Ṭarafān*] (The two leading scholars) means Abū Ḥanīfa and Muḥammad bin al-Ḥasan al-Shaibānī .

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[1] *Al-Fatḥ al-Mubīn fī Ḥall Rumūz wa Muṣṭalaḥāt al-Fuqahā' wa al-'Uṣūliyyīn* (p.16) by al-Ḥafnāwī.

4. [*Al-Ṣāhibān*] (The two Companions of Abū Ḥanīfa) refers to Abū Yūsuf and Muḥammad bin al-Ḥasan.

5. [*Al-Thalātha*] (The three scholars) or (The three Imāms) is meant Abū Ḥanīfa, Abū Yūsuf and Muḥammad bin al-Ḥasan.

6. [*Al-Thanī*] (The second) means Abū Yūsuf.

7. [*Al-Thālith*] (The third) refers to Muḥammad bin al-Ḥasan al-Shaibānī.

8. [*Lahu*] meaning (according to him) which means according to Abū Ḥanīfa.

9. [*Lahumā*], [*'Indahumā*] or [*Madhhabhumā*] (their opinion): the opinion of the two Companions of Abū Ḥanīfa.

10. [*Aṣḥābunā*] (Our scholars): meaning the three Imāms Abū Ḥanīfa, Abū Yūsuf and Muḥammad bin al-Ḥasan.

11. [*Al-Mashāyikh*] (The scholars): i.e. those who came after the death of Imām Abū Ḥanīfa.

12. [*Al-Kitāb*] (The book): in the Ḥanafī school it means al-Qaddūrī's *Mukhtaṣar* (summary).

13. Terminology of the *Tarjīḥ* (preference) and issuing *Fatāwā* (legal opinions): [*'Alaihi al-Fatwā*], [*Wa bihī yuftā*], [*Bihi na'khudh*], [*'Alaihi al-I'timād*], [*'Alaihi 'Amal al-yawm*], [*'Alaihi 'Amal al-'Umma*], [*Huwa al-Ṣaḥīḥ*], [*al-Aṣaḥ*], [*al-Aẓhar*], [*al-Ashbah*], [*al-Awjah*], and [*al-Mukhtār*] which all mean (the legal opinion preferred among Ḥanafī scholars).

3.10.2. Author's special terminology

The above are examples of the overall terminology employed by Ḥanafī jurists and scholars of jurisprudence in their books. The terms used by the author of *al-Muntakhab al-Ḥusāmī* are as follows:

1. [*'Indana*] (Our point of view): the author frequently uses this term when he tries to show some sort of disagreement on a certain issue and to indicate the Ḥanafīs' point of view on the issue. In his discussion of the *Ḥukm* (injunction) of the *'Āmm* (general) in the book (page [1/b]), he states: "The *Ḥukm al-'Āmm* (collective judgement) certainly and definitely necessitates legal ruling with respect to what is contained within it as in the *Khāṣṣ* (specific judgement) and this is our point of view, in contrast to the Shāfi'ī school" In his book *al-Fuṣūl* (page [1/101]), Imām al-Jaṣṣāṣ – in the section on confirmation of the generality of statements – and mentions disagreement on this matter: "In our scholars' point of view, the generality of statements includes both utterances and commands".

In his *'Uṣūl* (page [1/587]) Imām al-Bazdī – in the section dealing with generality of statements – states: "In our point of view, the *Ḥukm al-'Āmm* (collective judgement) necessarily requires legal injunctions regarding that which is comprised within it definitely and certainly". Al-Bukhārī, a commentator on al-Bazdawī's *'Uṣūl*, states: "and this is the point of view of most of our scholars.." .

Moreover, in his discussion of the generality of statements in his book *al-'Uṣūl* (page [1/132]), Imām al-Sarkhasī says that: "In our point of view, the *Ḥukm al-'Āmm* (collective judgement) certainly and definitely necessitates legal ruling with respect to what is contained within it as in the *Khāṣṣ* (specific) judgement"

Some other scholars use the term [*'Indanā*] (In our point of view) to designate their own specific views on the matter, but in most general cases it is used to indicate the view adhered to in the school as the author himself does.

1. [*Qīla*] (It is said): is mostly used by the author to weaken an opinion, i.e. to show the weakness of a statement as in his words on page [4/b] when he discusses the *Ḥaqīqa* (fact) and the *Majāz* (metaphor) stating that the pronunciation of the two cannot be used in a single word to imply tow meanings at the same time. He argues: "If it is said: 'They claim that if a person swears should not step into the house of such and such a person...". Evidence of the weakness of such a view and its disagreement with the author's opinion is the latter's reaction to the statement: "We have said: 'stepping into' has become a metaphor for 'entrance'...". So, in his comment on the word 'It is said' he often states 'We have said'.

2. [*Qulna*] (We have said): the author often uses this term in his reaction to 'It is said', as I have mentioned in the paragraph above, or in his proof regarding some of the rulings which he discusses; for example, in his discussion of preference of the *Majāz* (metaphorical meaning) and ignorance of the *Ḥaqīqī* (factual meaning) in case the latter is neglected or impossible. He states: "According to this, we have said..." as in page [5/b]. Furthermore, he argues: "If the *Ḥaqīqa* (fact) is untenable ... or deserted, as when a person swears not to step into such and such a person's house, the *Majāz* (metaphorical meaning) is resorted to rather than its factual counter part. "Accordingly, 'we have said'...". Also, in page [11/b] he states: "Accordingly, we have said that when a man says 'If you step into such and such a house' to his wife, 'then you are divorced'.

3. [*Wa min al-Nās*] (Some people) is used by the author to show that someone's statement is weak or that someone's opinion is different from his own. He employs this term to

refer to scholars of *'Uṣūl al-Fiqh* and jurists rather than the general public of course. Therefore, in his discussion of aspects of the verses in section four which follows the implications subsection (page [8/b]), he says: "subsection: some people dealt with texts in ways that are decadent in our point of view". What confirms that such ways do not agree with his opinion is his statement 'are decadent in our point of view' and his following justification and clarification of the reason of decadence.

4. [*Qāla Ba'ḍuhum*] (Some say): this resembles the previous term in its disagreement with the author's opinion, as evidenced by his statements following some of the occurrences of this term: "and this is decadent ... "

5. [*Al-Jumhūr*] (The public) meaning the majority of the scholars of *'Uṣūl al-Fiqh* in his statements regarding the *Amr* (command) (page [11/b]), he argues: "The *Amr* (imperative) is a specific form of word inflection used for a precise meaning which entails request *Adā'* (performance) of an action. The effect of the *Amr* (command) in the view of the public is *Wujūb* (obligation).. ". In his book *'Uṣūl* (page [1/14]), Imām al-Sarkhasī states: "And there is no disagreement that the *Amr* (command) entails *Wujūb* (obligation).". Moreover, in his *'Uṣūl* (page [1/260]) Imām al-Bazdawī comments in the section dealing with the *Amr* (command): "Most of the scholars state that the *Amr* (command) entails the *Wujūb* (obligation)". This shows the wide uses of the term among scholars of *'Uṣūl al-Fiqh* and jurists.

6. [*Al-Ṣaḥīḥ fī Madhhab Aṣḥābina*] (What is preferred in our scholars' opinion): by this term the author means the *Rājiḥ* (most preferable) opinions in the Ḥanafī school to confirm that there are various opinions with regard to a certain issue within the Ḥanafī school itself. Here, the author has chosen the *Rājiḥ* (most preferable) of these opinions. As example of this is their disagreement on the issue of the *Amr* (command) and

whether it entails tardiness or immediacy. In the opinion of most Ḥanafī scholars, it implies tardiness[1] as in page [12/a] when he sta.tes: "the *Amr* (command) that is not time-bound does not necessitate an action's immediate *Adā'* (performance) which is preferred in our scholars' opinion". The word 'preferred' here indicates that there are two strong opinions on this issue within the Ḥanafī school itself because the view that is in contrast with what is 'preferred' here is that the *Amr* (command) implies immediacy rather than tardiness is a view held by al-Karkhī and al-Jaṣṣāṣ, who are prominent scholars in the Ḥanafī school. The word *al-Rājiḥ* 'preferable' is often used by jurists to show preference among the opinions of scholars in the same school as there are many strong opinions, and the author has managed to choose preferred ones which he deemed the most preferable. Another example is in page [36/a] when the author talks about the actions of the Prophet [p.b.u.h.] and comments: "What is *al-Rājiḥ* (preferable) is the opinion that al-Jaṣṣāṣ quotes... ". This is in conflict with what al-Karkhī claims on this matter.[2]

7. [*Al-Mashāyikh*] (The scholars): by this term the author means prominent Ḥanafī scholars. The issue here is whether *al-Qaḍā'* (execution) is required by the initial *Amr* (command) or by another specific one (page [15/a]). He states "The scholars disagree on whether the *Qaḍā'* (execution) is required by the initial *Amr* (command) or by another specific one". I have previously mentioned that he means Ḥanafī scholars because these scholars disagree on this issue although most of them maintain that the the *Qaḍā'* (execution) is required by the initial *Amr* (command).[3]

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[1] *Kashf al-Asrār* (Vol.1, p.510) by al-Bukhārī (footnote) (p.519); *al-Fuṣūl fī al-'Uṣūl* (Vol.2, p.106) (footnote), second edition, by Aḥmad bin 'Alī Aa-Jaṣṣāṣ; *'Uṣūl al-Sarkhasī* (Vol.1, p.26).
[2] *Kashf al-Asrār* (Vol.3, p.378) by al-Bukhārī.
[3] *Kashf al-Asrār* (Vol.1, p.313) by al-Bukhārī; al-Sarkhasī's *'Uṣūl* (Vol.1, p.45).

8. [*Naqūlu*] (We say): the author uses this term in his discussion of the rulings regarding the *Nahī* (prohibition) and whether or not usurpation entitles the usurper ownership of the usurped. This is mentioned in page [22/a] when he comments: "We do not say that usurpation allows ownership, but we say that it permits conditional ownership for a legal conjunction, which is guarantee". Thus, the author uses the word 'we say' here to express the view of Ḥanafī scholars in contrast to that of Imām al-Shāfi'ī, who argues: "usurpation does not permit any conditional ownership".[1]

9. [*Al-'Ulamā'*] (Scholars): in his discussion on the *Amr* (command) and the *Nahī* (prohibition) (page [22/b]), the author states: "Scholars disagree on this... ". By 'Scholars' here he means Ḥanafī, and Shāfi'ī scholars, narrators, etc. because there is considerable disagreement among these scholars on this issue.[2]

10. [*Al-Mukhtār*] (The selected opinion): in his discussion of the issue mentioned above regarding the *Amr* (command) and the *Nahī* (prohibition), the author means the opinion that is selected by Ḥanafī scholars (page [22/b)].[3] He states: "The opinion which is selected in our point of view is that the *Amr* (command) entails hatred of its' opposite... ".

11. [*Ijmā'ihim*] (Their consensus): in his discussion of the sources of legislation (page [23/a], the author means the *Ijmā'* (consensus) of Muslim scholars. He states "What proves their *Ijmā'* (consensus) on the obligation on the sleeper to perform prayer...".[4]

12. [*Afḍal*] (Better): the author mentions this term in his discussion of acting upon the words of the atheist, the infant and the lunatic regarding the impurity of water (page

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[1] *Kashf al-Asrār* (Vol.1, p.537) by al-Bukhārī; al-Sarkhasī's *'Uṣūl* (Vol.1, p.93).
[2] *Kashf al-Asrār* (Vol.2, p.601) by al-Bukhārī; al-Sarkhasī's *'Uṣūl* (Vol.1, p.94).
[3] Reference above.
[4] *Kashf al-Asrār* (Vol.2, p.622) by al-Bukhārī.

[28/b]). He states: "If the listener believes in the validity of their words regarding water impurity, he performs ablution but does not perform *Tayammum* (ablution performed with sand instead when water is not available). It is better still if he spills that water and performs *Tayammum* instead...". Imām al-Bazdawī, comments: "This is preferable"[1] whereby he means preference as such.

13. [*Al-Madhhab al-Mukhtār*] (The selected opinion): in his discussion of Ḥadīth narrated by a person seeks lust and the credibility of his narration (page [29/b]). He argues: "As far as the lust seeker is concerned, the selected opinion is that his narration is not acceptable". By selected opinion here the author implies the opinion of the majority the jurists and interpreters, as is described by al-Bukhārī in his *Sharḥ* (commentary) on al-Bazdawī's *'Uṣūl* in his book *Kashf al-Asrār* (Vol.3, p.53).

14. [*Al-'Abādila al-Thalātha*] (The three 'Abdu-Allahs): in his discussion of the power of the single narrator, he states in page [29/b]: "If the narrator is known for his depth of knowledge of jurisprudence and his expertise in exercising *Ijtihād*, for example the honourable Caliphs and the three 'Abdu-Allahs.. ". By 'the three servants of God' is meant the three Companions: 'Abdulla bin Mas'ūd, 'Abdulla bin 'Abbās and 'Abdulla bin 'Umar according to Imām al-Bazdawī.[2]

15. [*Mashāyikhunā*] (Our scholars): when the author discusses the ruling on *Ta'āruḍ* (conflict) between an affirmative text and its negative counterpart (page [31/b]), he argues: "Our scholars disagree on whether or not negative text is in *Ta'āruḍ* (conflict) with affirmative text. Our early scholars disagreed on this issue..." By (Our early scholars) here is meant Abū Ḥanīfa, Abū Yūsuf and Muḥammad al-Shaibānī. This is

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[1] *Kashf al-Asrār* (Vol.3, p.47) by al-Bukhārī.
[2] *Kashf al-Asrār* (Vol.2, p.697) by al-Bukhārī.

confirmed by al-Bukhārī in his *Sharḥ* (commentary) on al-Bazdawī's *'Uṣūl* (Vol.3, p.198).

16. [*'Ulamā'unā*] (Our scholars): it is clear that the author uses this term to refer to Ḥanafī scholars as in page [33/a] when he discusses the specificity of common words: "On this basis our scholars state that a person who bequeaths his ring to someone and its gem to someone else..". The opinion of Ḥanafī scholars is that the specifications of the common words does not take place when there is a pause between these common words and their specificity. In contrast al-Shāfi'ī argues: "The specificity takes place with or without a pause." Abū al-Ḥasan al-Karkhī shares the same opinion of the Ḥanafī scholars and that of the majority of the recent Ḥanafī scholars.[1]

17. [*Al-Qawl al-Ṣaḥīḥ*] (The correct view): the author mentions this terms in his discussion of the laws which existed prior to the mission of the Prophet [p.b.u.h.] and whether such laws concern us (page [36/b]). He comments: "The correct view is that the laws stated by God or the Prophet without their denial is incumbent on us as the law of our Prophet..." al-Bazdawī (Vol.3, p.398) shares the same view, and al-Bukhārī confirms it in his *Sharḥ* (commentary) on al-Bazdawī's book when he argues: "Most of our scholars, including Abū Manṣūr, al-Qāḍī the Imām Abū Zaid, the two scholars and the rest of the recent scholars" and then states the same opinion as that mentioned by the author.

18. [*Qāla Ba'ḍuhum*] (Some say): in his discussion of *Ijmā'* (consensus) and scholars' opinions regarding the scholars whom *Ijmā'* (consensus) may be accepted from as a source of legislation (page [37/a]), he states: "Some say that there is no *Ijmā'* (consensus) except that established by the Companions..." referring to the opinion of

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[1] *Kashf al-Asrār* (Vol.3, p.222) by al-Bukhārī.

Dāwūd al-Ẓāhirī and his followers among al-Ẓāhir people and Aḥmad bin Ḥanbal, in one of the two opinions quoted from him.[1] He further argues: "Some others say that there is no *Ijmā'* (consensus) except that of the people of Madīna..." and this is the opinion of Imām Mālik.[2] He also says: "Some others say that there is no *Ijmā'* (consensus) except from the kindred of the Prophet [p.b.u.h.]..." And this is the opinion of the Zaidiyya and the Imāmiyya people.[3]

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[1] *Kashf al-Asrār* (Vol.3, p.445) by al-Bukhārī.
[2] *Kashf al-Asrār* (Vol.3, p.446) by al-Bukhārī.
[3] *Kashf al-Asrār* (Vol.3, p.445) by al-Bukhārī.

3.11 Presentation of the book's themes

In his book *al-Muntakhab,* the author confined his discussion to *'Uṣūl al-Fiqh*, as has already been stated. On rare occasions he states an injunction without supporting evidence such as juristic examples, for instance; hence, his book that is concise but rife with rules *'Uṣūl al-Fiqh*:[1]

The author starts by talking about *'Uṣūl al-Shar'* (the sources of legislation) in Islamic jurisprudence, namely the *Qur'ān*, the *Sunna*, *Ijmā'* (consensus) and *Qiyās* (analogy). Later on, he presents the sections on verses of the holy *Qur'ān* and their meaning with respect to knowledge of the legal injunctions as follows:

Section one deals with the *Ṣīghatan* (formal) and *Lughatan* (linguistic) aspects of the verses that are classified into four types: the *'Āmm* (general), the *Khāṣṣ* (specific, the *Mushtarak* (homonym) and the *Mu'awwal* (interpreted), and he defines each of the four and identifies its *Ḥukm* (ruling).

Section two focuses on aspects of verses statements that are categorised into four: the *Ẓāhir* (apparent), the *Naṣṣ* (text), the *Mufassar* (explained) and the *Muḥkam* (firm). He identifies each and explains the *Aḥkām* (ruling) on *Mufassar* (explained) verses. In addition, he states the opposites of these four aspects as follows: the *Khafī* (hidden), the *Mushkil* (ambivalent), the *Mujmal* (synopsised), and the *Mutashābih* (intricate); he also identifies each and the ruling that corresponds to it.

Section three deals with the aspects of using such verses, for example, *Ḥaqīqa* (fact), *Majāz* (metaphor), the *Ṣarīḥ* (declared) and *Kināya* (metonymy), and he identifies the

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[1] See the index of *'Uṣūl al-Fiqh* at the end of this chapter.

Ḥaqīqa (fact) and the *Majāz* (metaphor) and their corresponding rulings. Then, he mentions some of the rulings pertaining to *Ḥaqīqa* (fact) and *Majāz* (metaphor) over which there is disagreement among scholars of *'Uṣūl al-Fiqh*. He also states the ruling on *Ṣarīḥ* (declared) and *Kināya* (metonymy) and the original meaning of words in terms to these two.

Section four deals with aspects of understanding the rulings on the verses; these rulings are classified into four categories: proof on the basis of *'Ibārat al-Naṣṣ* (explicit text meaning), *'Ishārat al-Naṣṣ* (alluded meaning), *Dilālat al-Naṣṣ* (inferred meaning) and *Iqtiḍā' al-Naṣṣ* (required meaning). He defines each and the ruling that corresponds to it.

He also presents a section in which he clarifies the decadence of utilising some aspects of texts among scholars who do not belong to the Ḥanafī school.

Then, he presents another section in which he discusses the *Amr* (command). Here, he defines the *Amr* (command), identifies its ruling and accounts for the *Amr* (command) that follows the *Taḥrīm* (prohibition) and the *Takrār* (repetition). Moreover, he explains the *Ḥukm al-Amr* (command ruling) constrained by time and divides it into three types. In a following section he describes the ruling of the *Amr* (command) in terms of *Adā'* (performance) and *Qaḍā'* (execution). He shows different types of *Qaḍā'* (execution), and complete and incomplete *Adā'* (performance); as well as the difference between the necessity of *Adā'* (performance) and *Qaḍā'* (execution).

In another section he discusses the good attribute of commanded duty and whether such an attribute applies to the duty itself or to another related duty.

He also examines the *Nahī* (prohibition) and identifies its various parts, its meaning as well as the meaning of bad attribute of commanded duty.

He allocates a section to the *Amr* (command) and the *Nahī* (prohibition) opposites. Then, he sets out to tackle the section on the sources of legislation.

Another section deals with *'Azīma* (decisive judgement) and *Rukhṣa* (allowance). He identifies each, describes its divisions and the rulings which correspond to them.

In another section he discusses the different divisions of *Sunna*, including incompletely transmitted Ḥadīth, Ḥadīth ensured by many lines of transmission, well-known tradition and the single narration. He defines each, states its rulings, and mentions some rulings related to Ḥadīth.

In a section that follows he explains opposition, shows its divisions and identifies its rulings. Then in another section he deals with statements and shows its five aspects as follows: *Bayān Taqrīr* (statement of justification), *Bayān Tafsīr* (statement of explanation), *Bayān Taghyīīr* (statement of interchange), *Bayān Tabdīl* (statement of abrogation) and *Bayān Ḍarūra* (statement of necessity). He identifies each of these, states their rulings, talks in detail about *Bayān Tabdīl* (statement of abrogation) focusing on the *Nāsikh* (abrogating). He further discusses whether or not *Ijmā'* (consensus) ruling can be abrogated by *Qiyās* (analogy), whether or not *Ijmā'* (consensus) is an abrogator, and whether or not *Sunna* can abrogate the Holy *Qur'ān* and vice versa.

In another section the author shows what is concerned with the Prophet's actions, disagreement on various aspects of his actions and the laws which existed prior to the mission of the Prophet [p.b.u.h.].

Later on in a following section the author talks about the rulings regarding imitation of the Prophet's Companions.

He proceeds to talk about *Ijmā'* (consensus) in a new section and clarifies scholars' different opinions regarding the scholars whom *Ijmā'* (consensus) may be accepted from as a source of legislation, its ranks and the rulings that correspond to *Ijmā'* (consensus).

In another section he discusses *Qiyās* (analogy), defines it, mentions its *Shurūṭ* (conditions), its *Ḥukm* (ruling), its *Rukn* (pillar), and its *'Illa Mu'athira* (effective causes).

Later on he defines opposition, identifies its rulings and shows its divisions.

The following section focuses on preference, and the author then defines the concept and shows what needs to be taken into account when exercising preference (*al-Tarjīḥ*).

He also devotes another section to the legislative rulings that are established by *Ḥijaj* (proof), for example, *Ḥuqūq Allah* (God's obligations) on humans, people's rights and a combination of the two. He shows the *'Illa* (cause), *'Illa Mu'athira* (effective cause), condition and sign that are relate to legislative rulings. He therefore defines each, provides examples and shows the rulings which correspond to it.

The next section deals with *Ḥukm al-'Aql* (intellec injunctions) and reveals whether the mind can be considered *'Illa Mūjiba* (conducive causes).

In the following section the author dwells on competence which is constrained by both divine and acquired contingencies. As far as acquired contingencies are concerned, two types are distinguished: self-inflicted ones and those inflicted by others. He further identifies the types of each and mentions their respective rulings.

In the last section, the author discusses *Ḥurūf al-Ma'ānī* which are coordinating conjunctions, prepositions and conditional particles.

3.12 Conclusion

To conclude this third chapter, the book *al-Muntakhab al-Ḥusāmī* has received a lot of attention; it was heighly praised by scholars and was widely circulated amongest learners. Also other writers composed *Shurūḥ* (commentaries) on the book which amounted to approximately sixteen commentaries. And there are more than (24) deferent copies distributed all over the world's libraries. As far as the position of the book amongst the books on *'Uṣūl al-Fiqh* in the Ḥanafī school is concerned, *al-Muntakhab al-Ḥusāmī* is considered as the best and most reliable book – par excellence – in the field of *'Uṣūl al-Fiqh*. The book surpasses all other concise writings on Ḥanafī jurisprudence in its superior refinement, solid structure and the writer's focus on *'Uṣūl al-Fiqh*. In my study of the book, I have relied upon seven manuscript copies, which provide the editing process with strength and at the same time gave the researcher confidence in selecting the words and expressions used in the edition. This has also helped in bridging the gaps observed in the main copy.

In reviewing the author's methodology, it appears that the book itself is a brief complementary of another book, i.e. *Kanz al-Wuṣūl ilā Ma'rifat al-'Uṣūl* by al-Bazdawī. No one who has written a biography of the author has mentioned this. Although the book is a complementary of another book, the author has adopted a strategy which reveals abundance and depth of knowledge as well as mastery of the science of jurisprudence in parallel to the author's wide acquaintance with other points of view which are in *Ta'āruḍ* (conflict) with his own opinion. Therefore, it has become evident that the author has a firm grip on the field and provides solid evidence against his opponents even when his opinion is in *Ta'āruḍ* (conflict) with the views of the

scholars in his own school. This shows that he had a strong scholastic personality and that he attained a high position, which in turn proves his superior scholastic ability.

Index of the rules of *'Uṣūl al-Fiqh*

No	The rule	Page
1	*Ḥukm al-'Āmm* (collective ruling): It certainly and definitely necessitates legal rulings, unless it is followed by a specification.	[1/b]
2	The ruling pertaining to the *Ẓāhir* (apparent), the *Naṣṣ* (text), the *Mufassar* (explained) and the *Muḥkam* (firm) certainly necessitates the existence of what each of them contains.	[2/a]
3	The ruling pertains to the *Ḥaqīqa* (fact) and the *Majāz* (metaphor): One of the rulings on fact and metaphor is that the two cannot be used in a single word to imply tow meanings at the same time.	[4/a]
4	The original meaning is that which is *Ṣarīḥ* (declared), and *Kināya* (metonymy) can not be meant without intention.	[7/b]
5	*Ḥukm al-Muqtaḍā* (Requirement injunction): what is required has no generality.	[8/b]
6	*Al-Sharṭ* (condition): any matter that is incumbent upon a condition is not refuted when such a condition does not exist.	[10/b]
7	*Al-'Āmm* (general): the general is tied to the *Sabab* (reason) as long as it does not monopolise such a reason.	[11/a]
8	*Ḥukm al-Amr* (command ruling): the *Amr* (command) before and after the *Nahī* (prohibition) is the same. It does not entail repetition and does not stand it.	[11/b]
9	*Ḥukm al-Amr* (command ruling): command not bound with a specific time does not require immediate *Adā'* (performance).	[12/a]
10	*Ḥukm al-Amr wa al-Nahī* (command and prohibition rulings): the *Amr* (command) entails hatred of its opposite, but does not necessitate it. Prohibition of the opposite requires a new command.	[22/b]
11	Ruling pertaining to addition to text: addition to text, in our point of view, implies *Naskh* (abrogation).	[35/a]
12	*Ijmā'* (consensus): consensus is similar to the *Qur'ān* and *Sunna* in its rulings.	[41/b]

13	*'Illa Mu'athira* (effective cause): lack of effective cause does not entail absence of ruling.	[45//a]
14	*Al-Tarjīḥ* (preference): when two preference cases are in *Ta'āruḍ* (conflict) priority is given to textual evidence rather than its extra-textual counterpart.	[45/b]

Biography of Prominent Figures and Scholars

[A]

1. ‘Abduljabbār bin Aḥmad al-Hamadānī al-Astrābādī, Abū al-Ḥasan, a judge and a scholar in *’Uṣūl al-Fiqh*, named the judge of judges, (d. 415H/1025AD). *Mu’jam al-Mu’allifīn* by Kaḥḥāla (Vol.2, p.46). *Al-A’lām* by al-Ziriklī (Vol.3, p.273).

2. ‘Abdulla bin Abū Awfā and his father’s name is ‘Alqama bin Khālid bin al-Ḥārith, al-Aslamī, Abū Mu‘āwiya. Both he and his father were Companions. He was the last of the honourable Companions to die in Kufa after (86H/705AD). *Durr al-Saḥāba fī Manāqib al-Qarāba wa al-Ṣaḥāba* by Muḥammad bin ‘Alī al-Shawkānī, edited by Dr. Ḥusain ‘Abdulla al-‘Umarī, Dār Ṭibā‘at al-Fikr – Damascus – (1411H/1990AD), p. 788.

3. ‘Abdulla bin Mas‘ūd bin Ghāfil bin Ḥabīb al-Hudhalī, Abū ‘Abdulraḥmān, the greatest and most knowledgeable of the Companions. He was close to Prophet Muḥammad [p.b.u.h.]; he was from Makka and one of the firsts to embrace Islam. He died in Madīna in (32 H/653AD). *Al-A’lām* by al-Ziriklī (Vol.4, p.137).

4. Alb Arsalān bin Muḥammad bin al-Sultan Jaghribek Dāwūd bin Saljūq al-Turkumānī al-Ghazzī, Abū Shujā‘, the great just Sultan, ‘Aḍud al-Dawla, (d. 451H/1059AD). *Siyar A’lām al-Nubalā’* by al-Dhahabī (Vol.8, p.414).

5. ‘Alī bin Abū Ṭālib bin ‘Abdulmuṭṭalib al-Hāshimī al-Qurashī, Abū al-Ḥasan, the Commander of the Faithful, the fourth of the noble Caliphs; one of the ten who are promised paradise; the Prophet’s cousin and son-in-law, a courageous waorrior, one of the great orators and scholars of justice. The first to embrace Islam after Khadīja, the Prophet’s wife. He died in Kufa in (40H/661AD). *Al-A’lām* by al-Ziriklī (Vol.4, p.295).

6. 'Alqama bin Qais al-Nakh'ī al-Ḥamadānī, Abū Shibl, a Follower and he was Iraq's jurist. He died in Kufa in (62H/681AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.248).

7. Al-'Āmidī, 'Alī bin Muḥammad al-Taghlibī, Abū al-Ḥasan, Saif al-Dīn, a scholar in *'Uṣūl al-Fiqh* and a researcher. He has approximately 20 writings. He wrote *Mukhtaṣar al-Sūl* and *al-Iḥkām fī 'Uṣūl al-Aḥkām* on *'Uṣūl al-Fiqh*. He died in Damascus in (631H/1233AD). *Al-A'lām* by Khair al-Dīn al-Ziriklī (Vol.4, p.332).

8. 'Āmir bin Wāthila bin 'Abdulla bin 'Amr , al-Laithī al-Kinānī al-Qurashī, Abū al-Ṭufail, Kināna's poet and one of its horsemen. He narrated (9) *Ḥadīths* and he was the last of the Companions to die. He died in Makka in (100H/718AD). *Al-A'lām* by al-Ziriklī (Vol.3, p.255).

9. Anas bin Mālik bin al-Naḍr bin Ḍamḍam al-Najjārī al-Khazrajī al-Anṣārī, Abū Thumāma, a close friend and servant of the Prophet [p.b.u.h.]. Scholars of *Ḥadīth* narrated (2286) Ḥadīth from him. He was the last of the honourable Companions to die in Basra and that was in (93H/712AD). *Al-A'lām* by al-Ziriklī (Vol.2, p.24).

10. Al-Armawī, Muḥammad bin Ḥusain, Tāj al-Dīn, Abū al-Faḍā'il, a scholar in *'Uṣūl al-Fiqh* and a judge. He died in Baghdad in (656H/1258AD). *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.2, p.1615); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.252).

11. Al-Armawī, Maḥmūd bin Abū Bakr, Abū al-Thanā', Sirāj al-Dīn, a scholar in *'Uṣūl al-Fiqh* and logic, a Shāfi'ī scholar. He wrote *al-Taḥṣīl min al-Maḥṣūl* on *'Uṣūl al-Fiqh*, (d. 682H/1283AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.166). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.801). *History of the Arabic Literature,* (Vol.1, p.614, 467), S. (Vol.1, p.848) by Brockelmann.

12. Al-Arsābandī[1], Muḥammad bin al-Ḥusain bin Muḥammad, al-Ḥanafī, Fakhr al-Dīn, Abū Bakr, a jurist, a scholar of *'Uṣūl al-Fiqh* and a judge, (d. 512H/1118AD). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.257); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.111); *Al-Jawāhir al-Muḍiyya* by al-Qaurashī (Vol.3, p.145).

13. Al-Awshī, Sirāj al-Dīn Abū al-Ḥasan 'Alī bin 'Uthmān al-Farghānī, a Ḥanafī jurist, from Fargana. He died of plague in (575H/580AD). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.700); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.475); *Al-A'lām* by al-Ziriklī (Vol.4, p.310).

[B]

14. Al-Babirtī[2], Muḥammad bin Muḥammad bin Maḥmūd, Akmal al-Dīn Abū 'Abdulla bin al-Shaikh, Shams al-Dīn bīn al-Shaikh Jamāl al-Dīn al-Rūmī, a scholar of Ḥanafī jurisprudence, knowledgeable in literature. He died in Egypt in (786H/1384AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.42); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.691).

15. Al-Baiḍāwī, 'Abdulla bin 'Umar al-Shīrāzī, Abū Sa'īd, Nāṣir al-Dīn, a judge and an *Mufassir* (interpreter), (d. 685H/1286AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.110). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.266).

16. Al-Banānī, 'Abdulraḥmān bin Jād Allah al-Maghribī, a jurist, a scholar on *'Uṣūl al-Fiqh*, (d. 1198H/1784AD). *Al-A'lām* by al-Ziriklī (Vol.3, p.302); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.86).

17. Al-Bazdawī, 'Alī bin Muḥammad bin al-Ḥusain, Abū al-Ḥasan, Fakhr al-Islam, a jurist and a scholar of *'Uṣūl al-Fiqh* and a great Ḥanafī scholar, (d. 482H/1089AD).

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[1] - Arsāband is a village in Mary (*Marū*). *Mu'jam al-Mu'allifīn* (Vol.3, p.257) by Kaḥḥāla.
[2] - In association with a village near Baghdad. *Al-A'lām* (vol.7, p.42) by al-Ziriklī.

Al-A'lām by al-Ziriklī (Vol.4, p.328). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.501). *History of the Arabic Literature,* (Vol.1, p.460, 373), S. (Vol.1, p.637) by Brockelmann.

18. Al-Biqālī, Zain al-Mashāyikh Abū al-Faḍl Muḥammad bin Abū al-Qāsim Babjuk, a Ḥanafī jurist, called al-'Ādamī. He was a commentator, a writer, a grammarian and a linguist from Khawarizm. He was born in (490H/1097AD) and died in Jurjān in (562H/1167AD). *Mu'jam al- Mu'allifīn* by Kaḥḥāla (Vol.3, p.593); *Kashf al-Ẓunūn* by Ḥāī Khalīfa (Vol.1, p.120); *Al-A'lām* by al-Ziriklī (Vol.6, p.335). *History of the Arabic Literature,* S. (Vol.1, p.513) by Brockelmann.

19. Al-Bukhārī, 'Abdul'azīz bin Aḥmad bin Muḥammad, 'Alā' al-Dīn, a Ḥanafī jurist and a scholar of *'Uṣūl al-Fiqh*. He wrote *Sharḥ al-Muntakhab al-Ḥusāmī li al-Akhsīkathī*, which is a *Sharḥ* (commentary) on the book under study in this research, on *'Uṣūl al-Fiqh*, (d. 730H/1330AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.13); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.157).

20. Al-Bukhārī, the Commander of the Faithful in *Ḥadīth*, Abū 'Abdulla Muḥammad bin Abū al-Ḥasan Ismā'īl bin Ibrāhīm bin al-Mughīra bin al-Aḥnaf al-Ju'fī al-Bukhārī, a memoriser of *Ḥadīth*, a historian and a jurist. He was born in Bukhārā in (194H/810AD). He died on the eve of Eīd-ul-Fiṭr (a ceremony after the fasting month) and was buried in Khurtenk – a village about two leagues north of Samarkand – in (256H/870AD). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.16); *Al-A'lām* by al-Ziriklī (Vol.6, p.34); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.130). *Kashf al-Ẓunūn* by Hājī Khalīfa (Vol.1, p.48); *Da'irat al-Ma'ārif al-Islāmiyya* (Vol.3, p.419-426).

[D]

21. Al-Dabūsī, 'Abdulla bin 'Umar bin 'Īsa, Abū Zaid, the pioneer of the science of disagreement, and the one who brought it into being. He was a jurist and a researcher. He wrote *al-Asrār* on *'Uṣūl al-Fiqh*. He died in Bukhārā in (430H/1039AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.109); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.265). *History of the Arabic Literature,* (Vol.1, p.184) by Brockelmann.

22. Al-Dahlawī, Sa'd al-Dīn, a jurist, a scholar of *'Uṣūl al-Fiqh*, a Ḥanafī scholar, (d. 891H/1486AD). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.758); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (p.1824).

[G]

23. Al-Ghazālī, Muḥammad bin Muḥammad al-Ṭūsī, Abū Ḥāmid, Ḥujjat al-Islam, a philosopher and a Sūfī. He has about two hundred writings including *Shifā' al-'Alīl* and *al-Mankhūl min Ta'līqāt al-'Uṣūl* on *'Uṣūl al-Fiqh*, (d. 505H/1111AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.22). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.671). *History of the Arabic Literation,* (Vol.1, p.535, 419), S. (Vol.1, p.744) by Brockelmann.

24. Al-Ghazmīnī, Mukhtār bin Maḥmūd bin Muḥammad Abū al-Rajā', Najm al-Dīn, al-Zāhidī, a Ḥanafī jurist and a scholar of *'Uṣūl al-Fiqh*. He died in (658H/1260AD). *Al-Fatḥ al-Mubīn* by al-Marāghī (Vol.2, p.71); *Al-A'lām* by al-Ziriklī (Vol.7, p.193); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.838); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.577). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.423). *History of the Arabic Literature,* (Vol.1, p.382), S. (Vol.1, p.656) Brockelmann.

25. Al-Ghaznawī, Aḥmad bin Muḥammad bin Maḥmūd bin Sa'd, a Ḥanafī scholar and jurist, a philosopher and a scholar of *'Uṣūl al-Fiqh*. He was born in Ghazna and traveled to spread knowledge as far as Ḥalab in Syria where he died in (593H/1196AD). He was buried in the cemetery of Ḥanafī jurists. *Al-Fatḥ al-Mubīn* by al-Marāghī (Vol.2, p.37); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.296); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.932); *Al-A'lām* by al-Ziriklī (Vol.1, p.217).

26. Al-Ghaznawī, Maḥmūd bin Subuktakīn, Abū al-Qāsim, the conqueror of India, a great leader and the Sultan of the Ghaznawī state, (d. 421H/1030AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.171).

[H]

27. Ḥājī Khalīfa, Muṣṭafā bin 'Abdulla Kātib Jalabī, a historian and a researcher of Turkesh origin. He died in Alexandria in (1067H/1657AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.236). *History of the Arabic Literature,* (Vol.2, p.563, 427) S. (Vol.2, p.635) by Brockelmann.

28. Ibn al-Ḥājib, 'Uthmān bin 'Umar bin Abū Bakr, Abū 'Amr, Jamāl al-Dīn, a Mālikī jurist and one of the great scholars who wrote in Arabic. He wrote *Muntaha al-Sūl wa al-Amal fī 'Ilmay al-'Uṣūl wa al-Jadal* and *Mukhtaṣar Muntaha al-Sūl wa al-Amal* on *'Uṣūl al-Fiqh*. He died in Alexandria in (646H/1249AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.211). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.366).

29. Ibin Ḥanbal, Imām Aḥmad bin Muḥammad, Abū 'Abdulla, al-Shaibānī al-Wā'ilī. The Imam of the Ḥanbalī school and one of the four Sunni Imāms. He wrote *al-Musnad*, which contains thirty thousand Ḥadīth, *al-Tārīkh, al-Tafsīr, Faḍā'il al-Ṣaḥāba, al-Manāsik, al-Zuhd, al-Ashriba, al-Masā'il* and so on, (d. 241H/855AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.203). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā al-

Baghdādī. Dār Iḥyā' al-Turāth al-'Arabī (1360H/1941AD), printed with *Kashf al-Ẓunūn* by Ḥājī Khalīfa, (Vol.1, p.48).

30. Abū Ḥanīfa, al-Nu'mān bin Thābit, from Kufa, the Imam of the Ḥanafī school, a jurist. He exercised *Ijtihād* and he was an editor, one of the four Sunni Imāms. He was born and grew up in Kufa in (80H/699AD). He died in Baghdad in (150H/767AD). *Al-A'lām* by al-Ziriklī (Vol.8, p.36).

31. Hārūn (al-Rashīd) bin Muḥammad (al-Mahdī) bin (al-Manṣūr) al-'Abbāsī, Abū Ja'far, the most famous of the 'Abbāsī Caliphs. He was courageous and participated in many conquests. He used to go to pilgrimage a year and fight in a conquest another. He died in Sanabādh, a village in Ṭūs, in (193H/809AD). *Al-A'lām* by al-Ziriklī (Vol.8, p.62).

32. Al-Ḥaṣīrī, Maḥmūd bin Aḥmad bin 'Abdussayyid bin 'Uthmān bin Naṣr bin 'Abdulmalik al-Ḥusainī al-Bukhārī called Jamāl al-Dīn, Abū al-Maḥāmid. He was born in Bukhārā in (546H/1151AD). He died on Sunday, the eighth of Ṣafar in (637H/1239AD). He was buried in the Ṣūfī cemetery in Damascus. *Al-Fatḥ al-Mubīn* by al-Marāghī (Vol.2, p.61). *Al-A'lām* by al-Ziriklī (Vol.7, p.161); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.796); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.563). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.405); *History of the Arabic Literature,* (Vol.1, p.473) by Brockelmann.

33. Al-Hindī, 'Abdulḥaq bin Muḥammad, a scholar of *'Uṣūl al-Fiqh* and a scholar of logic, a Ḥanafī scholar. He died after (1289H/1872AD). *Al-A'lām* by al-Ziriklī (Vol.3, p.282); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.59); *'Īḍāh al-Maknūn* by Ismā'īl Bāshā (Vol.2, p.617).

34. Al-Ḥulwānī, 'Abdul'azīz bin Aḥmad bin Naṣr al-Bukhārī, Abū Muḥammad, called Shams al-A'imma, a Ḥanafī jurist. He was the leader of Ḥanafīs during his lifetime in Bukhārā, (d. 448H/1056AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.13); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.158).

[I]

35. Al-'Īdī, Abū Bakr Muḥammad bin Aḥmad bin 'Umar al-Bukhārī, Jalāl al-Dīn, a scholar of *Ḥadīth*, (d. 668H/1270AD). *Al-Jawāhir al-Muḍiyya* by al-Qarshī (Vol.3, p.334).

36. Al-Itqānī, Qiwām al-Dīn Amir Kātib bin Amīr 'Umar bin Amīr Ghāzī al-Fārābī al-'Amīdī, Abū Ḥanīfa, a Ḥanafī jurist, (d. 758H/1357AD). *Al-A'lām* by al-Ziriklī (Vol.2, p.14); *Al-Badr al-Ṭāli'* by Muḥammad bin 'Alī al-Shawkānī, (Vol.1, p.106); *Al-Fatḥ al-Mubīn* by al-Marāghī (Vol.2, p.173); *Al-Jawāhir al-Muḍiyya* by al-Qarshī (Vol.4, p.128).

[J]

37. Abū Ja'far al-Manṣūr, 'Abdulla bin Muḥammad bin 'Alī bin al-'Abbās, the second of the 'Abbāsī Caliphs and the first Arab king to take care of sciences. He died in Makka while performing pilgrimage in (158H/775AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.117).

38. Al-Jaṣṣāṣ, Aḥmad bin 'Alī al-Rāzī, Abū Bakr. He succeeded to the leadership of the Ḥanafī school. He died in Baghdad in (370H/980AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.171); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.202).

39. Al-Juwainī, 'Abdulmalik bin 'Abdulla, Abū al-Ma'ālī, Rukn al-Dīn called Imām al-Ḥaramain, the most knowledgeable of the recent scholars. He was a Shāfi'ī scholar. He wrote *al-Burhān* and *al-Waraqāt* on *'Uṣūl al-Fiqh*, (d. 478H/1085AD).

Al-A'lām by al-Ziriklī (Vol.4, p.160). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.318). *History of the Arabic Literature,* (Vol.1, p.486), S. (Vol.1, p.671) by Brockelmann.

[K]

40. Al-Kardarī, 'Abdulghafūr bin Luqmān bin Muḥammad, Sharaf al-Quḍāt, Tāj al-Dīn, Abū al-Mafākhir, al-Khawarizmī, one of the leading Ḥanafī scholars, a scholar of *'Uṣūl al-Fiqh*. He died in Ḥalab (562H/1167AD) and was buried there. *Al-Fatḥ al-Mubīn* by al-Marāghī (Vol.2, p.34); *Al-A'lām* by al-Ziriklī (Vol.4, p.32); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.114); *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.587); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.175).

41. Al-Kardarī, Muḥammad bin Muḥammad bin 'Abdussattār, Abū al-Wajd, Shams al-A'imma, al-'Imādī, a Ḥanafī scholar from Bukhārā. He died in Bukhārā on (9) *Muḥarram* (642H/1244AD). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.410); *Al-A'lām* by al-Ziriklī (Vol.7, p.28). *History of the Arabic Literature,* (Vol.1, p.474, 381), S. (Vol.1, p.653) by Brockelmann.

42. Al-Karkhī, 'Obaidullah bin al-Ḥusain, Abū al-Ḥasan, a jurist. The Ḥanafī leadership ended in his hands in Iraq, (d. 340H/952AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.193); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.351).

43. Al-Karmānī, 'Abdulraḥmān bin Muḥammad bin Amīrwaih Ibn Muḥammad bin Ibrāhīm, Rukn al-Dīn, Abū al-Faḍl, the leader of the Ḥanafī followers in Khurasan. He was born in Karmān in (457H/1065AD). He died in Mary on Friday in *Dhūl-Qi'da,* (543H/1149AD). *Al-Jawāhir al-Muḍiyya* by al-Qarshī (Vol.2, p.388); *Al-A'lām* by al-Ziriklī (Vol.3, p.327); *Tāj al-Tarājim* by Qaṭlubgha (p.122); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.96).

44. Ibin Khaldūn, 'Abdulraḥmān bin Muḥammad bin Muḥammad, Abū Zaid, Walī al-Dīn al-Ḥaḍramī al-Ishbīlī, a philosopher, a historian and a researcher, originally from Seville, but he was born in Tunisia and died in Cairo in (808H/1406AD). *Al-A'lām* by al-Ziriklī (Vol.3, p.330). *History of the Arabic Literation,* (Vol.2, p.314), S. (Vol.2, p.342) by Brockelmann.

45. Al-Khaṣṣāf, Aḥmad bin 'Umar, Abū Bakr, a jurist versed in the Ḥanafī school, (d. 261H/875AD). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.219); *Al-A'lām* by al-Ziriklī (Vol.1, p.185).

46. Al-Khāṣṣī[1], al-Muwaffaq bin Muḥammad bin al-Ḥasan bin Abū Sa'īd bin Muḥammad bin 'Alī Abū al-Mu'ayyad, al-Khawārizmī called Ṣadr al-Dīn. He was born in Jurjan Khawarizm in the month of *Ṣafar* in (579H/1183AD). He died in Egypt in (634H/1236AD) and was buried there. *Al-Fatḥ al-Mubīn* by al-Marāghī (Vol.2, p.59); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.940); *Al-A'lām* by al-Ziriklī (Vol.7, p.333).

47. Khawārizm-Shāh, Muḥammad bin Tukush bin 'Utsuz, Alā' al-Dīn. He became ruler of Transoxania in (596H/1200AD) after his father's death. *Al-Bidāya wa al-Nihāya* by Ibin Kathīr (Vol.13, p.132).

48. Al-Khaāwarizmī, Abū 'Abdulla Muḥammad bin Mūsā, a famous astronomer, geographer and mathematician, originally from Khaāwarizm. He died after (232H/847AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.116); *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.9); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.741). *History of the Arabic Literature,* (Vol.1, p.215, 216), S. (Vol.1, p.381-382) by Brockelmann.

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[1] - In relation to a village in Khawārizm. *Al-A'lām* (vol.7, p.333) by al-Ziriklī.

49. Ibin Khillikān, Aḥmad bin Muḥammad bin Ibrāhīm bin Abū Bakr al-Barmakī, Abū al-'Abbās, a faithful historian and a shrewd writer. He is the author of *Wafayāt al-A'yān wa Anbā' Abnā' al-Zamān*, which is one of the most famous and one of the best biographies. He was nominated as a judge in Egypt and later in Syria. He died in Damascus in (681H/1282AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.220). *Mu'jam al-Mu'allifin* by Kaḥḥāla (Vol.1, p.237).

50. Al-Khujandī, Jalāl al-Dīn 'Umar bin Muḥammad al-Khabbāzī al-Ḥanafī, (d. 691H/1292AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.63).

[M]

51. Al-Maḥallī, Muḥammad bin Aḥmad bin Ibrāhīm al-Shāfi'ī, Jalāl al-Dīn, a scholar of *'Uṣūl al-Fiqh*, a commentator, born and died in Cairo. In his book entitled *al-Badr al-Ṭāli'*, he commented on *Jam' al-Jawāmi'*. He also wrote *Sharḥ al-Waraqāt* on *'Uṣūl al-Fiqh*, (d. 864H/1459AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.333); *Mu'jam al-Mu'allifin* by Kaḥḥāla (Vol.3, p.93).

52. Al-Maḥbūbī, Burhān al-Sharī'a, Maḥmūd bin Ṣadr al-Sharī'a Aḥmad bin Jamāl al-Dīn 'Ubaidullah al-Bukhārī al-Ḥanafī. He was alive in (630H/1233AD). *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.2, p.2020); *Mu'jam al-Maṭbu'āt* by Serkis (Vol.2, p.1199).

53. Al-Maḥbūbī, 'Obaidullah bin Mas'ūd bin Maḥmūd bin Aḥmad al-Bukhārī al-Ḥanafī, Ṣadr al-Sharī'a al-Aṣghar, a scholar of *'Uṣūl al-Fiqh*. He died in Bukhārā in (747H/1346AD). Al-*A'lām* by al-Ziriklī (Vol.4, p.197); *Mu'jam al-Mu'allifin* by Kaḥḥāla (Vol.2, p.296).

54. Mālik bin Anas bin Mālik al-Aṣbaḥī al-Ḥimyarī, Abū 'Abdulla, Imām Dār al-Hijra. He is one of the four *Suunī* Imāms and the Malikī school is associated with

him. He was born and he died in Madīna in (179H/795AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.257). *Kashf al-Ẓunūn 'an Asāmī al-Kutub wa al-Funūn* (Vol.2, p.1907). Beirut – Dār Iḥyā' al-Turāth al-'Arabī, by Ḥājī Khalīfa.

55. Malikshah, Jalāl al-Dawla, Abū al-Fatḥ, bin al-Sultan Alb Arsalān Muḥammad bin Jaghribek al-Saljūqī al-Turkī. He succeeded to power in (465H/1072AD) and died in (485H/1092AD). *Siyar A'lām al-Nubalā'* by al-Dhahabī (Vol.19, p.54).

56. Manṣūr (al-Mustanṣir) bin Muḥammad (al-Ẓāhir) bin Aḥmad (al-Nāṣir) bin al-Mustaḍī', the 'Abbāsī Caliph, the founder of al-Mustanṣiriyya school in Baghdad. He defended Baghdad against the invasion of the Mongol. He died in Baghdad in (640H/1242AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.304).

57. Al-Marghinānī, Burhān al-Dīn Abū al-Ḥasan 'Alī bin Abū Bakr bin 'Abduljalīl al-Fargānī, a Ḥanafī scholar and a jurist, narrator, memoriser and commentator, (d. 593H/1197AD). *Mu'jam al-Maṭbū'āt al-'Arabiyya* by Serkis (Vol.2, p.1739); *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.702); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.411); *Al-A'lām* by al-Ziriklī (Vol.4, p.266).

58. Marwān bin Muḥammad bin Marwān bin al-Ḥakam al-'Umawī, Abū 'Abdulmalik, known as al-Ja'dī and al-Ḥimār, the last of Banī 'Umayya rulers in Syria, (d. 132H/750AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.208).

59. Mas'ūd bin Maḥmūd Subuktikīn, a king in the Ghaznawid state, (d. 432H/ 1040AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.220).

60. Al-Māturīdī, Muḥammad bin Muḥammad bin Maḥmūd, Abū Manṣūr, one of the great philosophers. He died in Samarkand in (333H/944AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.19); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.692). *History of the Arabic Literature,* (Vol.1, p.209, 195), S. (Vol.1, p.346) by Brockelmann.

61. Al-Mawṣilī, Majd al-Dīn 'Abdulla bin Maḥmūd bin Mawdūd al-Baldaḥī, Abū al-Faḍl, a Ḥanafī jurist, (d. 683H/1284AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.135); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.295).

62. Ibin Māza, Burhān al-Dīn Maḥmūd bin Aḥmad bin 'Abdul'azīz bin 'Umar al-Bukhārī, al-Marghinānī, al-Ḥanafī, a jurist. He was born in Marghinān in (551H/1156AD) and died in Bukhārā in (616H/1219AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.161); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.796); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.2, p.2002); *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.404).

63. Mu'āth bin Jabal bin 'Amr bin Aws al-Anṣārī al-Khazrajī, Abū 'Abdulraḥmān, a honourable Companion, the most knowledgeable among his people about the *Ḥalāl* (permissible) and the *Ḥarām* (prohibited). He was one of the six who gathered the *Qur'ān* at the time of the Prophet [p.b.u.h.]. He died in Jordan (18H/639AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.258).

64. Muḥammad bin al-Ḥasan bin Farqad, one of the Baniī Shaibān rulers, Abū 'Abdulla, a jurist and a scholar of *'Uṣūl al-Fiqh*. He is the one who expanded Abū Ḥanīfa's teachings, (d. 189H/804AD). *Al-A'lām* by al-Ziriklī (Vol.6, p.80). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.229). *History of the Arabic Literature,* S. (Vol.1, p.288, 298) by Brockelmann.

65. Muḥammad al-Shaibānī died in (916H/1510AD). *Tārīkh al-Islam* by Maḥmūd Shākir (Vol.8, p.375).

66. Muḥammad bin Michael bin Saljūq, Abū Ṭālib, the first of king in the Saljūqid State, (d. 455H/1063AD). *Al-A'lām* by al-Ziriklī (Vol.7, p.120).

67. Al-Musta'ṣim, 'Abdulla bin Manṣūr (al-Mustanṣir) bin Muḥammad (al-Ẓāhir) bin Aḥmad (al-Nāṣir), the 'Abbāsī Caliph, Abū Aḥmad, the last of the 'Abbāsī Caliphs in Iraq (d. 656H/1258AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.140).

68. Al-Mu'tazilī, Muḥammad bin 'Alī al-Ṭayyib, Abū al-Ḥasan, al-Baṣrī. He wrote *Taṣaffuḥ al-Adilla*, *Gharar al-Adilla* and *Sharḥ al-'Uṣūl al-Khamsa* on *'Uṣūl al-Fiqh*, (d. 436H/1044AD). *Al-A'lām* by al-Ziriklī (Vol.6, p.275); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.518). *History of the Arabic Literature,* (Vol.1, p.600, 458), S. (Vol.1, p.829) by Brockelmann.

[N]

69. Al-Nakh'ī, Ibrāhīm bin Yazīd, Abū 'Imrān, one of the most righteous *Tābi'ūn*, a memoriser of *Ḥadīth*. He was Iraq' jurist, an Imām who exercised *Ijtihād*, and he had his own school, (d. 96H/815AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.80).

70. Al-Nasafī, 'Abdulla bin Aḥmad bin Maḥmūd, Abū al-Barakāt, Ḥāfiẓ al-Dīn, a Ḥanafī jurist, and a commentator, from Nasaf near Samarkand, (d. 710H/1310AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.67); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.228); *History of the Arabic Literature,* (Vol.2, p.196, 197), S. (Vol.2, p.263-268) by Brockelmann.

71. Al-Nāṣir li Dīn Allah, Aḥmad bin al-Mustaḍī' bi Amr Allah al-Ḥasan bin al-Mustanjid, Abū al-'Abbās, the longest serving 'Abbāsī Caliph, (d. 622H/ 1225AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.110).

72. Al-Nūḥābādhī, Abū al-Muẓaffar Muḥammad bin 'Umar bin Muḥammad, Ẓāhir al-Dīn al-Bukhārī al-Ḥanafī, the Imām of al-Mustanṣiriyya (school) in Baghdad where he taught and later died in (668H/1270AD). *Hadiyyat al-'Ārifīn* by Ismā'īl

Bāshā (Vol.2, p.129); *Al-A'lām* by al-Ziriklī (Vol.6, p.313); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.565).

[Q]

73. Ibn al-Qā'ānī, Abū Muḥammad Manṣūr bin Aḥmad Mu'ayyad al-Khawarizmī, a Ḥanafī jurist and a scholar of *'Uṣūl al-Fiqh*. He died in Maka in (775H/1373AD). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.912); *Al-A'lām* by al-Ziriklī (Vol.7, p.297); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.2, p.1749); *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.474).

74. Al-Qaddūrī, Aḥmad bin Muḥammad bin Aḥmad bin Ja'far bin Ḥamdān, Abū al-Ḥusain, a Ḥanafī jurist, (d. 428H/1037AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.212); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.242).

75. Qāḍī Khān, Ḥasan bin Manṣūr bin Abū Qāsim Maḥmūd bin 'Abdul'azīz, Fakhr al-Dīn, al-'Uzjandī al-Farghānī, a great Ḥanafī jurist (d. 592H/1196AD). *Al-A'lām* by al-Ziriklī (Vol.2, p.224). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.594). *History of the Arabic Literature,* (Vol.1, p.367) S. (Vol.1, p.643-644) by Brockelmann.

76. Al-Qāḍī al-Nasafī, 'Abdul'azīz bin 'Uthmān bin Ibrāhīm bin Muḥammad bin Aḥmad bin Abū Bakr bin Ja'far bin Rajā', al-Ḥanafī from Kufa. He died in Rabī' al-Awwal in (563H/1168AD). *Al-Fatḥ al-Mubīn* by al-Marāghī (Vol.2, p.35); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.164). *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.424); *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.578); *Al-A'lām* by al-Ziriklī (Vol.4, p.22). *History of the Arabic Literature,* S. (Vol.1, p.639) by Brockelmann.

77. Al-Qarāfī, Aḥmad bin Idrīs, Abū al-'Abbās, Shihāb al-Dīn al-Ṣinhājī, a Mālikī scholar. He has writings on *Fiqh* (jurisprudence) and *'Uṣūl al-Fiqh*. He died in

(684H/1285AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.94); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.100).

78. Al-Qubbāwī, Muḥammad bin Muḥammad bin Muḥammad al-Ḥanafī from Marghinān, (d. 730H/1330AD). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.147); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.564, 571); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.684); *Al-Jawāhir al-Muḍiyya* by al-Qaurshī (Vol.2, p.126); *Al-Fawā'id al-Bahiyya* by al-Laknawī (p.191).

79. Qutaiba bin Muslim bin 'Amr bin al-Ḥuṣain al-Bāhilī, Abū Ḥafṣ, the emir of Khurasan at the time of 'Abdulmalik bin Marwān and at the time of al-Walīd bin 'Abdulmalik. He conquered many areas such as Khawarizm, Sijistan, Samarkand, Bukhārā and even parts of China. His rule in these regions lasted for approximately thirteen years, (d. 96H/715AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.189).

[R]

80. Al-Rāzī, Muḥammad bin 'Umar al-Tamimī al-Bakrī, Abū 'Abdulla, Fakhr al-Dīn, a scholar and *Mufassir* (interpreter), (d. 606H/1210AD). *Al-A'lām* (1418H/1997AD), twelfth edition, (Vol.6, p.313), – Beirut – Dār al-'Ilm li al-Malāyīn, by Khair al-Dīn al-Ziriklī; *History of the Arabic Literature,* (Vol.1, p.666, 506) S. (Vol.1, p. 920), by Brockelmann; Princeton p.298, 449.

[S]

81. Ibin al-Sā'ātī, Aḥmad bin 'Alī bin Taghlib, Muẓaffar al-Dīn, knowledgeable in Ḥanafī jurisprudence. He was quoted to as a shining example of intelligence and eloquence and good hand writer, (d. 694H/1295AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.175); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.199); *Mu'jam al-Maṭbu'āt* by Serkis (Vol.1, p.199).

82. Ṣadr al-Afāḍil, al-Qāsim bin al-Ḥusain bin Aḥmad al-Khawārizmī, Majd al-Dīn, born in Khawārizm in (555H/1160AD). He was killed by the Tartars during their invasion of Transoxania in (617H/1220AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.175). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.640); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.230); *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.828).

83. Al-Ṣadr al-Shahīd, Burhān al-A'imma 'Umar bin 'Abdul'azīz bin 'Umar bin Māza, Abū Muḥammad Ḥusām al-Dīn, one of the great Ḥanafī scholars. He was born in (483H/1090AD). He died as a martyr after the battle of Qaṭwān in Samarkand and his corpse was taken to Bukhārā. He died in the month of Ṣafar in (536H/1141AD). *Al-Fatḥ al-Mubīn fī Ṭabaqāt al-'Uṣūliyyīn* by 'Abdulla Muṣṭafā al-Marāghī, printed by Muḥammad Amīn and Partners – Beirut – second edition (1394H/1974AD), Vol.2, p.25. *Al-A'lām* by al-Ziriklī (Vol.5, p.51); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.562); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.2, p.1228). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.783).

84. Al-Ṣaffār, Ya'qūb bin al-Laith, Abū Yūsuf, a prominent world hero and a shrewd emir. At an early age he worked in brass industry in Khurasan, (d. 265H/879AD). *Al-A'lām* by al-Ziriklī (Vol.8, p.201).

85. Sahl bin Sa'd al-Khazrajī al-Anṣārī, from Bani Sā'ida, an honourable Companion from Madīna. He lived around one hundred years and narrated (188) *Ḥadīth*, (d. 91H/710AD). *Al-A'lām* by al-Ziriklī (Vol.3, p.143).

86. Sa'īd bin al-Musayyib al-Makhzūmī al-Qurashī, the chief of the *Tābi'ūn* and one of the seven jurists in Madīna. He combined Ḥadīth, Jurisprudence and asceticism. He memorised 'Umar's rulings and judgements more than anybody else among his

contemporaries and was therefore called 'Umar's narrator. He died in Madīna in (94H/713AD). *Al-A'lām* by al-Ziriklī (Vol.3, p.102).

87. Ibin Sāmān, Ismā'īl bin Aḥmad bin Asad, Abū Ibrāhīm, the second Sāmānī ruler in Transoxania, born in Farghana. He succeeded to power after the death of his brother Naṣr bin Aḥmad and he was endorsed as a ruler by al-Mu'taḍid al-'Abbāsī, who appointed him later as ruler of Khurasan in addition to Transoxania. He succeeded in crashing revolts, firm in his policies. Al-Mu'taḍid had a lot of trust in him and al-Muktafī relied on him. He ruled Khurasan and Transoxania peacefully till his death in Bukhārā in (295H/907AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.308).

88. Al-Sāmānī, Naṣr bin Aḥmad bin Ismā'īl, Abū al-Ḥasan, the ruler of Khurasan and Transoxania. He died in Bukhārā in (331H/943AD). *Al-A'lām* by al-Ziriklī (Vol.8, p.21).

89. Al-Samarkandī, Muḥammad bin Aḥmad al-Ḥanafī, 'Alā' al-Dīn , a jurist and a scholar of *'Uṣūl al-Fiqh*, (d. 553H/1158AD); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.67); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.2, p.1916).

90. Al-Samarkandī, Muḥammad bin 'Alī bin 'Umar, Abū Ḥāmid, Najīb al-Dīn, a scholar of medicine. He wrote many books on medicine (d. 619H/1222AD). *Al-A'lām* by al-Ziriklī (Vol.6, p.280); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (Vol.1, p.113). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.524). *History of the Arabic Literature,* (Vol.1, p.490), S. (Vol.1, p.895) by Brockelmann.

91. Al-Samarkandī, Muḥammad bin al-Sayyid al-Sharīf 'Alī bin Muḥammad al-Jurjānī al-Ḥusainī, has many writings, (d. 838H/1435AD). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.2, p.189); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.543); *Al-A'lām* by al-Ziriklī (Vol.7, p.180).

92. Al-Sarkhasī, Muḥammad bin Aḥmad bin Sahl, Abū Bakr, Shams al-A'imma, a judge, one of the great Ḥanafī scholars and he exercised *Ijtihād*. He died in Fargana in (483H/1090AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.315); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.52, 68). *History of the Arabic Literature,* (Vol.1, p.460, 373), S. (Vol.1, p.638) by Brockelmann.

93. Al-Shāfi'ī, Imām Muḥammad bin Idrīs bin al-'Abbās bin Shāfi'al-Hāshimī al-Qurashī al-Muṭṭalibī, Abū 'Abdulla, one of the four Sunnī Imāms. The Shāfi'ī school as a whole is associated with him. He died in Egypt in (204H/820AD). *Al-A'lām* by al-Ziriklī (Vol.6, p.26). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.116). *History of the Arabic Literation,* (Vol.1, p.188, 178), S. (Vol.1, p.303) by Brockelmann.

94. Al-Shāshī, Abū Ya'qūb Isḥāq bin Ibrāhīm al-Khurasānī al-Samarkandī, a Ḥanafī jurist and a leading scholar in the Ḥanafī school, (d. 325H/937AD) and wrote *'Uṣūl al-Shāshī* renowned in *'Uṣūl al-Fiqh. Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.199); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.338); *Al-A'lām* by al-Ziriklī (Vol.1, p.293).

95. Al-Sighnāqī, al-Ḥusain bin 'Alī bin Ḥajjāj, Ḥusām al-Dīn, a Ḥanafī jurist, from Ḥalab where he died. His writings include *al-Wāfī,* a *Sharḥ* (commentary) on *al-Muntakhab al-Ḥusāmī*; *Al-Tasdīd fī Sharḥ al-Tamhīd*, that is *Tamhīd al-Qawā'id*; *Al-Kāfī*, a *Sharḥ* (commentary) on *'Uṣūl al-Bazdawī*, *al-Muwaṣṣal*, a *Sharḥ* (commentary) on *al-Mufaṣṣal* by al-Zamakhsharī on grammar, *al-Najāḥ* on inflection, *al-Nihāya* a *Sharḥ* (commentary) on *al-Hidāya* by al-Marghinānī, (d. 711H/ 1312AD). *Hadiyyat al-'Ārifīn* by Ismā'īl Bāshā (Vol.1, p.314); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.566).

96. Al-Subkī, 'Abdulwahhāb bin 'Alī bin 'Abdulkāfī, Abū Naṣr, the judge of judges, a historian and a researcher. He wrote a *Sharḥ* (commentary) on *Jam' al-Jawāmi'* which he called *Man' al-Mawāni'*, *Tawshīḥ al-Taṣḥīḥ* on the *'Uṣūl al-Fiqh* too. He died in Damascus in (771H/1370AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.184); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.2, p.343). *History of the Arabic Literature,* (Vol.2, p.108), S. (Vol.2, p.105) by Brockelmann.

97. Sabuktagīn, the ruler of Balkh and Ghazna, etc. He accomplished great conquests in Afganistan, India and Transoxania. He was called Nāṣir al-Dīn wa al-Dawla. He was just and a courageous and righteous person, (d. 387H/ 997AD). *Turkestan* by Barthold, (p.261); *Al-A'lām* by al-Ziriklī (Vol.7, p.171); *Siyar A'lām al-Nubalā'* by al-Dhahabī (Vol.16, p.500).

[T]

98. Al-Ṭaḥāwī, Aḥmad bin Muḥammad bin Salāma, Abū Ja'far, a jurist, a scholar of *Ḥadīth*, a memoriser and a historian. The Ḥanafī leadership ended in his hands in Egypt, (d. 321H/933AD). *Al-A'lām* by al-Ziriklī (Vol.1, p.206); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.1, p.267).

99. Tamerlane was born in a city south of Samarkand in Uzbekestan in (737H/1336AD) and died in (807H/1405AD). *Aṭlas Tārīkh al-Islam* by Dr. Ḥusain Mu'nis (p.243).

100. Al-Termidhī, Abū 'Īsā, Muḥammad bin 'Īsā bin Sawra bin Mūsā bin al-Ḍaḥḥāk al-Salmī al-Ḍarīr al-Bughī, al-Termidhī, one of the leading scholars a memorisers of *Ḥadīth*, a historian and a jurist. He was born in approximately (209H/824AD) and died in Termidh in (279H/892AD). *Al-A'lām* by al-Ziriklī (Vol.6, p.322); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.3, p.573).

[U]

101. 'Umar bin Hubaira bin Sa'd bin 'Uday al-Fazārī, Abū al-Muthanna, a shrewd and courageous prince, the custodian of the Arabian peninsula at the time of 'Umar bin 'Abdul'azīz and of Iraq and Khurasan at the time of Yazīd bin 'Abdulmalik, (d. 110H/728AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.68).

102. 'Umar bin al-Khaḫḫāb bin Nufail al-Qurashī al-'Adawī, Abū Ḥafṣ, the second of the noble Caliphs, the leader of the conquests. He was pledge allegiance to as a Caliph in (13H/635AD). He died in Madīna in (23H/645AD); *Al-A'lām* by al-Ziriklī (Vol.5, p.45).

103. 'Umayya bin 'Abdulla bin Khālid bin 'Usaid al-'Umawī al-Qurashī, governor of Khurasan under 'Abdulmalik bin Marwān's reign (d. 87H/706AD). *Al-A'lām* by al-Ziriklī (Vol.2, p.23).

104. 'Uthmān bin 'Affān bin Abū al-'Āṣṣ, from Quraish, the Commander of the Faithful. He married two of the Prophet's daughters. He was the third of the honourable Caliphs and one of the ten who were promised paradised. He was one of the great men who brought glory to Islam in its early stages. During his Caliphate Armenia, Caucasia, Khurasan, Karman, Sujistan, Africa and Cyprus. He completed the gathering of the *Qur'ān* and later died in Madīna in (35H/656AD). *Al-A'lām* by al-Ziriklī (Vol.4, p.210).

[V]

105. Vassili Vladimirovich Barthold, (d. 1349H/1930AD). He wrote *Turkestan down to the Mongol invasion*, a higher education dissertation (1963AD) in Moscow. Translated from Russian into Arabic by Ṣalāḥ al-Dīn 'Uthmān and printed by The Arab Heritage, National Council for Culture, Arts and Literature – Kuwait – first

edition (1401H/1981AD). The english edition: (1977 Fourth Edition) E. J. W. Gibb Memorial Trust, Cambridge, England.

[W]

106. Al-Walīd bin 'Abdulmalik bin Marwān. He succeeded to power after his father's death in (86H/705AD) during the 'Omawid era of the Islamic state, (d. 96H/715AD). *Al-A'lām* by al-Ziriklī (Vol.8, p.121).

[Y]

107. Yāqūt bin 'Abdulla al-Rūmī al-Ḥamwī, Abū 'Abdulla, Shihāb al-Dīn, a reliable historian, a leading geographer and scholar of language and literature. He died in Ḥalab in (626H/1229AD). *Al-A'lām* by al-Ziriklī (Vol.8, p.131). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.4, p.83). *History of the Arabic Literature,* (Vol.1, p.630, 479) by Brockelmann.

108. Yūsuf bin Shāhīn, Jamāl al-Dīn, Abū al-Maḥāsin, grandson of Ibn Ḥajar al-'Asqalānī, a jurist, a scholar of *Ḥadīth*, a historian from Cairo, (d. 899H/1493AD). *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.4, p.164); *Kashf al-Ẓunūn* by Ḥājī Khalīfa (p.1932).

109. Abū Yūsuf, Ya'qūb bin Ibrāhīm bin Ḥabīb al-Anṣārī al-Kūfī al-Baghdādī, a companion and a student of Imām Abū Ḥanīfa. He was the first to expand the Ḥanafī school and the first to be called the judge of judges, (d. 182H/798AD). *Al-A'lām* by al-Ziriklī (Vol.8, p.193); *Mu'jam al-Mu'allifīn* by Kaḥḥāla (Vol.4, p.128); *History of the Arabic Literature,* S. (Vol.1, p.288) by Brockelmann.

[Z]

110. Al-Ẓāhir bi Amr Allah, Muḥammad bin Aḥmad, Abū Naṣr, bin al-Nāṣir bin al-Mustaḍī' al-'Abbāsī, (d. 623H/1126AD). *Al-A'lām* by al-Ziriklī (Vol.5, p.320).

111. Zradesht was the son of Bursheb; he was from Azerbidjan. He was the founder of the Zradesht religion in Persia. He pretended to be God's prophet to humanity and his religion consisted in worship of God and disbelief in Satan, commanding righteousness, prohibiting abomination and avoiding evil. *Da'irat Ma'ārif al-Qarn al-'Ishrīn* by Farīd Wajdī (Vol.4, p.550).

PROFESSOR J. A. ...
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Glossary

The Term	The meaning	Arabic
Adā' (enc)	Practice of religious duties, execution.	أداء
'Āḥād (sh)	Solitary *Ḥadīth* (tradition) reported by a single person or by limited number of individuals.	آحاد
Ahliyya (enc)	Compatibly, fitness.	أهلية
'Āmm (sh)	General, unspecified, a technical term which normally refers to general meaning.	عام
Amr (sh)	(Pl. *Awāmir*): command, matter, and affair.	أمر
Dilālat al-Naṣṣ (sh)	Inferred meaning or implied meaning of a given text, a technical term normally refers to the indication of the text that the indicated ruling is valid for another incident, because both incidents share an effective cause (*'Illa*) which is common between them.	دلالة النص
Fiqh (sh)	Lit. Understanding, the science of Islamic law or jurisprudence.	فقه
Furū' (sh)	Branches or subsidiaries, such as particulars of *fiqh* (*Furū' al-Fiqh*) as opposed to its roots and sources (*'Uṣūl al-Fiqh*).	فروع
Ḥadīth (sh)	Narratives and reports of deeds and utterances of the Prophet as recounted by his Companions.	حديث
Ḥaqīqa (sh)	Original, real, fact, literal (as opposed to metaphorical).	الحقيقة
Ḥukm (sh)	(Pl. *Aḥkām*) the injunction of *Sharī'a*.	حُكْم
Ibāḥa (sh)	Allowance, permissiveness.	إباحة

'Ijmā' (sh)	Consensus, a source of Islamic jurisprudence, unanimous consensus of opinion of Muslim scholars after the death of the Prophet (p.b.u.h.) in any age, on any matter of faith.	إجماع
'Ibārat al-Naṣṣ (sh)	Explicit text meaning of a given text which is borne out by its words.	عبارة النص
Ijtihād (sh)	Exertion of efforts by a qualified scholar or a group of qualified scholars to find out the Islamic point of view on a certain issue by applying the required knowledge.	اجتهاد
'Illa (sh)	Effective cause, of a certain injunction (in the original sources of *Sharī'a*) which can provide the ground justifying the assimilation of a derived case to a basic case in the process of analogy (*Qiyās*). A legal principle established by an original case is extended to cover new cases on the ground that they possess a common *'Illa*.	عِلّة (علل)
Iqtiḍā' al-Naṣṣ (sh)	The required meaning of a given text.	إقتضاء النص
'Ishārat al-Naṣṣ (sh)	The alluded meaning that can be detected in a given text.	إشارة النص
Istiḥsān (sh)	To deem something good, a discursive device used by some jurists whereby preference is given to a rule other than the one reached by the more obvious form of analogy. It is in this context that *Istiḥsān* has sometimes been translated as (Jurists preference). It is used only in cases not regulated by authority of the *Qur'ān*, *Ḥadīth*, or *'Ijmā'*.	استحسان
Istinbāṭ (sh)	Juridical deduction, deduction of legal rulings.	استنباط

Karāha (sh)	Blameworthy, abhorrence, abomination.	كراهة
Khafī (sh)	Hidden, obscure; also refers to a category of unclear words.	الخفي
Khāṣṣ (sh)	Specific, a word or a text which conveys a specific meaning.	خاصّ
Kitāb (enc)	Book (*Qur'ān*).	كتاب
Majāz (km)	Metaphorical, figurative.	المجاز
Mansūkh (km)	Abrogated, repealed.	منسوخ
Maṣlaḥa (km)	Consideration of public interest.	مصلحة
Mu'awwal (sh)	Interpreted not according to the obvious meaning of the text.	مؤول
Mufassar (sh)	Explained, clarified; a technical term which normally refers to a category of explained and clarified words.	المفسّر
Muḥkam (sh)	Firm, a technical term normally refers to a word or a text conveying a firm and unequivocal meaning.	المحكم
Mujmal (sh)	Synopsized, inconclusive, ambivalent, ambiguous, a technical term, which normally refers to a category of unclear words.	المجمل
Mujtahid (sh)	A qualified person who exercise *'Ijtihād*.	مجتهد
Muqallid (enc)	Imitator.	مقلّد
Muqayyad (sh)	Confined, restricted, a technical word which normally refers to a word that indicates on a subject or non-specified group of subjects (*māhiyya*) to whom is attached what restricts their commonality.	مقيّد
Mushkil (sh)	Difficult, a technical term, which normally refers to a provision, which cannot be easily understood.	المشكل

Mushtarak (sh)	Homonym, a technical term, that normally refers to a word or phrase imparting more than one meaning.	المشترك
Mutawātir (sh)	A tradition which has a sufficiently large number of independent chains of authority to guarantee its authenticity.	متواتر
Muṭlaq (sh)	Absolute, unrestricted, a technical term, which normally refers to a word, that indicates on a subject or a group within a multitude (*māhiyya*) without being specified or restricted by anything that may reduce its commonality.	مطلق
Nadb (sh)	Recommendation, praiseworthy, commendable deeds for which a reward is promised when performed with good intention.	ندب
Nahī (sh)	Prohibition.	نهي
Nāsikh (km)	The abrogator, as opposed to the *Mansūkh* (abrogated). (n. *al-Naskh*).	ناسِخ
Naṣṣ (sh)	Lit. Text: an explicit text provision of the *Qur'ān* or *Sunna*, a clear injunction, an explicit textual ruling.	نص
Qawā'id 'Uṣūliyya (enc)	Principles of the fundaments.	قواعد أصولية
Qiyās (sh)	The process of forming Islamic judgements on the basis of logical deduction based on the original sources of *Sharī'a*.	قياس
Rājiḥ (sh)	Preferable, used of a variant juristic opinion which is deemed to be more correct view.	راجح ترجيح
Ṣaḥāba (sh)	(Sing. *Ṣaḥābī*): Prophet's (p.b.u.h.) companions.	صحابة
Ṣarīḥ (sh)	Clear, plain, open, frank, unambiguous, unequivocal, and declared.	صريح

Sharī'a (sh)	The divine law of Islam	شريعة
Sharṭ (sh)	(Pl. *Shurūṭ*) Condition.	شرط
Sunna (sh)	Traditions attributed to the Prophet (p.b.u.h.), the way of the Prophet (p.b.u.h.) which is directly relevant to the religious guidance of Muslims usually divided into: verbal utterances, acts of the Prophet, and the tacit assent of the Prophet (p.b.u.h.). It is the second important source of Islam, after the *Qur'ān*.	سنة
Ta'āruḍ (enc)	Opposition, contradiction, confliction.	تعارض
Tābi'ūn (sh)	Next generation of Muslims after *Ṣaḥāba* (Companions).	تابعون
Taḥrīm (sh)	Prohibition, or rendering something into *Ḥarām*.	تحريم
Tarjīḥ (enc)	Exercise of preference. (n. *Rājiḥ*).	ترجيح
'Uṣūl (enc)	Principles, fundamentals.	أصول
'Uṣūl al-Fiqh (sh)	Source methodology of Islamic jurisprudence, or principles of Islamic jurisprudence.	أصول الفقه
Wājib (sh)	Obligatory, strict obligation which Muslims should observe. (n. *Wujūb*).	واجب
Ẓāhir (sh)	Apparent, manifest, a technical term, which normally refers to the apparent meaning of the text.	ظاهر

(Sh) = Shukri thesis – Linguistic Principles in *'Uṣūl al-Fiqh*.
(Km) = Kamali – Principles of Islamic Jurisprudence.
(Enc) = Encyclopedia of The Principles of Islamic Jurisprudence.

Appendices

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من غير سقوط الوقت عنهما مثل متى فانها للوقت لا يسقط
عنها عامل والمجازاة بها لازم في غير موضع الاستفهام وإذا
غير لازم بل هي في حيز الجواز ومن وما وكلما يدخل في هذا
الباب وفي كل معنى الشرط ايضا من حيث ان الاسم الذي يتعقبها
يوضع بفعل لا محالة ليتم الكلام وهو يوجب الاحاطة
على سبيل الافراد ومعنى الافراد ان يعتبر كل مسمى با
نفراده كان ليس معه غيره والله اعلم بالصواب

تم الكتاب المنسوب الى الامام الاحسيكتي رحمه الله
والحمد لله رب العالمين وصلى الله على
سيدنا محمد واله اجمعين
والحمد لوليه والصلوة على نبيه
محمد واله

قال العلامة الكاظمي رحمه الله وقعت الفراغ من تحرير هذه النسخة الشريفة
يوم الاحد ذهب السبوع من يد به
ومن قمري يوم الاثنين صدر منه الخطط حتى لا يتبين شيء من يده
ومن قمري يوم الثلثاء لحاظ منه الهلال من الخط بعد
وفي علم يوم الاربعاء يشهد خلفه
ومن قلم يوم الخميس بعد الله الشفاعة وخرج الاذار
ومن علم يوم الجمعة بعد الله البركة وكمال وجود
ومن علم يوم السبت

البدعة بكسر الباء في الشرع هي احداث شيء لم يكن في عصر رسول الله صلى الله عليه وآله
وهي منقسمة الى حسنة وقبيحة قال الشيخ الامام عبد السلام رحمه الله في
آخر كتاب القواعد البدعة منقسمة الى واجبة وحرمة ومندوبة ومكروهة
ومباح * قال الطريق في ذلك ان تعرض البدعة على قواعد الشريعة فان
دخلت في قواعد الايجاب فهي واجبة وفي قواعد التحريم محرمة وفي الندب
مندوبة وفي الكراهية مكروهة وفي المباح مباحة فالبدعة الواجبة مثلها
الاشتغال بعلم النحو الذي يفهم به كلام الله وكلام رسوله وذلك واجب لان
حفظ الشريعة لا بد وحفظها الا بذلك وما لا يتم الواجب الا به فهو واجب
والثاني حفظ غرائب الكتاب والسنة من اللغة الثالث تدوين اصول
الفقه الرابع الكلام في الجرح والتعديل وتمييز الصحيح والسقيم قد دخلت
قواعد الشريعة على ان حفظ الشريعة فرض كفاية فهذا لنا على المتقين
ولا يتاتى الا بما ذكرناه والبدعة المحرمة مثلها مذاهب القدرية
والجبرية والمرجئة والمجسمة والرد على هؤلاء واجب من البدع الواجبة
والبدع المندوبة مثلها احداث الربط والمدارس وكل احسان
لم يعهد في العصر الاول ومنها التراويح والكلام في دقايق النظر في الجدل
ومناهج المحافل والاستدلال والسابل ان قصد به وجه الله تعالى
والبدع المكروهة مثلها كزخرفة المساجد وتذويق المصاحف والبدع
الباحة مثلها مصافحة عقيب العصر والصبح ومنها التوسع في
الدين من المآكل والمشارب والملابس ولبس الطيالسة وتوسيع الاكمام

الواجب م

٧ سبرج

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بسم الله الرحمن الرحيم

اما بعد حمد الله على نواله والصلوة على محمد وآله

فان اصول الشرع ثلثة الكتاب والسنة واجماع الامة

والاصل الرابع القياس المستنبط من هذه الاصول اما

الكتاب فالقرآن المنزل على الرسول المكتوب في المصاحف

المنقول الينا نقلا متواترا بلا شبهة وهو النظم والمعنى جميعا

في قول عامة العلماء وهو الصحيح من مذهب ابي حنيفة

رحمه الله الا انه لم يجعل النظم ركنا لازما في حق جواز

الصلوة خاصة واقسام النظم والمعنى فيما يرجع الى معرفة

احكام الشرع اربعة الاول في وجوه النظم صيغة ولغة

وهي اربعة الخاص وهو كل لفظ وضع لمعنى معلوم على الانفراد

وكل اسم وضع لمسمى معلوم على الانفراد والعام وهو كل لفظ

ينتظم جمعا من المسميات لفظا او معنى وحكمه انه يوجب

الحكم فيما تناوله قطعا كالخاص فيما تناوله وهو المذهب

عندنا خلافا للشافعي رحمه الله الا ان الحقه خصوص

معلوم

معلوم او مجـ
ان يظهر ا
ما اشترك
التوقف

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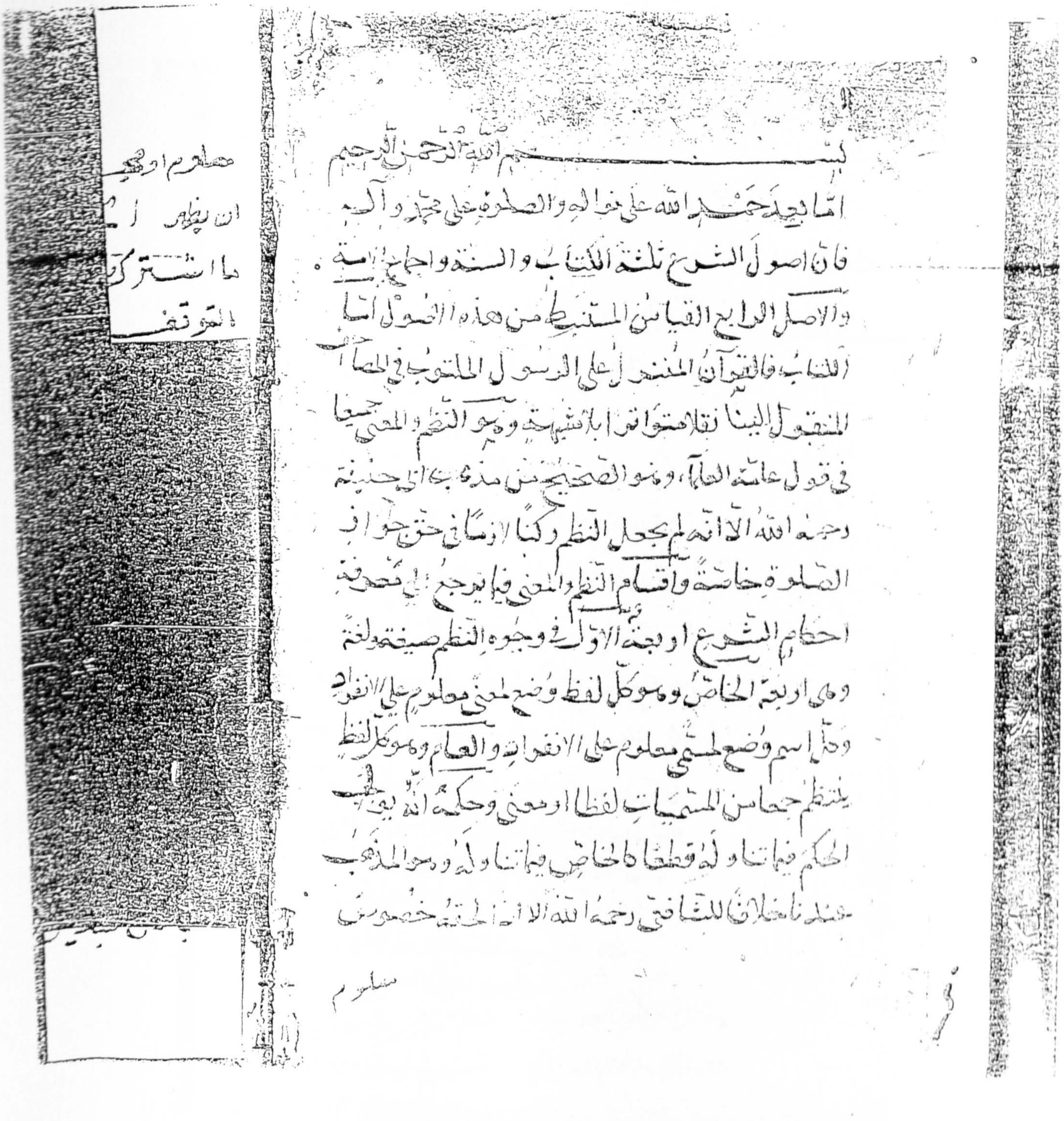

بسم الله الرحمن الرحيم

اما بعد حمد الله على نواله والصلوة على محمد وآله

فان اصول الشرع ثلثة الكتاب والسنة واجماع الامة

والاصل الرابع القياس المستنبط من هذه الاصول اما

الكتاب فالقرآن المنزل على الرسول المكتوب في المصاحف

المنقول الينا نقلا متواترا بلا شبهة وهو النظم والمعنى جميعا

في قول عامة العلماء وهو الصحيح من مذهب ابي حنيفة

رحمه الله الا انه لم يجعل النظم ركنا لازما في حق جواز

الصلوة خاصة واقسام النظم والمعنى فيما يرجع الى معرفة

احكام الشرع اربعة الاول في وجوه النظم صيغة ولغة

وهي اربعة الخاص وهو كل لفظ وضع لمعنى معلوم على الانفراد

وكل اسم وضع لمسمى معلوم على الانفراد والعام وهو كل لفظ

ينتظم جمعا من المسميات لفظا او معنى وحكمه انه يوجب

الحكم فيما تناوله قطعا كالخاص فيما تناوله وهو المذهب

عندنا خلافا للشافعي رحمه الله الا ان الحقه خصوص

معلوم

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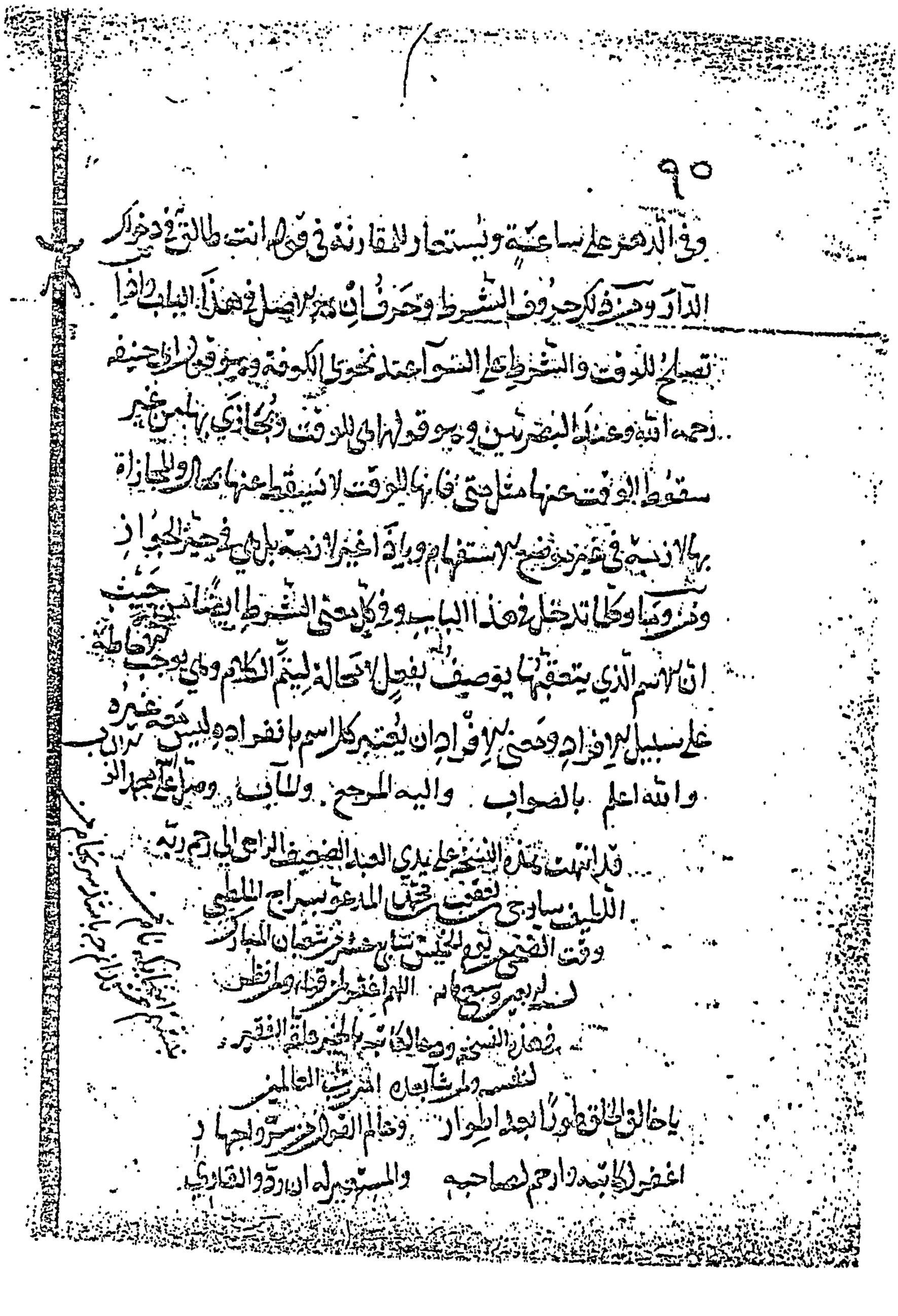

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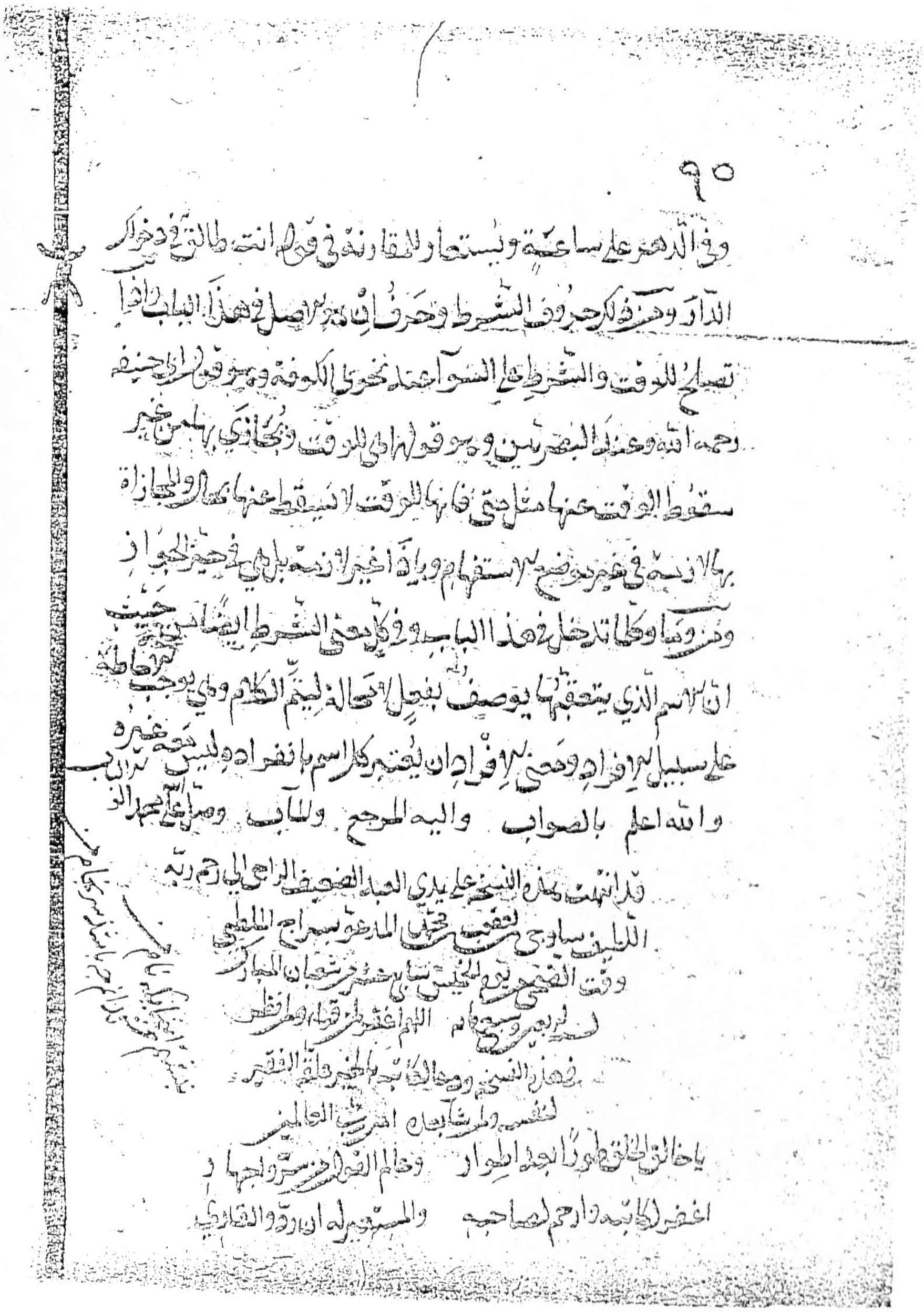

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وفي الدهر على ساعة ويستعار للمقارنة في قوله انت طالق في دخولك
الدار ومن ذلك حروف الشرط وحرف ان هو الاصل في هذا الباب واذا
تصلح للوقت والشرط على السوا عند نحوي الكوفة وهو قول ابي حنيفة
رحمه الله وعند البصريين وهو قولهما هي للوقت ويجازى بها من غير
سقوط الوقت عنها مثل متى فانها للوقت لا يسقط عنها بحال والمجازاة
بها لازمة في غير موضع الاستفهام وباذا غير لازمة بل هي في حيز الجواز
ومن وما وكلما تدخل في هذا الباب وفي كل معنى الشرط ايضا من حيث
ان الاسم الذي يتعقبها يوصف بفعل لا محالة ليتم الكلام وهي توجب الاحاطة
على سبيل الافراد ومعنى الافراد ان يعتبر كل اسم بانفراده ليس معه غيره
والله اعلم بالصواب واليه المرجع والمآب وصلى الله على محمد الو

قد انتهت هذه النسخة على يدي العبد الضعيف الراجي الى رحم ربه
اللطيف ساوجي بن يعقوب بن محمد المدعو بسراج الملطي
وقت الضحى يوم الخميس سابع عشر من شعبان المبارك
لسنة اربعين وسبعمائة اللهم اغفر لمن قرأ ولمن نظر
في هذه النسخة ودعا لكاتبه بالخير علقه الفقير
لنفسه ولمن شاء بعده امين رب العالمين
يا خالق الخلق طورا بعد اطوار وعالم القول من سر واجهار
اغفر لكاتبه وارحم لصاحبه والمستعير له ان رد والقاري

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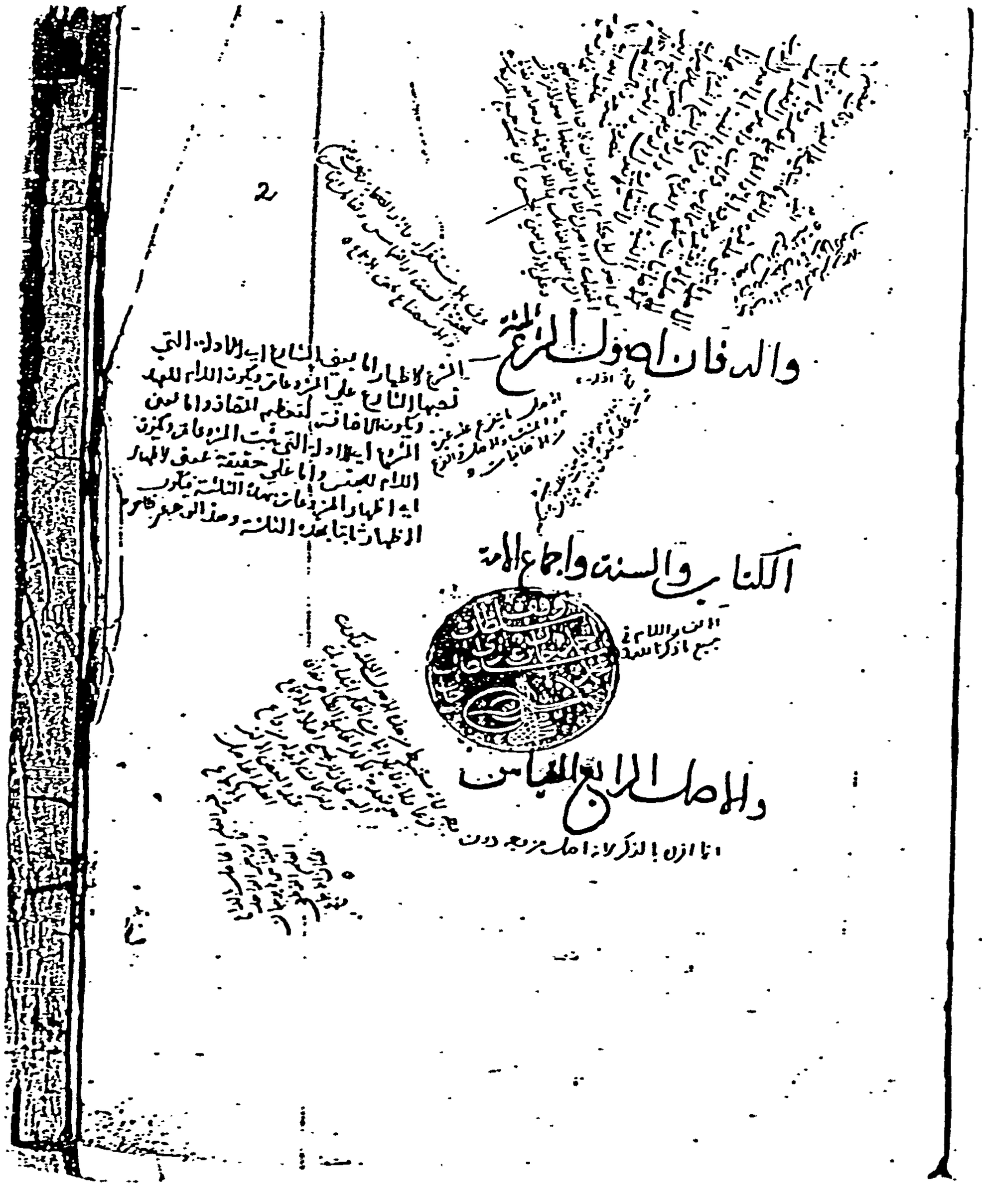

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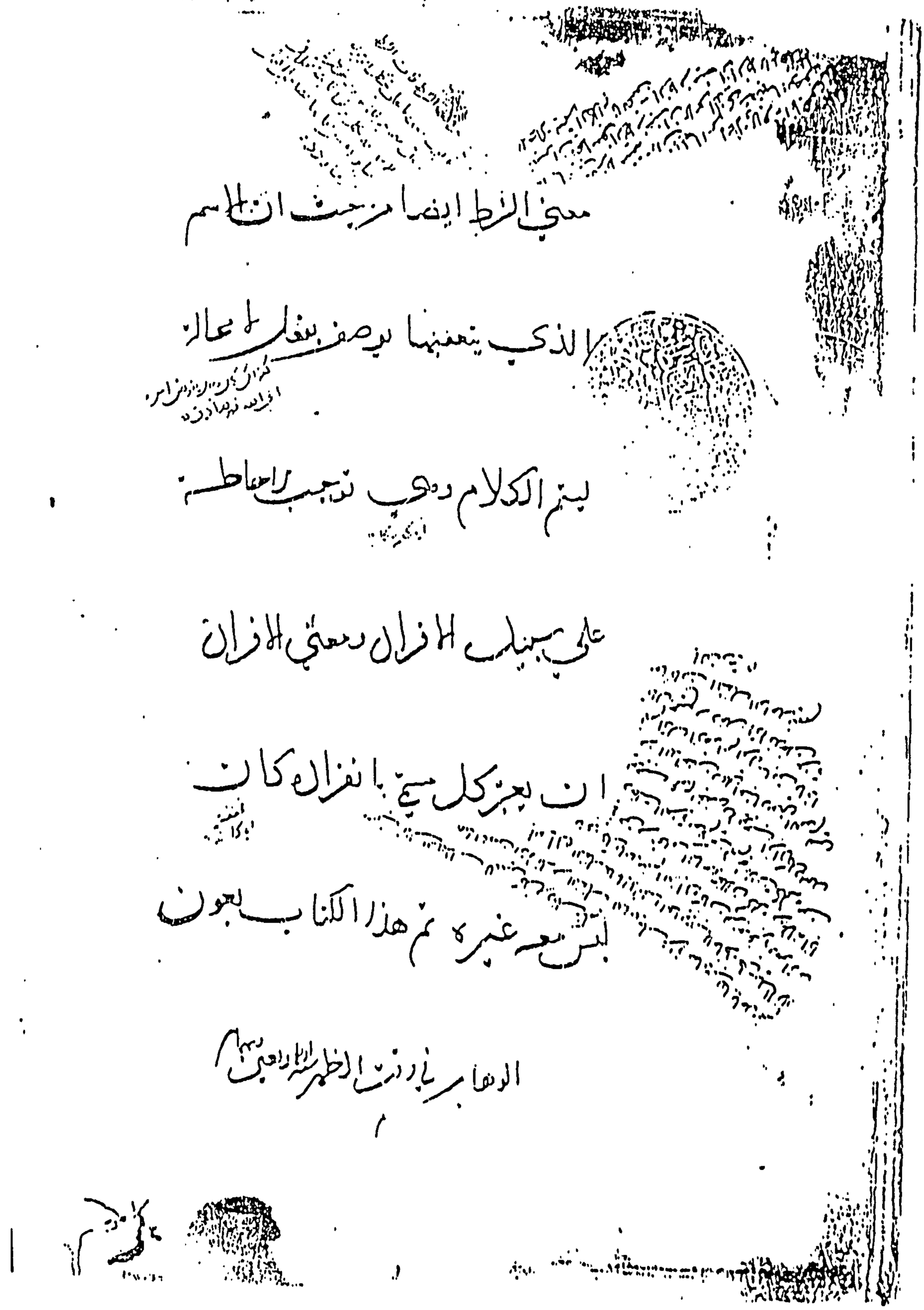

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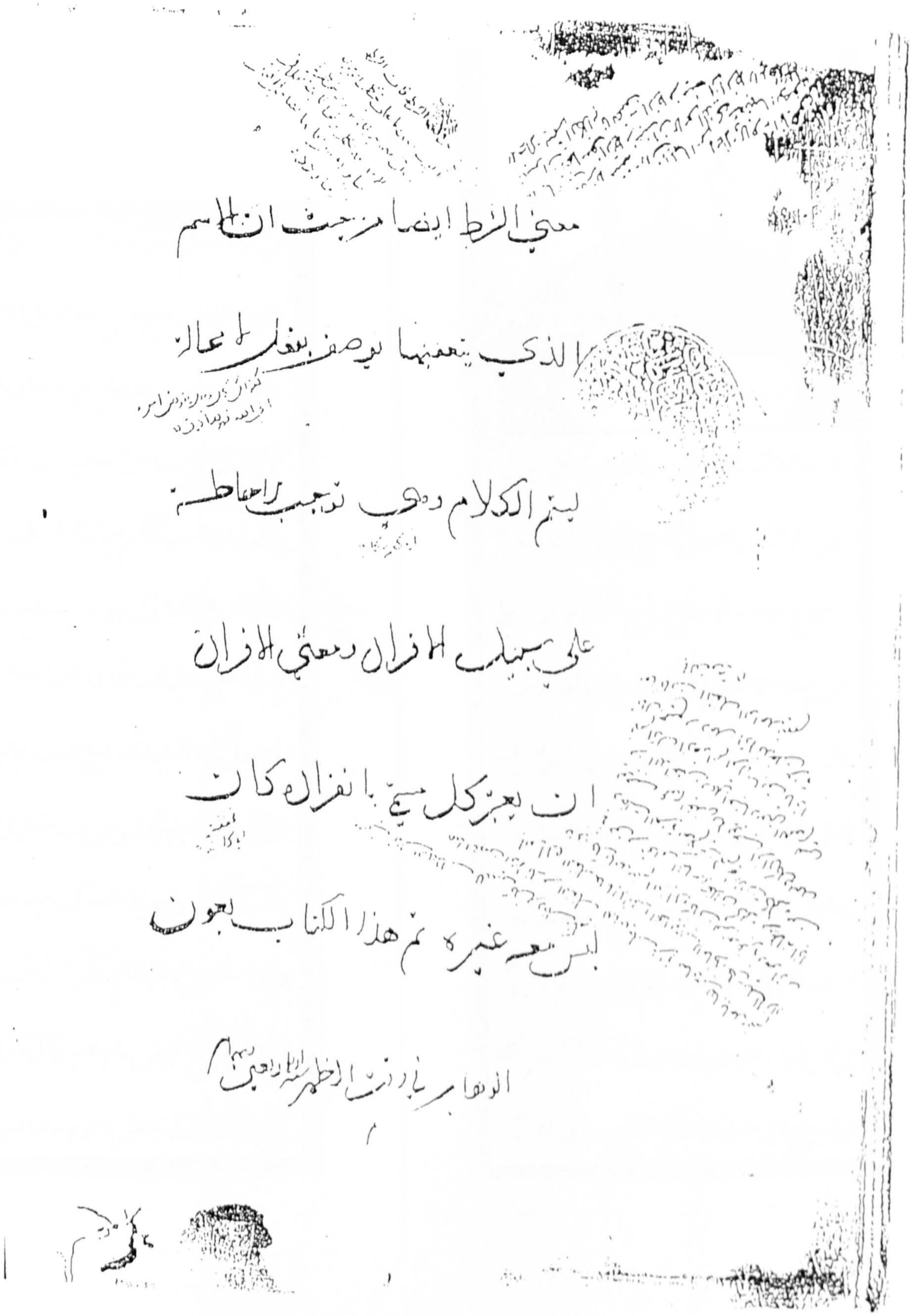

بسم الله الرحمن الرحيم

اما بعد حمد الله على نواله والصلوة على رسوله
محمد واله فان اصول الشرع ثلاثة الكتاب والسنة
واجماع الامة والاصل الرابع القياس المستنبط
من هذه الاصول اما الكتاب فالقرآن المنزل
على الرسول المكتوب في المصاحف المنقول عنه
نقلا متواترا بلا شبهة وهو النظم والمعنى جميعا
في قول عامة العلماء وهو الصحيح من مذهب ابي
حنيفة رضي الله عنه الا انه لم يجعل النظم لازما
في حق جواز الصلوة خاصة واقسام النظم والمعنى
فيما يرجع الى معرفة احكام الشرع اربعة الاول

في وجوه

في وجوه النظم صيغة ولغة وهي اربعة الخاص
وهو كل لفظ وضع لمعنى معلوم على الانفراد وكل
اسم وضع لمسمى معلوم على الانفراد والعام وهو
كل لفظ ينتظم جميعا من المسميات لفظا او معنى
وحكمه انه يوجب الحكم فيما تناوله قطعا ويقينا
كالخاص فيما تناوله هو المذهب عندنا خلافا
للشافعي رحمه الله الا اذا لحقه خصوص معلوم
او مجهول كآية الربوا في البيع فحينئذ يوجب الحكم
على تجوز ان يظهر الخصوص فيه بتعليله او بتفسيره
والمشترك وهو ما اشترك فيه معان واسام
لا على سبيل الانتظام وحكمه التوقف فيه بشرط
التأمل ليترجح بعض وجوهه والمأول وهو ما
ترجح من المشترك بعض وجوهه بغالب الرأي

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بسم الله الرحمن الرحيم

اما بعد حمد الله على نواله ، والصلوة على رسوله
محمد واله فان اصول الشرع ثلاثة الكتاب والسنة
واجماع الامة والاصل الرابع القياس المستنبط
من هذه الاصول اما الكتاب فالقرآن المنزل
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نقلا متواترا بلا شبهة وهو النظم والمعنى جميعا
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فى وجوه

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لا على سبيل الانتظام وحكمه التوقف فيه لشرط
التأمل ليترجح بعض وجوهه والمأول وهو ما
ترجح فى المشترك بعض وجوهه بغالب الرأى

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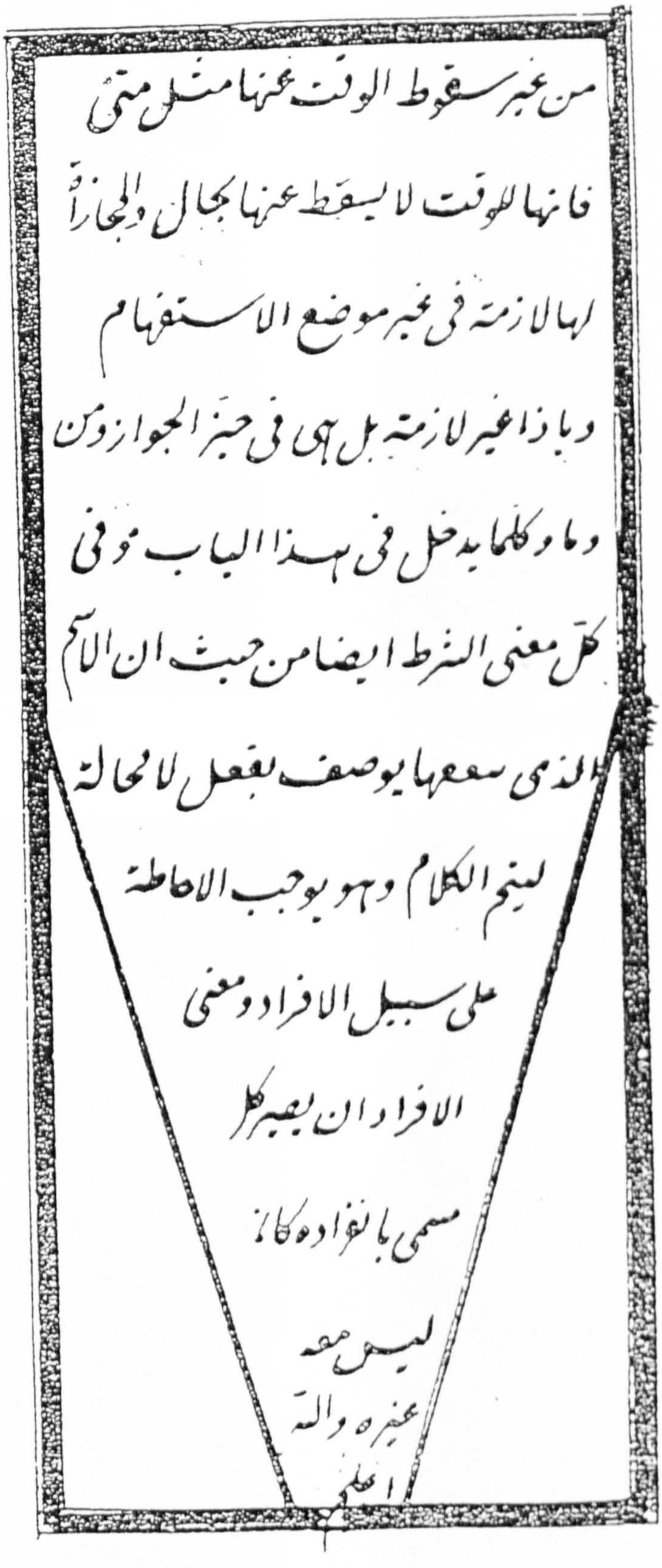
من غير سقوط الوقت عنها مثل متى
فانها للوقت لا يسقط عنها بحال والجزاء
لها لازمة في غير موضع الاستفهام
وباذا غير لازمة بل هي في حيز الجواز ومن
وما وكلما يدخل في هذا الباب وفي
كل معنى الشرط ايضا من حيث ان الاسم
الذي معها يوصف بفعل لا محالة
ليتم الكلام وهو يوجب الاحاطة
على سبيل الافراد ومعنى
الافراد ان يصير كل
مسمى بالفؤاده كانه
ليس معه
غيره والله
اعلم

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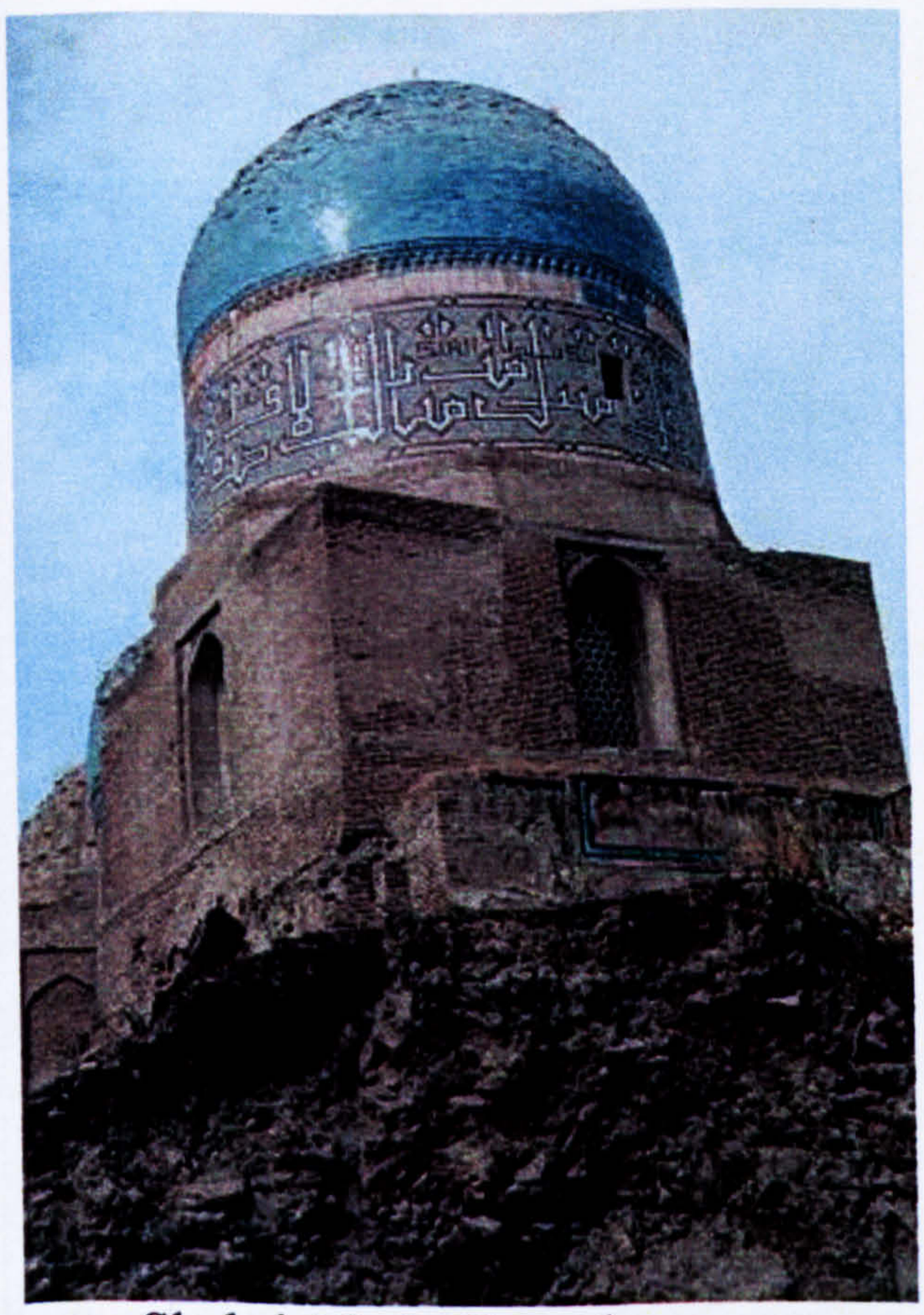
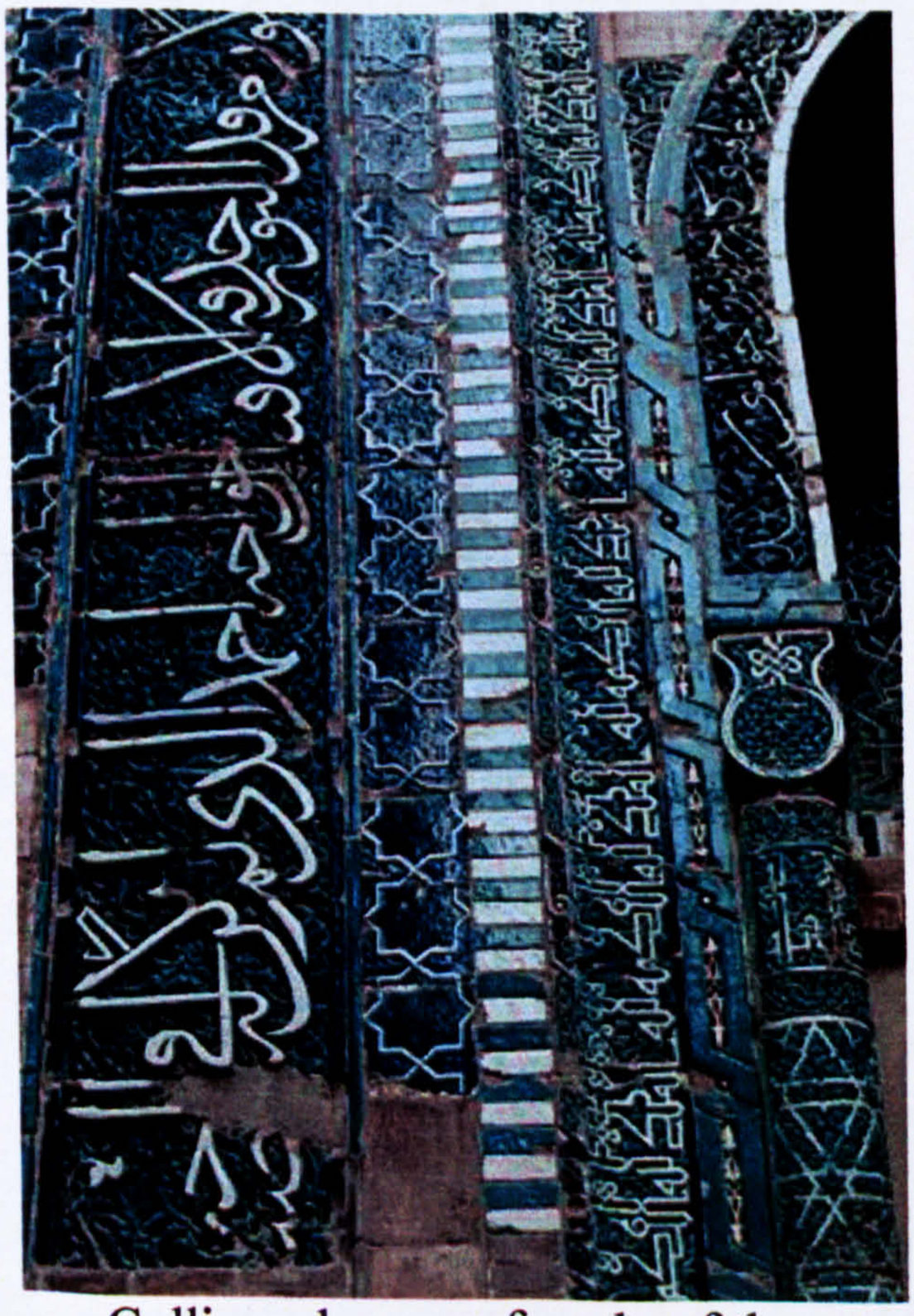
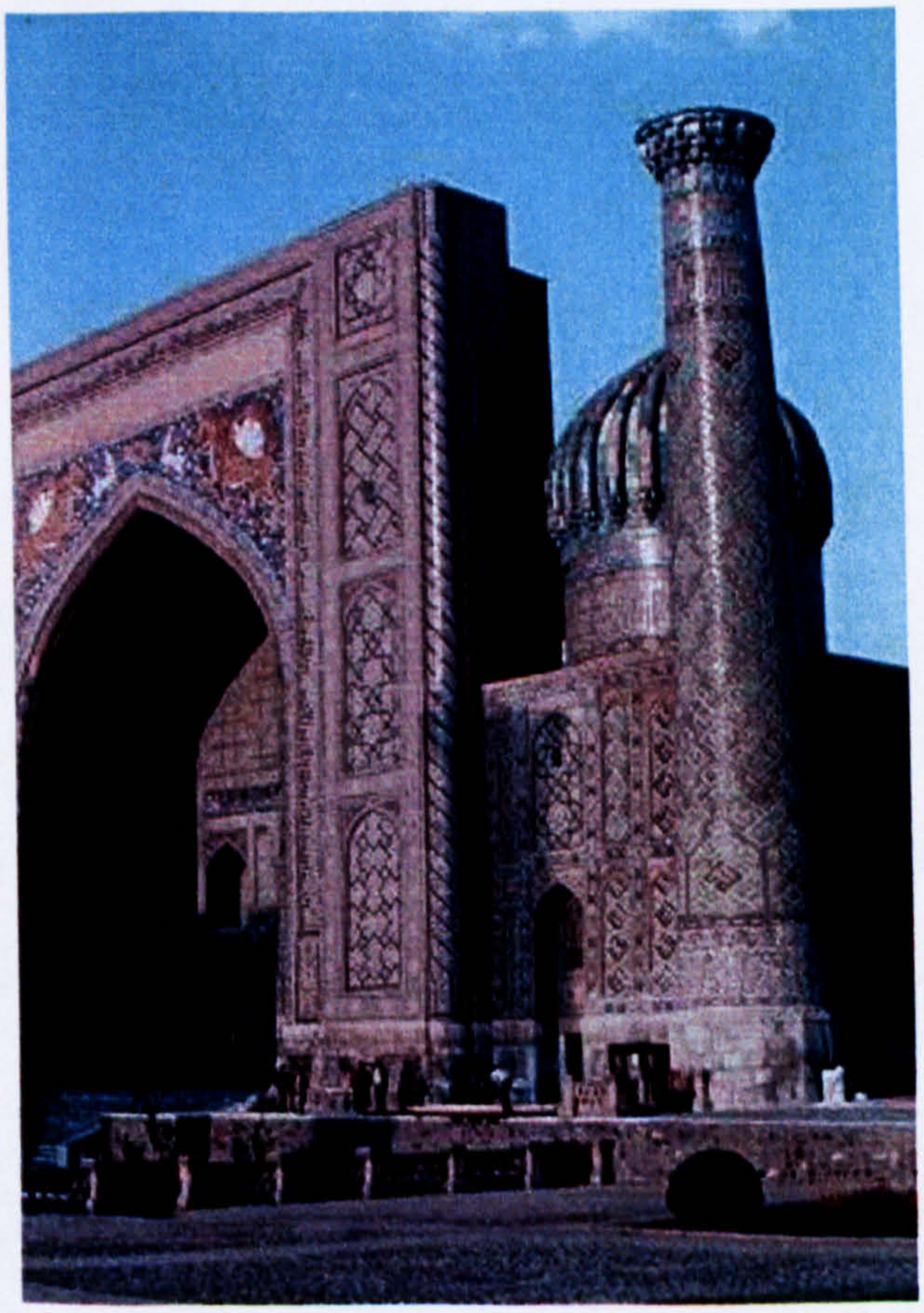


Shah-i-Zinda Complex

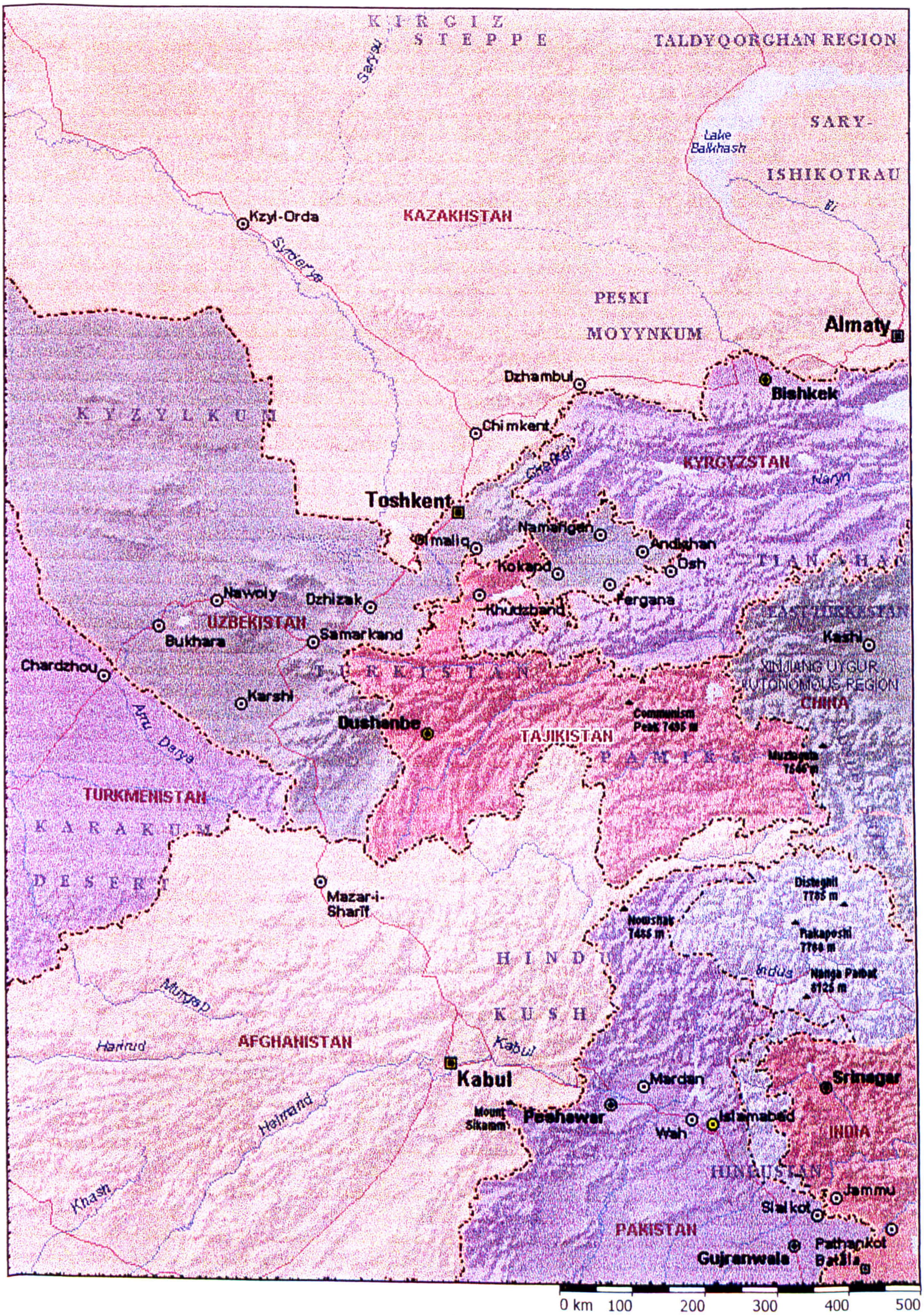
Dome of Gur-i-Amir



Calligraphy on a façade of the Shah-i-Zinda



Sher Dor Madrasa in the Registan



Tajikistan

Asia

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