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## Development of Fiqh literature in Indian Subcontinent during Sultanate & Mughal periods

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### ABSTRACT

Fiqh was one of the most important subjects of Islamic learning during Muslim rule in India which is generally known as Medieval India. The Ulama of this period took special interest in this subject as most of them who came from different parts of Central Asia were jurists. Secondly, learning of Fiqh was considered important for seeking nearness of sultan or getting some administrative posts. So it formed a popular branch of learning for teaching as well as writing books. On the other hand, the rulers of that period especially the early Sultans showed interest in the promotion of this science either under the influence of the Ulama of their court or due to administration requirement. They patronized and encouraged particularly those Ulama who contributed to Islamic jurisprudence through teaching and writing. The Madaris or institution of Islamic learning came to be established under the state's patronage from the very early period of the Muslim rule in India and their number continued to increase with expansion of the Muslim rule. Islamic jurisprudence formed essential part of the curriculum of Madaris of those days India. The present work is an analytical study of the Arabic fiqh literature produced in India. It is a humble attempt to provide necessary information about the Arabic fiqh

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works written by the Indian Ulama. It gives an insight into the development of fiqh literature through different periods of Muslim rule in India (Sultanate and Mughal period.)

**Keywords:** Medieval India, Fiqh Literature, Development, Sultanate, Mughal Period.

### **Introduction**

Islamic jurisprudence (fiqh) is an important branch of Islamic learning. The word fiqh literally means<sup>1</sup> "intelligence or understanding". The fiqh in the legal terminology signifies a study of the details of Islamic law as derived from its sources. "It is also sometimes defined as knowledge of one's rights and obligations in the light of the sources of the Shari'at". It deals with the issues relating to all aspects of human life. Ilm-i-fiqh helps us to understand the Shari'at's rules with regard to the problems relating to the different aspects of human life. The origin of Ilm-i-fiqh may be traced back to the very early period of Islamic history. With the passage of time it continued to develop till it reached its zenith after the formation of the four well-known schools of fiqh in the second century of Hijra era. Broadly speaking, the development of fiqh may be divided into four stages.

### **Historical Review**

The first stage, which related to the period of the Prophet (S.A.W) is known as that of legislation. It was in this period when Shari'at's rules were being formulated on the basis of the Holy Quran and Hadith of the Prophet (S.A.W). "These two (Quran and Hadith) were the basic sources of guidance for the Muslims in their day to day life. They formed the body of the Islamic law as well as the main sources for deduction of the legal points"<sup>2</sup>

“The second stage extending from the times of the pious Caliphs up to the Umayyads, is known as the period of collection and interpretation of basic sources”.<sup>3</sup> In this period as it is well known, the verses of the Quran written on different materials, were collected together and compiled in the form of Mushaf. On the other hand transmission of the traditions of the Prophet (S.A.W) was taken up by the Sahabah (R.A.) with great interest and enthusiasm. This was done mainly in oral way, though the practice of writing the AhadJs has started. By the time of the Tabifn (successors of the companions of the Prophet) the work of the transmission of AhadTs in oral and written form got further development. The Holy Quran and HadT?, being the basic sources of the Shari'at, were interpreted by the jurists to deal with the new problems or "to extend the application of original rulings to the subsidiary issues under the guidelines given in the Quran and Hadis. This further stepped up the process of analogical deduction (Qiyas) and use of Ijma for solving the new problems"<sup>4</sup>.

The third period (2<sup>nd</sup> and 3<sup>rd</sup> century of the Hijra) is more important from the point of view of the development of fiqh. “It was in this period that different schools of fiqh (including the four well-known ones) emerged and got development”<sup>5</sup>. The same period is also known for compilation of important works on main branches of Islamic learning (i.e. TafsJr, HadJs, and Fiqh). With regard to fiqh, first of all, legal problems relating to different aspects of human life were thoroughly discussed by the founder of each school in the assembly of their main disciples and then codified by the jurists of the respective schools. Though the jurists and scholars of different schools of fiqh had contributed to the fiqh literature according to their own schools, but in the codification of the legal problems and production of fiqh works, the Hanafi jurists especially Imam Abu Hanfi

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and his close disciples had made significant contribution<sup>6</sup>. First of all, thousands of the problems were discussed by Imam Abu Hanifah in the company of his disciples and then codified and compiled in the book form. Imam Muhammad's work are mainly based on the proceedings of the academic assemblies of Imam 'Azam and his lectures on juridical problems.<sup>7</sup> The main works of the Hanafi school of fiqh were divided into three broad categories namely Zahir al-Riwayat or Usui, Nawadir and Fatawa or Waqiat. Under the first category come six important books of Imam Muhammad Shaibani (one of the two chief disciples of Imam Abu HanTfa) which contained views of Imam 'Azam, Abu Yusuf and Imam Muhammad and these are al-Mabsut, al-Jam'i al-KabJr, Al-Jam'i al-SaghTr, al-Siyar al- KabTr, Al-Siyar al-SaghTr, and Kitab al-Ziyadat.”<sup>8</sup>. The Nawadir are works of Imam Muhammad (other than Zahir al-Riwayat) and that of Imam Zufar which also give the opinion of Abu Hanlfah and his chief disciples. These works mainly included Haruniyat, Jurjaniyat and Kaisaniyat of Imam Muhammad<sup>9</sup> and Mujarrad of Imam Zufar. The third category means those books compiled in the later period and these contained the views of Hanafi jurists on those problems about which no opinion of Imam Azam and his chief disciples was available, such works included Kitab al-Waqiat of Natifi and Kitab al-Waqiat of Umar b. 'Abdul Aziz. Actually it was this category of the fiqh work, which became very much popular among the HanafI scholars and a large number of works came to be compiled under the title of the Fatawa, such as Fatawa Abul lais, compiled by Nasr b. Muhammad b. Ahmad Samarqandi (d. 373 AH/ 983 AD), Fatawa Abu Bakr Imam Fazli Muhammad b. Fazal b. Abbas Balkhi (d. 381 AH/ 991 AD), Fatawa Abul Fazal by Ruknuddln Kirmani (d. 543 AH/ 1148 AD),

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Fatawa Siraj'iyah by SirajuddTn Aushi (d. 569 AH/ 1173 AD), Fatawa-i-Qazi Khan by Hasan b. Mansur Uzjandi (d. 592 AD/ 1195 AD), Fatawa Bazzaziyah by Hafizuddln Muhammad b. Muhammad b. Shahab Kardari (d. 827 AH/ 1423 AD), Fatawa Tamartashi by Muhammad b. 'Abdullah (d.1004 AH/1595 AD)<sup>10</sup>. It is a well-established fact that the works produced by the Hanafi scholars in classical and medieval periods were of different nature. These included general works, Fatawa, commentaries, treatises on separate issues. Apart from Imam Muhammad's works of classical nature, the other important and referred works of the later period may be mentioned as a/- Mabsut, AI-QudurJ, al-Hidayah, al-Waqayah and al-Durr al-Mukhtar. What is more important to mention here is that writing on separate issues had started from the period of formation of schools itself as we find Kitab al-Kharaj and Kitab al-Kasb by Imam Abu Yusuf (d. 183 AH/ 799 AD) and Kitab al-Muzarabah by Muhammad b. Shuja Saiji (d. 266 AH/ 879 AD) <sup>11</sup> Kitab al- Faraiz of Burhanuddln MarghmanT and Kitab al-Haiz of Abul FazI Kirmani are also the work of same nature compiled in later period. The tradition of compositing versified treatises about the problems of fiqh was also an old one adopted by the Hanafi Ulama of the medieval period. Some of these works may be mentioned as ManzOmat al-Nasaff of Najmuddln al-Nasaff, Manzumati Ibn-i-Wahban of Wahab b. Ahmad Demashqi (d. 768 AH/ 1366 AD), Manzumah-i-TurtushT oi Najmuddln Ibrahim b. 'AIT (d. 708 AH/ 1308 AD) and Manzumat al-Tabrezi of HusamuddTn Tabrezi (d. 770AH/ 1368 AD)<sup>12</sup> The establishment of Muslim rule in India was of great significance from political, social and cultural points of view. One of the important aspects of the period of Muslim rule was cultural and academic development under the patronage of contemporary Sultans. The academic activities in those

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days was not confined to any particular branch of learning. But the Islamic learning got more attention of the 'Ulama in general. Some of rulers had also shown special interest in the promotion of Islamic learning<sup>13</sup>. As regards Islamic jurisprudence it remained a popular subject throughout the period of the Muslim rule in India. The 'Ulama and scholars, the sultans and nobles all had their role in the progress of this science and production of the fiqh literature. In the early Sultanate period those 'Ulama were more well-known for their contribution in the field of fiqh who had migrated from different parts of central Asia and Transoxiana which have stronghold of the Hanafi school of fiqh such as Baikh, Badakhshan, Samarqand Bukhara, Farghana, Kashan, Uzjand, Mar^inan. The Court-'Ulama had also impressed upon the Sultans for patronizing jurists and the compilers of the fiqh works. Even the period of those rulers was not devoid of the contribution in the field of fiqh who were known for their great interest in rational sciences such as Sultan Muhammad Tughlaq and Emperor Akbar. Sultan Iltutmish, Ghiyasuddin Balban, Ghiyasuddin Tughlaq, Firoz shah Tughlaq Sikandar lodi, Babur and Aurangzeb are reported to have shown great interest in the field of fiqh and have patronized 'Ulama in general and jurists in particular as it would appear from our discussion in the following chapters.

The compilation of fiqh works in India has started from the very early period of the Sultanate period. It may be even traced to the Arab rule in Sind. On the pattern of the earlier authors and compilers of the Hanafi School, the Indian 'Ulama also contributed to the fiqh literature in different ways. These included simplifying popular texts of the Hanafi fiqh, abridgement of general comprehensive works, compilation of Fatawa and writing treatises on

separate issues of legal interest. The Indian 'Ulama were mostly Hanafi, so they naturally took special interest in compiling fiqh works from the point of view of the Hanafi School. For this reason only few books of other schools of fiqh could find place in our bibliographical study in the coming pages. However, it is important to note here that in spite of the popularity and rising influence of Persian language as an official and academic language in the Sultanate and Mughal period the contemporary 'Ulama had deep attachment with 'Arabic language and they continued to produce works on different aspects of Islamic learning including fiqh as it would be quite evident from the present study.

Moreover, the contribution of India to 'Arabic fiqh literature has great importance from the point of view that it consisted a number of monumental works in the form of the Fatawa and it is notable that some of them were compiled under the patronage or supervision of the emperors or nobles themselves such as Fatawa Tatarkhani, and Fatawa 'AlamgTrf. In the post-Aurangzeb period the interest of the 'Ulama in fiqh remained intact and they continued to produce f/q/i-works. In this reference the contributions of Shah Wali ullah, his descendants and the 'Ulama of Farangi Mahal are considered of great significance.

### **DELHI SULTANATE**

Fiqh (Islamic jurisprudence) has an important place among the subjects of Islamic learning from the very early period of Islamic history. Its development was not confined to only heart land of Islam but it got spread to different parts of the Muslim world. The second and the third century of Hijra era are considered more important from the point of view of the development of Islamic Fiqh. "It was the same period when four well-known schools of Islamic jurisprudence (Hanafi, Maliki, Shafi' and

Hanbali) came into being and a number of significant works on Fiqh were produced in accordance with these schools".<sup>14</sup>

Though the later period marked rising of the trend of Taqlid, the 'Ulama particularly jurists continued their contribution in the field of Fiqh in different ways. The decline and disintegration of the Abbasid Caliphate resulted in the emergence of a number of independent Muslim States in different parts of Asia and Africa and under all these states Fiqh formed an important branch of Islamic learning. Particularly in Central Asian Countries it became a very popular subject in the academic circle and there flourished a large number of jurists in this region who made significant contribution in this field. They marked their influence even in India during the sultanate period.

The introduction of 'Ilm-i-Fiqh in India may be actually traced back to the period of Arab rule in Sind after its conquest by Muhammad b. Qasim in 712 A.D. During the Arab rule many 'Ulama came from the Arab world and settled in different parts of Sind. Some of them were particularly known for their interest in Fiqh. They included Abu Mashar al-Sindi (d. 170 AH/786 AD)<sup>15</sup>, Ahmad b. Said al-Maliki al-Hamzani b. al-Hind al-Faqih (d. 399 AH/1008 AD)<sup>16</sup> Al-Hasan 'AIT b. al-Hasan al-Faqih al-Dawri al-Sindi (d. 445 AH/1053 AD)<sup>17</sup> Muhammad b. Ahmad b. Muhammad al-Sindi (d. 548 AH/1153 AD).<sup>18</sup>

The development of Islamic jurisprudence in India actually started after the establishment of the Delhi Sultanate in 1206 AD. The arrival of a large number of jurists from different parts of Central Asia, the patronage of Delhi Sultans and administrative requirements for jurists proved to be quite helpful for the development of this science. In the Madaris and individual centres of learning Fiqh not only formed part of curriculum,

gradually it became a popular subject of study for the students and scholars and issues of Fiqh came to be widely discussed in the assemblies of 'Ulama, circle of Sufis and even at the court. The 'Ulama of the period, foreigner as well as Indian-born, showed deep interest in the field of Islamic jurisprudence while working as teacher or compiling work. "According to some Arab writer there were about a thousand Madaris in Delhi itself under the Tughlaq Sultans and in all of these there was provision of teaching Fiqh particularly from the Hanafite point of view"<sup>19</sup>. While referring to the religious institutions and teachers, the contemporary sources have given main focus on this subject. In the Sultanate period the Fiqh works prescribed in the curriculum of Madaris and the individual centres of learning included Ai-Qudurl Abul Husain Ahmad b. Muhammad AI-QudurT al-Baghdadi (d. 428 AH/1036 AD), Hidayah of Burhanuddln 'AIT b. Abu Bakr al-Marghinani (d. 593 AH/1196 AD), Majma al-Bahrain of Imam Muzaffaruddln Ibn-is l a t i (d. 694 AH/1294 AD), AI-HusamT of Husamuddln Muhammad (d. 644 AH/1246 AD), AI-Manar of Abul Barakat al- Nasafi (d. 710 AH/1310 AD) and Usui-i-BazdawT oi BazdawT'AIT b. Ahmad (Fakhr al-Islam) (d. 482 AH/1089 AD).<sup>20</sup>

It is also important to note here that some of the Sufis of the period also showed their interest in Fiqh and sometimes discussed the problems of legal nature in their mystic gatherings. For example Shaikh Nasiruddin Ahmad Chiragh-i-Delhi (d. 757 AH/1356 AD) the chief disciple of Shaikh Nizamuddln Auliya'(d. 725 AH/ 1324 AD) was called Abu Hanifah Sani due to his deep interest and great scholarship in the field of Fiqh.<sup>21</sup> Similarly some other disciples of Shaikh Nizamuddln Auliya'namely Fakhruddin Zarradi (a

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contemporary of Sultan Muhammad Tughlaq), Qazi Muhiuddin Kashani, Shaikh Husamuddin are reported to have been well versed in the science of Islamic jurisprudence".<sup>22</sup> On the other hand Shaikh Yusuf Gadai and Shaikh Ruknuddin, the well-known Saints of the same period, demonstrated their interest in the subject through compiling versified treatises on general issues of Fiqh which were called Tuhfat al-Nasaih and Turfat al- Fuqaha respectively. Shaikh Fazlullah Maju, a saint of the Suharwardi order compiled Fatawa-Sufia, which created some controversy among the 'Ulama of the period"<sup>23</sup>.

The Delhi Sultans had their own role in the development of Fiqh. They patronized a large number of 'Ulama who were mostly jurists. The teaching of Fiqh was given special importance in the Madaris run by the state administration. The Sultans also liked company of the jurists and their association with the court and even during their journey out side Delhi their entourage included a number of jurists with whom they used to discuss different issues of legal interest"<sup>24</sup>. Enough evidence are available to suggest that the Sultans did not feel shy of even seeking the opinion of the jurists about administrative matters. "Sometimes they had long conversation with the Qazis or jurists of their period on certain important issues facing state and society such as 'Alauddln Khaiji (1296-1316 AD) discussed with Qazi Mughis about the rights of Sultan and that of his family members in the Bait al-Mal, nature of punishment to corrupt officials and legal position of Hindus."<sup>25</sup>

Tughlaq Sultans, Muhammad b. Tughlaq (1325- 1351 AD) is more known for his deep attachment with the rational science, but his interest in Islamic jurisprudence is also established by the contemporary sources. "It is reported that

about a hundred jurists were associated with his court and with them he used to exchange his ideas especially at the time of taking meal with them”<sup>26</sup>. “He had a lengthy discussion with Ziauddin Barni about political crimes and their punishment”<sup>27</sup>.

This Sultan had invited some eminent jurists from other countries to come to India and carry on their academic activities in the field of their special interest such as Burhanuddin Samarqandi and Qazi Majduddin Shirazi. For this purpose he sent his special envoy along with presents and sufficient amount for their journey expenses”<sup>28</sup>. Moreover, this sultan had also made arrangement for purchase of rare books of Fiqh from other countries. The period of Firuzshah Tughlaq (1351-1388 AD) marked a great development in the field of Islamic jurisprudence. He accorded generous patronage to the 'Ulama specially jurists.

The beginning of the compilation of Fiqh work in 'Arabic is traced back to the period of Arab rule in Sind. 'AIT b. Ahmad b. Muhammad b. Muhammad Debal (d. 354 AH/965 AD) wrote a book on administration of justice under the title of Kitab-o-Adab al-Qaza”<sup>29</sup>. Sultan Muhammad of Ghazna (d. 573 AH/1177 AD) who led his military expedition in India in the first half of the 12th century AD is reported to have showed interest in the compilation of Fiqh works. The compilation of Kitab al-Tafrid fi'l Furu is ascribed to him”<sup>30</sup>. Another Fiqh work known as Majmuah-i-Sultani was also written in the same period and was dedicated to him. Hasan b. Muhammad al-Saghani al-Lahori al-Bughdadi (d. 637 AH/1239 AD) a well-known scholar of the early sultanate period had compiled Zubdat al-Nasik and Kitab al-Faraiz about Hajj and inheritance respectively.

Fatawa compilation was a popular way of contribution to the Fiqh literature in those days and the 'Ulama of the period made significant

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contribution from this point of view also. One of the earliest 'Arabic work of this nature was Al-Fatawa al- Ghiyasiyah<sup>31</sup>, which was compiled by Shaikh Daud b. Yusuf al- Khatib and dedicated to Sultan Ghiyasuddin Balban (1266-1287 AD). The tradition of Fatawa compilation continued in the later period and the reign of Firuz Shah Tughlaq (1351-1388 AD) was more productive from this point of view. Fatawa Firuz Shahl and Fatawa Tatarkhani are two important Fatawa of the same period. They are considered of great value especially due to their consideration of a number of contemporary issues of socio-economic life. Other notable works of the same nature produced in the Sultanate period are Fatawa Qari al-Hidayati compiled by Shaikh Sirajuddin Umar b. Ishaq al-Ghaznawi al- Hanafi (d. 773 AH/1371 AD) and Fatawa-i-IbrahJm Shahi by Qazi Shihabuddin Daulatabadi (d. 874 AH/1469 AD), Khazanat al-Riwayat of QazJ Jakkan Gujarati (d. 920 AH/1514 AD) has special importance among the general works of Fiqh compiled in the Sultanate period. It deals with the problems of varied nature and extensively quotes from the well-known works of the Hanafi Schools including Al-Tahawi, Al-Hidayah, Fatawa-i- Zahirlyah and Fatawa-i-Khaniyah.

A considerable part of the Fiqti literature of the Sultanate period consisted of Shuruh and Hawashi (commentaries and marginal notes). For producing this kind of literature mainly those works were selected which were popular as the text books of the Hanafi Fiqh or widely consulted by the 'Ulama for solving the legal problems. The main objective behind such writings was to simplify the texts of popular and important Fiqh works and to develop their understanding. For the same reason special importance was given to write commentaries on Hidayah, Waqayah, Usul-i-Bazdawf

and Al-Manar. On the first two works more than fifteen commentaries were compiled by the Indian 'ulama".<sup>32</sup>

Fiqh literature of the Sultanate period also included books and treatises written about certain important and controversial issues. The issue of Sama (spiritual recital with musical instruments) had been controversial among the 'Ulama and mystics of this period. In some of the works this issue was discussed from juridical point of view as we find in *Kashf al-Qina an Wujuh al-Sama* written by Fakhrudln Zarradi and *Risalah Ibahat al-Sama* by Sulaiman b. Zakariyah Multani<sup>33</sup> Similarly some works were written specially for explaining the problems of division of inheritance which concern a large number of people in the society such as *Kitab al-Faraiz* written by Hasan b. Muhammad al-SaghanT (d. 650 AD/1250 AD).

The prevalence of Hanafi Fiqh in this sub-continent may be explained by the fact that majority of the 'Ulama as well as Muslim masses belonged to the Hanafi School. The 'Ulama of the early Sultanate period who had influenced the religious life of the Indian Muslims and academic atmosphere of that time had migrated mainly from Central Asia and Transoxiana, which had been stronghold of the Hanafi School<sup>34</sup>. The Turkish Sultans were themselves follower of this school and had given patronage and official recognition to it. But it is also important to note here that many of the Fiqh works of that period also took note of the point of view of other schools of Fiqh, though obviously the preference was shown to the views of the Hanafi jurists. It also appears that the Delhi Sultans were not rigid in their attitude. They were liberal and open-minded and gave due regards to the jurists of other schools.

Alauddln Khajji (1296-1316 AD) V Similarly Ibn-i-Batuta a follower of Malik! School was given the post of Qazi of Delhi in the reign

of Muhammad b. Tughlaq (1325-1351 AD) Lastly it is also required to be explained that most of the Fiqh works compiled in early period of Muslim rule are in 'Arabic. It was apparently due to the fact that the 'Ulama of the period were more familiar with 'Arabic and they preferred to write on subjects of Islamic learning in the same language. But with the rising of popularity of Persian as academic and official language there had been change in the attitude of the authors and compilers of Fiqh works.

## **MUGHAL EMPIRE**

The Mughals ruled over India for about three hundred years (1526-1857). This period has great importance from different point of view including political, administrative and cultural. The rulers of this period also took keen interest in the development of traditional and rational sciences. Islamic jurisprudence continued to be given importance by the 'Ulama and the rulers as a popular subject of Islamic learning. Like their predecessors the Mughals also associated jurists with their court used to seek their opinion on legal matters. The 'Ulama who got patronage of the state included a considerable number of Fuqaha. They were given cash allowances as well as land assignment (Madad-i-Maash) to carry on their academic activities with satisfaction<sup>35</sup>. “To promote the learning of Fiqh the students were given stipends and daily allowances as Emperor Aurangzab had made the provision of payment of one ana, two ana and eight anas to those who studied M/'zan, Munshaib and Sharh al-Wagayah respectively”<sup>36</sup>.

The 'Ulama of the Mughal period who contributed in the field of Fiqh mainly through teaching and writing included 'Abdul Awwal Jaunpuri (d. 968 AH/1560 AD), Mahammad Tahir Patani (d. 986 AH/1578 AD), Mirkalan Akbarabadi (d. 1014/1605 AD), 'Abdul Salam Lahori (d. 1037

AH/1628 AD), Abdul Salam DewT (d. 1042 AH/1632 AD), 'Abdul Haq Muhaddis DehlawT (d. 1052 AH/1642 AD), Muhibbullah Ilahabadi (d. 1058 AH/1648 AD), 'Abdul Hakim SiyalkotT (d. 1067 AH/1656 AD), Qazi Nurul Haq Akbarabadi (d. 1073 AH/1662 AD), QutubuddIn Sihalwi (d. 1103 AH/ 1691 AD), WajihuddTn Gujarati (d. 1119 AH/ 1707 AD) and Amanuliah BanarsT (d. 1133 AH/1720 AD).

In Mughal Indian Fiqh continued to occupy an important position in the curriculum of Madaris as well as individual centers of learning. This has further aroused the interest of the 'Ulama in this subject and they contributed to its development in different ways. The books which formed part of the curriculum of Fiqh included Sharh Waqayah, Hidayah, Husami, Tauzih-al-Talwih<sup>37</sup>. It is important that some of the commentaries of these books compiled by the Indian 'Ulama were also included in courses of studies for Fiqh in Madaris as helping works such as Hashiyah ala Sharh Waqayah, Hashiyah ala'l-Hidfyah of WajihuddTn Gujarati (d. 978 AH/1570 AD) and Hashiyah ala al-Talwih.<sup>38</sup> In addition to the above works two other books of the 'Ulama of medieval India found place in the courses of studies of the famous Dars-i-Nizami system and these were Musallam al-Subut of Muhibbullah Bihari (d. 1119 AH/ 1707 AD) and Nurul-Anwar of Mulla Jiwan (d. 1130 AH/1717 AD)<sup>39</sup>

The Mughal period was known for production of a large number of Fiqh works of different nature including Shuruh wa Hawashi (commentaries and annotations), Fatawa-collection, general works and treatises as separate issues. The compilation of Fiqh works as stated above started from the early period of Sultanate rule. It got further development during the Mughal rule. Babur, the founder of the Mughal Empire had

himself composed a treatise in Turkish language called Masnawi Mubin<sup>40</sup> which explained the fundamentals of Islam and general rules of the Shari'at. In the same period Fiqh-i- Baburi (also known as Fatawa Baburi)<sup>41</sup> was compiled in Persian language by Nuruddin b. Qutubuddin al-Khawafi in 1670 AD. The Fiqh works of Humayun's period (1530-1556 AD) included Fatawa-i-Aminiya<sup>42</sup> compiled by Amin b. Obaidullah Muminabadi al-Bukhari in Persian language sometime after 948 AH/1541 AD). Fatawa Barahinah<sup>43</sup> compiled by Nasiruddin Lahori - a contemporary of Akbar in 997 AH/1588 AD. Of all the Mughal Emperors Aurangzeb Alamgir's period is more well known for the development of Fiqh and compilation of Fiqh works. The Emperor was a great patron of Islamic learning and had shown keen interest in Islamic jurisprudence. He is also well known for implementation of Shari'at rule in state administration. Fatawa-i-'Alamgiri the most important and popular Fatawa collection of the medieval India was compiled in 'Arabic at the instance of the Emperor by a board of the distinguished 'Ulama headed by Shaikh Nizam Burhanpuri (d. 1679 AD)"<sup>44</sup>. Arranged under the usual chapter of Fiqh works, the Fatawa-i-'Alamgiri (also called a\Fatawa al-HindTyah) has thoroughly discussed main as well as subsidiary issues relating to religious, civil, economic, penal and international matters. It came to be widely studied and quoted by the 'Ulama, jurists, Qazis and Muftis of different period. The same work is also being referred to by judges of modern courts in reference to the cases of Muslim personal law. Moreover, this Fatawa is considered next to Hidayaii among the authentic and quotable works of the Hanafi School. Its Urdu and English translation during the British period may be also mentioned as an additional proof of its popularity. It was translated into Urdu by Saiyyid Amir"<sup>45</sup> and its

selected chapters were rendered into English by N.B.A. Belly under the title of "A Digest of Muhammeian Haneefea and Islamia Law in India .

Other notable Fatawa collection of the same period were Mukhtasar Fatawa' and Fatawa-i-Sirajiyh<sup>46</sup> compiled by 'Abdul Hamid 'Abdullah Thattawi (belonged to the second half of 17<sup>th</sup><sup>47</sup> century AD) and Tabi Muhammad b. Muhammad Sai'd Lakhnawin 1120 AH/ 1708 AD respectively.

Among the Fiqh works of general nature Majma al-Barakat is worthy to be mentioned here. It was compiled by Abul Barakat cb. Ruknuddin Dehlawi and was dedicated to Alamgir. The work deals with general issues of Islamic jurisprudence in a comprehensive way and extensively quotes from the earlier Fiqh works including those, which were compiled in medieval India such as Fatawa Tatarkhaniya, Khazanat al-Riwayat, Fatawa Hammadiya. In the Mughal period many issues had been controversial among the 'Ulama of the different schools such as Rata' al- Yadain, (raising hand), Qiraat al-Fatiha Khalf al-Imam (recitation of Fatiha behind Imam), Ziyarat-i-Qubur, (visiting grave yard). Apart from the above controversial issues, some other problems relating to religious and social life were also taken up by the contemporary 'Ulama to write separate works. We find that in those days several books were written on wine drinking, use of other intoxicants, gambling, interest, music, songs and seeking assistance from the dead person at their tombs such as Risalah Hurmat al-Ghina wa'l-Mazamir by Ismatullah Saharanpuri (d. 1039 AH/ 1629 AD), Hadd al-Ghina fi Hurmat al Ghina by Ismatullah Saharanpuri, IHidayat al-A amS, fi Mabhas al-Sama by Husain Khabbaz Kashmiri, Risalah fi Najasat al-Khamr by Nurullah Shustari (d. 1019 AH/1610 AD).

Among the economic issues, inheritance was given much importance by the 'Ulama of the Mughal period due to the involvement of the general public with this issue and its complicated nature. A number of 'Ulama made it a point to explain the problems of inheritance in their works such as *Nazm al-Faraiz al-Sirajiyah* by 'Abdul Awwal Zaidpuri (d. 968 AH/ 1560 AD), *Risalah fi'l-Faraiz* by 'Abdullah b. 'Abdul Baqi Naqshbandi (1074 AH/1663 AD), *Risalah fi'l-Mawaris* by Qazi Ruknuddln Kairanwi (d. 1228 AH/1637 AD).

Usul-i-Fiqh or the principles of Islamic jurisprudence has great importance as an essential part of Ilim-i-Fiqh. It not only helps to understand the importance of different sources of Fiqh, and their respective position but also enables the jurists to know the legal device for solving the legal problems in the light of these sources. The 'Ulama of the Mughal period did not lag behind in contributing to this subject. Some of the important works on principles of Islamic jurisprudence may be mentioned as *Kitab al-Mufassir fi'l-Usul* and *Muhkam al-Usul* by Amanullah b. Nurullah (d. 1134 AH/1721 AD), *Al-Mukhtasar fi'l-Furu* by Hablullah QannaujT (d. 1140 AH/1727 AD), *Tanvir al-Haq* by QutubuddTn DehlawT (d. 1023 AH/1614 AD). Apart from the Fatawa collections, works of general nature and treatises on separate issues, a large number of Shuruh (commentaries) were prepared during the Mughal period. For this purpose mainly those works were selected which were part of curriculum of Fiqh as we have found the same case with regard to the Sultanate period. Some of the well known commentaries compiled in that period were *Nur al- Anwar fi Sliarh al-Manar* by Ahmad Jivan (d. 1130 AH/1717 AD), *Sharh ala Usui al-Bazdawi* by Wajihuddln Gujarati, *Sharh*

al-Husami by Abu Yusuf Bannani Lahori (d. 1098 AH/1686 AD), Fath al-Qadir Sharp al Hadiyah by Qazi Muhammad lisa Junagarhi (d. 1132 AH/1719 AD), Sharh Faraiz al-Sirajiyah by Abdul Awwal Zaidpuri (d. 968 AH/1560 AD), Sharh al-BasIt fi'l- Faraiz by Wajihuddln Gujarati.

To make these commentaries more useful some scholars of the period further explained them in the form of marginal notes. This resulted in the production of another category of Fiqh literature called HawashT such as Fusul al-HawashT li Usui al-Shashi by Iahdad Jaunpuri (d. 923 AH/1517 AD), Hashiyah al-HusamT and Hashiyah ala'l-Faraiz al-Sirajiyah by Qazi 'Abdul Nabi Ahmadnagri (d. 1144 AH/1731 AD), Hashiyah ala-Usul al- Bazdawi by Wajihuddln Gujarati (d. 998 AH/1589 AD), Hashiyah ala'l-Hidfyah by 'Abdul Hakim SiyalkotT (d. 1067 AH/1656 AD), Hashiyah ala-Sharh al-Waqayah by Ismatullah Saharanpur (d. 1039 AH/1629 AD).

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