

**The Significance of Fath al Mu'in in the Social and Religious Life of
Kerala Muslims: An Analytical Study**

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AFSAL V V

Supervisor

Dr. MUJEEBUR RAHMAN



Centre of Arabic and African Studies

School of Language, Literature and Culture Studies

Jawaharlal Nehru University

New Delhi-110067

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مركز الدراسات العربية و الإفريقية
Centre of Arabic and African Studies
School of Language, Literature and Culture Studies
Jawaharlal Nehru University, New Delhi – 110067
जवाहरलाल नेहरू विश्वविद्यालय, नई दिल्ली-110067

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DECLARATION

I declare that material in this dissertation entitled "*The Significance of Fath-al-Mu'in in the Social and Religious Life of Kerala Muslims: An Analytical Study* " submitted by me is an original research work and has not been previously submitted for any other degree of this or any other University/ Institution :

AFSAL V V
(Research Scholar)

Dr. Mujeebur Rahman
SUPERVISOR
CAAS/SLL&CS/JNU

Centre of Arabic & African Studies
SLL & CS
Jawaharlal Nehru University
New Delhi-110067

Prof.M. Aslam Islahi
CHAIRPERSON
CAAS/SLL/&CS/JNU

Chairperson
Centre of Arabic & African Studies
School of Languages
Jawaharlal Nehru University
New Delhi--110067

Dedicated to
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Introduction

Introduction

Nowadays the debates on Islamic legal system have taken the central stage in the scholarly discussions across the world. Research works, books and media are frequently exploring this branch of knowledge either positively or negatively.

The increasing significance of Islamic jurisprudence or Islamic law has insisted the academic world to study on the Islamic texts and its influence in the mass. Obviously the texts have played a vital role in structuring and restructuring cultures, customs and civilizations. The idea ultimately produced a rich account of studies and observations in various areas. In the case of Islamic jurisprudence it was happened the same, many texts were studied; many others are being under the serious research. Even after, some important texts are yet to be studied. One another trend is also there, to study on a particular group living in a particular area, in terms of how a juristic text influenced their customs, rituals and practices. This attempt was a big step regarding the development in the Islamic legal studies. It has traced out more about the texts written in Arabic and non Arabic languages.

This is an attempt to find out the significance of Fathul Muin in the socio-cultural life of Kerala Muslims. To study the topic it is required to have knowledge about Islamic jurisprudence and its emergence, evolution and developement. An idea about social, cultural and political situations of those periods starting from the sixth century up to the present time is also inevitable. Therefore, my first chapter 'Evolution of Islamic Jurisprudence' will reveal the development of Islamic system through various political phases and in particularly about the schools of thoughts.

The title of thesis itself requires a discussion on the relevance of the subject in the context of a particular region, Kerala. The studies have been done revealing the anthropological, demographic, ecological, economic, educational, historical, political and religious features of Kerala. Geographically, Kerala is an integration of three regions, Travancore in the south, Cochin in the centre and Malabar in the north. Kerala differs from all other states of Indian subcontinent in terms of culture, arts and literature. Its political consciousness and faith enjoy some sort of specialities from all other states. Kerala

Muslims, who constitute 24.7% of the total population of the state and who are known as Mappilas, have also their own characteristics and peculiarities that distinguish them from other Muslim communities in India.

Theological and juristic development of Kerala Muslims closely attached with the history of Islam in Kerala. It means studying the history of Kerala from sixth century onwards would map out a picture how Islamic Jurisprudence emerged and evolved in Kerala. According to the historical documents, Islam reached Kerala through the well established Indian Ocean trade route between Arabia and South India. This was the same in the case of other South East Asian regions as well as that of African regions. The sea route expanding in among these wide areas played a big role in the spread of Islam throughout these areas and thus in emerging Muslim communities there. This expansion was calm and peaceful, Arab traders propagated their faith all they met.

The solid connection between Arabia and Kerala from early times resulted in the emergence of Muslim community who has been called in various names and titles. 'They intermarried with Hindu women and produced the Mappilas of Malabar, the Navayats of Kanara and the Labbais, Marrakayars and Rawthers of Madras. A careful reading of the sources leads to the conclusion that this community grew primarily through peaceful conversion, which initially, at least, resulted from the interaction of a dynamic, egalitarian Islamic mercantile society with an exceptionally conservative version of Hindu caste society.'¹

The expansion of Islam was followed by the transmission of many cultures, religious customs and juristic thoughts which were with Arabs and most particularly with the traders. According to the observations of the North African itinerant Ibn Battuta, Kerala Muslims shared the Arabic, Islamic culture, which characterised most of the Muslim communities that scattered along the Indian Ocean trade routes, extending from East Africa to Arabia to India, Indonesia and even to Canton on the South China coast. Most of the individuals that he identified were either merchants or *Ulama* from Arabia or the Persian Gulf region, although some came from as far away as East Africa and the interior

¹ MPhil thesis of Zubair K, Development and Modernization of Religious Education in Kerala: Role of Samastha Kerala Jm'eyyathul Ulama ,page no: 3

of Iran. Traders from Iraq, Bahrain and *Qadis* from Baghdad and Oman are specifically mentioned.²

Depending on words of Ibn Battuta, we can find out the existence of Islamic Jurisprudence in Kerala since 13th century. Moreover, Ibn Battuta himself had mentioned about the practice of Shafie School of Islamic law in several regions of Kerala which prove there were a close contact with Arabs and their cultures.³ The exact time of expansion of Shafie School of Jurisprudence throughout Kerala, South India is unknown. Even though we believe it has reached Kerala through the sea traders of Arabia on the same time it had emerged in Arabian regions. However, a study is most necessary to disclose on the expansion of Shafie School of Islamic Jurisprudence in Kerala and other regions in South East Asia like Indonesia and Malaysia. The second chapter 'the origin and development of Islamic Jurisprudence in Kerala' will reveal a general depiction in this regard. Moreover, it would unveil the history of Islamic Jurisprudence in Kerala, starting from the arrival of Malik ibn Dianar and his companions in Kerala up to the present time. So an overview on the developments of jurisprudence in Kerala is most essential to trace out the objectives of this study and to start discussion on Fathul Muin and its significance in Kerala Muslims.

As it told just prior, the Muslims in Kerala generally follow the Shafie School of Islamic Jurisprudence. Shafie branch of Jurisprudence is very rich to having many works written by eminent scholars of early and late periods. These are categorized in many; some are utilized as the reference volumes while others are text books in various curriculums. In Kerala, it can be found a well arranged academic system in Palli Darsas⁴ and other Islamic institutions in which the juristic texts are predominant. Fathul Muin is a very renowned and reputed text among them all; it is a brilliant account of religious jurisprudence in Shafie School of Jurisprudence written in the sixteenth century by

² (Stephen F Dale, trade Conversion and Growth of the Islamic Community of Kerala, South India, Studia Islamica No.71(1990)).

³ Islamic society on the south Asian Frontier, The Mappilas of Malabar, 1498-1922. Stephen F Dale. Page no:26

⁴ It is the most fundamental type and the longest lasting educational system in Islam pioneered by the Prophet himself who arranged facilities for a selected few, called Ahlu al-Suffa, to stay in his mosque at Medina to learn more about Islam from him and to be expert scholars who can play a major role in disseminating religious knowledge

eminent Islamic scholar Zainuddin Makhdoom, the second. Its active presence in Kerala for more than four centuries indicates the relevance of that juristic text. This was the motive to select this subject for the research realizing it is the need of hour to bring Fathul Mu'in under the purview of serious study.

Third chapter 'Significance of Fathul Mu'in in the social and religious life of Kerala Muslims' seeks how Fathul Mu'in obtained such a privilege in the social set up of Kerala and why the scholars of Kerala mostly depend up on this text to issue Fatwas. While studying about Fathul Mu'in's significance in Kerala it would be better to highlight its significance outside Kerala too. Fathul Mu'in is an authentic text in those countries where Shafi'i School of law is prominent like Egypt and Indonesia. It has been included as the text book in the syllabus of Al Azhar University, Egypt and in many institutions in Indonesia as well. In some countries it has been reprinted too, one copy published by Musthafa Albani Al halabi has been kept in the Masjid (Valiya Jumuath Palli, big Masjid) of Ponnani.

A very rich account of Arabic Interpretation to Fathul Mu'in done by scholars from and outside Kerala including Arabs, is also indicates its significance in those regions. Sayyid Bakri's Ianthut talibeen, Alawi Ahmad Al Saqaf's Tarsheehul Mustafeedeen are the very prominent works from all.

There are a series of translated works around the world which played a marvelous role in making Fathul Mu'in more famous and popular. In Kerala, the translation works are widely used by the common people in order to get the Islamic laws for the issues they face in daily life. More over we could find some translation works even for the interpretation of Fathul Mu'in, Chalilakath Abdulla Moulavi has translated Ianathu Talibeen one of the prominent interpretation of Fathul Mu'in to Arabi Malayalam dialect under the supervision of Chakeeri Moideen Kutty Sahib⁵.

In Indonesia Fathul Mu'in has got a major privilege in all level, Martin Van Bruinessen who researched on books in Arabic script used in the Pesantren milieu, says, pointing out Fathul Mu'in's significance in Indnesia, 'The Fath al-muin, which has long been popular

⁵ Makhdomum Ponnaniyum edited by Dr. Hussin Randathani page no:142

in Indonesia (and in Kurdistan), was written by the 16th-century South Indian scholar Zaynad-Dīn al-Malībārī, a student of Ibn Hajar. The Fath is a commentary on, or a reworking of, an earlier text by the same author entitled *Qurrat ayn*; neither is directly based upon Ibn Hajar's *Tuhfa*. The *Qurra* itself never became popular in Indonesia, but in the 19th century Nawawi Banten wrote another commentary on it (*Nihayat az-zayri*) that is widely used. Two of Nawawi's younger contemporaries in Mecca wrote extensive glosses on the *Fath al-muin*. Sayyid Bakrī b. Muhammad Shatta' ad-Dimyati's *Ianat at-talibīn* is a four-volume work, which incorporates the author's notes on many subjects, as well as a number of fatwa by the contemporary Shafie mufti Ahmad b. Zaynī Dahlan. It became the most frequently consulted work of Shafie fiqh already in the author's lifetime, and has maintained its position as a major work of reference. *Tarshīh al-mustafidīn* (2 vols), is a more modest and less well-known work whose first Indonesian reprint has only recently appeared. The author, Alwī as-Saqqaf, was a younger contemporary and colleague of Sayyid Bakri in Mecca.⁶

In short, Zainudheen Makhdum's ever famous work *Fathul Muin* is an excellent one written in the Jurisprudence of Shafie School of thought. It has played a vital role in unifying the religious customs and practices in Kerala. I admit the subject has enough important in the present contexts and this study is an attempt to trace the significance of a Juristic text in the socio-religious life of Kerala Muslims.

⁶ *Kitab Kuning: Books in Arabic Script Used in the Pesantren Milieu*, by Martin Van Bruinessen, page no: 247.

Chapter 1

The Evolution of Islamic Jurisprudence

Islam regards knowledge as sacred and those who hold it as pious and superior than all creatures. Seeking Knowledge is obligatory for every male and female Muslim, since it is the first instruction of Quran to The Messenger.

Read in the name of thy Lord, who created – Created man, out of a leech-like clot. Read and thy Lord is most bountiful. He who taught (the use of) pen. Taught man that which he know not. (Qur'an 96 1-5)

Quran invites the man to use his intellect, to think and to know for the goal of human life is to discover the Truth which is none other than worshipping God in His Oneness.

The Prophet himself has promoted acquiring knowledge as he ordered the mankind to chose one of the options from being a scholar or a learner or a listener or a lover and do not be fifth then you will be destroyed. Following his footsteps, companions also did same as Hazrath Ali said “The more knowledgeable the man, the more valuable the man”.

Such sayings have echoed throughout the history of Islam and incited Muslims to seek knowledge wherever it might be found. During most of its history, Islamic civilization has been witness to a veritable celebration of knowledge. That is why every traditional Islamic city possessed public and private libraries and some cities like Cordoba and Baghdad boasted of libraries with over 400,000 books.

Analyzing this very fact we realize that the followers of this religion have given a vital importance for acquiring knowledge. They developed various ways and modes of imparting knowledge throughout the forgone centuries. Eminent scholars and thinkers were very keen to keep the Islamic legacy of knowledge alive. As a result of their unquestionable efforts, Islamic educational system has evolved and developed. Many of the branches of knowledge has been established and launched time to time which constructed an academic world of Islamic culture and civilization. The innovations of

new areas of knowledge, actually prompted them to think of new institutions in order to promote the education, in Umayyad, Abbasid periods. During this golden age Islamic scholarship flourished with an impressive openness to many of the areas of knowledge.

As mentioned earlier, many branches of knowledge have evolved and flourished according to the demands of time and period. The system of Islamic jurisprudence and law enjoys a high rank among different divisions of knowledge, because it takes from other branches of Sharei'at. For example Fuqaha (jurists) study Quran and Hadith to deduce laws of Islamic Jurisprudence. In other words Fiqh or Islamic Jurisprudence is the practical implementation of Quran and Sunnah.

Definition of Fiqh

In Islamic science the word 'Fiqh' is used for Jurisprudence. It means literally, intelligence, knowledge and understanding. The word is derived from the word 'Faqiha' means to understand. Technically or terminologically the Fiqh means: The science of deducing Islamic laws from evidences found in the sources of Islamic Law.

According to the companions of Shafi'i the fiqh is 'the knowledge about the practical Islamic laws from its explained evidences'⁷. For Khallaf, 'It is the a science of Islamic practical laws derived from detailed evidences' or the group of Islamic practical laws captured from the detailed evidences'⁸

Term 'Fiqh'

The term 'Figh' was common in jahiliyya period, but only in its literary meaning 'to understand', and they had not used 'Faqih and Alim', but it was used only after the Prophet (PBUH)⁹. Though, the word 'Fiqh' has developed since the Prophet's time. In the first phase, the word was used in two meanings.

- 1) To understand the way by which a person would be characterized.
- 2) To understand the Religious texts

⁷ Jam'ul jawami' page no 6

⁸ Abdul Wahhab al Khallaf in 'Ilmu Usulil Fiqh page no: 11

⁹ Al Fitr al Sami fi Tareeq al Fiqh al Islami by Muhammad bin Hasan Al Tha'alabi al Fasi

As an example for the first meaning, Allah says: ¹⁰ قالوا يا شعيب ما نفقه كثيراً مما تقول. We can't understand most of what you say.

Prophet says praying for Ibnu Abbas : ¹¹ اللهم فقهه في الدين

As an example for the second meaning, Prophet says:¹²

رب حامل فقه غير فقيه ورب حامل فقه إلى من هو أفقه منه

Hazrat Umer says: تفقهوا قبل أن تسودوا

From the above mentioned quotings it is to say that the 'Fiqh' , in the first phase has encompassed all religious studies of Islam, Aqeeda, juristic laws of Prayers and transactions as well as the criminal laws. Because all of them were derived from the sources, Quran and Sunnah and all are related to the Religion.

In addition to that we see the word Fiqh has been used in the sayings of predecessors of Companions. The statement of Ibnu Abbas points towards that meaning.

قول ابن عباس رضي الله عنهما: أفضل الجهاد من بنى مسجداً يعلم فيه القرآن والفقه والسنة

Here the word Fiqh has also been used, though it includes some particular meaning rather than its common usage. Now it started to be used in terminological meaning, this is due to the emergence of some 'Ijtihadi issues'.

At the same time, some very significant developments occurred in the Islamic system. The Quran was collected firstly during the time of first Caliph Abu Backer Sidhiq and finally during the time of Usman bin Affan. The Caliphs agreed upon one Mushaf and the companions carried it with them throughout the world wherever they travelled for the propagation of Islam. When they were asked about any juristic application for any of problems they were used to give fatwas according to Quran and what they studied from the Prophet.

¹⁰ الآية, هود: 91

¹¹ متفق عليه

¹² وهو جزء من حديث أخرجه أحمد في المسند والترمذي وقال صحيح

All 'Sahabas' were Mujtahids¹³ and they had authority to find the juristic laws out of the sources. After their time there happened many of juristic differences which lead to the coordination of Hadiths. For that, Umer bin Abdul Azeez ordered, thus, the coordination was realized in the last stage of first century AH and in the first of second century AH.

Among the books handed over from the predecessor to successors were

صحيفة همام ابن منبه , مسند أبي حنيفة¹⁵ , موطأ مالك بن أنس¹⁶ , مسند أبي داود الطيالسي¹⁷ , مسند الشافعي¹⁸ .

In this stage itself the scholars began to find the juristic applications with the help of *Nasikh, Mansukh, Amm, khass, Muthlaq and Muqayyad*¹⁹. It led to the establishment of some schools of thought in Hijaz, Iraq and Egypt. Then the opinions and views on the juristic issues differed from one scholar to another. Those who had no privilege to find the juristic applications out of sources were usually follow those scholars who have the privilege.

Development of Islamic Jurisprudence

From the above mentioned, we realize that the system of Islamic jurisprudence has developed in accordance of time and period. Basically the development of Islamic juristic system has been classified into some periods and stages. Each stage had some particular features and characteristic. However, here we will discuss the stages or the periods of the development of Islamic legal system.

¹³ Mujtahid (Arabic) is a Muslim jurist who is qualified to interpret the law and thus to generate Ijtihad

¹⁴ Died in H: 132

¹⁵ Died in 150: H

¹⁶ Died in 179: H

¹⁷ Died in 204: H

¹⁸ Died in 204: H

¹⁹ Terminological terms which are used in *Usulul Fiqh*

The first stage - The foundation

This stage starts from the first revelation (610 AD) from the Almighty Allah to the Prophet up to his death (632AD). The long 23 years have been divided into two periods.

1) Makkkan Period and 2) Madinan period

Makkan Period- 610 AD to 622 AD

In this stage, the general rules were conveyed through revelation to the Prophet. The Quranic verses dealt with the laws of Tauheed, faith and belief and the matters of Hereafter. In this period, Prophet trained those converts to Islam and taught them how to believe in Allah.

Beside these very general matters, some other laws are also discussed. Quran prohibited murder, adultery and the burying of daughters. Many basic rules of Haram and Halal were also implemented; many verses related to food were revealed.

The offer prayers to Allah became obligatory in this stage. Quran ordered Prophet to worship Him by offering prayers.

Madinan period

This period starts after the Hijra of Prophet to Madina. This is very important period in the development of Islamic legal system. This is the period when laws were promulgated in the revelations of Qur'an and by the teachings of the Prophet. Almost all the chapters of Qur'an which include Islamic laws or legislation were revealed in Madinan period.

In this stage, three pillars of Islam were established (Hajj, Zakat, fasting) while Shahadah and Salah were established in Makkah. Another major laws established during this period were the commercial laws for trade and business, agricultural laws, criminal and justice laws. To strengthen the community order he established the civil laws and established the brotherhood between Muhajireen and Ansars. Marriage, divorce and inheritance laws were also established in this period.

To strengthen the social order Prophet established the minority rights for the people of Book. As a part of international law, Prophet established some rules about the wars, urged companions to maintain peace and to uphold treaties. For the establishment of peace, Prophet sent envoys to Rome, Persia and Egypt.

Second stage- Khulafa period

From the departure of Prophet in 11th year of Hijra, the second stage of Islamic juristic system begins and lasts up to the end of Aliyy bin Abi Talib's rule. According to geographical and political preview of the initial stage of this period, only the Arabian Peninsula was under the control of the Muslims. Then, it expanded to many of Asian and African territories.

With the development of Islamic state, some problems arose there which needed to be solved in the light of Quran and Sunnah. In the absence of a direct solution, the Caliphs and companions depended on the interpretation of both the sources. The opinions they consented on unanimously were accepted in its full voice. Even the isolated opinions got much acceptance in the Islamic legal system. By the consensus they found the juristic application for many of problems and issues arose there. "The first and most important problem that was solved by the agreement among the companions was that of the election of Abu Bakr as a Caliph. Since Abu Bakr was asked by the prophet (when he was about to die) to lead the prayers it was considered that he alone was the fit person to lead the community in the worldly affairs also. This is basically an analogy or *qiyas* agreed to by the companions i.e. consensus of opinion called *ijma* infallibly of which is proved by the saying of the prophet: 'my followers will never agree on what is wrong'²⁰.

The Caliph was the main authority in solving the problems as well as to maintain the justice and security. He held the major power to find the juristic judgment in the issues. During the time of first Caliph Hazrat Abu Bakr Siddique, he brought the legal application out of Quran and Sunna, but when he could not find answer he enquired others whether they had knowledge of any tradition to answer that problem. This method was widely adopted during this second period and thus they found the juristic conclusion after the mutual discussion. "This is vivid from an event when the first Caliph of Islam *Hazrat Abu Bakr Siddiq* did not have any information about the inheritance of grandmother. He enquired whether anyone knew of by hearted any tradition of the

²⁰ Shafie School of Jurisprudence in India, An unpublished Phd thesis of Bahaudheen. K page no:8

Prophet (SAW) regarding this. Another companion *Mugeera* answered that she owes one sixth of total property as he remembered a tradition. Then *Mohammed bin Salama* supported him and *Abu Bakr* accepted the rule”.²¹

Another major event was the compilation of Quran. At the time of Abu Bakr many ‘huffadh’ were killed in the battle of Yamamah fighting against the apostates. Umar convinced Abu Bakr to have the Quran compiled. At first, Abu Baker asked Umer, how can we do that thing which was not done in the time of Prophet. Umer replied, By Allah, there is good in it. After the ‘Ijtihad’ and long discussion it was agreed to compile the Quran and Zayd ibn Thabit was assigned this noble task. “This volume stayed with Abu Bakr until his death (May Allah be Pleased With Him), then given to Umar, then to Hafsa, then Uthmaan (who handled the issue of different Qira’at) and he made four major copies which followed one calligraphy (according to the dialect of the Quraish now known as Uthmaniscript). Four copies were sent to major cities within the state: Makkah, Kufa, Basra, and Egypt (or ash-Shaam). The master copy stayed in Madina”²².

With the expansion of Islamic state to far reaching territories, the companions were sent these places to lead and govern. When they were asked questions and the answers were not found in both the Quran and Sunnah, they depended on their own Ijtihad or research. This methodology which was adopted in such conditions was actually encouraged by the Prophet himself.

A tradition narrated by *Imam Bukhari* : Prophet (SAW) asked *Muad bin Jabal*, when he was appointed to Yemen for the propagation of Islam: what will you do if a new problem appears before you? He answered: I will rule by Qur’an. Prophet (SAW) asked: if there is no rule in Qur’an? He said: I will refer to the traditions of the messenger. Then Prophet (SAW) enquired: if you can’t get any answer in the traditions? He said: I will try best to practice my own research (*ijtihad*). Prophet (SAW) appreciated him and said, thank Allah who guided the messenger of His Messenger to what Allah and his messenger are satisfied with!.

²¹ Ibid: page no:9

²² Evolution of Fiqh by Qabeelat Tayybah. Page no:36

There were some procedures or a methodology to find out the juristic solutions. The 'Sahabas' preferred Quran and Sunnah when they faced any problems. Abu Bakr clearly gave statements that he would seek answers in Qur'an and then would ask 'Sahabah' if they heard anything about Prophet (saw). Sometimes one Sahabi would transfer the question to another 'Sahabi' and sometimes it would back to first 'Sahabi'.

The very significant method they used to adopt -if they got no answer in Quran and Sunnah- was Ijtihad or research. Ijtihad is the process of making a legal decision by independent interpretation of the legal sources the Quran and Sunnah. In Ijtihad they may agree or disagree on an issue. If any problem arose for which no answer could be found from the sources, the Caliph would call a meeting of the 'Sahaba', and they would be asked about the issue. The Caliph would pick one he agreed with, and adopt it as a state law. In the period of Umer he would not allow the Sahabah to leave Madina without his permission, because he needed their assistance and consultation.

The Third Stage- Era of young Sahaba and Tabi'een

This stage begins with the end of Ali's rule as the forth Caliph of Islamic state. Before going to the details of Juristic development of this stage it would be better to discuss slightly on the geographical and political situation. Now the Umayyads were at the rule and some changes had occurred during this time like the centre of Islamic state has been transferred from Madina to Damascus in Syria. The Islamic state had expanded to the countries of the continent of Asia, Europe, and North Africa. New cities had emerged like Basara, Kufa, Jerusalem and Al-Andalus. The people were divided into different groups. There were Ahl as-Sunnah wal-Jama'ah and it was the prominent, there were also Ash-Shi'a and Al-Khawarij. Both had emerged in Iraq and remained centered there mostly.

This was actually the stage of young Sahabas and Tabieens. The development of Islamic Jurisprudence of this period mainly belonged to two major schools of thoughts of Hijaz and Iraq. Hijazi School of thought was located in the regions of western belt of Arabia (Makkah, Madinah, Taif, Yemen), Syria, Sham, Africa and Egypt. The main

characteristic of this school was that “the Fuqaha’ of this school adhered to and only deduced their rulings from the Qur’an and hadeeth present”²³. This was because Al-Hijaz was the cities of the Sahabah so there were an abundance of ahadeeth.

The second was Iraqi school of thought and it was located in ‘Iraq, Basra and Kufa which were the most prominent cities of that time. The main characteristic of this school was that the Fuqaha believed that the rulings of Sharei’at are based on perceivable and identifiable reasons.

The prominent jurists of this stage

Makkah:

- *Ata’ bin Abi Rabah* (d.114 A.H.)
- *Amr bin Dinar* (d.126A.H.)

Madeena:

- *Sa’eed bin Musayyab* (d. 94 A.H.)
- *Urwa bin Zubair* (d.93 or 94 A.H.)
- *Abu Bakr bin Abdul Rahman*(d.94 or 95 A.H.)
- *Ubaidullah bin Abdullah* (d.98A.H.)
- *Kharija bin Zaid* (d. 99 A.H.)
- *Sulaiman bin Yasar* (d.107 A.H.)
- *Al-Qasim bin Mohammed* (d.107 A.H.)
- *Salim bin Abdullah bin Umar* (d.106 A.H.)
- *Bin Shihab Al Zuhri* (d.124 A.H.)
- *Rabia bin Abi Abdul Rahman* (d.136 A.H.)
- *Yahya bin Sa’ad* (d.143 A.H.)

²³ Evolution of Fiqh by Qabeelat Tayybah. Page no:46

- *Malik* (d.179 A.H.) and his contemporary jurists were the last exponents of Madeena School.

Basara:

- *Muslim bin Yasar* (d.108A.H.)
- *Al- Hasan bin Yasar* (d.110A.H.)
- *Mohammed bin Seerin* (d.110 A.H.)

Kufa:

- *Alqamah bin Qais* (d.62 A.H.)
- *Masruq bin Al Ajda'* (d.63 A.H.)
- *Al Aswad bin Yazid* (d.75 A.H.)
- *Shuraih bin al Harith* (d.78 A.H.)
- *Ibrahim Al Nukhae* (d.96 A.H.)
- *Al Sha'bi* (d.103 A.H.)
- *Hammad bin Abi Sulaiman Al Ash'ari* (d.120 A.H.)

Syria:

- *Qabisa bin Dhuaib* (d.86A.H.)
- *Umar bin Abdul Aziz* (d.101 A.H.)
- *Mak-hul* (d.113 A.H.)
- *Al Awzae* (d.157A.H.) (Hasan 1970, 260,261)

Sources of Legislation in this Period

- Qur'an
- Sunnah
- Ijma'
- al Ijtihad
- Ra'I (or Qiyas – analogy)

Fourth Stage: Era of Great Imams

Abbasid Caliphs promoted the expansion of knowledge and with that Fiqh studies and researches enjoyed much significant status throughout the Islamic state. Politically, they made dramatic changes in the Islamic state, including moving the capital of the state from Basrah to Baghdad. As a result, Baghdad became known as “Dar-us-Salaam” because it became a trading and religious center. People would travel to this city due to its’ diversity, great scholars and famous schools. It was also known to be very tolerant of other cultures and thus it became diverse and remained the capital for over 500 years. The Abbasids however reached their peak during the time of Haroon Al-Rasheed, the fifth Abbasid Caliph. He helped establish the regions of Turkey, Azerbaijan, Kazakhstan, and that area in general. Because he helped establish them he also received military support from them.

This favorable situation influenced in the evolution of Islamic Juristic studies. The Caliphs provided all type of assistance to those engage with Knowledge. It means the Islamic state supported all efforts to promote research works in all fields especially to the development of Islamic legal system. For example, Abu Jafar Al Mansoor, the second Caliph of Abbasid rule, wanted to choose one Madhab for ‘Abbasids in order to unite laws of the state. He was closest to Imam Abu Haneefah and thus he chose Abu Yusuf as the Supreme Judge.

In order to develop an Islamic juristic system, the people used to travel for seeking Sahih Hadiths. They could travel around the state for collecting knowledge as well as Hadiths and could meet many eminent Islamic Scholars form among Thabieens. They traveled across Madinah, , Basara and Kufa.

There were centers of learning where debates and discussions were held regularly. The most famous center of learning was called, Dar-al-Hikmah and was led by Al-Ma’mun, the ‘Abbasid Caliph. He would invite scholars and students of knowledge to come and debate on all the sciences.

Compilation of Fiqh

As a part of the development of various subjects the different branches of Islamic science began to be compiled such as Hadith, Tafseer, Usulul Fiqh and Fiqh itself. In Hadith, Imam Malik, Imam Ahmed, Imam Bukhari, Imam Muslim, Imam Abu Dawood and others collected the Hadiths and arranged a very rich account of Tradition. In Tafseer, Imam Tabree did an authentic work.

Similarly, Fiqh was also compiled as it became an independent science on a large systematic scale. "Fiqh was divided into the Usool (primary principles) and the Furoo' (secondary principles) of Islamic law. Before the compilation there were some personal compilations. Some were written by the fuqaha themselves and others were dictated to the students. Imam Malik's *Muwatta* was a mix of ahadeeth and fiqh. While Imam Shafi'i's *Ar-Risalah* was a total book of Usool al Fiqh."²⁴ As a part of this compilation many school of thoughts were formed out of which some survived for a short time and some for a long time and still remains.

Here we add those eminent scholars of this time in Islamic jurisprudence followed by the detail description of the Four Imams and their Schools of thought.

Al-Hasan al-Basri 110 AH

He was among the very eminent scholars of this period. Many Hadiths were reported by him. Khaled ibn Safwan was a close neighbor of al-Hasan al-Basree. Describing him once he said: I never saw a man like him. His outward appearance is identical to his inner reality, his words are identical to his deeds; if he enjoins what is right he is the first to do it, and when he forbids what is wrong he is the farthest one from it. I found him never in need of other people, but people were in need of him.²⁵

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²⁴ Evolution of Fiqh by Qabeelat Tayybah. Page no:55

²⁵ Ibid: 57

Abu Haneefah 150 AH

He belongs to Kufa, Iraq. He was a well known scholar who established one school of thought in Islamic Jurisprudence. He was the first to codify Islamic Jurisprudence compiled from the Quran and the Sunnah. The detailed picture will be added in following pages.

Al-Awza'i 157 AH

He belongs to 'Sham', Lebanon. He went to Damascus and came back to the Beirut. The Umayyads spread his school of thought to AlAndalus (Spain) with similar town names as they had previously in Ash-Shaam. The Maliki Madhab replaced it over time.

Sufyan At-Thawri 161 AH

He was from Kufa, Iraq. He was very pious. 'There were many people from the common and scholars who followed and quoted him. But as a final advice he sought to burn out all his writings after his death because he was afraid of misleading the people through his views. Some people in Isfahan, some in Yemen and some others in Mosul (Iraq) were his followers. This school disappeared after a short period.'²⁶

Al-Layth ibn Sa'ad 175 AH

He was born in Egypt. He was one of the teachers of Imam Sahafi'i. He was the man who refused the call of being a governor in Egypt. Imam Sahafi'i says: "Knowledge is based on three: Malik, Al-Layth, and Sufyan."

Malik ibn Anas 179 AH

He was born in Madinah. Grew up in Madinah, gained knowledge in Madinah, and he died in Madinah, never leaving Madinah once.²⁷ His school of thought in Islamic Jurisprudence is famous for having Usool of Madinites. Detailed description is coming.

Sufyan ibn 'Uyaynah 198 AH

²⁶ Shafie School of Jurisprudence in India, An unpublished Phd thesis of Bahaudheen. K page no:24

²⁷ Evolution of Fiqh by Qabeelat Tayybah. Page no:58

He was in Kufa, Iraq and went to Makkah where he lived for rest of his life. He was considered as an Imaam of Makkah and an authority in hadeeth. Imam Sahafi'i says: "Knowledge is based on three: Malik, Al-Layth, and Sufyan."

Al- Sahafi'i 204 AH

He was born in Gazzah, Palestine and descended from the Banu Hashim family. He was among the Pioneers of Usulul Fiqh and the author of ever famous work 'Al Risala'. He learned from Imam Malik who learned from Abu Haneefa, and produced the student, Imam Ahmed Hanbal "Ahlus-Sunnah". Detailed picture will be added later.

Ishaq ibn Rahawayh 238 AH

He was born in Nisapur. He was one of the very eminent scholars of the period. Imam Bukhari was his student. According to some he was the inspiration of Imam Bukhari to compile Sahih Al Bukhari.

Abu Thawr Ibrahim ibn Khalid al Yammam 240 AH

He was born in Bagdad, Iraq. He was a great scholar and Mujtahid of that time. He met Imam Shafi'i and then changed to Ahl-al-Hijaz.

Ahmad ibn Hanbal 241 AH

He was born in Khurasan. He was a very eminent scholar of that time. These words are enough to denote his place in the society. Ali ibnul-Madini, the great Imam of Hadeeth said: "Truly, Allah reinforced this religion with Abu Bakr as- Siddiq on the day of the great apostasy (ar-Riddah), and He reinforced it with Ahmad ibn Hanbal on the day of the Inquisition (al-Mihnah)."

Harmala said: "I heard Imam Sahafi'i says: 'I left Baghdad and did not leave behind me anyone more virtuous, more learned, and more knowledgeable than Ahmad ibn Hanbal.'" The detailed description will be added in the following pages.

Dawud Ad-Dhahiri 270 AH

He was born in Bagdad, Iraq. He was the leader of one of the schools of thought in Islamic Jurisprudence. This was followed by the people in the territories of Bagdad,

Persia and some areas of Africa and Spain. Imam bin Hazm was one of the major advocates of it.

Ibn Jareer At-Tabari 310 AH

He stayed at Tabaristan. He was also one of the great Imams of that time. Imam Thabri was a companion of Dawood the preacher of Zahiria and also he was an expert in the jurisprudences of Sahafi'i, Maliki and Abu Hanifa. He was the first one to write about *Ikhtilaaf al fuqaaha*.

Four Imams and their Schools of Jurisprudence

The Imam of Fiqh - Abu Haneefah

Imam Abu Haneefa was born in the city of Kufa, Iraq in 80 AH. His family was of Persian origin as well as descending from the noble Prophet's (saw) Companion Salman al-Farsi (ra). Imam Abu Hanifah's father, Thabit, had met in Kufa Imam `Ali Ibn Abi Talib (ra) who made *dua* for him and his progeny, and some say that Abu Hanifah was a result of this *dua*. His full name was Nu'man ibn Thabit, and known as Imam A'zam (the greatest Imam) or by his *Kunh* Abu Haneefa. He was born during the rule of Umayyad Caliph Abdul Malik ibn Marwan and died during the rule Abbassid Caliph Abu Ja'far al Mansoor. Therefore, he was able to witness the change of the government.

Hammad bin Abu Sulaiman and Aswad bin Yazeed were his prominent teachers in Islamic Jurisprudence. He had many students who become very eminent scholars of that time. Abu Yusuf and Mohammed bin Hasan Al Shaibani, Zufar and Hasan bin Ziyad were the prominent students who were also his great companions.

'Along with his expertise in jurisprudence he was a reporter of tradition as he has narrated 215 traditions which were not narrated by others. He has compiled a book of traditions which includes 118 traditions in the chapter of prayer (swalat) itself. Wakee' bin Jarrah and Bin Mubarak narrated traditions from him.'²⁸

²⁸ Shafie School of Jurisprudence in India, An unpublished Phd thesis of Bahaudheen. K page no:26

School of Jurisprudence and features.

Al-Hafiz al-Kabir Abu Bakr Ahmad al-Harizmi wrote in his book "*Musnad*":

'Saif al-Aimma' reports that when *Imam Abu Hanifah* derived a matter from the *Qur'an* and *Hadith*, he would not give the answer to the inquirer unless all of them [his students] confirmed it. One thousand of Abu Hanifah's disciples attended all his classes when he taught in the Mosque of Kufa City. Forty of them were *mujtahids*. When he would find an answer for a matter, he would suggest to his students who would study it together, and when they reached an agreement on it being consistent with the *Qur'an* and *Hadith*, and with the words of the *Sahabah(ra)*, he would be delighted and say, "*Al-hamdu li'llah wallahu Akbar*," and all those who were present would repeat his words. Then he would tell them to write it down.²⁹

The words prove what Hanafi Islamic School of Jurisprudence is and what method they were used to adopt in codifying the legal applications. His 'Usools' can be ordered as

- Quran
- Sunnah
- Statement of Sahabi
- Qiyas (analogical reasoning)
- Iftiradh al Masai'l (Hypothetical Problems)
- Istihsan (juristic preference)

We can find some peculiarities for every school of jurisprudence that make it a particular school. The salient features of Hanafi School are as follow:

1. The care for people's welfare in the transactions. That is why a common practice in the transactions is valid if it is not contradictory to any applied text (*nass*) or revealed rule (*sharia*).

²⁹ The life of Imam Abu Hanifah, Nu'man ibn Thabit, 80-150 AH by Maida Malik

2. Care for personal freedom. We can see many ordinances aiming to protect the personal independence.

Major References

1) The statements of Abu Haneefa

- The books of Muhammad ibn Al-Hassan
- *Al-Kafi* by al-Hakim ash-Shaheed 344H
This book includes the opinions of Abu Haneefa and his two famous companions Abu Yusuf and Imam Mohammed.
- *Al-Mabsoot* by As-Sarakshi
It is the encyclopedia of the Madhab of Imam Abu Hanifah

2) The Final Authentic Compilations

- *al-Bahr ar-Rai'eq* by ibn Nujaim
- *Minhat Al-Khaliq Hashiyat* by bin 'Abideen
- *Al-Hidaayah* by Al-Marghinani
- *Fath al-Qadeer* by ibn al-Humam
This is one of the most important books on the 'usool' of the Hanafi Madhab.

Prominent Scholars of Hanafi School

1. Abu Yusuf Ya'qub bin Ibrahim (AH 112-183)

He was among the most prominent Juristic scholars of Hanafi School. He studied from Bin Abi Laith and from Abu Hanifa. Then he travelled to Madina where he learned Jurisprudence from Malik Bin Anas. 'Kitabul Kharaj' is the very famous work written by Abu Yusuf on the order of Caliph Haroon Rasheed. His views are also seen in Kitabul Umm of Imam Shafi'i. He was the first to compare the Jurisprudence of Hejazians to that of Kuafas. He later became famous as 'Sahibani' like Mohammed bin Hasan another prominent disciple of Abu Hnifa.

2. Mohammed bin Hasan Al Shaibani (132AH-198AH)

Muhammad bin Hassan bin Farqad was born in Wassit, Iraq. He grew in the city of kufa. He studied Hadith from the eminent scholars Imam Malik, Al Awzae and Al Thauri. He learned Islamic Jurisprudence from Imam Abu Hanifa but he could not accompany him for a long time because Abu Hanifa passed away when he was much younger. Then he learned from Abu Yusuf and became expert in jurisprudence so much so that he became a reference even in the life time of Abu Yusuf. He had learned from Malik in Madina and Shafie in Bagdad and conducted many debates with him. These events affected his later comprehensions and thoughts. He died in 'Ray' of Khurasan in 198 A.H. and was buried there.³⁰

He produced 99 works. The famous among them are six which were known later as 'Kutubu Zahir al Riwaya'. They are:

- Al Jamiul Kabeer.
- Al Jamiul Sageer
- Al Siyaru Sageer wal Kabeer
- Al Ziyadat
- Al Mabsoot
- Kitab Al Radd Ala Ahlil Madeena.

The spread of Hanafi School of Jurisprudence is attributed to these two disciples as they have played a key role in codifying the views of Abu Haneefa as well as in recording. They followed the bases (Usool) of Abu Hanifa, even though contradicted in some views.

3. Ahmad ibn 'Umar al-Khassaf – 261AH

He has a written book of usool by the name of al-fiqh of Abu Haneefah.

4. Abu Ja'far at-Tahawi – 321 AH

³⁰ Shafie School of Jurisprudence in India, An unpublished Phd thesis of Bahaudheen. K page no:28,29

He authored *Al-Aqeedah At-Tahawiyyah*.

5. Abu Mansoor al-Maturidi – 333 AH

He is the founder of the 'Maturidi Aqeedah'

6. Abul-Hassan al-Karkhi – 340 AH

Apart from *Sahibani*, *Abu Yusuf* and *Mohammed* there are many scholars who contributed to the spread and development of Hanafi School. The most famous among them are:

7. Al Nasafi

His full name is Abu Abdullah bin Ahmed bin Mahmood Abul Barakat Hafizuddeen Al Nasafi His famous works are:

- i. *Matnul Wafi Wa Sharahul Kafi (fiqh)*
- ii. *Al Manar Wa Sharahuhu (Usool)*
- iii. *Madariku Thanzeel Wa Haqaequ Ta'weel(tafseer)*

8. Al Zailae (d.743A.H.)

Abu Muhammed bin Ali bin Minhaj, Fakhruddeen Al Zailae(d.743 A.H.). Zaila' is a place near the coastal areas of Abyssinian Sea. He left to Egypt in 705 A.H. and was a teacher and mufti. His famous writings are:

- i. *Tabyeen al Haqaeq Sharahu Kanzi Daqaeq*
- ii. *Sharahu Al Jamiul Al Kabeer.*

9. Kamal bin Hummam

Mohammed bin Abdul Wahid bin Abdul Hameed Kamaludden was born in A.H.788. He was a prominent figure in jurisprudence, usool, Arabic literature, Qur'anic interpretation and the logic. He is famous by the short name Bin Hummam. His famous books are:

- i. *Fat-hul Qadeer Sharahul Hidayah* in jurisprudence.
- ii. *Al Muyasara (elm al Kalam)*
- iii. *Al Tahreer(Uswool)*

10. Al Aini (A.H.762-855)

Mohammed bin Ahmed bin Moosa Badruddeen bin Al Aini was born in 762 A.H. He left for Cairo in 787 A.H. and was appointed the chief justice of Hanafis there. He authored many books in different arts and famous among them are:

- i. *Al Enaya Sharhul Hidayah(fiqh)*
- ii. *Ramzul Haqaeq Sharahu Kanz Al Daqaea(fiqh)*
- iii. *Sharahul Majami (fiqh)*
- iv. *Durarul Bihar(fiqh)*
- v. *Sharahu Ma-anil Athar Litthahawi(Hadith)*
- vi. *Umdatul Qari Sharahu Saheeh Al Bukhari(Hadith)*
- vii. *Thabaqatul Hanafiyya (chronology)*
- viii. *Mukhtasaru Thareekh bin Asakir (history)*

11. Bin Najeem (d.969A.H.)

Zainul Abideen bin Ibrahim bin Najeem (d.969A.H.) the famous scholar *Umar bin Najeem* is his brother and disciple. He has many writings. The famous among them are:

- i. *Al Bahr Al Raeq (fiqh)* a commentary on *Kanz Al Daqaeq(2)*
- ii. *Al Ashbahu Wannazaer (fiqh)*
- iii. *Hashia Ala Jamiul Usool (fiqh)*
- iv. *Sharahu Al Manar (Usool)*
- v. *Babul Wuswool Mukhtaswaru Thahreer Al Usool.*

Spread and Location

The Hanafi Madhab now enjoys the first position in the number of followers than other three Madhhabs. It spread in Pakistan, Syria and Lebanon, Central Europe and some parts of Egypt and Afganistan. And it also spread in Bulkh, Bukhara, Fargana, Tashkent, Khaiwa, Khawarizm territories of Persia, most of the territories in India and Syria and some regions of Yemen. It was the official Madhhab of Uthmania Caliphate and in the rule of Mohammed Ali in Egypt.

The credit of the popularity of the Hanafi School of Jurisprudence throughout the world goes to Abu Hanefa's disciples. Another major factor is that the Abbasid Caliphs ruled according to the Hanafi School of law which lasted more than 500 years. This obviously resulted in the survival of Hanafi School of Jurisprudence in those territories. This School spread also in those areas where some sort of customs exists. Hanafi School has the ability to accommodate and absorb them.

Imam Malik Bin Anas Imam Darul Hijra

Imam Malik was born in Madinah, grew up in Madinah, lived in Madinah, never left Madinah except for Hajj, because, he loved Madinah so much, though he was called Imam Daru Hijra. His full name was Malik bin Anas bin Malik bin Abi Amir al Aswbahi³¹. He was born in 93 AH in Yemeni family migrated to Madinah. He was born during the time of the Ummayyads, during the time of Waleed ibn Abdul Malik ibn al-Marwan and he died during the Abbassid era, during the time of Khaleefah Harun Al Rasheed.

He learned from Nafi' Moula Bin Umar and Bin Shihab Al Zuhri and AbdurRahman ibn Hurmuz. He learned fiqh from Imam Rabee'a ibn Abi AbdurRahman who was also known as Rabee'a ibn Farookh.

³¹ *Aswbahi*: their origin belongs to the tribe 'Dul Aswbah' in Yemen

The famous students are Imam Shafi'i, Muhammad ibn Hassan Ash Shaibani, Abdur Rahman ibn Qasim Al Misri.

School of Jurisprudence and features

Abdullah ibn Wahb says "I heard a caller cry in Madinah that no one was allowed to give Fatwa except Malik and Ibn Abi Dhi'eb"³²

That was Malik bin Anas, who had depth knowledge and was the appropriate one to give fatwa. He studied Quran and the tradition as well and taught it to many in Madinah. In his age 17 he began to teach traditions and jurisprudence with the permission (*ijaza*) of his teachers.

In Jurisprudence he followed these Usools.

- Quran
- Sunnah
- Ijma of Sahaba
- Practice of Madinites
- Qiyas
- Istislah (welfare)

Maliki School of Jurisprudence has some particular features and it can be summarized as follows.

- For Imam Malik Holy Quran is first source of reference and then Sunnah as the second source.
- Imam Malik owes a wide perspective on Sunnah more than the sayings of Prophet.
- He accepts customs of Msdinah people as an evidence(Hujja)prior to Qiyas (analogy) and prior to the saying of individual companion(Khabarul wahid)

³² Caller here refers to Khalifah at the time, which was most likely an 'Abbassid khalifah, Wallahu Alam, Evolution of Fiqh by Qabeelat Tayybah. Page no:66

- He accepts the tradition of one companion as a source if it does not contradict to another Sahih(valid) tradition.
- Masalih Mursala(common welfare) is accepted as a sources.
- *Istihsan* which means the consideration of common welfare is a source in many issues.(Adawi 1996, 91,92)

References for the Malaki Madhab

1) The statements of Imam Malik

- Al Muwatta Imam Malik ibn Anas:

This is a very famous and first ideal book of traditions and Jurisprudence. When the caliph Abu Ja'far Al Mansoor met him during the Hajj pilgrimage he requested him to write a book on traditions and jurisprudence in which he must avoid the concessions (*rukhsa*) of Bin Abbas intensification (*thashdeedat*) of Bin Umar and the rarities (*shawadh*) of Bin Mas'ood and he must make it a simple one for the people. Then he compiled the book 'Muwatta' which means the paved path. It is said that he worked 40 years to make it an ideal book. Maliki School of jurisprudence considers this book as a major reference.

- Al Mudawwana Sahnoon

This book is also considered a major reference in Maliki Islamic Jurisprudence. It is written by eminent scholar. Hassan Ahmad³³ says:

"The like of Sahnoon has not come to us from North Africa nor did I see his like after him." These words uttered in praise of Sahnoon by Abdurrahman ibnul Qasim, the most prominent student of Imam Malik, were seen by other scholars of the time as a high recommendation and strong indication of the reliability of the scholarship, intelligence, and piety of this great man.

2) The Final Authentic compilations

³³ Hasan, Ahmad the author of JURISPRUDENCE IN THE EARLY PHASE OF ISLAM. PhD thesis, University of Karachi, Karachi.

- I. Mukhtasar Khalil ‘Ddiya’ ad-Deen Khalil ibn Ishaq: Most popular matan is of Abu Zaid Al Qairawayni (it’s a smaller version). This is what beginners study. The next step is the book Mukhtasar Khalil ‘Ddiya’ ad-Deen. This book has interpretations which are also considered the most authentic compilations and they are. Mukhtasar Khalil, of Al-Hattab and of, Az-Zurqani Al-Khirsh

The prominent Maliki Scholars

There were so many eminent scholars in Maliki School of Jurisprudence. The famous among them are

1. Abdul Rahman bin Qasim

He was a very eminent scholar in Maliki Jurisprudence. He learned tradition from Malik, Laith bin Sa’d, Muslim bin Khalid Al Zanji. He was a disciple of Malik for 20 years, though he had wide experience and learned the juristic decision of Imam Malik in different issues. He died in Egypt, in 191A.H.

2. Abu Mohammed Abdullah bin Wahhab (125A.H.-197A.H.)

He was also a great disciple of Imam Malik. His full name is Abu Muhammed Abdullh bin Wahhab bin Muslim al Misri. He started learning only in the age of 17. He met Imam Malik³⁴ and never left him until his death. He was Mufti of Egypt during his life time.

3. Abu Ziya Khaleel (d.776A.H.)

His full name is Abu Ziya Khaleel bin Is-haq Al Kurdi Al Misri. Al Touzeeh is considered as his famous work and written as a commentary on Mukhtaswar bin Hajib.

4. Al Aj-hoori (A.H.967-1066) -

He was born in Egypt. His full name is Abul Hasan Nooruddeen Ali bin Zainuddeen Al Ajhoori. He was an expert in Islamic jurisprudence, mysticism and Arabic linguistics. These are his famous writings,

- Mawahibul Jaleel Fi Thahreeri Ma Hawahu Mukhtasarul Khaleel
- Al Ajwiba Ala Al Muharrara Lirrisala Al Barara.

³⁴ 148 AH

- Gayatul Bayan Lihalli Shurbi Ma Yageebul Aqlu Mina Dukhan

5. E. Al Kharshi (d.1101 A.H.)

Abu Abdullah Mohammed bin Abdullah bin Ali Al Kharshi was also an Egyptian, born in Abu Kharsh. He learned from Al Aj-hoori, Shaikh Ibrahim Al Laqani, Mohammed Al Zarqani, Al Nafrawi, and Al Shaikh Abdul Baqi Al Qalini. He was the lecturer of Al Aqbagawiyya School in Al Az-har. He authored a commentary on Mukhtasar Al Khaleel.

6. F. Al Adawi (A.H.1122 - 1189)

Abul Hasan Nooruddeen Ali bin Ahmed bin Mukarram Allah Al Saedi Al Adawi was born in the tribe of Banu Adiy. He learned from Shaikh Abdullah Al Magribi and Shaikh Mohammed Al Salamooni who are the disciples of Al Kharshi. His famous writings are:

- Hashia Ala Bin Turkey
- Hashia Ala Al Zarqani
- Hashia Ala Al Kharshi
- Hashia Ala Abdul Baqi Ala Al Mukhtasar in six volumes.

7. Ibn Al-Majashoon 212 A H

8. A Asad ibn al-Furat 213 A H

Student of Imam Abdul ibn Qasim

9. Yahya ibn Yahya al-Laythi 234 A H

Isham ibn AbdurRahman assigned Yahya ibn Yahya al-Laythi as the supreme Judge in Egypt. He spread the madhab in North Africa, and specifically Andalusia, Ibn Hazm attributes the spread of Maliki thought to the state and Yahya.

10. Sahnoon 240 A H

Collected opinions of Al Qasim

Spread and Location

Maliki School of Jurisprudence is popular in North Africa and most Africa. It is popular in Europe as well. According to historians the main cause for that was the massive migration from Africa to Europe. Among them only France has more than 6 million people, then one can imagine the influence of Maliki Madhhab in that areas. The politics has a great role in the expansion of this School of thought in various parts of the world.

Ahmad ibn Hanbal - Imam Ahl As Sunnah (164H-241H)

Verily, Allah has aided Islam by two men: Abu Bakr during the time of apostasy, and Ibn Hanbal during the time of the ordeal. Ali ibn al-Madini³⁵

Abu Abdulla Ahmed bin Mohammed bin Hnbal bi Hilal bin Asad Al Shaibani Al Mirwazi was born at Maru, Khurasan in 164 AH and then his mother took him back to Bagdad where many Arabs lived. He was a Shaybani, Arab by origin. He grew up as an orphan. His mother used to wake this intelligent boy before fajr and take him to Masjid and bring back home. He has travelled to Kufa, Basara, Makkah, Madeena, Sham and Yemen. He was prime disciple of Imam Shafi'i and later he went on his independent research and formed his own view of thought. He was an expert in tradition. He memorized one million ahadith. He was also an expert in Islamic Jurisprudence and the leader of one school of thought.

He grew up in Baghdad, during the Golden Age of the Abbasid Dynasty. He survived the time of eight Abbasid Caliphs, living for 77 years. They were Al Mahdi, Al Hadi, Al Rashid, Al Ameen, Al Mamun, Al Mu'tasim, Al Wathiq and Al Mutawakil.

Prominent Teachers

- Imam AshShafi'i
- Sufyan ibn 'Uyayna
- Muhammad ibn Zaid

³⁵ A ninth century Islamic Scholar and expert in science of Hadith

School of Jurisprudence and features

Being a great scholar in both tradition and jurisprudence his opinions and views were formed as a school of jurisprudence having so many followers all over the world. Generally the principles of school of Imam Ahmed are similar to the principles of Shafi'i school of jurisprudence.

In Madhhab he followed the usools of:

- Quran
- Muttasil hadith. Muttasil Hadith is the Hadeeth where in its chain of transmitters is continuous, meaning that there is no missing person anywhere in the chain.
- Statements of companions
- Mursal Hadith. Mursal Hadeeth is a hadeeth attributed to the Prophet (peace be upon him) directly by a Tabi'ee in which the name of the sahabi is dropped from the chain of transmitters and deleted.

Hambali madhhab has certain characteristics it depends on more narrations. It rarely go to analogy or qiyas. He prefers the narrations of scholars like Abu Hanifa.

References for the Hanbali Madhab

- i. The statements of Imam Ahmad
 - A Masa'il lil Imam Ahmad
- ii. Authentic Compilations
 - Al-Mughnee Sharh Mukhtasar al-Khiraqi ibn Qudamah: It's one of the great collections of opinions
 - Al-Insaf al-Mirdawi:

Prominent Fuqaha of the Hanbali Madhab

- 1) Salih ibn Imam Ahmad [266 H

The eldest son of Imam Ahmad has played a key role on spreading the Hambali school of thought. He learned from his father and other great scholars: Abu Bakr

Al Khilal said, "He learned from his father. The people of Khurasan had written to him to ask his father about many jurisprudistic issues.

2) Abdullah ibn Imam Ahmad .290 H

Abdullah bin Ahmed bin Hanbal (A.H.213-290) was another son and one of his disciple.

He was more famous for the narration of Hadith.

3) Al Athram (d.273 A.H.)

His full name is Al Athram Abu Bakr Ahmed bin Mohammed bin hani' Al kharshi Ah Bagdhadi. He has written a great book named Al Sunan Fi Al Fiqh.

4) Abdul Malik bin Abdul Hameed bin Mihran Al Maimooni (d.274 A.H.)

5) Al Marwadhi (d.274 A.H.)

6) Harb bin Ismael Al Hanzali Al Kirmani (d.280A.H.)

7) Ibrahim bin Is-haq Al Harbi

In later period, Ahmed bin Mohammed bin Haroon Abu Bakr Al Khilal (d.311 A.H.) collected the jurisprudence of Imam Ahmed from his disciples. So he is considered as the real narrator of Hanbali Jurisprudence. He had accompanied Abu Bakr Al Marwadhi until his death.

Then this collection was summarized by two famous scholars. They are:

- Abul Qasim Umar bin Al Husain Al Kharqi Al Bagdhadi (d.334 A.H). He died and was buried in Damascus. He authored many books in Hanbali School including his famous summary (mukhtasar). It has above 300 commentaries.
- Abu Bakr Abdul Azeez bin Ja'far who is famous as Gulam Al Khalal (d.363 A.H). He was a companion of Al Kharqi.

Spread and location

Hambali School of jurisprudence spread mainly in the Arabian Peninsula, Syria and Lebanon, and in Palestine, in northern region of West bank. It has followers in Syria, in

Duma near of Damascus. There is a region in Afghanistan where a large number of followers of Hambali Madhhab reside.

Imam Muhammad ibn Idrees ibn Ash-Shafi'i

Imam Abu Abdullah Muhammd bin Idrees bin Al Abbas bin Uthman bin Shafi'i Al Hashimi was a descendent of Prophet Muhammad PBUH. His grandfather al Saif, was a sahabi who was captured in Battle of Badr and became a Muslim. He was born in Gaza of Palestine in 150AH. His mother brought him to Makkah, native place of his father. His mother was belonged to the tribe of *Azd* an offshoot of *Qureish*.

Since it was an Arab custom to take children to their geographical location, and send them to the desert, away from urban areas to learn the pure Arabic language, his mother did just that. That contributed to his eloquence in Arabic and he became a great poet and an authority on Arabic grammar, which contributed to his understanding of the Quran and Sunnah³⁶.

He memorized the Quran by the age of seven and learned Muwatta of Ibnu Malik. He learned from many scholars. Sufyan ibn Unayyah used to refer people to him, though he was young. Muslim bin Khalid Al Zindji gave him the authority (Ijazah) for fatwa at the age of 15.³⁷ He has narrated traditions from *Malik*, *Sufyan bin Uaina*, *Fadal bin Iyad* and from his uncle Mohammed bin Shafie. He was born when Abbasids were ruling and died in the Golden age.

He learned Jurisprudence of Iraq form *Mohammed bin Hasan Al Shaibani* the disciple of Imam Abu Hanifa. Many debates were held between these two eminent scholars. Later, Imam Shafi'i went to Egypt where his school of thought flourished.

He has authored many books. Al Risala is the most famous one among all his works. It is considered the first work in Usool al Fiqh. His other writings are:

³⁶ Evolution of Fiqh by Qabeelat Tayybah. Page no:72

³⁷ Ibid page no: 72

- *Kitab al Umm* (jurisprudence)
- *Kitab Ibthal Al Istihsan* (jurisprudence)
- *Dewaan Al Shafi'i*. (Collection of poems)

Teachers

- Muslim bin Talib
- Imam Ahmad bin Hassan Al Shaibani. He was a famous disciple of Imam Abu Hanifah. Many debates were held between these two great scholars. Both have influenced each other.
- Imam Malik bin Anas. Imam Shafi'i memorized Muwata at the age of 15 and went to Madinah to meet Imam Malik and verify what he had learned and memorized.
- Wakee' bin Al Jarrah. He is known by this poetry of Imam Shafi'i.

شكوت إلي وكيع سوء حفظي فأوصاني بترك للمعاصي
واخبرني بأن العلم نور ونور الله لا يهدي لعاصي

“I complained to Waki about my bad memory, so he instructed me to stay away from sins, because knowledge is a light of Allah, and the light of Allah is not given to someone who is disobedient.”

Usools and features of Shafi'i school of Jurisprudence.

The usools of shafi'i Islamic jurisprudence are:

- Quran
- Sunnah
- Ijama'
- Qiyas (analogy)

There are some features for the shafi'i Jurisprudence. Bahaudeen K says:

- a. Imam Shafi'i has two views: *qadeem* (the earlier ones) and *jadeed* (the new ones). *Qadeem* is his views when he settled in Iraq and the *jadeed* is his updated views when he settled in Egypt.
- b. The basic source of law according to him is the Holy Qur'an or the traditions. If it is not available it comes to *qiyas*.
- c. Traditions are just like Qur'an in a sense that every one has to follow it, irrespective of its fame or non contradiction to the practice of Madeena people.
- d. Imam Shafi'i is of the view that '*mursala*' in the traditions are not acceptable except the *mursala* of *Saed bin Al Musayyab*. (*mursala*= a type of tradition in which the direct narrator probably a companion is dropped out in the series of the narrators).
- e. He may refuse the sayings of a companion because it may be the production of his own research.
- f. According to him '*istihsan*' is not a source of legislation whereas it is a source in the views of Malik and Abu Hanifa.³⁸

Prominent students and disciples

Imam shafi'i has so many students as well as disciples. Imam Ahmed was a prominent student who said he didn't understand abrogation in Qur'an till he met Imam Shafi'i. He formed an independent school of thought.

His famous disciples are:

- a. Abu Ya'qoob Yusuf bin Yahya Al Buwayti.

He was born in the village of Buwath in Egypt. He was the representative of Imam Shafi'i in his *Halqas* when he was absent. He has a Mukhtasar approved by Imam Shafi'i.

³⁸ Shafie School of Jurisprudence in India, An unpublished Phd thesis of Bahaudheen. K page no: 37,38

- b. Ismail ibn Yahya Al Muzanee. *Abu ibrahim Ismael bin Yahya bin Ismael bin Amru bin Is-haq Al Muzni*, was born in 175A.H. He met Imam Shafi'i from Egypt and became a follower of Imam Shafi'i. His famous writing named as *Al Mukhtasar Al Sageer* has played a vital role in spreading the Shafi'i school of Jurisprudence.
- c. Al Rabee' bin Sulayman Al Muradi. He was a narrator of Imam Shafie. He was a close companion of Imam Shafi'i. He died in 270 AH. He was the last student of Imam Shafi'i's to survive.

Later shafi'i scholars

- a. Imam Nawawi.

He was the most famous later Shafiee scholar whose writings were very rich and valuable. His books have played a vital role in spreading the views of Imam Shafi'i throughout the world. His full name was Abu Zakaria Yahya bin Sharaf bin Muri Al Nawawi, born in Nawa of Syria in 631A.H. He passed away in age 45.

His major works are:

- *Sharahu Saheeh Muslim* (hadith)
- *Sharahul Muhaddab* (jurisprudence)
- *Minhaj* (jurisprudence)
- *Rouda Al Talibeen* (jurisprudence)
- *Al Adhkar Al Nawawia* (a collection of chants)

- b. Imam Rafi'i. He was an eminent scholar in Shafi'i Islamic Jurisprudence. He was famous for his great works:

- Al Muharrar
- Fathul Azeez

- c. A Taqiyuddeen Al Subuki (A.H.673-756). *Thaqiyuddeen Al Hasan Ali bin Abdul Kafi bin Thammam Al Subuki* was born in *Subul Dahhak* of Egypt. He was a great scholar in jurisprudence. He was selected as the justice of 'Sham' until 756

AH. Then he returned to Egypt and passed away in the same year. His famous writings are:

- *Takmilatul Majmu'* (jurisprudence)
- *Al Tah-geeq Fi Mas-ala Al Tha'leeq* (jurisprudence)
- *Noor Al Masabeeh Fi Salat Al Taraweeh* (jurisprudence)

d. A Shaikhul Islam Zakaria Al Ansari (A.H.826-926)

He was an eminent jurist in late school of Shafi'ite school of jurisprudence. *Aby Yahya Zakaria bin Mohammed Al Ansari* was born in *Saneeka* of Egypt. Apart from jurisprudence he was also a scholar of mysticism. His writings are

- *Manhaju Tullab* (jurisprudence)
- *Fat-hul Wahhab* (jurisprudence)
- *Asna Al Mahalib Fi Sharahi Rouda Al Talib* (jurisprudence)
- *Al Guraul Bayania Sharahu Al Bahjat Al WArdiyya* (jurisprudence)
- *Thuhfat Al Bari Fi Sharah Saheeh Al Bukahri* (tradition)

e. Ibn Hajar Al Haitamy (A.H.909- 995)

Shihabuddeen Ahmed bin Mohammed bin Ali bin Hajar Al Haitamy was born in *Al Haitam* in Egypt. He settled in Makkah where he was teacher. He learned from very eminent scholars of that time like *Qazi Zakaria Al Ansari, Allama Ramli, Liqani, Bulqeeni*. He has many students. Shaykh Zaynudheen Makhdoom second (author of *Fathul Muin* on which this research is concentrated) was also among his famous students. He died in Makkah and was buried in *Jannat Al Mu'alla*, the common burial ground of Muslims. His famous books are:

- *Thuhfat Al Muhtaj Fi Sharah Al Minhaj* 10 volumes (jurisprudence)
- *Al Irshad* (jurisprudence)
- *Fat-hul Jawad* (jurisprudence)
- *Al Zawajir Fi Iqtiraf Al Kabaer* (mysticism)

Major References for the Shafi'ee Madhab

First: The statements of Imam ash-Shafi'ee

- 'Al Umm' of Imam Shafi'i (this is a very famous work of Imam Shafi'i. It is considered as the main reference of the Shafi'i School of jurisprudence.
- Sunan al Bayhaqi: Imam Bayhaqi preserved Imam AshShafie's madhab in this book.

Second: The Final Authentic Compilations

- Shahr Al-Muhadhab of Nawawi
- Muharrar of Imam Rafi'i
- Minhaj of Nawawi
- Tuhfatul Muhtaj of Imam Ibn Hajar Al Haitamy
- Mugnil Muhtaj of Imam Ramli
- Nihaya of sharbeeni

Spread and location

It started spreading from Egypt because Imam Shafi'i has spent his last time there. It also spread to Syria during the time of Ayyubi. Islam came with the Shafi'i merchants who spread it all the way down to South Africa, hence the spread of his Madhab. It also spread in Yemen and they took to east and Norht Africa. Malaysia is considered the number one Muslim country following Imam Shafi'i with almost 99% of the Muslims adhering to the Shafi'ee madhab. Ghaznawis spread Imam Shafi'i's madhab to Hijaaz, Iran and Central Asia. Through merchants it also spread in south India, Kerala.

Before closing this discussion it may be good to highlight the series of works in Shafi'i School which makes it more reliable and rich. Imam Shafi'i has mainly four texts in Islamic Jurisprudence. Al Umm, Al Imla', Buwiti and Mukhtasar al Muzni. If it is said these texts belong to his disciples it is not incorrect because they collected the views and opinions of Shafie and presented in written works. They made the Shafie school of thought much active and popular.

In the fifth century (H) Imam Haramini abridged these four texts and presented in one named Nihaya. Then, Imam Gazali, his student shortened the Nihaya as Baseet, then as waseet and then as wajeez. Imam Rafi'i summarized Wajeez as Muharrar and explained as Fathul Azeez. Imam Nawawi has abridged Muharrar again and named Minhaj Talibeen and Fathul Azeez and named as Roudha.

After years, Shaykh Zakariyya al Ansari summarized this Minhaj again which is named as Manhaj al Tullab. Then Ibnu Mukhri summarized it by the name of Nahj. Roudha has been shortened by Ibnu Mukhri (Roudh) and by Ibnu masu'd (al Ubab). It is explained by Zakariyya al Ansari (Asnal Matalib). Roudh has also been shortened by Ibnu Hajar al Hitami and named Naeem while he explained al Ubab in the name Sharhul Ubab. The Minhaj of Nawawi has more than ten explanatory or commentary texts and the names are charted here. In Kerala some of these texts are being taught in *Palli Darsas* and institutions while some are utilized as the reference texts especially for giving Fatwas.

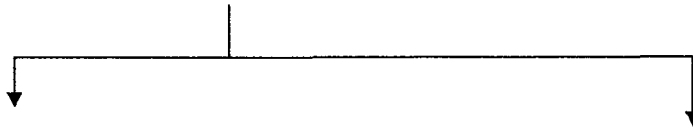
Kitabul Umm. Imla' Buwithi Mukhtasar



Nihaya (Imam Haramini)



Baseet Waseet Wajeez (Imam Gazali)



Mukhtasar, Muharrar (Imam Rafi'i) -

sharhul Azeez (Imam Rafie)



Minhaj (Imam Nawawi)
Nawawi)

Alhavi Alsageer (imam Gazveeni)



Roudha (Imam



Manhaj (zakaryyal Ansari)

Ansari)

Nahj (Imam jouhari)

Al irashad (ibnu Mukhri)



Roudh (ibnu Mukhri)



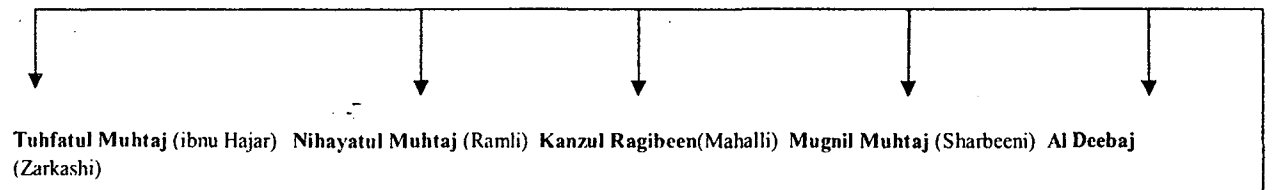
Naem (ibnu Hajar)

Al-Ubab (Masu'd)



sharhul ubab (ibnu Hajr)

Asnal matalib(Zakriyal



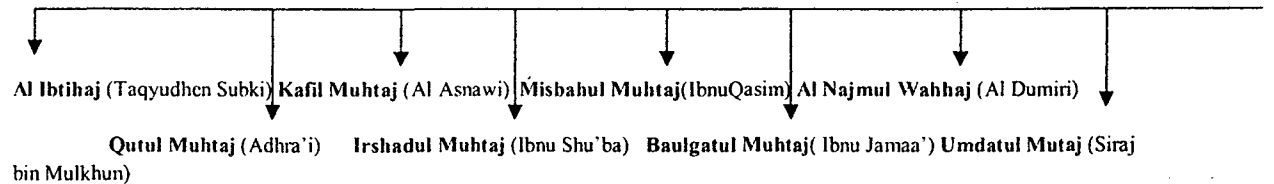
Tuhfatul Muhtaj (ibnu Hajar)

Nihayatul Muhtaj (Ramli)

Kanzul Ragibeen(Mahalli)

Mugnil Muhtaj (Sharbeeni)

Al Deebaj (Zarkashi)



Al Ibtihaj (Taqyudhen Subki)

Kafil Muhtaj (Al Asnawi)

Misbahul Muhtaj(IbnuQasim)

Al Najmul Wahhaj (Al Dumiri)

Qutul Muhtaj (Adhra'i)

Irshadul Muhtaj (Ibnu Shu'ba)

Baugatul Muhtaj(Ibnu Jamaa')

Umdatul Mutaj (Siraj bin Mulkhun)

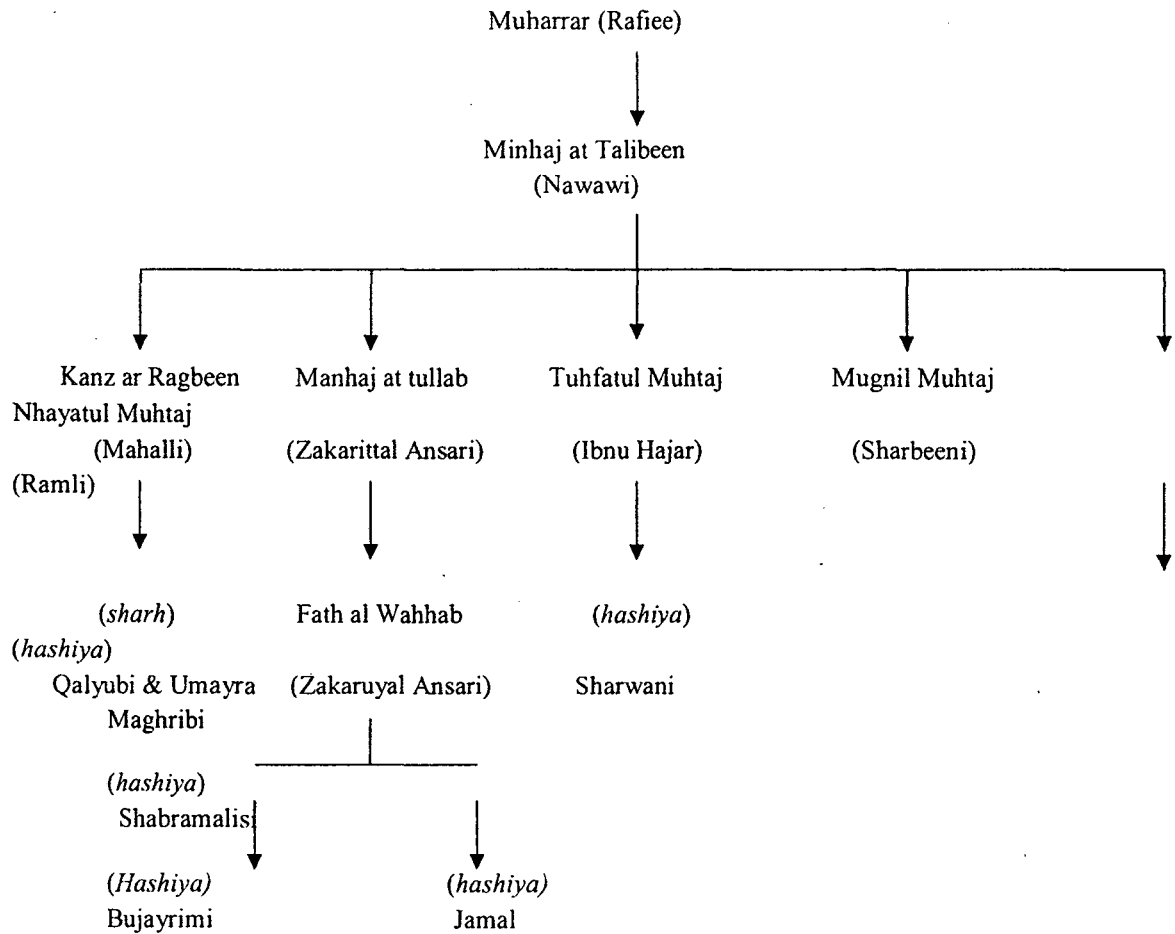
Four Families in Fiqh work of later Shafi'i School of jurisprudence

The relations between the major works of traditional Shafi'i fiqh can be represented in genealogical trees. Four 'families' stand out here, 'descending' from Rafi'i's Muharrar, Abū Shuja' al-Isfahani's Taqrib (or Mukhtasar), Zainudheen Makhdoom's Qurrat al-cayn and Abdull Ba fadh's Al Mukadhimatul Hadramiyya respectively.

The first of these families is the one with greatest prestige. It is coming from the famous works Muharrar of Rafie and then Mihajal Talibeen of Abu Zakariya' Yahya al-Nawawi. Minhaj is most mention worthy for having more than ten commentaries and explanations. For Kerala Ulamas, Ibn Hajar al-Haytami's and Shams al-Din al-Ramli's commentaries on Abu Zakariya' Yahya al-Nawawi's *Minhaj [al-talibin]* are considered as the most authoritative, and that in cases of differences between these authorities, the Kerala Scholars prefer Ibn Hajar. Important fatwas frequently refer to these works for their authority, especially the Tuhfatul Muhtaj. Abd al-Hamid Shirwani (who taught in Mecca in the mid-nineteenth century) has written an 'hashiya' for Tuhfa which is also a well-liked work, as it is explained in the most beautiful manner.

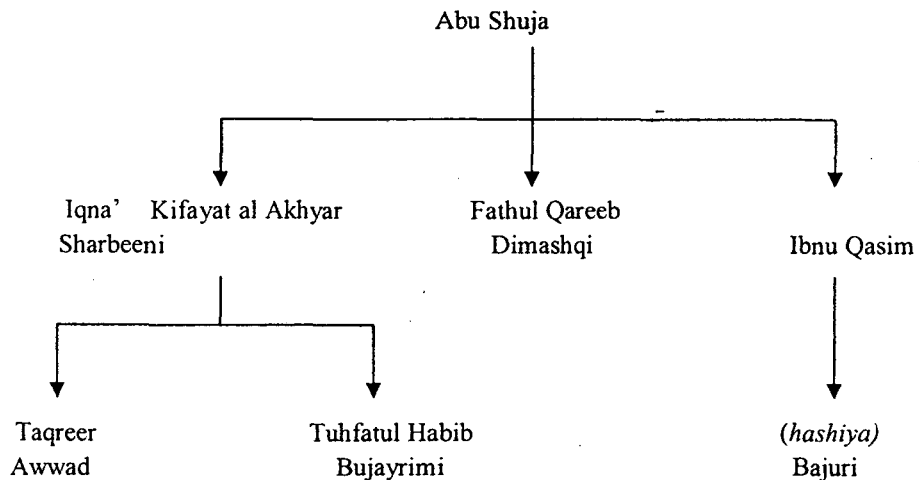
Ramli's Nihaya also has been explained by two very excellent scholars named Ali Shabramalisi and Ahmad al-Maghribi al-Rashidi. Ulams of Kerala also depend on Mugnil Muhtaj of Khatib Shrbeeni in giving fatwas.

Jalal al-Din al-Mahalli's commentary (commonly known as 'the' *Mahalli*) with two extensive glosses by Qalyubi and `Umayra, is another one in this family which is widely being taught in Palli Darsas and institutions. *Fath al-wahhab*, a commentary by Zakariya' Ansari on his own Manhaj al-tullab, which is a summary of the Minhaj is a very important text in this Family. The Malaysian and Indonesian scholars attach great value to this work.

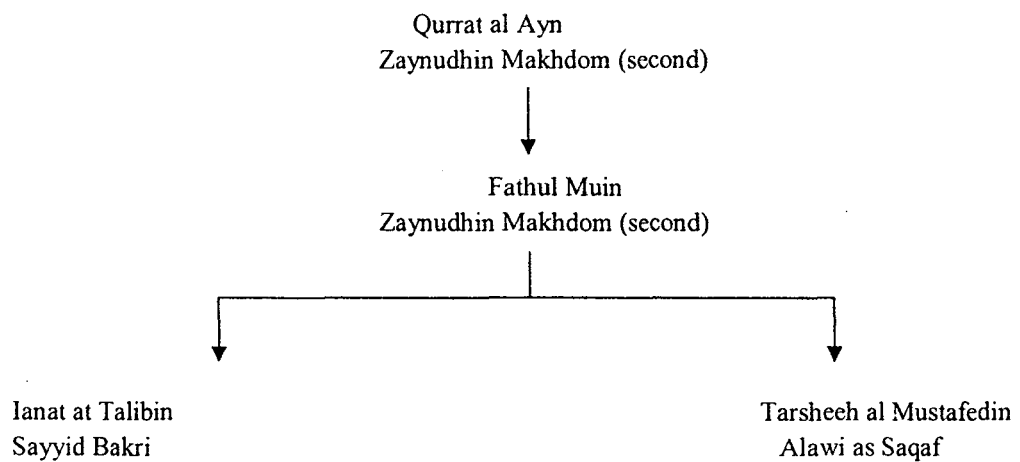


The second family is derived from the highly esteemed fiqh works *Taqrib* (*Al-ghaya wa'l-taqrib*, also known as *Mukhtasar*, by Abu Shuja' al-Isfahani) and its commentary *Fath al-qarib* (by Ibn Qasim al-Ghazzi). This is not as much popular in Kerala but among Indonesians.

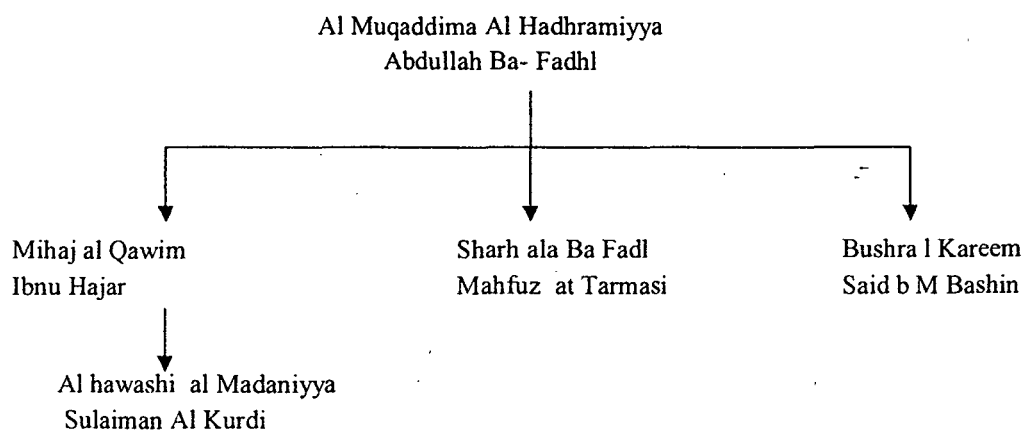
Taqreebul Makhtasar



The central text of the third family is *Fath al-mu'in*, which has long been popular in Kerala (and in Indonesia as well as in Kurdistan). It was written by the sixteenth-century Fiqh scholar from South India Zayn al-Din Makhdum second. This work is a commentary on, or a reworking of, an earlier text by the same author, *Qurrat al-'ayn*. Ianatu Talibeen of Sayyid Bakri and Tarsheehul Mustafeeden of Alawi al Saqaf are the most famous annotative works of Fathul Muin which are very popular in and outside of Kerala. The final chapter will disclose more about Fathul Muin and its significance among Kerala Muslims. Briefly Fathul Muin is a celebrated text in Kerala.



Al Mukadhimathul Hadhramiyya of Abdulla Ba- Fadl is the centre of forth family. It is also being taught in Kerala, in Palli Darsas and institutions. Ibnu Hjar Al Hitami has written a commentary work on this great text.



Chapter 2

The Origin and Development of Islamic Jurisprudence in Kerala: An Over View

The Historical records demonstrate that Islam has reached Kerala shortly after the Prophet Muhammad (PBUH) started his propagation of Islam on the soil of Makkah and Muslims began increasingly dominant in the Arabian Sea trade and Islam took hold amongst the populations throughout the Arabian Peninsula and the Persian Gulf. But the earliest account of an established Muslim community dates only from the mid -fourteenth century, when itinerant North African Ibn Batuta visited Malabar coast on his way from Delhi to China. As per his Observation we evidently understand the existence of Islamic jurisprudence in Kerala form the early period. He recorded that Kerala Muslims shared the Arabic, Islamic culture which characterized most of the Muslim communities which were scattered along the Indian Ocean trade routes, extending from East Africa to Arabia to India and Indonesia and even to Canton on the South China coast. Most of the individuals whose homeland he identified were either Merchants or *Ulama* from Arabia or the Persian Gulf region, although some came from as far away as East Africa and the interior of Iran. Traders from Iraq, Bahrain and *Qadis* from Baghdad and Oman are specifically mentioned. The Arabian peninsula of Persian Gulf origin of Muslims who lived and traded in Kerala was confirmed by their observance of *Shafi'i* School of Islamic law, which was and is the predominant *Madhab* on the Muslim communities throughout the Indian Ocean area

As mentioned earlier little is known of the Muslim settlement in Kerala before *Ibn Batuta's* visit. Even though, we realize about the Muslim settlement in the very first stage of this period. The eminent Islamic scholar of 16th century *Zaynudeen Makhdoom* pointed to the beginning of Muslim settlement early as 9th century³⁹. It is believed that as some history writings prove the last Chera emperor of Kerala, Cheraman Perumal, converted to Islam from Makkah and in his return to Kerala from there he died at coast of

³⁹ Tuhfatu al-Mujahidin, translated by S Muhammad Husayn Nainar -section two ,History of Advent and spread of Islam, page: 32,33

Oman.⁴⁰ As per his suggestion, the team led by Malik bin Dinar and Malik bin Habib- who were also the companions of Prophet Muhammad (PBUH)- reached *Kodungallur*.

They built Masjids not only at *Kodugallur* but also in different parts of Kerala and appointed there *Qadis* and *Imams*. The early Islamic jurisprudence was completely dependent on these men who were used to give *fatwas* according to their wide knowledge taught from Prophet (PBUH) as well as *Sahabas*. They used their power to do Ijtihad in different problems and issues.

The history of following years is unknown but we come to know about the Muslim settlement as well as the practice of Islamic jurisprudence from those sources and evidences which are found in 9th and 10th centuries. According to *Zaynudeen Makhdoom* the first mosques were founded in Kerala in ninth century by the people from Arabia⁴¹ along with some inscriptional evidences from Kollam (Quilon) which definitely indicate the presence of a substantial Muslim community in the city at the period. These developments both in numbers and in the system of settlement were a part of the advent of Arabian traders and preachers to the coasts of Kerala as they probably propagated Islam throughout the coastal areas. The Arab traveler Al Mas'udi reports that there were ten thousand indigenous Muslims living in a town on the Canarese coast.

The ninth and tenth centuries are considered as the evolving periods of Islamic Jurisprudence especially in the cities like *Madeena* and *Kufa*. Evidences are miserably scanty to prove that in which time or which year the *shafi'i* school of thought reached here and began to evolve. But probably there were some traders or preachers who arrived at the coastal areas here in order to spread the juridical thoughts of Imam *Shafi'i*.

“From the time of *Ibnu batuta's* visit to Kerala, it is possible to build a general Idea of the distribution of Muslims and their relation with non Muslim Malayalees which would have been characteristic of the area in the fifteenth century. *Batuta* revealed that there were Muslims settled in every port which he visited along the Malabar Coast. Most of those he named came from southern Arabian and the Persian Gulf – the Yemen, Oman

⁴⁰ Ibid:33

⁴¹ Islamic society on the South Asian frontier The Mappilas of Malabar 1498-1922 by Stephen Dale

Bahrain Baghdad as well as Kazerun and Qazvin in Persia are mentioned. These names, and the practice of the *Shafi'i* Branch of Islamic religious law, provide an early indication of the close contact with and development of a predominantly Arab- Islamic culture among Muslims in contrast to the Turkic-Persian variant which was already spreading throughout northern and central India. It was this Arabic variant which was also carried by Muslim traders in to the South East Asia as is partly indicated by the presence of the *Shafie* school as the dominant legal tradition among the Muslims of Indonesia”⁴²

Stephen Dale writes Quoting *Ibnu Batuata* that there was found a thriving Islamic culture which developed in these trading ports, served by mosques and the *Ulama*, those educated from the centers of Islamic learning in Makkah, Madina and Baghdad.⁴³ Both *Ibn Batuta* and *Zaynudhen Makhdoom* mentioned about the large Jumua or Friday prayer mosques where there were students supported by funds provided by the charitable donations of seamen.⁴⁴ This system is known as *Palli Dars* in which one or more Islamic scholar teaching the students and promote them to handover what he taught to the next generation. The subjects were mainly Quran and Hadith and Islamic jurisprudence. This system is still found in various parts of Kerala.

Beside that quotes are seen in the Travels of *Ibn Batuta* which prove the existence of Jurisprudence in Kerala. At *Cannannor*, *Ibn Batuta* visited a theologian from Baghdad, a man of great merit, named Sarsary. He met Calicut *Shaykh Shahabuddin, a sufi*, who has honored by both Chinese and Indian citizens. The ship men from China and India used to render the *Nerchas* here in the mosque *Shykh Shahabuddeen Qazaruni*. He also visited *Shaykh Faqrudhin Usman* a pious and religious man who was also honored by the people. Both of them were *Qazis* and probably they used to give *fatwas* and other needed instructions to the Muslims of Calicut. *Ibn Batuta* spent some days at Quilon (kollam) and said he found there a Qazi. At Fakkannur, he writes about a noble personality named

⁴² Islamic society on the South Asian frontier The Mappilas of Malabar 1498-1922 by Stephen Dale, chapter 1, page 26

⁴³ *Ibid* page 27

⁴⁴ *Rihla ibnu battuta* p 183,

Hussien Salath, Qazi, who was the *Muthwalli cum Qatheeb* of one Jama Masjid there. He cited about *Qazi Badrudhin Ma'bary* whom *Ibn Batuta* met him from *Mangalaburam*.⁴⁵

From all these, we can assure that there were Islamic jurisprudence as well as its practices in different parts of Kerala. It was through the *Qazis* and their *fatwas* and instructions on the questions asked and through there *speeches* in and out of *Masjids*.

Makhdoom Period

Makhdooms were the descendants of Yemenites who migrated to Ma'bar⁴⁶, a coastal city of present Tamilnadu, in South India as it mentioned in many Arabic books and non Arabic books.⁴⁷ They descended from the First Caliph of Islam *Abu Backer Al Siddiqu* (d.634 A D).

The contributions of this family to Kerala and to Tamilnadu are numerous, especially in jurisprudence. The greatest contribution which they rendered is that they united all Muslims under *Shafi'i* school of Jurisprudence and provided a charismatic leadership which encompasses all their religious and social life. The best scholar of this family was named Makhdoom and was considered the supreme leader of Muslims. They were 37 in number⁴⁸ who were appointed as *Makhdooms* in various time, most of them were famous for their scholarship and writings. Muslims used to prefer them to appoint *Qazis* in various *Mahallus*.

Zaynudeen Makhdoom bin Ali bin Ahmed Al Maa'bari was the first makhdoom who was posted as Qazi in Cochin. The leaders of Ponnani invited him at home to establish a Dars for the higher education. He migrated to Ponnani after posting one of the best scholars of his family there with the consents of all. He settled at Ponnani along with some young scholars of his own family who migrated with him. Zamorin of Calicut

⁴⁵ Mappila Muslims of Kerala, 1st chapter: Genesis and spread of Islam in Kerala. Page :21

⁴⁶ Ma'bar: it is the region in the coast of Indian Ocean in Tamilnadu state in the south of kayalpatnam facing to Sri Lanka. The famous historian Shihabuddeen abu Abdullah Yaquth Al Hamwi (d.626 A.H) says: Ma'bar is a region in a peak of India (mu'jamul Buldan, vol: 2, page: 72). This region is named as Coromandel now.

⁴⁷ Un published PhD work *Shafie* school of Jurisprudence in India by Bahauddin .k, 3rd chapter, page:2

⁴⁸ Ibid page:2

welcomed the new leader and granted a large plot of land in his honor with tax free. The *Makhdoms* led the Muslims during the period of Zamorins and even in the period of Maysoor kings when they ruled over Malabar. The Muslims of Ponnani preferred them in posting Qazis in the various regions of Kerala up to the end of last century. The Qaziship of *Makhdoms*, its area was very wide from kayalpattanam to Mangalore. The Taravads (families) Ottagathu, Oodagathu, Musliyragathu were the lineal followers of *Makhdoms*.⁴⁹

The Juma Masjid of Ponnani (Valiya Jumuath Palli) holds a very important position in the history of Kerala Muslims. *Makhdoms* controlled over Muslims by giving *fatwas* and other needed suggestions to them. The Juma Masjid's role in constructing a new academic culture through Dars system is notable and it played its role in creating a well trained religious scholars.

Socio-Political conditions of Kerala in 16th and 17th centuries

Before going to the details of *Makhdoms* it is needed to discuss the socio political conditions of the fifteenth and sixteenth centuries which witnessed a mass conversion to Islam following the beautiful set up which appeared in Islamic jurisprudence under the leadership of *Makhdoms*.

With the setting up of the *Makhdoms* in the second half of the fifteenth century, Ponnani emerged as the center of Islamic activity in Kerala. Ponnani then was under the rule of *Zamorins*⁵⁰, the ruler of the Malabar region and it was the second capital town after the Calicut. The Ponnani was famous for its name, Small Makkah or Makkah of Malabar for its religious identity which began to develop after the migration of *Makhdom* and *Markkar* families to Ponnani.⁵¹ The sources prove that Islam came here in the first stage, the time of *Malik bin Dinar* and his followers, and one of the Masjids of early time was here at the seashore of Ponnani. Now it is not there.⁵² The writer Umer Ibnu Suhrawadi

⁴⁹ Kerala Muslim Directory, athmeeya nethakkalum Navedwana Nayakarum, Athmeeya Nethakkal 1. *Makhdom thanganmar* page 537). C k Abdul Kareem

⁵⁰ Zamorins were the rulers of Calicut during the 12th and 18th century.

⁵¹ ponnaniyude samskarigapperuma Kiraliyude makkah by T v Abdur Rahman kutty ,Navakam Monthly August 2008 page :33,34

⁵² Rihlathul Muluk written by Umer Ibnu Suhrawadi

observes that one of the Masjids of early time was here and *Abdul majed bin Denar* was the *Qazi* of both *Ponnani* and *puthu Ponnani* in that time.⁵³ According to *Tuhfatul Majahidin* of *Zaynuddin Makhdoom*, he didn't mention about this Masjid in his charts of Masjids of early time. Even though he mentioned that Islam had arrived here on that time.⁵⁴

The Kerala of sixteenth century, as case of the past, was dominated by Hindu rulers and the Zamorin was the most famous ruler among them who ruled over the Malabar regions. The remains are kolottiris in northern part, cochin Rajas in cochin and nearer areas and venad rulers in kollam(Quilon). Beside these rulers there were some other small rulers who kept some norms and connection with other big rulers.⁵⁵

As far the Muslim settlement of these regions is concerned they had settled in the coastal areas of Kerala, that is because of their trade relation with the Arabian Peninsula. Stephen Dale observes "In terms of population distribution Muslims were evidently settled in every port of consequences, with the majority living in northern especially in Calicut and the other coastal trading towns within the Zamorins' sphere of influence, such as *Chaliyam Parappnangadi Tanur* and"⁵⁶

The relation between these rulers and Muslims was good rather they gave Muslims all freedom to do their religious practices. That is for their trade relation with the Arabs and for the notable development in emergence of new cities. The converted people also got the similar status of other Muslims and they received all privileges and respects.

Zaynuddin Makhdoom observes:

"Muslims throughout Malabar have no leader possessed of power to rule over them. But their rulers are Hindus, who exercise judicial authority and organize their affairs by enforcing payment of debt or fine if anyone is subjected to such payment. Notwithstanding these, Muslims enjoyed great respect and regard from the Hindu rulers.

⁵³ Ibid 38

⁵⁴ Ponnaniyudeyude samskarigapperuma Kiraliyude makkah by T v Abdur Rahman kutty ,Navakam Monthly August 2008 page :33

⁵⁵ Tuhfatul Mujahidin page 34, 35

⁵⁶ Islamic society on the South Asian frontier The Mappilas of Malabar 1498-1922 by Stephen Dale, chapter 1,page 28

The main reason for this is that the construction and development of country is taking place largely through Muslims. Hence the rulers make it convenient for Muslims to organize Friday congregation prayers (*Jumu'ah*) and the celebrations like I'd. the remuneration for the *Mu'addins* (those who call to prayers) and the *Qadis* (religious judges) are paid by the government. The government makes special arrangement for implementing among the Muslims their own religious rules and regulations. In the greater part of Malabar, whoever neglects the *Jumu'as* (the Friday congregation) is punished or made to pay a fine"⁵⁷

Another important factor which deserves mention here is the characteristic of militarization of Muslim society. The continuous wars of Portuguese up on Muslims made them a more homogeneous community with a more concentrated settlement pattern. Stephen Dale observes "The community became more homogeneous for the simple reason that by 1515 most foreign merchants packed up and returned to their homes in West Asia and elsewhere. It was largely mappilas who carried on the fight against the Portuguese, Dutch, and British, and the history of the Malayali Muslims from the second decade of sixteenth century is largely a history of that indigenous Muslim community. Muslims became geographically more concentrated because Muslim merchants as well as other members of the community naturally tended to move areas within the Zemorins' sphere of influence. Zayn al Din gives examples of emigration from Cochin and it is likely that Muslims from the kolothiri lands were also moving south towards Calicut throughout the period conflict with the Europeans."⁵⁸

It is very notable that the organized military of Muslims in the sixteenth, seventeenth and early eighteenth centuries played a big role in the war against Portuguese. It was led by *Kunhali Marakkars* or *Kotta marakkars*, whom *Zayn al Din* describes as originally a family of *Faqihs* or legists, who had emigrated from Cochin in 1524.⁵⁹ They migrated to Ponnani instead of Calicut, where Muslims settled in huge number, it was because of

⁵⁷ Tuhfatul Mujahidin page 45, 46

⁵⁸ Islamic society on the South Asian frontier The Mappilas of Malabar 1498-1922 by Stephen Dale, chapter 2, page: 46

⁵⁹ Tuhfatul Mujahidin page 63

joining with *Makhdoom* family the famous *faqih* family and it is believed the Zainuddin Makhdoom first and Kunhali first were friends when they were at Cochin.⁶⁰

The history of South East Asia in the sixteenth century and later on was not much different to that of Kerala. They were also under the control of European powers. The invasion affected their smooth social and religious life; therefore, they started to struggle with them. As part of these freedom struggles many books were written including some very significant works which focused on inspiring Muslims to wage war against these powers. The contents of those works were the same to that of *Tuhfatul Mujahid* which include juridical and legal advises to wage war against the colonial powers who invaded their country and broke their peaceful and religious life. To a large extent, it included the holy words from the Quran and Hadith. *Hikayat Prang Sabi* (The Story of Holy War) is one of the great works written on the history of Atjehnese Muslims. Like the *Tuhfatul Mujahidin* this work cites Quranic sanction and promised reward for those who fight and die in the struggle with the infidel.⁶¹ As James Siegel describes the work in his study of religious symbolism in Atjeh: 'the thesis of the Hikayath is thus evident: to those who fight and die in the Holy War is given the reward of paradise.'⁶²

The Muslim areas in Philippines were the other major region in South-East Asia where a prolonged confrontation between local Muslims and Europeans took place and it resembles the struggles between Muslims and Portuguese in the sixteenth century and onwards. It was the militant tradition or Jihad which is adapted by these indigenous Muslims of these regions. It could not have been possible in this very successive manner if the religious spirit is not strong, means we probably believe these regions were under a solid style of religious practice. The Shafie School of law was dominant there as it is in southern Arabia, and Sumatra.)⁶³ The speeches and writings of spiritual leaders as well as

⁶⁰ ponnaniyude samskarigapperuma padayoottangalude verothihhasam rajicha noottandu by T v Abdur Rahman kutty ,Navakam Annual edition 2008 page :58

⁶¹ Islamic society on the South Asian frontier The Mappilas of Malabar 1498-1922 by Stephen Dale, chapter 2, page: 57

⁶² James T Siegal, The Rope of God (Berkeley : University of California Press, 1969),pp. 75, 76

⁶³ Islamic society on the South Asian frontier The Mappilas of Malabar 1498-1922 by Stephen Dale, chapter 1,page 28

religious scholars strengthened these struggles which resulted in creating more strong and solid form of religious practices backed by the Islamic Jurisprudence.

Zaynudheen Makhdoom, the first (A.H. 871- A.H. 928 = AD 1467- AD 1556)

Abu Yahya Zaynudheen bin Shikh Ali bin Shikh Ahmed Al Ma'bary bin Ali bin Ahmed Al Ma'bary was born at Cochin on 12 Shaban, 871 A.H. (1467 A.C.). His father Sheikh Ali bin Ahmed bin Al Ma'beri was also a great Scholar. His Uncle brought him to the *Ponnani* as he was *Qazi* there. After his primary education there from his uncle and very famous scholar, he travelled to *Kozhikkode* (Calicut) in order to learn from the scholars like *Shaykh Abu Backer Fakhruddin bin Qazi Ramazan Ashaliyathi*. He was an eminent scholar in various subjects especially in Islamic Jurisprudence. Young Zaynudheen Makhdoom spent over there 7 years. Then he moved to Makkah to learn Hadith from Shiekh Shihabuddin Abul Hill Al Yamani. He learned from him the famous work of Imam Srdhafi in Islamic inheritance law.⁶⁴

Then he travelled to Egypt where the Islamic jurisprudence of Shafie School evolved and developed. He was the first scholar of Kerala who studied at AlAzhar University. *Shiekh Abdul Rahman Adam Al Misri* was his teacher in Hadith who gave the *Ijazath*⁶⁵ to report the *Hadith*. *Shiekh Abdul Al Adwi* was the prime teacher in *Hadith*. He learned Jurisprudence and Islamic theology from *Shamsuddin Jurjani Zakariyya Al Ansari Kamaliddin Mohammed bin Abi Shareef*. He had some good discussion with *Jamaluddin Assuyuthi, Imam Hafiz Muhammed Assaqawi, Syyid Muhammed Assamhoodi* and others who helped him in seeking knowledge.

The very eminent scholars like *Imam Jmaluddin Al Saffi, Imam Nuruddin Al Mahilli, Kamaluddin Al Dimishqi Imam Shihabuddin Al Himmasi, Imam Badruddin Al Ssuyuthi* were his companions and he gained from them much in Islamic Jurisprudence and other subjects.

⁶⁴ Makhdoomum Ponnaniyum page: 66

⁶⁵ *Ijazat* means to permit. It can be defined as the official permission of *Ulamas* to do something like to study something or to teach something.

After the departure of his uncle he was appointed as the Qazi and Makhdom of Ponnani . Since that time he engaged with the social and religious issues of society, he soon emerged as a leader of Muslims of Kerala especially in Malabar. His Juries and decisions have got wide popularity among the peoples. In Jurisprudence his *Fatwas* were the ultimate and the commons and even scholars approached to learn from him.

Zaynudheen Makhdoon attracted not only the mass but also the advanced students and scholars from India and abroad to Ponnani where he built a beautiful and historical Masjid. The students and scholars from Tamil Nadu, Bombay, Gujarat, Lakshadweep, and from the foreign countries like Maldives, Indonesia, Sri Lanka, Java, Sumatra reached there to learn from this great educational institution. That is why the city of Ponnani was called the Makkah of Malabar.⁶⁶

The advanced learners were privileged to sit nearby him in a circle around an oil lamp and this coaching was known as *vilakkethirikkuka* in Malayalam language which means to sit around the lamp. One who privileged to sit around this lamp was considered as an authentic scholar, Musliyar⁶⁷

Roland E Miller observes:

“The most important training school for the production of *musliars* or *moulavis* as they are now termed was the sheikh *Makhdoom* institution of *Ponnani*. Said to have been founded in the twelfth century or earlier, it reached the peak of its fame under the leadership of *Shaikh Zain-ud-Din* bin Sheikh Ali (A.D.1467-A.D.1521) known as the senior *Makhdoom* he wrote many religious treatises.” (Miller, 1976, p. 260)⁶⁸

⁶⁶ Athmeeya Nethakkalum Nevothwana Nayakarum page .538

⁶⁷ There are different views about the origin and meaning of the term musliyar. The authentic view is that, it is a combination of two words, Arabic *Muswlih* means the reformer and the Persian *Yar* means the friend or respected one. The word *yar* is common in Malayalam nowadays also. For example: *Aliar, Hasianar, Hajjar...* etc. another view is that it is a combination of Arabic word *Muswalli* which means one who leads the prayer and *yar* of Persian.(page: 89, 90. edited by Husain Randathani, um Makhdoomum 1998, Juma Masjid Committee.) and Athmeeya Nethakkalum Nevothwana Nayakarum page .538

⁶⁸ Page: 260, Miller, E, Roland, Mappila Muslims of Kerala, a trend in Islamic trends, orient Long Man, 1976.

“The method of education used was marked by a personal style, as the main teacher gathered a group of students around himself for an indeterminate number of years. The most able of the students received the privilege of being called “to the light” (wilakku irikkuka), that is to receive special tutelage at the table of the master on a raised platform. Senior students served as tutors of younger students, the curriculum being chiefly Arabic, Qurán and *Hadith* studies.” (Miller, 1976, p. 261)⁶⁹.

Zaynuddin Makhddom enjoys his own position in the field of writings as he has written many books not only in Islamic Jurisprudence but also in history, mysticism and Arabic grammar. He was also a great poet, his poetry *Al Qaseedat Al Jihadia Tahreez Ahl Al Eman* is very famous as he wrote this to motivate the Muslims for doing Jihad against the Portuguese.

His famous works in Islamic Jurisprudence are:

- Kifayat al Al Faraez كفاية الفرائض (summary of Kitab Al Kaf Fil Faraez كتاب الكافي في الفرائض) - Islamic hereditary science.
- Murshid Al Thullab Ela Kareem Al Wahhab مرشد الطلاب الى كريم الوهاب
- Hashia Ala Al Ishad حاشية على الارشاد

His other books are:

- *Siraj Al Quloob* سراج القلوب - mysticism
- *Siraj Al Muneer* سراج المنير - mysticism
- *Al Musid Fi Dhikr Al Mout* المسعد في ذكر الموت -mysticism
- *Shamsul Huda* شمس الهدى - history
- *Tuhfat Ahibba Wa Urfat Al Alibba* تحفة الاحباء و عرفة الالباء -mysticism
- *Irshadul Qaswideen* ارشاد القاصدين -mysticism
- *Shuab Al Eman* شعب الايمان - mysticism
- *Kitab Al Swafa Min Al Shifa* كتاب الصفا من الشفا -biography
- *Tas-heel Al Kafya Sharah Ala Al Kafya* تسهيل الكافية شرح على الكافية
- *Hashia Ala Al Kafya* حاشية على الكافية

⁶⁹ Ibid, Page: 261

- *Hashia Ala Alfia bin Malik*- حاشية على الفية ابن مالك Arabic Grammar
- *Qasas al Anbia*- قصص الانبياء
- *Sharah Ala Tuhfat Al Wardia*- شرح على تحفة الوردية Arabic Grammar
- *Sirat Al Nabawi*- سيرة النبي Biography
- *Hidaya Al Adhkiya Ela Thareeq Al Awlia*- هداية الاذكياء الى طريق الاولياء mysticism which has many commentaries among which *Kifayat Al Adhkiya*(كفاية الاذكياء) by *Al Sayed Al Bakri Al Dimyathi Al Makki* (d.1310 A.H), *Salalim Al Fuzala* (سلام) (الفلاء) by *Sheikh Mohammed Al Noowi* (d.1385 A.H) and *Maslak Al Atqiya* (مسلك) (الاتقياء) by his son *Abdul Azeez Makhdoom* are most famous. (Azhari, 1993, p. 48)
- *Al Qaseedat Al Jihadia Tahreez Ahl Al Eman* - القصيدة الجهادية في تحريض اهل الايمان - poem to encourage Muslims to fight against Portuguese invaders.
- *Al Qasweeda Fi Ma Thurith Al Baraka*. - القصيدة فيما تورث البركة - A poem for the sake of recitation.

Zaynuddin Makhdoom played a key role in the war against the Portuguese. He is the man who encouraged the Muslims to struggle with them. For that he ordered the Muslims to do Jihad against colonial powers of Portuguese.⁷⁰ His charismatic leadership of that time has been cited by many scholars and writers.

According to C. Gopalan Nair:

After his arrival in Ponnani he sent some books and letters to Arabia requesting the help of the kings in especially the king Zamorin and upon his request ships and soldiers came from Arabia to spread Islam fighting against Portuguese. (Nair, 1917, p. 78). The joint effect of Makhdoom, Marakkar and Zamorin power has played an inevitable role in the war against the Portuguese.⁷¹

He died in 928 A H |(A D 1522) in Ponnani and buried there in the burial ground around the Valiya Palliof built by himself.

There are many elegies on him among which the poem *Kunhanbava Musliyar* (printed in Ponnani in 1958) and *Konganam veetil Ibrahim Musliyar* (printed in Ponnani in 1340

⁷⁰ T V Abdur Rahman , Sunni Afkar weekly ,12 Aug, 2009

⁷¹ Ibid

A.H.) with 198 lines are very famous. (Randathani, 1998, pp. 65-71; Kareem, 1992, pp. 537-539)⁷².

Sheikh Abdul Azeez Makhdoom (A.H.914-A.H. 944 = `AD.1508-AD1537)

Sheikh Abdul Azeez Malhdoom, the famous leader of struggle against Portuguese, son of Zainuddin Makhdoom senior, was born in *Ponnani* in about 914 AH. His primary education was from his father then he moved to Calicut to learn from Qazi Muhammed , very famous scholar and an Aradic poet. He was also a disciple of Shiek Uthman of Ponnani.

He was appointed as the Qazi and senior teacher of *Ponnani* Masjid after the *Zainuddin Makhdoom* first. He participated bravely in the war against Portuguese while he joined with Marakkars and Zamorin and led the Muslims to capture the fort of chaliyam. Qazi Muhammed has written about this historical event with reference to the marvelous performance of shaikh Abdul Azeez Makhdoom, in his famous work *Fathul Muben* in detail.⁷³

He has many works to his credit; some of them have been included in the *Palli Darsas* of Kerala and other Islamic institutions. He has also done well in completing many fragments left by his father through that he revived his father's legacy. To know his contribution in Islamic Jurisprudence, the text *Mutafarrid* – المتفرد is enough. It is popular and very common religious text in Kerala as it is very useful to the beginners of Islamic education especially for those who go to *Palli Darsas*. In Jurisprudence he has many other works also. They are:

- *Arkanu Swalat*- اركان الصلاة a special writing on the jurisprudence issues of the pryer.

His other famous writings are as follows:

⁷² Page: 70, Makhdoomum *Ponnani*um, 1998, Husain Randathani *Ponnani* Juma Masjid Committee, *Ponnani*, Kerala, India.

Page: 537-539, Kareem, C.K, Kerala Muslim Directory, 1992, Charitram Publications, Kerala.

⁷³ Makhdomum *Ponnani*um,1998 page: 72

- *Maslak Al Adhkia* – مسلك الاذكياء commentary on *Al Adhkia* of his father.
- *Irshad Al Alibba'* - ارشاد الالباء the summary of his writing *Al Maslak*.
- *Qaseedat Al Aqsam Fi Shifa' Al Asqam*- قصيدة الاقسام في شفاء الاسقام a poem.
- *Sharah Alfia bin Malik*- شرح الفية ابن مالك completion of the commentary by his father on Alfia of the Spanish scholar *Mohammed Bin Malik* (d....)
- *Bab Ma'rifat Al Sugra* باب معرفة الصغرى
- *Bab Ma'rifat Al Kubra* باب معرفة الكبرى
- *Sahrah Ala Ma'rifat Al Kubra* شرح على معرفة الكبرى
- *Arkan Al Eiman* اركان الايمان
- *Mirqat Al Quloob* مرقة القلوب

He died in 944 A H and was buried there nearby his father's grave.⁷⁴

Zainuddeen Makhdoom, the second (938 A.H. - 1028 A.H = AD 1531-AD1619)

Zinudheen Makhdoom Al Sageer was born in *Chompal*⁷⁵ in *Kozhikkode* district in 938 A H. His father *Muhammed Al Gazzali* , the third son of *Zainuddin Makhdoom senior*, was also a great scholar as his father was. He was the *Qazi* of *Chombal*. He married from there and settled. One of his collections of *Fatwas* has been recovered from the *Masjid*⁷⁶ nearby the *Arakkal Rajas*⁷⁷

His primary education was from his Parents then he moved to *Ponnani* for further studies from *Zaynuddin Makhdoom First* who was then teacher in *Valiya Juma Masjid* of *Ponnani*. With his permission and motivation he travelled to *Makkah* to perform *Hajj* and *Umrah*. After Performing *Hajj* and *Umarah*, he visited the *Raudha Share*

ef. He stayed over there for ten years seeking knowledge from the great scholars. He met almost all scholars of *Haramain* at that time. Because of his deep knowledge in *Hadith*, the *Ulama* of *Haramain* called him "Muhaddis". The great and famous scholar in *Islamic*

⁷⁴ ibid

⁷⁵ A place near Mahi, Northern Malabar, now it is in Kozhikkodu district.

⁷⁶ Mahattaya Mappila Parambaryam.

⁷⁷ The Ali Rajas was the Muslim kings of Kannur or Cannannor

Jurisprudence *Shihabudden Ahmed bin Hajar Al Haitamy*(909 A.H.-973 A.H), the author of world famous work in Shafi'i school Jurisprudence, was his prominent teacher as he influenced him deeply and it may be correct if we say he was his full motivation to do the great work *Fathul Mu'in*, the famous Islamic text of jurisprudence on which I research. *Shikhul Islam Izzuddin bin AbdulAzeez Al Zamzami, Vajeehuddin Abdul Rahman bin Ziyad , Shiekhul Abdur Rahman bin Sawfawi, Zainul Abidin Abdul Makarim and Abu Baker bin Muhammad bin Abdul HasanAl Bakri Al Siddeqi* were other eminent teachers.

He had consulted many *muftis* and scholars there for discussion over jurisprudence issues among whom *Muhammed bin Ahmed Al Ramli, Shaikh Muhammed Al Khatheeb Al Sharbeeni, Abdullah Ba Makhruma* and *Abdul Rahman bin Yahya Al Wae* are more famous. (Gazali, 1988, pp. 6,7)⁷⁸ He came back to *Ponnani* and joined his teacher and uncle *Zainuddin Makhdoom* first in order to serve there. He was there for long 36 years as a teacher as well as a good leader of Kerala Muslims.⁷⁹

Receiving the invitation of *Zaynuddin Makhdoom* to Kerala *Ibnu Hajar Al Haithamy* visited him in *Juma Masjid of Ponnani*.⁸⁰ The stone which is kept inside the Masjid is considered as *Ibn Hajar Al Haithami*, he brought it from Makkah. Little is known about how many days he was here but we found a copy of his fatwa which has been kept in the library *Al Azhariyya* of *Ahmed Koya Ashaliyathi*, which is considered to be belonging to him while he wrote when he was at *Ponnani*.

His relation with *Zamorins* was as strong as that of pre *Makhdooms*. He also provided all type of support to him and for that he encouraged Muslims to wage war against Portuguese. He has written many letters in Arabic to establish relation with Arab kings against Portuguese. *Zainudheen Makhdoom* had a good and healthy communication with other Indian rulers like *Mughal Emperors, King Akbar*, and particularly with the *Sultans of Bijapur*, for whom, his historical work *Tuhfatul Majahidin* has been dedicated. He

⁷⁸ Page: 6, 7, introduction to *Fat-hul Mueen* , *Zainuddeen Makhdoom* Second, A.H. 1402, Amirul Islam Press, Tirurangadi, Kerala.

⁷⁹ *Makhdoomudum Ponnaniyum* page : 76

⁸⁰ *Ibid* 76

worked as the main adviser of the King and stayed there between the year 1557 and 1580.

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He also maintained good terms with the Caliphates of Osmania and the slave dynasty of Egypt. He had also sent many letters and messages to get the military and other emotional assistance from the Muslim Dynasties to wage war against the Portuguese.

Tuhfatul Mujahidin.(A D. 1027)

Tuhfatul Mujahidin fi Bathi Akhbaril Burthugaliyyin is one of the earliest extant historical treatises about the southern Indian state of Kerala. It sheds light on the stiff resistance put up by the Muslims of Malabar against the Portuguese colonialists from 1498, when Vasco Da Gama arrived in Calicut, to 1583. It was intended, as Shaikh Zainuddin says, as a means to exhort the Malabar Muslims to launch a struggle or jihad against the Portuguese invaders. The book thus extols the virtues of jihad against oppressors, and, at the same time, also provides fascinating details about the history of Islam in Malabar, the relations between Muslims and Hindus in the region and the customs and practices of both. He explains the religious necessity of Jihad against the Portuguese, quoting from Quran and Hadith and he urges the Muslims to prepare for it.

Tuhfatul Mujahidin is a significant text for many reasons as mentioned by so many. Stephen Dale says

“The Tuhfatul Mujahiddin is an important testimony to Malayali Muslim attitude. By describing the war with the Portuguese in traditional Islamic theological and political terms Zayn al-Din expressed an outlook which was undoubtedly the Muslims common reaction to this confrontation”⁸².

The book consists of four chapters. The first chapter discusses the necessity of Jihad against the Portuguese and what will be the aims and objectives of jihad. The second chapter talks about the early history of migration of Islam from Arabia to Kerala's coastal areas in 7th century A D.. The third deals with the customs and practices of the Hindu

⁸¹ athmeeya nethakkalum nevodwana nayakarum page no 541

⁸² Islamic society on the South Asian frontier The Mappilas of Malabar 1498-1922 by Stephen Dale, chapter 2, page: 52

society of Malabar. The fourth chapter consists of fourteen chapters which truthfully describe the heroic resistance of the Portuguese invasion Under the Kuchalis and Zemorins. It discloses the legacy of marine war of Muslims under the leadership of Kunjalis which lasted for 85 years from 1498 to 1583.

The book has several translations in English as well as in other languages. The English translations are done by Rowlandson, Emerson, Prof .Mohammed Nainar and Anders. Its foreign translations are mainly found in French, Spanish, Persian, German, Latin, Czech. It has been translated in many Indian languages like Malayalam, Urdu, Guajarati, Kannada, Tamil and other language. Tuhfatu Mujahidin has been studied in Islamic institutes of Malabar for several years.⁸³

As far as its influence in Malabar society at that point of time is concerned, it has got wide popularity in the society. With his work he showed firm stand against the colonial powers, for that and ordered for Jihad as his grandfather did. Ninar says “In Zainuddin one can see a brave, patriotic and level-headed scholar who rises to the occasion giving his people the right kind of leader ship that is expected of a great scholar with a historical mission.”⁸⁴

Zaynudeen Makhdoom's other writings in jurisprudence are:

- *Qurrat Al Ain Bi Muhimmat Al Deen* قرة العين بمهمات الدين
- *Ahkam Al Nikah* احكام النكاح
- *Al Ajwibat Al Ajeeba*, الاجوبة العجيبة, which is a collection of some odd *fatwas* and may be considered as the first fatwa collection of .
- *Minhaj Al Wazih* منهاج الواضح
- *Irshad Al Ibad* , ارشاد العباد , It may be considered as a jurisprudence book and also as mystic.
- *Al Fatawa Al Hndia* الفتاوى الهندية

His other writings are:

⁸³ Muhammed Husain Ninar, Short Biography of Zainuddin makhdoom page 22, Page: 540,541, Vol: 1, Dr. C.K Kareem, Kerala Muslim Directory, Charitram Publications, Edappally, Kerala.

⁸⁴ Muhammed Husain Ninar, Short Biography of Zainuddin makhdoom page 21.

1. Sharah Al Sudoor Fi Ahwal Al Mouta Wal Quboor شرح الصدور في احوال الموتى والقبور
2. Al Jawahir Fi Uqoobat Ahl Al Kabaer. الجواهر في عقوبات اهل الكباير.

He departed th world in1028 A.H in chompalaand was buried there. (Randathani, 1998, pp. 73-80)⁸⁵.

Sheikh Abdul Rahman Makhdoom (948 A.H-1029A.H= AD1541-1620)

He was son of *Sheikh Usman Makhdoom*, born in *Ponnani* in 948, educated from his father and his uncle *sheikh Abdul Azeez Makhdoom* and *shaikh Zainuddeen Makhdoom* second. His writings and some *fatwas* are not available.

The descendents of *Makhdoom* family who contributed to the *Shafie* School of jurisprudence are many. And it is mention worthy here that, most of their contributions and activities were in actions and serving the society rather than writings. It means the legacy they left is and will live through the mass and other institutions they opened and served for.

Here are the names of Makhdooms

- *Abdul Azeez Makhdoom II* (d.1092 A.H)
- *Abdul Rahman Makhdoom II* (d.1110 A.H)
- *Abdul Azeez Makhdoom III* (d.1130 A.H)
- *Sheikh Muhyeddin Kutty Makhdoom* (d. 1141 A.H)
- *Nooruddeen Makhdoom* (d.1153 A.H)
- *Khaja Ahmed Koyamu Makhdoom* (d.1160 A.H)
- *Muhammad Makhdoom I* (d. 1166 A.H)
- *Kunhammad Makhdoom* (d.1170 A.H)
- *Ahmed Makhdoom* (d.1180 A.H)
- *Kutty Hasan Makhdoom* (d.1193 A.H)
- *Ali Hasan Makhdoom I* (d.1200 A.H)

⁸⁵ Page: 73-80, Dr. Randathani Husain, Makhdoomum um, 1998, Juma Masjid Committee. Kerala.

Also, Introduction for Fat-hul Mueen, Amirul Islam Press, Tirurangadi, Kerala.

- *Muhammad Makhdoom*
- *Pazhayakat Ahmed Kutty Makhdoom* (d. 1243A.H= 1821 A.D). He was *Qazi* of *Tirurangadi* a historical city of *Ponnani* and teacher of *Sayed Fasal Pookoya* (d. 1901 A.D) the son of *Sayed Alavi Mouladdaweela* of *Mampuram* (d.1260 A.H) and a freedom fighter during British rule. And also he was the teacher of *Sayed Husain Attakkoya Thangal* of *Panakkad* who contributed the current Muslims' leaders.
- *Putiyakath Abdul Rahman Makhdoom* (d.1269 A.H)
- *Sayed Ali Koya Tangal Mkhdoom* (d.1270 A.H=1853 A.D) (Randathani, 1998, pp. 82-85)⁸⁶

Zaynuddeen Makhdoom Akher (1225 A.H-1305 A.H= AD1810-AD 1888)

He was son of *Shiekh Mahin Hasan*, born in *Ponnani* in 1225 A D. His primary education was from his own father and great scholar, and he went for advanced education to his father in law *Ahmed Makhdoom*. He studied also from *Umer Qazi Veliyankode* the great scholar in various fields and from *Shiekh Ahmed Al Hamadani*.

Then he travelled to Makkah for Hajj and Ziyara. For him that was a good opportunity to attain knowledge from the great and famous scholars. He learned from *Abdul Hameed Sharwani* (1204-1294). The scholars of Arabia felt attracted by him so they compelled him to serve there as a teacher and he accepted that call and taught for five years. Then he came back to *Ponnani* and started his Dars. His service for 40 years in Masjid as a Mudarris and Makhdoom contributed to the community a lot.

His writings are unavailable. He died in 1305 at *Ponnani* and was buried there. There are two famous elegies on him by *Mappiala Labba Alim Sahib* of Tamil Nadu and *Allama Sayed Abu Baker*.⁸⁷

⁸⁶ Page: 82-85, Dr. Randathani Husain, Makhdoomum um, 1998, Juma Masjid Committee.

⁸⁷ (Randathani, 1998, pp. 86-88)

Contributions of Qazi Family of Calicut

As the *Makhdoom* Family the *Qazies* of Calicut are very famous for their precious contribution to *Shafi'i* School of Jurisprudence. According to the available sources, the roots of this family go back to the 13th century or before. It is believed that the first *qazi* of this stream was the *Zainuddin Madani* the grandson of *Malik bin Habib*, one of the major personalities in the team of *Malik bin Deenar*. The first centre, Chaliyam where *Qazi Zainuddin Madani* was appointed as the *Qazi* shifted to the Calicut at a later period. Any way it is quite clear that the *Qazi* family existed there since 14th century. That is because Moroccan voyager *Ibn Batuta* has cited the *Qazis* of Calicut among the names of *Qazis* in the various regions he visited along Kerala.. He described his visit to Calicut as follows “A king named *Zamorin* is the King of Calicut. The name of the head of the traders in the town is *Ibrahim Shah Bandar*. He is a Bahraini. I have never seen such a well behaving, trust worthy and generous trader anywhere. And the *Qazi* of the region was *Fakhruddin Uthman*, who was a perfectly pious and righteous personality.⁸⁸

Like *Ponnani* the *dars* system was also very familiar among the *Qazi* family. It is conducted by the eminent scholars of the family, while its impact was positive and fruitful to a great extent and “it is said that many well- acclaimed scholars of *Mappila Muslims* had reached here in *Darses* for their higher studies and attaining expertise in different branches of religious knowledge. Among this, the *Darses* conducted under *Shaykh Ramadanu Shaliyathi* (899 A.H.) and his son *Aboobakr Qazi* are very famous. *Qazi Aboobakr Faqrudin* is the founder of the much acclaimed *Dars* syllabus, named ‘*Silsilathul Faqriyya* the time of *Zainudin Makhdoom Senior* till date.’⁸⁹ Therefore we realise the existence of *Shafie* School of jurisprudence in a beautiful form which was run by very eminent scholars of that time especially by those of *Qazi* family.

The great personalities who were appointed as *Qazis* from time to time after the *Fakhruddin Usman* , are *Shaykh Muhammad Liyauddin*, *Shaykh Ibrahim Muhammad*, *Moosa Ibrahim*, *Shaykh Ramadan*, *Abubakkar bin Ramadanu Shalyathi*,(899 A.H.)

⁵⁰ Quoted from the Malayalam Translation of *Batuta's Travlogue*, Velayudan Panikkasseri.p.36

⁸⁹ Nellikuth Muhammadali Musliyar, great personalities in Malyalam, p.33, Spiritual leadership in anti-colonial struggle: An analytical study of the life and works of *Qazi Muhammad Kalikuti* ,The M Phil dissertation of Muneer G P. .page 7b chapter 3

*Shihabuddin Ahmed, Abdul Azeez(998 A.H.) Aliyyul Qazil Nashiri, Muhammad first(He is the famous Qazi Muhammad Kalikuthi) Qazi Muhyiidin, Abdussalam First, Sadrkathulla, Muhtiddin Second, Abdussalam Second, Ali Abdussalam, Muhyiddin third also known as Kunheedeen Kutti Qazi. He passed away in 1266 A.H.*⁹⁰

Their contributions to the Shafi school of Jurisprudence and law are many and none can equal them. The Qaziship is enough to prove that, as they have been serving the Muslim society for a long period in a most successive manner. Their decisions are being considered as the final judgement in Islamic issues, though they have enjoyed the semi equal positions to that of Amirs and Caliphs of Muslim countries. Qazi Abdul Azeez is very famous among them for his vibrant legacy that he kept in struggling against the colonial invaders, the Portuguese, while he led the Muslims from the forefront bravely.

Qazi Muhammed

Qazi Muhammed, son of Abdul Azeez is a very prominent figure of Qazi family and very popular for his remarkable contributions in various fields especially for his great work in Arabi Malayalam , Muhyiddin Mala.

Qazi Mohammed was born between 1530 and 1540 in Kozhikode. His father *Qazi Abdul Azeez*, and forefathers *Qazi Ahmed, Qazi Abu Baker, Qazi Ramadan, Qazi Moosa* and *Qazi Shafii* were great scholars and *qazies* of Kozhikode. For having studied from the great scholars of Makhdoom and for being a member of Qazi family, his knowledge in various subjects and fields was very much strong especially in Islamic jurisprudence of Shafie School. *Makasadun Nikah* is most notable in this regard while it is considered as his masterpiece poetic work in his Islamic jurisprudence related work⁹¹. It reveals his experience in Arabic language, depth in Islamic jurisprudence and the style of presentation in a fantastic poetic literature. By the hundreds of lines he conveys to the readers the rules and the regulations of *Nikah*(marriage) according to the Islamic jurisprudence . Through this poem he wants to communicate all Qazis of the society. The book is among those few published books, but its published copies are not now in

⁹⁰ Ibid

⁹¹ M. Phil, dissertation, Spiritual leadership in the anti colonial struggle. chapter 3 page no 44

vogue⁹². “An interpretation of this poem was found after lot of search in the archives of former senior *Qazi Shihabuddin Imbichi Koya Tangal*, and Prof, K.M Muhammad says in his work that one copy of this is found in the valuable book collection of *Chaliyam Ahmed Koya* also, but its author is not known since anywhere in the text is not mentioned the name of the scholar who prepared the interpretation”.⁹³ One translation of this book is found in Tamil language which has been done by Habeeb Muhammed from Kayalpattanam that is because of the connection of Malabar Ulamas with the Ulamas of Tamilnadu.

Al-Fara'idul Multaqat (الفرائض الملتقط) is another major work of Qazi Muhammad in Islamic Jurisprudence which is also composed in beautiful verse. It reveals his depth of Islamic scholarship in *Sharee'ath* laws of Shafie school of Jurisprudence. This is the collection of the laws of inheritance according to the Islamic *Shari'at* picked up from different texts as its name indicates *Al-Fara'idul Multaqat* means 'picked up collection of inheritance laws'. This fact can be read from his own lines in the poem. It can be read as thus;

لفظ وأبياتا بغير أدب	جمعتها ملتقط من كتب
رأيتها سهلا منتظما	وربما أخذت أسبوابا لما
لأجل ذا سميتها بالملتقط ⁹⁴	من كل موضع كطير لاقط

In Islamic *Shari'at* the laws of inheritance is very significant one and those who know this area of knowledge are few. Though it must be encouraged to attain this area of knowledge like Prophet Muhammed (PBUH) pointed towards and orderd to study that area of knowledge. In the light of this Hadith, we find the work of Qazi Muhammed valuable and its composition in verse form will help those who are interested to memorize it without any difficulty.

⁹² K.M. Muhammad, op, cit, p.54

⁹³ Spiritual leadership in anti-colonial struggle: An analytical study of the life and works of *Qazi Muhammad Kalikuti*, The M Phil dissertation of Muneer G P. .page 7b chapter 3

⁹⁴ *Alifara'idul Multaqat*, quoted from Veeran Muhyiddin, op, cit, p.84

Through this poem he is speaking about the importance of the topic he elucidates, quoting a *Hadith*, he says: knowledge is of two kinds; one related with the present world and other related with hereafter. The awareness in the inheritance laws is included as it is evident in the second category, and gradually the numbers of the scholars who are experts in this area of knowledge are falling decreased day by day. Hence it is mandatory on the part of a scholar, to exercise utmost perseverance to impart this knowledge to maximum possible numbers so as to ensure the availability of knowing people in the area always.⁹⁵

His other writings are:

- *Durrat Al Nasweeha Fi Al Waezi Wa Al Naswwha* (advices) درة النصيحة في الوعظ والنصيحة
- *Ela Kam Ayyuha Al Ikhwan* (a book for advices) الى كم ايها الاخوان
- *Fathul Mubeen* (a long poem destined to encourage Muslim mass to fight against invaders just like *Tuhfat Al Mujahiddeen* of *Zainuddeen Makhdoom* Second) فتح المبين
- *Nazmu Qathr Al Nada* (poetic version of Arabic grammar book *Qathar Al Nada*) نظم قطر الندى
- *Nazm Al Ajnas* (poetic version of Arabic morphology book *Al Ajnas*) نظم الاجناس
- *Manzooma Fi Tajweed Al Qurán* (poem in the laws of Quránic recitation) منظومة في تجويد القرآن
- *Manzooma Fi Elm Al Hisab* (poem mathematics) منظومة في علم الحساب
- *Manzooma Fi Al Aflaki Wannujoom* (poem in astronomy) منظومة في الافلاك والنجوم
- *Manzooma Fi Al Khuthooth Wa Al Rasael* (Arabic calligraphy) منظومة في الخطوط والرسائل
- *Nazm Al Awamil* (poetic verse of Arabic grammar book *Al Awamil*) نظم العوامل
- *Nasweeha Al Mu'mineen* (advices) نصيحة المؤمنين
- *Madkhal Al Jinan* (advices) مدخل الجنان
- *Muhyeddeen Mala* (Arabic Malayalam long poem which praises *Muhyiddeen Abdul Qadir Jeelani* of Baghdad.)

⁹⁵ Qazi Muhammad Kalikutu, *Al-Fara'idul Multaqat*, quoted from K.M. Muhammad, op, cit, p.60

Because of all these works the Muhyiddin Mala is very popular. However his verses are considered as the first known poetic work in Arabi-Malayalm a much popular dialect in Kerala. This is one of the most beautiful relics of Sufi mystic tradition. Muhyiddin Mala is also a subject of research for a quiet long time.

He died in Calicut (A H) and was buried in the burial ground of kuttichira Juma masjid⁹⁶

Qazi Muhyiddeen (1004 A.H-1067 A.H)

Qazi Muhyiddin, son of Qazi Muhammad was another eminent scholar from Qazi family, born in 1004 in Kozghikkod. His primary education started from his father , studied Arabic language and Islamic sciences. He also studied at *Ponnani* from *Zainudduin makhdoom Junior*.

He was posted as Qazi after his father. He has written many books like his father in both prose and poetry. His famous works in Jurisprudence are :

Qasweeda Fi Nahs Al Ayyam قصيدة في نحس الايام

Vellatti Masála- a book in Arabic Malayalam Language which analyses all the complicated issues of jurisprudence.

His other works are:

- *Qasweeda Fi Madhi Mahmood Khan* قصيدة في مدح محمود خان
- *Marthia Ala Sheikh Mohammed Al Jifri* مرثية على الشيخ محمد الجفري
- *Qasweeda Fi Madhi Mohammed Swalih Al Mash-hoor* قصيدة في مدح محمد صالح المشهور
- *Qasweeda Bishrat Al Azeema Fi Qissati Nuswrat Al Azeema* قصيدة بشرة الكريمة في قصة نصره العظيمة

He is also a very popular figure in the fight against the French invaders , that was after the invasion of Portuguese in Kerala.

⁹⁶ Kerala Muslim directory, Kareem 1992, pp 541,542

He died in 1607 A H at Kozhikode and was buried near by his father's grave (Kareem, 1992, pp. 542,543).

In short, the contributions of this family are very important in all fields especially in Islamic jurisprudence. Because they were Qazis and they were the leaders of society. They have the responsibility to guide them.

Mampuram Sayyid Alavi Mouladdaveela

(1166 AH-1260AH= AD1753 - AD1844)

Mampuram sayyids were among the great personalities of eighteenth century who played an outstanding role in the struggles against the colonial powers of British, it was through their charismatic leadership and most powerful scholarship in various fields. For their sincere participation and very firm stand against the British they enjoy a high position in the minds of Kerala people.

Shaikh Hasan Jifri and Shaikh Hasan Jifri were first among this family who reached Calicut, migrating from Tarim of Hadramauth in Yemen. The outstanding leadership of Shaikh Jifri and Shaikh Hasan jifri influenced the Muslims while they enjoyed a high esteemed honour even from the Ruler of Calicut Zamorin⁹⁷

In 1767AD Sayyid Alavi reached Calicut. He was welcomed by the followers of Shaikh Hasan Jifri and Shaikh Hasan Jifri. Mampuram Thangal, after a short staying along with Shaikh Jifri shifted to Mampurm, a small village in *Tirurangadi Mahallu*, in order to take the responsibility that was taken by Hasan Jifri for last many years. They called him Mampuram Thangal and Tharammal Thangal with love and honour. *Mouladdaveela* is the name of the *Sayyid* family to which Sayyid Alavi also belongs.⁹⁸

Syyid Alavi was the follower of Ba- Alavi Sufi order, the origin of *Ba'Alavi soufi order* is believed to be dating back to *Alavi Bin Ubaidilla* the forefather of this family lived in 4th century AH in a Small village of *Hadramauth*. Ba- Alavi sufi order is one of the many branches of Qadiree sufi order and since it spread by the *Ba Alavi* Sayyid family who were the disciples of *Shaykh Jeelani*, it can be conclusively stated that Sayyid *Alavi*

⁹⁷ KK Muhammed Abdul Kareem, Mampuram tangal, p.19

⁹⁸ M. Phil, dissertation, Spiritual leadership in the anti colonial struggle page 65

Tangal was *Qadiree* and *Ba Alavi* simultaneously⁹⁹. He was widely believed to be the *Qutub*¹⁰⁰ of the period he lived, and therefore, he became famous by the name of *Qutub Zaman* which is the top most status in the stratification of *Awliya*. He led them spiritually though he gave them religious speeches after the prayers especially after the Jumua prayer on Friday. People assembled there in large numbers to listen to him and to study from him. He interacted with people, solved their problems and built harmony among the Muslims and non Muslims. Then he moved against the British invaders who created chaos over the regions and at the same time he shouted over the Janmies who denied the rights of mappilas. Several mappila rebellions broke out but two of them are very famous which occurred in the periods of Mamburam Thangal. The first was at Muttiyara near of Tirurangadi where one Janmi dishonoured some of the mappilas with the help of others and triggered a rebellion which was utilized by British and they harmed those in Masjid of Muttiyara. Immediately, Muslims opposed which resulted in the martyrdom of 11 of them. They are famous by the name of Shuhada of Mutiyara. Both Muslims and Hindus practicing Nerchas in Mittiyara in all years in their remembrance. And second was in Cherur in the month of October, 1843. It is famous by the name of Cherur Pada. Seven mappilas were killed in this struggle. The role of Mamburam Thangal in both of these rebellions was outstanding. The British even planned to arrest Mamburam Thangal but they backed out of this attempt seeing the huge number of Mappilas who gathered there to protect him.

Being among the 'Hadrami sadats', who played an important role in the spread and consolidation of Shafi'i school of Jurisprudence around the Indian Ocean, Sayyid Alawi also followed the same. The Alawiya like the Shadhiliya coupled mysticism with a strong emphasis on the Sharia, both as the science of Jurisprudence (fiqh) and as a way of life. Over time Fiqh came to be considered the basis of all knowledge, including mystical

⁹⁹ Sufi Path(mal), Dr, Husain Randathani, p.140

¹⁰⁰ Moyin Hudawi, op, cit, ... p.151-164

insight. For the Alawi sada this meant Shafie fiqh and particularly the Minhajutalibin by Muhyi al Din Zakariyya al- Nawawi.¹⁰¹

Sayyid Alawi was a reformer, preacher and scholar of Shafie school of jurisprudence. He has written many works in this regard. The book *Al Saiful Bathar Ala Man Yuwafil Kuffar Wa Yathakhidhuhum Min Dooni Allahi Wa Rasulihi Answar*

(السيف البتار على من يوالي الكفار ويتخذهم من دون الله ورسوله انصار) is very famous among them all. It is a collection of fatwas given by Sayyid Alawi in replay to *Abdullah bin Adul Bari Al Ahdal of Koyilandi, Kozhikode*. There are eight fatwas in it against British and who supports them among Muslims and else. Abdullah bin Abdul Bari made it a good book and sent it to all Muslims secretly. It was in his life-time, and the book influenced the minds of Muslims which resulted in strengthening the ongoing war against the colonial powers. British government banned the book and burned the copies. But later Sayed Fadal, his son, printed this book from Istanbul as a section of grand book *Uddat Al Umarae Wa Al Hukkam Li Ihanat Al Kafart Wa Abadat Al Aswnam*. The book *Al Saif Al Bathar* ranges from the page 24-40 in that book. (Kareem, 1992, pp. 546-1).

He died in 1844 A D in Mamburam and was buried there. His burial ground is very popular in Kerala by the name of Mamburam Maqam. It is one of the most famous pilgrimages of Kerala.

Sayed Fadal Pookoya Thangal (1240 A.H-1322 A.H= AD1825 – AD1904)

Sayyid Fadal another eminent scholar and great personality who continued the legacy of his father in struggling against the British rulers to get them out of the soil of Kerala. Sayyid Fadal, son of Sayyid Alawi, Mmburam Thangal, born in 1824 (1240 A.H). He studied from the great sufi scholars of that period like *Abu Baker Musliar of Parappanagadi, Baithan Mohammed Musliar, Veliyankod Umar Qazi and Qazi Muhyiddeen* of Kozhikode. After the departure of his father when he was at the age of 20, he set out a journey to Arabia to gain more knowledge and spiritual power to lead the

¹⁰¹ (sufi and scholars of the sea, Family net work in east Africa.. Anne K. Bang 1st chapter 4 ht page).

Mappilas of Malbar. After five years of deep study and research he returned to Malabar to take the responsibility to lead them both spiritually and politically as his father did perfectly and bravely, He emerged as a charismatic leader which encouraged the Mappilas to wage war against the British as well as all other Janmis who used to challenge the rights of Mappilas. Anne k Bang gives a total view about the role of Sayyid Fadal Pasha in uplifting the Muslims of Malabar referring to S F Dale:

“The question should be considered as to what role Sayyid Fadal actually had in these events. In his study of the South Indian Muslims, S F Dale has made a convincing argument for the role of Fadal Pasha in the Mappila outbreaks. He summarizes Fadl’s influence as a strengthening of Islamic identity among the Mappilas, through the observance of Jumua prayer, refusal to eat leftover food from the Hindus, refusal to use honorific terminology in conversation with upper caste Hindus. Dale concludes that Fadl indeed was crucial in granting religious sanctions to this type of social action”¹⁰²

His great work *Uddattul Umara wal Hukkam Li Ihanathi al Kafarathi wa Abadathil Asnam*. is very famous and popular, that is because of the content it include. In that work, he calls upon the leaders to fight against the English¹⁰³. It is said that it was printed in Arabia and secretly distributed in the countryside. But when the news reached to the ears of British government, then collector of Malabar, Conolly proscribed it and through he tried to stop spreading its message among *Mappilas*.¹⁰⁴

The British came to know about the presence of Sayyid Fadl in the Malabar region and thought that it would strengthen the missions of Mappilas, but at the same time they recognized if Sayyid was arrested it would cause to stir violence all over the region. Though, they compelled him to leave Malabar and to stay somewhere in Arabia. Sayyid Fadl Thangal took the appropriate decision and left Malabar in order to avoid an expected bloodshed in the region¹⁰⁵. Then the Malabar region gave to an emotional farewell to their spiritual and political leader while they gathered in the way of *Tirurangadi* to

¹⁰² ibid

¹⁰³ A.P.Ibrahim Kunhu,op,cit,p.220

¹⁰⁴ Spiritual leadership in anti-colonial struggle: An analytical study of the life and works of *Qazi Muhammad Kalikuti* ,The M Phil dissertation of Muneer G P. .page 75 chapter 3

¹⁰⁵ K.T.Husain,op,cit,p.84

Parappanangadi in large numbers. First he went to Masqat and later he moved to Istanbul and in the year 1876 A D, he was appointed as the governor of Safar by Turkey Sultan of the time.¹⁰⁶

As a scholar of Islamic Jurisprudence his contributions are very notable and it is enough to know he was the Qazi over the region and used to interact with people in Friday prayers as it mentioned earlier. He gave fatwas according to the laws of Islamic Jurisprudence and spread awareness about the Shari'at and its laws.

His writings are in Arabic and Turkish languages:

- *Uddat Al Umara Li Ihanat Al Kafarat Wa Abadat Al Aswnam.* عدة الامراء لاهانة الكفرة وعبيدة الاصنام
- *Asas Al Islam Tareeqa Al Haneefa* اساس الاسلام طريقة الحنيفة
- *Taqwia Al Bathana* التقوية البتانة
- *Kowkab Al Durar* كوكب الدرر
- *Ulu Al Ihsan Li Tahseen Al Insan* الو الاحسان لتحسين الانسان
- *Al Qowl Al Mukhtar* القول المختار
- *Al Fuyuzat Al Elahia* الفيوضات الالهية

He died in Constantinople in 1901 A.D and was buried near the *qabar* of *Khaleefa Mahmood Khan*. (Kareem, 1992, pp. 559-561)

Umar Qazi Veliankode (AH 1179 –AH 1273 = AD 1765- AD 1857)

He is another outstanding figure who played a leading role in the war against the colonial rule of British. He walked the same path of Sayyid Alawi and his son Sayyid Fadl to lead the society both spiritually and politically. His influential personality and charismatic leadership functioned among the Muslims of Malabar in most successful manner and it strengthened the ongoing movement against the British powers.. He was the first freedom fighter in India to launch the movement for non-payment of taxes as a mighty

¹⁰⁶ Spiritual leadership in anti-colonial struggle: An analytical study of the life and works of *Qazi Muhammad Kalikuti*, The M Phil dissertation of Muneer G P. page 77chapter 3

medium of struggle.¹⁰⁷ And he had, like *Alavi Sayyids*, large following and was highly respected by Muslims and Hindus alike. And it was also believed that he would perform miracles and cure disease. He used to arbitrate in quarrels between people who did not therefore have to go British courts.¹⁰⁸

He was born in 1117 AH in famous kalkathara family of Veliyankodu a place in Ponnani Taluk. His father, Ali Musliyar was the Qazi of Veliyankodu. His mother's name was Amina. He is the descendant of *Hasan Tabiu Malabari* who embraced Islam in the first century of *Hijra* by the preaching of *Malik bin Dinar*.¹⁰⁹ He learned from his father and moved to the Dars of Tanur for advanced studies under *Ahmed Koya Musliyar of Tunnam Veedu*. He learned Arabic, Arabic poetry and Islamic lore.¹¹⁰ Then he accompanied *Mammikkuty Qazi* who was the chief teacher of *Masjid* 12 years. He has a good relation with Mamburam Thangal as he is attracted in Thangal's great personality along with his strong stand against the colonial powers.

After his education he was appointed as the Qazi of Veliyankod. At the same time he was invited from kodungallur and Chettuvai of TRissur district to lead them as Supeme Qazi (sarqazi) "He followed the Shafii School of Jurisprudence in practical life" (Kareem, 1992, p. 562).

Umer Qazi's potentiality in Arabic poetry was great and it has stunned even genius persons worldwide¹¹¹. His poems in Prophetic panegyrics is very popular while it influenced in the minds of its readers to add love of prophet. He has many works which were composed either in Arabic or in Arabi Malayalam, as he has many woks in prose, both are impacted in the Muslim community to lead them to the heights of spirituality.

In short, "He has left his imprint as an intelligent great scholar, a poet enriched with imagines, a social reformer with impatience, a freedom fighter with hard liver, an ever respected leader and advanced author" (Kareem, 1992, p. 562).

¹⁰⁷ , Kerala Muslingal Adhini vasha virudha. Porattathinte Prathyaya shasthram, by Zainuddin Mandalankunnu op, cit, p75

¹⁰⁸ Prof, KM. Bahauddin, op, cit, p. 111

¹⁰⁹ Unpublished PhD thesis of Bshauddin K , The Development of Shafie school of Jurisprudence in India. page 34 3 rd chapter

¹¹⁰ Malayalathile maharadhanmar by Nellikuth Muhammed Ali Musliyar, . p.38

¹¹¹ Ibid, p.37

He authored many books in Islamic Jurisprudence. They are

- *Maqaswid Al Nikah* مقاصد النكاح
- *Ahkam Al Dhabh* احكام الذبح
- *Sharah Ahkam Al Dhabh* شرح احكام الذبح
- *Nahsu Pattukal* (Arabic Malayalam Poem)
- His other writings are:
- *Nafaes Durar* نفانس الدرر
- *Allafal Aswi* الف العاصي
- *Swallal Elahu* صلى الاله (Arabic poem)

Besides, he had many emotional elegies composed on his teacher *Mammikkutty Qazi* and on his spiritual leader *Sayed Alavi*. (Kareem, 1992, pp. 561-564,I)

Umer Qazi , died in 1852 at the age of 95. By his great and long life he proved how can we struggle against the colonial powers and how can we unite and work successfully against injustice and evils in the society. He was buried at Veliyankode and his burial ground is very famous which situated in the north side of Malppuram district.

Samastha Kerala Jamiyyathul Ulama

As we have discussed earlier, the history of Islamic jurisprudence goes back to early period. From the very time it was controlled and managed by many of the prominent figures and great personalities. But after 1921 It has shifted to different organizations. In the post 1921 period the condition of Mappilas changed utterly where they have undergone various types of atrocities and harms. This very chaotic situation was utilized by some fundamentalists to spread their new ideas in the minds of Mappilas. The ideology which they belonged to was in contrast with that of traditional way of thinking which has been there in Kerala since a long time. The post 1921 atmosphere facilitated the easy spreading of new thoughts like puritanical views of Muhammad Abdul Wahhab (1702-1793), salafism of Rashed Rida (1865-1935), Islamic modernism of Muhammas

Abdu (1819-1905), Pan Islamism of Jamaluddin Afgani 1897-1939 and the Tahreek e Mufahideen in North India.¹¹²

To defend the traditional Islam along with its customs and practices, Ulama joined hands and called a meeting under the supervision of Marhum Varkkal Mullakkoya thangal, who was a sufi shaikh and renowned scholar and a prominent figure from the sayyid family after he was shared his thoughts with other ulamas like Pangil Ahmed kutty Musliyar. The program was conducted in Calicut big masjid, After a fruitful long discussion, they decided to form an ulama organization, but it assumed a full-fledged organizational set up only after June 26, 1926 in which a bigger convention was called at Calicut town hall and named as Samastha Jamiyyathul Ulama. The convention nominated Varkkal Mullakkoya Thangal as *Samastha's* first president while Pangil Ahmed Kutty Musliyar, Muhammed Abdul Bari Musliyar, KM Abdul Qadir Musliyar and KP Muhammad Meeran Musliyar became vice presidents, and PV Muhammad Musliyar and PK Muhammad Musliyar became secretaries in the first committee. *Samastha's* supreme body including the working committee consisted of 40 eminent scholars of the time who were drawn purely on the basis of their scholarship in Islam, religious piety, faithfulness and devoutness. They are called *Mushawara* members.¹¹³

On November 14, 1934 Samastha Jamiyyathul Ulama was registered with the approval of a well planned bylaw which was prepared after a deep and scholarly discussion in Mushawara meetings consulting with the law experts. The main aims and objectives of the organisation are (a) to propagate and spread the rites and beliefs of Islam according to the real view of *Ahlu Sunnah Wal-Jama'a*, (b) to legally prevent the organisations and campaigns which are against the rites and beliefs of *Ahlu Sunnah Wal-Jama'a*, (c) to look after all rights and powers of Muslim community, (d) to promote and encourage religious education and do the needful for the secular education that will be compatible with

¹¹² Faisal. K.P., MPhil Dissertation, JNU, (2005), *Tradition and Modernity among Mappila Muslims of Kerala: A Sociological Study*. Faisal K

¹¹³ Zubir K, 4th chapter, Modernisation of Islamic education in Kerala, Role of Samastha jamiyyathul ulama page:82.

religious beliefs and culture, and (e) to work for the welfare and progress of the Muslim society in general by eliminating superstitions, anarchy, immorality and disunity¹¹⁴

The contributions of Samastha in imparting and strengthening Islamic Jurisprudence are very significant as we have been observing its presence in all activities and programmes organized throughout the last 8 decades. In order to realize its aims and objectives many dialogs and debates were held in various part of Kerala , with concentrating those areas in which the new ideas were spread, it is notable that all programmes were actually to try for getting the Islamic juridical approach towards the rituals and customs, which has been questioned logically and said as Bidaths. In the first 25 years, *Samastha* focused its agenda on conducting public conferences, dialogues and ideological conflicts. Between 1927 and 1944, it convened 15 annual conferences at various places attracting immense public attention. The 16th conference held at Karyavattam was important, since then *Samastha* started to keep records and registers of all activities, resolutions and decisions scientifically. After that, the frequency of the huge public conferences decreased mainly because the organisation had tightened its foundation and fortress by 1950s and it had formed many sub committees and subordinate organisations to deal with different issues. In the next 40 years, it conducted eight conferences. The 24th and 25th conferences held at Calicut seashore in 1985 and 1996 were widely appreciated for the largest gatherings the town ever witnessed, for the discipline and obedience the huge crowd displayed, for the resolutions, topics and issues the conference sessions discussed, and for the attention both drew from non-Muslim, political and government circles.¹¹⁵ All these programmes witnessed many fruitful and insightful debates and discussions referring various texts in Islamic science.

The role of Islamic jurisprudence in all these dialogues were high and the texts were read and repeated in many time after . This attitude of referring and repeating the texts resulted in development of Islamic studies in Jurisprudence and law.

Samastha has passed many resolutions against its opponents particularly against those so called reformist organizations like *Jam'eyyat ul-Ulama* (later renamed as *Nadwat ul-*

¹¹⁴ Ibid:82,83

¹¹⁵ Ibid 83

Mujahideen and known as *Mujahids, Salafis and Wahhabis*) and *Jama'at-e-Islami* (followers of Abul A'ala Moududi, who contrasted the traditionalist views in the issues like *Tawasul, Isthighasa, Taqlid, Ijtihad*, and who directed public against performing rituals and customs which have been practiced by Muslims for long time . For defending themselves *Samastha* presented many evidences and proved all those are in accordance with *Fiqh* texts

Madrasas in a well systematic method influenced directly among the *Mappilas*. It was to transform the religious education in to an institutional set up with planned building and other needed facilities. In 1945, at the 16th conference of *Samastha* held at *Karyavattam*, *Marhoom Sayyed Abdur Rahman Bafaqi Tangal*, who drew attention of *Ulama* to set up well *Madrasa* system throughout *Kerala* . As a result of this, *Samastha* appointed two full time organisers in order to campaign for the establishment of *Madrasa* and *Darsas* across the state. Within years the *Madrasas* and *Darsas* began to emerge in the various *Mahallus* of the *Kerala* . Then the *Othupallis* started to transform to *Madrasa*.

Now the demand for a centralised syllabus arose following many talks and discussions held to facilitate a centralised *madras* system. The *Samastha* conference held in *Badgara* in *Calicut* Passed a resolution in order to form an educational board. . “This conference constitutes a committee in the name of *Samastha Islam Matha Vidyabhyasa Board* (*All Islamic Educational Board*, known as *SKIVB*) with *KPA Muhyiddin Kutty Moulavi* its convenor to work for the improvement of *Madrasas* and *Darses*, to set up those in *Mahallus* where they do not exist, and to prepare a syllabus and textbooks needed for centralising all *Madrasas*.”¹¹⁶

The syllabus formed for the purpose has given much importance to *Islamic Jurisprudence*. From the primary level the *fiqh* study starts by the name *Amaliyyath*. It includes the very basic studies in *Islamic Jurisprudence* which will help the students to familiarise with *Islamic compulsory practices* and to do as directed from the age seven in which the *Prophet (PBUH)* ordered the parents to ask their child to perform *Namaz*.

¹¹⁶ Ibid 95

According to Darsas or Palli Darsas the syllabus of makhdoomies is studied and it is reformed by time to time with the advices of Ulamas. Here also Islamic studies in jurisprudence enjoy a very significant role. The syllabus starts from Pathukithab, the very basic book in Islamic jurisprudence. The other major Islamic texts in Jurisprudence are Bafadhl, Fathul Muen, Mahalli, and Tuhfatul Muhataj.

The va'z programmes are very common in Kerala for a quite long time. It has played a major role in the development of Islamic Jurisprudence. Literally Va'z means giving advice and can be defined as the religious speeches usually address for the common people. The subjects of these Va'zs were the Islamic. It is obvious that the Jurisprudence and law in Islamic approach has been discussed much in these Va'z programs. The rich oral history proves that there were Va'z programmes which long three and even six months. They used to speak on Namaz, Fasting, Zakats and Hajs the five pillars of Islam and other related subjects. For that even common people are aware of such things related to Islamic Jurisprudence, by that way it evidently influenced the society especially the families. There were some Mahallus where Fathul Mu'in ,the every famous and popular text in Islamic Jurisprudence, has been taught by page to page or the main parts of the text.

Another very important thing Samastha has done is the centralized form of Mahalls and through the way Samastha communicated the common people diirectly. This Mahallus facilitated the smoth running of Palli Darses

Scholars of Samatha Kerala Jam'eyyatul Ulama'

As it is said, since 1926 the religious atmosphere of Kerala has undergone for a drastic change. It is because of the leadership of Mūslims has been transferred from persons to an organization namely *Samasta Kerala Jameyyatl Ulama*. It's prime aim was to defend Muslims from the ideologies of reformist groups appeared in Kerala only in the first phase of 20th century. Apart from that, Samasta has also generated religious and secular educational system in Kerala, that has been running so many Madrasas, institutions and educational events for the last eight decades. Here, it would be better to mention briefly

the very famous and eminent leaders of this organization, who contributed to keeping its aims and visions alive in all fields especially in the Islamic Jurisprudence.

Ahmed Koya Shaliati (1302 A.H-1327 A.H)

Ahmad Koya Shaliyati was born in Chaliyam of Calicut district, Kerala, on 22 Jumadal Ukhra, 1302 AH. He was famous by the name of Abul Hasanat ¹¹⁷()and AbuSa'adat¹¹⁸. His father Imamudden was an eminent scholar and Sufi. He learned from various scholars of that time in and out of Kerala. He learned from mufti Mahmood Saheb of Madras and studied in Velloor Latheefia Arabic College of Tami Nadu.

He was selected as a member of Samastha Kerala Jame'yyatul Ulama in 1926, following his appointment as a member of Darul Ifta under Latefia Madrasa of Vellor. He served as a teacher in Madrasa Riyazul Jinan of Tirunalvli and Latheefia Madrasa of Velloor, both in Tamil Nadu. He also served as a teacher in Jamia masjids of Tirurangadi and Kodyathoor in Kerala and Bhatkal of Karnataka. He was a genius with deep knowledge in various fields and particularly in Islamic Jurisprudence. It is told that he was able to give fatwas in four Madhhabs.

He established a library which is one of the oldest Islamic libraries of Kerala, namely Azharia Kutub Khana which contains a valuable collection of some rare books and documents .

He had written many books, Tarajimul Mu'allifin تراجم المؤلفين is the most famous among them. Nuzhatl Khawatir of fakhruddin Al Hasani recorded the biography of 4500 scholars all over India, but he never covered even one scholar in Malabar. Though, Ahmad koya Al Saluyati's this book gives a good picture on the scholars of Kerala through this book.

¹¹⁷ Azhari Tangal

¹¹⁸ Samastha by PP Muhammad Faize page no: 59

“And this gap was filled by the pride of Malabar, Allama Sheikh Shihabuddeen Abul Hasanat Ahmed Koya Al Shaliyati (d.1374 A.H) in a book namely Tarajimul Muallifin.”¹¹⁹

His writings in jurisprudence are:

- Khairul Adilla خير الادلة
- Risalat Ahkam Al Masbooq رسالة احكام المسبوق
- Al Bayan Al Mouthooq البيان الموثوق

He has a commentary on Thaswreeh Manthiq in logics. (Abdulla, 1995)

He died in Chaliyam in 1374, Muharram 27 and was buried there. (Faizee, 2005, pp. 59,60).

Abul Haq Abdul Bari Musliar (1298 A.H-1385 A.H= 1878 A.D-1965 A.D)

He was born in Valakkulam of Malappuram district in Kerala in 1878 AD. His father Kwaja Ahmad Koyakkutty Musliyar was also a great scholar of that time and a member of Qadiri Sufi order.

After his primary education from his father, he accompanied Ahmad Shirazi in Nadapuram, Kodancheri Ahmed Kutty Musliar in Tirurangadi and Awaran Musliar in Ponnani for further education. He studied from Sheikh Abdul Wahhab Hazrat, Sheikh Abdul Jabbar Hazrat and Sheikh Abdul Raheem Hazrat from Baqiyat al Salihat of Vellur as he was awarded from there the degree of Moulavi Fazil Al Baqawi after pursuing the course five years.

He was Mudaris of Al Madrasa Al Jifria of Kozhikode and then in masjids of Ayyaya, Tanaloor, Valavannoor and Kanancheri. He served for 40 years in his native place in the masjid built by himself up to his death.

¹¹⁹ Azhari Thangal page no 54,55 1993

From 1945-1965 he was the president of Samasth Kerala Jameyyatul Ulema and one of its founders. He, a great scholar in Arabic, Urdu, Persian and English languages, had written many books. Some are listed here.

- Swihahu Al Shaikhaini صحاح الشيخين
- Sirat Al Islam سيرة الاسلام
- Al Waseela Al Uzma الوسيلة العظمى
- Fatawa Al Bari فتاوى الباري
- Al Mutafarrid المتفرد

He died in 1965 (1385 Jumadal Uola: 2) and was buried near by his masjid, in Puthuparamaba.

Quthubi Mohammed Musliar (1299 A.H-1385 A.H=1877 A.D-1966 A.D)

He was born in Abdul Rahaman Nagar of Malppurm district in Kerala in 1877 AD. His father *Ahmed* had died when he was very young and he was up brought by his uncle *Kunhi Moideen Musliar*.

After his primary education from his native place, he accompanied *Karimpanakkal Pocker Musliar (Abu Baker Musliar)* and *Chalilakath Kunhahammed Haji* for advanced study. Then, he was appointed as Mudarris in various masjids of Kerala, in *masjids* of *Panoor, Nadapuram, Vaniannoor, Parakkadavu*. He was later appointed as the chief of *Darul Uloom Vazhkkad*. He contributed many disciples who were very famous for their scholarship and service to *Ulema* organization and community. *Kanniat Ahmed Musliar* (d.1993 A.D), *E.K. Abu Baker Musliar* (d.1996 A.D) and *Kaippatta Meeran Kutty Musliar* (d.1988 A.D) were some of them.

He died in 28 January 1966 A.D (Shawwal 6, 1385 A.H) in *Chokli* of *Mahe* (union territory of Pondichery) and was buried there.¹²⁰

¹²⁰ Samastha, PP Muhammad Faize page no 101, 102

E.K Abu Baker Musliar (1914 A.D-1996 A.D)

E K Abubaker Musliyar, who was popular by the name 'Shamsul Ulama' (sun of Scholars), was born in Parambil Kadavu of Kozhikode in 1333 A.H. His father Kotatti Musliyar was also a great scholar. His family is among those migrants of Hadarmout to Malabar Coast. After his primary education from his father, he accompanied Kunhi Mahin Musliar of Madavoor, Abdul Ali Komu Musliar, Ayanikkad Ibrhim Musliar and Pocker Musliar of Kadavathoor. For advanced knowledge he joined Darul Uloom Vazhakkad and learned from the great scholars of that time, Abdul Qadir Al Fazfari, Quthubi Muhammed Musliar and Kanniath Ahmed Musliar.

He got *sanad* in Hadith from Ahmed Koya Al Shaliyati and in jurisprudence from Panayikkulam Abdul Rahman Musliar. Then he joined in Baqiyat Al Swalihah in Velloor for three years course. He was awarded the degree of Moulavi Fadil Al Baqawi in 1940. He learned from the great scholars there, Sheikh Abdul Raheem Hazrat, Sheikh Abdul Jabbar Hazrat and Sheikh Adam Hazrat.

In the age of 25, he made history for being appointed as a teacher there, receiving the invitation from the teachers of Baqiyat, with the special responsibility of providing fatwas in Shafii School. He was also in charge of ruling in hereditary issues. He served there for eight years which gave him opportunity to contribute eminent scholars.

After returning from Velloor, he was appointed as sadar mudaris of Quwatul Islam Madrasa of Taliparamba, in Kanoor district. In 1958 he was the in charge of mudaris and manager of Islahul Uloom of Tanur in Malappuram district. From 1963 to 1977 he was the principal of Jamia Nooria Arabia of Pattikkad which is the first institution for the advanced Islamic studies in all over Kerala. From 1978 up to his death in 1996 he was the principal of Jamia Daruslam Al Islamia of Nandi, Kozhikode, which was once the second largest institution of whole Kerala.

He was the general secretary and supreme of Samasta Kerala Jameyyatul Ulema from 1957 up to his death. He played a vital role in advancing Samastha Kerala Jameyyathul Ulama in various fields.

He authored two books in Malayalam namely, Qabar Ziyaratum Koottu Prarthanayum and Khuthubayude Bhasha which was published posthumously in 2008 by Noorul Ulama, the students' association of Jamia Nooria Arabia. He also authored a book in Arabic namely, Moulid Khwaja Mueenuddeen Chisti. (مولد خواجه معين الدين الجشتي)

He died in 1996 A.D in Kozhikode and was buried in Putiyangadi near the grave of Varakkal Mulla Koya Tangal the founder of Jameyyatul Ulema.¹²¹

Cherusseri Zaynudden Musliyar

Cherusseri Zaynudden Musliyar was born in 1937 at Morayur in Mlappuram district. His father Muhammad Musliyar was also an eminent scholar. After his primary education from his father he accompanied Abdur Rahman Musliyar Ovungal for two years. He was forced to stay back in his native place to serve his father instead of going to Vellur Baqiyat Salihat for higher studies.

He started his service as a teacher at Kodangad in Malappuram district. His deep knowledge and full command over the religious texts, particularly in Islamic juristic texts, attracted the students across Kerala. The 18 year long service there produced a lot of scholars and Ulamas all over the Kerala.

Then he moved to Chemmad Masjid in 1977. In the last two decades of 20th century, Chemmad became one of the centres of religious studies. In 1980 he was selected as member of Samastha Kerala Jam'eyyatul Ulama and in next year itself he was also selected as a member of Fatwa committee. After the demise of Shamsul Ulama E K Aboobacker Musliyar in 1996 he was assigned as the General Secretary of Samatha Kerala Jame'yyathul Ulama. He was selected as the Chairman of the Fatwa Committee, and for long years he is the final word in the juristic issues of Kerala Muslims. After the demise of MM Basheer Musliyar he was selected as the Principal of Darul Huda Islamic Academy, Chemmad.

¹²¹ Samstha Fizee page no 149, 153

Chapter 3

The Significance of Fathul Mu'in in the Social and Religious Life of Kerala Muslims

Fathul Mu'in is a brilliant account of religious jurisprudence in *Shafie'i* School of Jurisprudence written in the sixteenth century by eminent Islamic scholar *Zaynuddin Makhdoom*, the second. Its role in unifying the customary practices of the Muslim communities is conspicuous from the religious historical trajectories. Therefore, its academic relevance is not contestable and it should be counted in the purview of serious study. The text's successive presence for more than four centuries in the curricula of Islamic institutions and *Palli Darses*¹²² is enough to see its importance among Muslims in Kerala. Here is being made an attempt to explore the major points by which *Fathul Mu'in* obtained a high position among *Ulama* and commons.

Fathul Mu'in is an enlarged and revised version of *Qurratul Ain bi Muhimmatiddin*, one major and very important work by Shaykh Zainuddin Makhdom himself. It is a short juristic text as per Shafiee School of Jurisprudenc¹²³ and includes almost much needed portions of Islamic laws throughout the life of an individual. The name *QurratulAin bi Muhimmatiddin* means, literally, "consolation for the eye (having engaged) with the important juristic laws of the religion". The author selected the name, as he mentioned¹²⁴, to get the pleasure on the Day of Judgment by looking at the God's face. *Qurratul Ain* is also significant due to its abridged way of writing as well as arrangement of titles in a particular style which will help the reader to get acquainted with the Islamic doctrines and rules easily.

The author starts with reference to the privilege of those who engage with the knowledge as it is said in and promoted by Quran¹²⁵ and Sunnah.¹²⁶ It is the same to that of *Tuhfatul*

¹²² It is the most fundamental type and the longest lasting educational system in Islam pioneered by the Prophet himself who arranged facilities for a selected few, called Ahlu al-Suffa, to stay in his mosque at Medina to learn more about Islam from him and to be expert scholars who can play a major role in disseminating religious knowledge

¹²³ *Fathul Mu'in* page no 3

¹²⁴ Ibid 4

¹²⁵ وَمَا كَانَ الْمُؤْمِنُونَ لِيَنْفِرُوا كَافَّةً فَلَوْلَا نَفَرَ مِن كُلِّ فِرْقَةٍ مِّنْهُمْ طَائِفَةٌ لِّيَتَفَقَّهُوا إِذَا رَجَعُوا إِلَيْهِمْ لَعَلَّهُمْ فِي الدِّينِ وَلِيُنذِرُوا قَوْمَهُمْ (سورة التوبة 122) يَحْذَرُونَ

Muhtaj¹²⁷ of Ibnu Hajar al Hitamy¹²⁸ the prominent work in the Shafi'i school of jurisprudence, while he started; verily the engagement with knowledge is one of the best acts of worship and better one to spend the precious time on. It means, according to the Islamic point of view, that the seeking of knowledge is always good and is required by both the Quran and Sunna. It is also noteworthy here that the word Thafaqquh (تَفَقُّه) which is used by Quran, is derived from root word 'fiqh' (to understand, study). The same word is used for the Jurisprudence itself. It denotes that the study of and engagement with 'fiqh' or juristic studies enjoys a high position among the various branches of Islamic Knowledge.

In 982¹²⁹ /1574¹³⁰, Zaynudheen Makhdoom completed the writing of Fathul Mu'in when he was "Makhdoom" at Ponnani and Mudarris of *Valiya Jumuath Masjid* (means: big

Nor should the Believers all go forth together: if a contingent from every expedition remained behind, they could devote themselves to studies in religion, and admonish the people when they return to them, - that thus they (may learn) to guard themselves (against evil) ((translation of Yusuf Ali)

126 حدثنا سعيد بن عفير قال حدثنا ابن وهب عن يونس عن ابن شهاب قال قال حميد بن عبد الرحمن سمعت معاوية خطيبا يقول
سمعت النبي صلى الله عليه وسلم يقول من يرد الله به خيرا يفقهه في الدين وإنما أنا قاسم والله يعطي ولن تزال هذه الأمة قائمة على أمر الله لا يضرهم من خالفهم حتى يأتي أمر الله.

Narrated Muawiya: I heard Allah's Apostle saying, "If Allah wants to do good to a person, He makes him comprehend the religion. I am just a distributor, but the grant is from Allah. (And remember) that this nation (true Muslims) will keep on following Allah's teachings strictly and they will not be harmed by any one going on a different path till Allah's order (Day of Judgment) is established." (*Volume 1, Book 3, Number 71*)

¹²⁷ Tuhfatul Muhtaj , very famous text in shafie school of Jurisprudence. It include 10 volumes ,written by Ibnu Haja Al Haithamy.

¹²⁸ Ibnu Hajar Al Hithamy , eminent scholar in Islamic Jurisprudence. Born at Hitam in west Egypt in 909 A H. His full name is Shihabudheen Abul Abbas bin Muhammad bin Al Hajar Al Hithamy Al Sidee Al Ansaree AShafiee. Joined at University of Al Azhar in his 14th age. studied from very brilliant Islamic scholars of the time like Qazi Zakariyyal Ansari and AsShikh AsSimbathi. On his 24th age he got Ijazah (permission) to give Fatwas on religious issues and became a teacher who known later as Khathimathul Muhaqqiqeen (final or end or conclusion of researchers) for his talent in Islamic Jurisprudence. Died at Makkah in 973 Rajab 13.

¹²⁹ Fathul Mu'in page no:334

¹³⁰ Athmeeya nethakkalum Navodhwana Nayakarum. Page no ,541

According to article written by KMK Ahseni on Fathul Mueen in Makhdoomum ponnaniyum , the year of Qurratul Ain's (writting year) is noted as 982 in Ramazan 24 Friday, Makhdoomum Ponnaniyum page no 142

masjid of Ponnani). It was after his 10 yearlong studies at Makkah from the eminent scholars like Ibn Hajar Al Hitamy, the author of Tuhfatul Muhtaj.

Before the establishment of *Fathul Mu'in* in Kerala, Muslim scholars were generally dependent on the Tuhfatul Muhtaj, Mahalli and other major texts, but those were very prolonged and detailed reference works. We believe that his experience in the teaching field at Ponnani Masjid instigated him to do such a work like *Fathul Mu'in* that Muslims, especially those in Kerala, are experiencing lack of a comprehensive text in Shafie School of Jurisprudence which both Scholars and students could access easily and comfortably. The highly ranked texts, Tuhfatul Muhtaj, Mahalli and others were not as much easier that the beginners can understand, because of its scholastic and academic depth and obfuscated language well as its highly minute and detailed mode of discussion. Now he initiated to write down such a finest work in Shafiee School of Jurisprudence which will include all laws in Tuhfatul Muhtaj and other major works without going its scholarly differences.

It is beyond doubt that the main motivation of Zaynudheen Makhdoom to write Fathul Mu'in was the guidance from his teacher Ibn Hajar Al Haitamy. He taught Young Zaynudheen Makhdoom for long years at Makkah. The attachment between them became deep which insisted Ibn Hajar to visit Kerala on the call of his beloved student Zaynudheen Makhdoom. It is said that he has stayed at *Ponnani Valiya Masjid*¹³¹. According to some vocal sources as well as other secondary sources it is believed that the round stone which was found in the middle of *Ponnani Valiya Masjid* is launched by Ibnu Hajar.¹³² And it is also proved that the first work of Zainudheen Makhdoom, Al Ajvibatul Ajeeba has been kept in the Library at *Chaliyam* with signnatures of Ibn Hajar.¹³³ However Ibn Hajar Haitamy has been influenced by Zaynudheen Makhdoom second much and by this inspiration he wrote *Fathul Mu'in*.

¹³¹ Makhdoomum Ponnaniyum: page no 79

¹³² Ponnaniyude samskarika pperuma , Kiraliyude Makkah 3, by T V Abdur Rahman, page no 34

¹³³ Ponnaniyum Makhdoomum page no 79

The main sources of Fathul Mu'in are those standard texts in Shafie School of Jurisprudence like Shihabudheen Ahmed bin Hajar Al Haitamy, and other eminent scholars. Zaynudheen Makhddom says:

انتخبته وهذا الشرح من الكتب المعتمدة لشيخنا خاتمة المحققين شهاب الدين أحمد بن حجر الهيتمي، وبقية المجتهدين، مثلُ وجيه الدين عبد الرحمن بن زياد الزبيدي رضي الله عنهما، وشيخي مشايخنا شيخ الإسلام المجدد زكريا الأنصاري، والإمام الأجد أحمد المزجد الزبيدي رحمهما الله تعالى وغيرهم من محققي المتأخرين¹³⁴

“I have chosen this (Qurratul Ain) and its explanation (*Fathul Mu'in*) from the reliable texts of my teacher Khathimathul Muhaqqiqeen (last word for experts in Islamic Jurisprudence) Shihabudheen bin Hajar Al Haitamy and rest of Mujthahideens such as Wajeehudheen Abdur Rahman Ziyad Al zubidee (May Allah bless them) and teacher of my teacher Mujadhid Zakariyyal Ansari and Imamul Amjad Ahmed AlMuzajjad Al zubidee (May Allah have mercy) and other late Muhaqqiqeen.

In order to regulate *Fathul Mu'in* and organize, Zaynudheen Makhdoom ordered a beautiful hierarchy of the sources in Shafi'i Islamic Jurisprudence according to their importance and it was presented in *Fathul Mu'in*.

Zaynudhen Makhdoom says:

معتمدا على ما جزم به شيخا المذهب النووي والرافعي، فالنوي فمحققوا المتأخرين رضي الله عنهم¹³⁵

(I wrote this text) depending on the asserted opinions by two experts of Shafi'i Jurisprudence, Imam Nawavi and Imam Rafie, then on what is stated by Nawavi (in case it contrasts with Rafie) and then what is approved by late experts May Allah bless them.

إعلم أن المعتمد في المذهب للحكم والفتوى ما اتفق عليه الشيخان، فما جزم به النووي فالرافعي فما رجحه الأكثر فالأعلم فالأورغ. قال شيخنا: هذا ما أطبق عليه محققو المتأخرين والذي أوصى باعتماده مشايخنا، وقال السمهوتي: ما زال مشايخنا يوصوننا بالإفتاء بما عليه الشيخان وأن تعرض عن أكثر ما خولفا به. وقال شيخنا ابن زياد: يجب علينا في الغالب ما رجحه الشيخان وإن نُقل عن الأكثرين خلافة¹³⁶

¹³⁴ Fathul Mu'in page no: 3

¹³⁵ Fathul Mu'in page no:3

¹³⁶ibid :309

Be aware that the approved opinion in Ma`dhab for (issuing) Fatwas and juristic judgments is the one that is agreed upon by two Sheikhs (Nawawi and Rafie), then what is asserted by Nawawi, then by Rafie, then that is stated by majority, then what is popular then what is minute. My teacher has said: This is what is consented on by late Muhaqqiqeen (experts in Islamic Jurisprudence) and what is recommended by our Mashaikhs (chieftains) to depend up on. Al Samhodi said: Our Mashaikhs usually suggested us to give fatwas according to those agreed by *Shaikhan* (Imam Nawawi and Imam Rafie) and to get away from that of contrasted between them. Our Shaikh Ibnu Ziyad said us; we must preferably depend on those recommended by Shaikhan even if the majority has contrary opinion.

Fathul Mu'in enjoys some particularities from other texts in Shafi'i School of Jurisprudence:

- It is easy to grasp by everybody who have a basic knowledge in both Arabic language and Islamic Jurisprudence. Even though, it is also applied for serious studies. It means there are many methods to study *Fathul Mu'in* and we will discuss it later on. This easy accessibility facilitated all students as well as commons to learn *Fathul Mu'in* and practice as well. Generally the students of *Palli Darses* and other religious institutions are learning some basic texts, in Arabic grammar, philology and morphology such as Taqweemullisan and Meezan (foot notes), like that some basic texts in Shafiee jurisprudence such as Umda. These students are now sitting for learning Fathul Mu'in and they can catch it easily and comfortably.
- Second major feature is that Fathul Mu'in is considered as the best and briefest treatise. However, it encompasses almost all portions of Shafi'i Jurisprudence. It includes the four major parts of Islamic Jurisprudence, Ibadath (worship laws), Mu'amalat (transactions and laws), Munakahat (marriages and laws) and Jinayat (criminal laws) and these are presented in a succinct and precise way, at the same time it does not drop important topic to be mentioned. In other words, *Fathul Mu'in* discusses every essential portions of Shafi'i Jurisprudence which will satisfy the learner who can study it within few years.

- Third point belongs to the method he adopted to write, that *Fathul Mu'in* is not dealing with differences and contradictions in within the School but refers to other major texts like Minhaj and Tuhfatul Muhtaj, even though, some key issues are discussed in detail including its differences along with the opinions of Ulama.
- Fourth point is an extension of third, that *Fathul Mu'in* talks about the actions and its laws not with concentrating where from it comes or is there any other opinions regarding that issue. According to the experts in Shafie Jurisprudence, *Fathul Mu'in* adopted the same method of Tuhfatul Muhtaj in discussing the issues and the laws but Tuhfatul Muhtaj goes to the depth of the issues and discusses one by one in extensive manner and *Fathul Mu'in* provides the short and content¹³⁷.
- Fifth point relates to the presentation, that he arranged the chapters and sub chapters in a highly attractive and perfect way, as it is appreciated by both Arabs and non Arabs. One of the prominent Islamic scholars Fareed Muhyidheen Al Barbari writes on *Fathul Mu'in* and how it attracted the attention of the Academic world:

فتح المعين كتاب شأنه عجب	حوى من الفقه ما لم يحوه كتب
وقد رقى فى اختصار اللفظ ذروته	حتى تهون على حفاظه الكرب
كم من لألى حسان فيه كامنة	عن غير أهل لها تخفى و تحتجب
وقد حوى من نصوص الشافعى ومن	نصوص أصحابه ما كان ينتخب
أحكام مذهبنا فيه مبوبة	أثنى على حسن تأليف له العرب
فلا تبال بمن زاغت بصتيرته	عن قدره فهو أعمى فاتته الشنب
فيه الغنى غالبا عن سائر الكتب	وذاك فضل علينا شكره يجب

The poet considers *Fathul Mu'in* as an ideal and perfect text in Islamic Jurisprudence of Shafi'i School. It consists of almost all subjects in the juristic law. *Fathul Mu'in* is articulated not in explanative manner having all references but in brief and shortened form which would help readers to understand and learn. The poet directs readers towards

¹³⁷ Interview with Abdul Gafoor Anwery Anakkara.

the depth of Fathul Mu'in which should be unveiled in front of people. Fathul Mu'in includes the views of Imam Shafiee and his companions. The juristic opinions of Shafiee Jurisprudence have been chapterized in an attractive manner. Further he requests the readers to understand the value of Fathul Mu'in while he considers those who cannot value it as a blind. Finally he urges people to utilize it as it is superior to many other texts.

Contents of Fathul Mu'in

Fathul Mu'in, as of all Juristic texts, deals with the Shari'a's rules and laws, which are based directly on Quraan, Sunnah, Ijma' and Qiyas. Therefore, it is related with the actions of an individual and his life, what things he should do and what he shouldn't, how he can interact with the society and which behaviors are required while dealing with others. In other words: it refers to the science of Islamic law, though it deals with the obligations, prohibitions, and permissibles of an individual's life.

However, in order to lay out these juristic views in a unified form all juristic works have received a common method of presentation, starting with Ibadath, then Muamalah, then Munakahat and then Jinayah; *Fathul Mu'in* has also adopted a particular method in this regard.

The author structured the first chapter Ibadath, according to the Hadith:

حَدَّثَنَا مُحَمَّدُ بْنُ عَبْدِ اللَّهِ بْنِ ثَمِيرٍ الْهَمْدَانِيُّ، حَدَّثَنَا أَبُو خَالِدٍ، - يَعْنِي سُلَيْمَانَ بْنَ حَيَّانَ الْأَحْمَرِ - عَنْ أَبِي مَالِكٍ الْأَشْجَعِيِّ، عَنْ سَعْدِ بْنِ عُبَيْدَةَ، عَنْ ابْنِ عُمَرَ، عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ " بُنِيَ الْإِسْلَامُ عَلَى خَمْسَةٍ عَلَى أَنْ يُؤَخَّذَ اللَّهُ وَإِقَامَ الصَّلَاةِ وَإِيتَاءَ الزَّكَاةِ وَصِيَامَ رَمَضَانَ وَالْحَجَّ " . فَقَالَ رَجُلٌ الْحَجَّ وَصِيَامَ رَمَضَانَ قَالَ لَا . صِيَامَ رَمَضَانَ وَالْحَجَّ . هَكَذَا سَمِعْتُهُ مِنْ رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ¹³⁸ .

It is narrated on the authority of ('Abdullah) son of Umar (may Allah be pleased with them) that the Holy Prophet (may peace of Allah be upon him) said: (The superstructure of) al-Islam is raised on five (pillars), i.e. the oneness of Allah, the establishment of prayer, payment of Zakat, the fast of Ramadan, Pilgrimage (to Mecca).

138 : page no :21 صحيح مسلم كتاب الإيمان : باب قول النبي صلى الله عليه وسلم " بُنِيَ الْإِسْلَامُ عَلَى خَمْسٍ : 138

A person said (to 'Abdullah b. Umar the narrator): Which of the two precedes the other- Pilgrimage or the fasts of Ramadan? Upon this he (the narrator) replied: No (it is not the Pilgrimage first) but the fasts of Ramadan precede the Pilgrimage.

However he differs from the texts of early experts as well as late in Shafie Jurisprudence. He starts Fathul Mu'in with Chapter Salath (prayer) instead of Chapter Taharat (Purity). It is because of the significance of Salath than other obligations and it is much connected Ibadath to the man after the Shadat.¹³⁹

After the introduction he begins with Salat (five time prayer), and elucidates its meaning both literally and terminologically. It is followed by a beautiful description of juristic explanation on all the aspects of Salat under different titles and sub titles. In the first phase, the author discusses some external rulings of Salat without which the Salat is incomplete such as different kinds of Purity, ablution, Tayammum¹⁴⁰, pollution and by which it would be removed and other required things. He also explains about portions of ablution and with which it would be broken, about major parts ablution; its compulsorily prescribed things and those recommended as well, about wine and how it can be purified and other problems related to pollution and its purification.

The first chapter also includes nine major subchapters. They are rulings of Salat, its structure, its recommended actions, those things which break Salat, Adhan, Iqamat, recommended Salats, Eid Prayers, Friday Prayers and Salats on Mayyit.

He points towards those very important things under the title "branch" (Fara'). The first chapter consists of four branches, first of them to explain the importance in rushing to Masjid for Jama'at prayer of compulsory Prayers, second is to explain the *Karahat* of sleeping after the time of compulsory prayer starts and before the payer. Third is to give the details on the *karahat* of prayer of uncaused recommended prayers in some *Karahat* times. Forth is to say about the permission to use silk dresses for males for the war purposes. The author finished this chapter by mentioning the Salat on Mayyits and other related things.

¹³⁹ : lanathu Thalibeen : page no 21

¹⁴⁰ :Thayammam تيمم

Zaynudheen Makhdoom doesn't forget to give necessary details and explanations on some very important issues. That is to help readers to understand its significance and to enlighten them about such matters. For example, he brings the Hadith of Adan by which the reader knows the evolution of Adan's form Bell(Jaras) to well known words.

After the Salat he moves to Zakat, one of the five pillars of Islam. As usual, the author started with giving the literary meaning of Zakat and with terminological meaning. He says:

هي لغة: التَّطْهِيرُ والنَّمَاءُ. وَشَرْعًا: اسْمٌ لِمَا يَخْرُجُ عَنِ مَالٍ، أَوْ بَدَنٍ، عَلَى الْوَجْهِ الْآتِي. وَفُرِضَتْ زَكَاةُ الْمَالِ فِي السَّنَةِ الثَّانِيَةِ مِنَ الْهَجْرَةِ بَعْدَ صَدَقَةِ الْفِطْرِ. وَوَجِبَتْ فِي ثَمَانِيَةِ أَصْنَافٍ مِنَ الْمَالِ: النَّقْدَيْنِ، وَالْأَنْعَامِ، وَالْقَوْتِ، وَالتَّمْرِ، وَالْعَنْبِ لِثَمَانِيَةِ أَصْنَافٍ مِنَ النَّاسِ¹⁴¹

It literally means purification and growing. Terminologically, means: it is the name for those things which should be brought out of the wealth, or body in a particular method and it will be explained later. The Zakat on wealth became compulsory since the second year of Hijra after the Sadaqatul Fitr¹⁴². It is mandatory in eight items; Naqdain(gold and silver), cattle, food (قوت), date, and grape, it is distributed among eight sections of people. Giving the details of the amount of gold and silver for Zakat, Zaynidheen Makhdoom tries to refer by the available standard scales.

Now he began to explain the Zakat of trade since it is considered as one of the much discussed subject in Islamic discourses. He discussed all portions sufficiently by which we can understand the Islamic view point towards the social equality through the application of Zakat. At the same time, he didn't neglect to say the most agreed upon opinion is Shafi'i School of Jurisprudence about the Zakat on jewels that there is no Zakat in it. Though, it does not mean any type of storing, and investment shall be permitted under this law but the Zakat is mandatory for that type of jewels, because the

¹⁴¹ Fathul Muin, chapter Zakath page no: 105

¹⁴² Sadaqatu Fitr is a special charity given to the poor people on the day of Eid. Sadaqat-ul-fitr is an obligation for every Muslim, male or female, who owns a particular amount (as in Juristic texts) of money or other things beyond one's normal needs.

condition “Huliyun Mubah” (permissible jewels) exclude this kind of stocking. The storing with the intention of treasure also requires Zakat.

Agriculture is an integral part of Kerala’s asset. Kerala can never be separated from it neither in past nor in present. The author of Fathul Mu’in also did not neglect this sector while he presented a sufficient account of explanation covering almost all part of it and provided juristic laws and rulings in this regard. He classifies the topic into two, those agricultural assets which are irrigated without cost and those with cost. The share of the former is twice than the later. Because those irrigated would have been already spent much and he is to give half scale of those who have irrigated without cost.

وسبب التفرقة: ثقلُ المونة في هذا، وخفتها في الأول، سواءً أزرع ذلك قصداً، أم نبت اتفاقاً كما في المجموع حاكياً
فيه الاتفاق¹⁴³

The reason for distinction: the expense is high in this (irrigated) and it is low in former (non- irrigated) whether it is farmed intentionally or grew by chance as per Majmoo’. Majmoo’ has reported no objection in that.

Then he explained in detail about rice which is the common food grain throughout Kerala. The Zakat will be taken out of rice if it reach reaches ten Ausaq¹⁴⁴ instead of five Ausaq which is the amount in rest of things. It is because of the rice, as he says, is saved in the crust and the crust not to be eaten.

واعلم أن الأرز مما يُدخّر في قشره ولا يؤكل معه فتجب فيه إن بلغ عشرة أوسق (عشر) للزكاة¹⁴⁵

Be aware that the rice is among which are saved in the crust and it is not eaten along with. Though, one part out of ten Wasqs is obligatory as Zakat.

The author’s elaborate comments on the various subjects point toward his awareness about the agricultural sectors of Kerala. Therefore, he minutely observed all of those systems and identified what items shall be permitted and what are not as per the juristic

¹⁴³ Fathul Muin, chapter Zakath page no: 107

¹⁴⁴ A measurement

¹⁴⁵ Fathul Muin, chapter Zakath page no: 107

laws. His interactions and experiences taught him about all; hence he regulated agricultural systems according to the juristic rulings and opinions. For instance, the Mukhabara was a common system in agricultural system of Kerala in which one will get a land for heir in order to cultivate or sow his seeds. He discusses the issue with the juristic views. Says:

[تنبيه]: قال الجلال البلقيني في حاشية الروضة، تبعاً للمجموع: إن غلة الأرض المملوكة أو الموقوفة على معين، إن كان البذر من مال مالِكها أو الموقوف عليه: فتجب عليه الزكاة فيما أخرجته الأرض. فإن كان البذر من مال العامل وجوزنا المخابرة، فتجب الزكاة على العامل، ولا شيء على صاحب الأرض، لأن الحاصل له أجره أرضه. وحيث كان البذر من صاحب الأرض، وأعطى منه شيء للعامل، لا شيء على العامل، لأنه أجره عمله. اهـ¹⁴⁶

“Jalalul Al Bulqeeni said in the annotation of Roudha _ following Majmoo’ _ Verily the income, from his own land or from the endowed land for a particular man, if the seed is from the owner or from the endowed person, then the Zakat is obligatory in what got out of land. And if the seed is from farmer – with condition that we permitted the system of Mukhabra, then the Zakat is on the worker and nothing to the owner of land, because, what he received (from the worker) is rent of his land. And when the seed is for the owner and the worker was given from that, then nothing will be on the worker because(what he received) is the wage if his work”

Then he began to discuss the type Zakat which is called “Fitr”. It is the Zakat which is given on the day of Eid after the Ramzan. Like other chapters and sub chapters, he explained the Zakatul Fitr in detail. Then he pointed towards some very important issues, which are common in Kerala. For instance, he pointed out an eye opening fact that there may be some people whose external figure is strong and internal set up is poor or poorest. In a state like Kerala, people used to go to foreign countries in order to earn, though they may have an average house, and they may have seen good, but at the same time they may belong to the category claimants of Zakath. Normally, the people are not concerned about this serious matter and they will look the external appearance of somebody neglecting their real figure. Here, Zaynudheen Makhdoom’s words about Faqir (poor) indicates such condition. Says:

¹⁴⁶ Fathul Muin, chapter Zakath page no: 108

والفقير: من ليس له مال ولا كسب لائق، يقع موقعا من كفايته وكفاية مومنه، ولا يمنع الفقر، مسكنه وثيابه ولو للتجمل في بعض أيام السنة وكتب يحتاجها، وعبدُه الذي يحتاج إليه للخدمة، وماله¹⁴⁷

Faqeer: (Poor) is one who does not possess wealth and an appropriate (decent) job by which a sufficient life is possible to him and the dependants on him. His home is not enough to prevent him from the category of “poverty” likewise, his clothes even if they are for beauty in some days of a year, and books he needs and slave he want for service and his wealth. Here the author directly interferes in common perception and corrects it as the external appearance does not reflect internal condition. As if he says, the outer appearance may not correspond with the individual realities.

After a wide discussion on the distribution of Zakat and the claimants he explains another important matter in Islamic jurisprudence, about Ganeema and Fai'¹⁴⁸ (غنيمة و فية). It is followed by the discussion on the recommended charity (صدقة التطوع). Zainudheen Makhdom promoted that kind of things while he interrupted some actions of people and wanted to correct them.

(وَيُسَنُّ صَدَقَةَ تَطَوُّعٍ) لآية: {مَنْ ذَا الَّذِي يُقْرِضُ اللَّهَ قَرْضًا حَسَنًا} وللأحاديث الكثيرة الشهيرة. وقد تجب:

كأن يجد مضطرا ومعه ما يطعمه، فاضلا عنه، ويكره برديء، وليس منه: التصدق بالفلوس، والثوب الخلق، ونحوهما بل ينبغي أن لا يأنف من التصدق بالقليل. والتصدق بالماء أفضل: حيث كثر الاحتياج إليه وإلا فالطعام.¹⁴⁹

The charity is recommended for the verse: “Who is one who will give good credits for Allah”, and for many well-known Hadiths. Sometimes it is compulsory for the one, for example, who is with surplus food and meets a hungry one. It is *Karhat* to give charity with cheap things. The charity with coins, and shabby garments and the likes do not belong to the cheap category. Zaynudheen Makhdoom also mentioned in Fathul Muin about the charity in Ramazan especially in the last ten days. No doubts, this has highly influenced the Muslims of Kerala, while they perform charity individually and in group as well. During Ramazan many relief programs and other aid activities are being conducted by different associations and trusts. In some areas of Malabar, a system of

¹⁴⁷ Fathul Muin ,page no: 114

¹⁴⁸ The wealth which is caught in war. As per Islamic Jurisprudence it shall be distributed among the Muslims.

¹⁴⁹ Fathul Muin, chapter Zakath page no: 118.

special charity is being practiced on the 27th day of fasting. Finally he closed the discussion on the Zakat with a warning to those who receive charity from those people whose wealth has mixed with Halal (permissible) and Haram(prohibited).

The next chapter deals with fasting and its juristic laws. At first, Zaynudheen Makhdom discussed what is fasting (صوم) when it is legislated and what peculiarities the fasting has.

وهو لغة: الإمساك. وشرعاً: إمساكٌ عن مُفطرٍ بشروطِهِ الآتية. وفرض في شعبان، في السَّنَةِ الثَّانِيَةِ مِنَ الْهَجْرَةِ. وهو من خصائصنا، ومن المعلوم من الذين بالضرورة¹⁵⁰

Literally it (fasting) is to abstain from such things which would break the fasting, with following conditions. It is legislated in Shaban (شعبان) in the second century of Hijra (migration), fasting in Ramazan is one of the distinguished peculiarities of Islam.

Here is a serious discussion on “seeing moon” followed by various opinions about whether the scientific perception is acceptable or not. The approved opinion in the School of Shafiee jurisprudence as well as that of Zainudheen Makhdoom himself was that the fasting shall be started after “seeing the moon” by a trusted man and then approved by Qazi. The break from the fasting with announcing the Eid shall also be treated the same way. It means seeing the moon is very important and the perception is not acceptable. According to some Ulama in Shafiee Jurisprudence, like Subki,¹⁵¹. The authentic perception is acceptable but with some parameters.

Then he enters in to the discussion on the conditions of fasting and then on the prohibited deeds of faster by which the fast will be broken. While explaining the conditions Zaynudheen Makhdoom has proposed a particular form of intention (niyyat) which is very common in all over the Kerala. Anyone even a child will say the same without any change in both structure and order. That is:

نَوَيْتُ صَوْمَ غَدٍ عَنْ أَدَاءِ فَرَضِ رَمَضَانَ هَذِهِ السَّنَةِ اللَّهُ تَعَالَى¹⁵²

¹⁵⁰ Fathul Muin, chapter Fasting page no: 119.

¹⁵¹ An eminent scholar in Shafie school of Jurisprudence.

¹⁵² Fathul Muin, chapter Fasting page no:121

Means: I intended to perform the fast of tomorrow timely, as compulsory of Ramazan, from this year for Almighty Allah.

This is enough to see Fathul Muin's significance among the Kerala Muslims. The Imams in almost all Masjids chant this loudly after the Taraveeh prayers followed by its meaning in mother language. This traditional system has played a significant role in keeping the Zainudheen Makhdoom's teaching alive.

While discussing those things which will break the fast, he gives one example of using *تنبل (Vattila)* in fasting time, that swallowing the saliva colored red with *Tanbul* would break the fasting. This sentence is considered as the author's influence with the local situations as well as common practices. *فيفطر من ابتلع ريقاً متغيراً بحُمْرَة نحو تَنْبَلٍ وَإِنْ تَعَسَّرَ إِزَالُهَا*. The fasting of one, who swallowed the saliva colored red with *Tanbul*, will lose even it is difficult to remove.

Before closing the discussion on fasting, the author is keen to remind about some actions to keep the spirit of fasting like giving the charity, recitation of Quran and Itikaf¹⁵³ in the Masjids. He ended the chapter with the discussion on the recommended fasting in Islam.

Finally, author writes on Hajj and Umarah. Unlike previous chapters he prolonged the introductory note of this chapter, As usual he explained the literary as well as terminological meanings, the history of Tashri' (legislation) and Hadeets promoting the Hajj and Umrah.

The conditions of Hajj and Umarah have been discussed in detail, especially the condition of "being able to perform" by wealth, health and by road as well. It differs from male to female, country to country and one medium to another.

(مستطيع) للحج، بوجدان الزاد ذهاباً وإياباً، وأجرة خفير أي مجير يأمن معه والراجلة أو ثمنها: إن كان بينه وبين مكة مرحلتان أو دونهما وضعف عن المشي مع نفقة من يجب عليه نفقته وكسوته إلى الرجوع. ويشترط أيضا

¹⁵³ Itikaf means staying in the Masjids for a specific purpose, which is to worship Allah. And it is prescribed in Islam and is mustahabb (recommended) according to the consensus of the scholars. Imam Ahmad said, as was narrated from him by Abu Dsawood. "I have not heard from any of the scholars that it is anything other than Sunnah"

للوجوب: أمن الطريق على النفس والمال، ولو من رصدي، وإن قل ما يأخذه، وغلبة السلامة لراكب البحر، فإن غلب الهلاك لهيجان الأمواج في بعض الأحوال أو استويا: لم يجب، بل يحرم الركوب فيه له ولغيره¹⁵⁴.

(The Hajj is compulsory for) those who is capable to do it in terms of food for both ways of going and returning as well, rent of a safe guard and the vehicle or its cost if the distance between him and Makkah up to two *Marhala*, or lower than it and feels in walking difficulty. (he should possess) the expenditure of those under his custody and their cloths up to his return. Besides, it is also required for becoming Hajj compulsory; the complete safety along the way, road safety for self and wealth and safety from the road robbers, even the amount of robbery is very law. It is conditioned also that the predominance of safety for the passengers through sea. Then, if the chance of accident is dominant like the outburst of waves in some instances or the chances are equaled, then, going to the Hajj in such condition is not compulsory to him, but even the travelling in that condition is Haram (prohibited) to him and to others as well.

This sentence points to the Islamic Jurisprudence's perspective towards the practice of Hajj and Umrah that who are capable to perform both, should do as obligatory action, but those are not capable in any way of prescribed may not be required to perform it. The pilgrimages from India, for example, in sixteenth century were mostly dependent on ships through oceans and it was not easy as today. The travelling usually takes months, then the security in travelling as well as in his family was a major problem. Therefore Zainudheen Makhdoom describes the juristic laws here in serious manner.

After a detailed discussion of the conditions of Hajj and Umrah, the *Rukns*, *Vajibaths* and then *Sunnaths* (recommended) are discussed in detail. The chapter ends with the juristic laws about the sacrifice (ذبح) and about Aqeeqa¹⁵⁵, naming of new born children along with few cautions from some common false practices which should be removed from the society.

¹⁵⁴ Fathul Muin chapter Hajj page no: 131,132

¹⁵⁵ Aqeeqa is the name given to the animal that is slaughtered to celebrate the birth of a baby. Aqeeqa is a sunnah that has been recommended by the Prophet Muhammad PBUH. He reported that every newborn baby should have an Aqeeqa slaughtered for it, the baby's hair should be shaved and a name assigned to it. All this should occur seven days after the birth, although it can also be performed after that time.

The next Chapter of Fathul Mu'in is related with Transactions and its Juristic laws. Before going to the details of transaction it is most necessary to mention what is Islamic point of view in the terms of the profession and employment. It is mandatory for a man to run his own life and those under his custody, its aim should be transparent and pure, the way by which he earns should be on the permissible methods suggested by Islam. Islam has banned all types of earning through improper ways and channels, prohibited interest and cheating and unfaithfulness in transactions, banned looting and stealing promoted full transparency and faith.

As an introduction, the author classified the professions into three, agriculture, manufacture or industry and Business. According to Fathul Mu'in the agriculture enjoys the high position among all professions. The manufacture comes in the next position and then comes the business. Zaynudheen Makhdum says :

أفضل المكاسب الزراعة، ثم الصناعة، ثم التجارة¹⁵⁶.

Means the best out of all professions is agriculture, then manufacture, then Business.

The chapter discusses almost all kinds of transactions like

البيع، الربا، السلم، القرض، الرهن، التفليس، الحجر، الحوالة، الضمان، الصلح، الوكالة، القراض، الشركة، الشفعة،
الاجارة، المساقاة، المزارعة، العارية، الغصب، الوقف، الهبة، الاقرار، الوصية، الفرائض، اللقطة، الوديعة

Fathul Mu'in explains all these titles in detail along with the conditions and restrictions while transacting each other, allows such contracts coming within the parameters of law, denying those not coming under the laws. His prolonged comment over the different kinds of interest indicates towards its seriousness since, it is a common method of modern banking and in other business sectors. But Islam banned all types of interest which cause all participants be punished.¹⁵⁷

While discussing the juristic laws of sale, author didn't neglect the humanitarian concepts where it requires. It indicates that the juristic laws are meant to maintain the equilibrium

¹⁵⁶ Fathul Mu'in page no:146

¹⁵⁷ رواه مسلم : لعن رسول الله صلى الله عليه وسلم أكل الربا وموكله وكتابه وشاهديه، وقال هم سواء

in the society and not to harm or breaking the rights of any human being. For example, Zainudheen Makhdoom says:

(و) حَرَمَ (تفريقَ بين أمة) وإن رَضِيَتْ، أو كانت كَافِرَةً، (و فرع لم يميز) ولو من زنا المملوكين لواحد (بنحو بيع) كَهَبَةٍ وَقِسْمَةٍ وَهَدِيَةٍ لغير مَنْ يُعْتَقُ عَلَيْهِ لخير: "مَنْ فَرَّقَ بَيْنَ الْوَالِدَةِ وَوَلَدِهَا: فَفَرَّقَ اللَّهُ بَيْنَهُ وَبَيْنَ أَحَبَّتِهِ يَوْمَ الْقِيَامَةِ" وَأَلْحَقَ الْغَزَالِيُّ فِي فِتَاوِيهِ وَأَقْرَهُ غَيْرَهُ، التَّفْرِيقُ بِالسَّفَرِ بِالتَّفْرِيقِ وَيَبْطُلُ الْعَقْدُ (فِيهِمَا) أَي الرِّبَا وَالتَّفْرِيقُ بَيْنَ الْأُمَّةِ بِنَحْوِ الْبَيْعِ

It is prohibited to separate, between slave girl and her offspring who has not reached the age of discretion even if she is satisfied with it or she is a kafira, and even if the child is illegitimate, with like sale, like donation, distribution and gift. The separation is not a problem if it results in the freedom. This is based on the Hadit "whoever separated between mother and her child, Allah will separate between him and his beloved ones on the Day of Judgment". The transaction in both case of interest and in the separation between slave girl and her child would be invalid. Imam Gazzali has attached the case of separation in the travel to the separation with like sale. And others also have supported him.

He strongly opposes the stocking the food or cornering it to sale when the demand increases. This system is not a transparent one rather distroys but it breaks the credibility of business. He says:

(و) حَرَمَ (احتكارَ قوت) كتمر، وزبيب، وكل مُجْزَىءٍ فِي الْفِطْرَةِ وَهُوَ إِمْسَاكُ مَا اشْتَرَاهُ فِي وَقْتِ الْعَلَاءِ لَا الرَّخْصَ لِيَبِيْعَهُ بِأَكْثَرَ عِنْدَ اسْتِدَادِ حَاجَةِ أَهْلِ مَحَلِّهِ أَوْ غَيْرِهِمْ إِلَيْهِ، وَإِنْ لَمْ يَشْتَرِهِ بِقَصْدِ ذَلِكَ لَا لِيُمْسِكَهُ لِنَفْسِهِ أَوْ عِيَالِهِ أَوْ لِيَبِيْعَهُ بِثَمَنٍ مِثْلِهِ، وَلَا إِمْسَاكَ غِلَّةٍ أَرْضِيَهُ، وَالْحَقُّ الْغَزَالِيُّ بِالْقَوْلِ: كُلُّ مَا يَعِينُ عَلَيْهِ، كَاللَّحْمِ، وَصَرَخَ الْقَاضِي بِالكَرَاهَةِ فِي الثُّوبِ¹⁵⁸

And the monopoly of food has been prohibited like date and dried grapes and all that is suitable for *Fitra*. It is to hold back what he purchased in the time of high price not in low price, in order to sell at higher prices when the demand of the people of the area or others increase, even though he did not purchase with this intention. It does not include that holding for self purpose and for those under his custody or holding it for sale at common

¹⁵⁸ Fathul Muin page no 151

price. There is no holding on own income of his soil. Imam Gazali has added the food of all those supportive things such as meat. Qazi has stated the *Karahat* in cloth.

In the sale transaction, of sale the receiver shall be given the choice to get back from contract with some conditions. These forms are discussed in Fathul Mu'in in detail that would help to keep the deal of sale from all kinds of dishonesty and cheatings. These deserve to be mentioned in the prevailing situation where the transparency has disappeared from all contracts.

After, author discusses Qaraz, Rahn . He says:

(فصل): في القرض والرهن (الإقراض) وهو تملك شيء على أن يُردَّ مثله (سنة)، لأن فيه إعانة على كسب كربة فهو من السنن الأكيدة، للأحاديث الشهيرة كخير مسلم "من نفس على أخيه كربة من كرب الدنيا، نفس الله عنه كربة من كرب يوم القيامة. والله في عون العبد، ما دام العبد في عون أخيه" وصح خبر "من أقرض الله مرتين: كان له مثل أجر أحدهما لو تصدق به" والصدقة أفضل منه، خلافاً لبغضهم.¹⁵⁹

(Sub chapter): On the loan and the mortgage. (Lending)- it is to give away something on the condition to return - (It is Sunnah) because, it is a help for someone to relieve him from difficulty. It is among the most recommended actions reported in the the well known Hadeeths such the Hadith of Muslim "whoever relieved his brother of any difficulty of this mortal world, Allah will relieve him from among the difficulties of theDay of Judgments. Allah helps the servant as long as the servant helps his brother. The Hadith is *Sahih* "Whoever loaned twice to Allah he will win reward of one charity". And the charity is better than that (loan) as against some.

He talked about *Ijarat*, (rent) one of the very common mode of transaction which many people depend on it in their life. That is why it should be in accordance with shari'a law and should not be misused and exploited by any one. Ijarah is classified in various kinds, Ijara of vehicles, Ijara of peasants and ijara of house and other flats.

Another very important form of transaction discussed by Zaynudheen Makhdoom was the Waqf. He explained it in detail, that is all waqfs should be done in the right way and do not be caused for any type of misuse. In Kerala as well as in other parts of India, many

¹⁵⁹ Ibid 157

lands and buildings are waqf lands. Because of the exploitation and negligence, many of those lands are now under somebody's custody and their income is not used in the proper way.

Here Zainudheen Makhdoom explains the various issues related to the waqf of land as Masjids or waqf of some lands or financial recourses for any type of public use such as Masjids or religious institutions. Taking this issue for a serious concern he detailed all the juristic laws including the conditions of waqif (one who does Waqf) and how the waqf would be legal.

After this, author enters the chapter Al Faraiz (Inheritance law) which is considered as a very prime subject of Islamic law and Jurisprudence. Many Hadiths stress on the importance of Faraiz. The Prophet says:

حَدَّثَنَا إِبْرَاهِيمُ بْنُ الْمُنْذِرِ الْحِزَامِيُّ، حَدَّثَنَا حَفْصُ بْنُ عُمَرَ بْنِ أَبِي الْعَطَّافِ، حَدَّثَنَا أَبُو الزُّنَادِ، عَنِ الْأَعْرَجِ، عَنْ - 2823
أَبِي هُرَيْرَةَ، قَالَ قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ " يَا أَبَا هُرَيْرَةَ تَعَلَّمُوا الْفَرَائِضَ وَعَلِّمُوا فَإِنَّهُ نِصْفُ الْعِلْمِ وَهُوَ
يُنْسَى وَهُوَ أَوْلُ شَيْءٍ يُنْتَزَعُ مِنْ أُمَّتِي " .

Ibrahim bin Mundhir Al Hizami told us, Hafs bin Umar bin Abi Al Athaf told us, Abu Al Zinad told us, narrated by A'raj, narrated by Abu Hurira, He said Prophet Muhammad PBUH said " Oh Abu Hurira, Have the knowledge of inheritance and teach it, Verily it is the half of the knowledge. It will be forgotten and it is the first thing which shall be taken away from Ummah.

تَعَلَّمُوا الْفَرَائِضَ فَإِنَّهَا مِنْ دِينِكُمْ وَ إِنَّهُ نِصْفُ الْعِلْمِ وَإِنَّهُ أَوْلُ عِلْمٍ يَنْزَعُ مِنْ أُمَّتِي، تَعَلَّمُوا الْفَرَائِضَ وَ عَلِّمُوا النَّاسَ فَإِنَّهُ
أَمْرٌ مَقْبُوضٌ وَ أَنَّ الْعِلْمَ سَيَقْبُضُ وَ تَظْهَرُ الْفِتْنُ حَتَّى يَخْتَلِفَ اثْنَانِ فِي الْفَرِيضَةِ فَلَا يَجِدَانِ مِنْ يَقْضِي بَيْنَهُمَا، مِنْ عِلْمٍ
فَرِيضَةٌ كَانَ كَمَنْ اعْتَقَ عَشْرَ رِقَابٍ وَ مَنْ قَطَعَ مِيرَاثًا قَطَعَ اللَّهُ مِيرَاثَهُ مِنَ الْجَنَّةِ.¹⁶⁰

According to Tarsheehul Mustafedeem, an explanatory text of Fathul Mu'in, 'the study of inheritance law' includes three kinds of knowledge, the knowledge of Fatwa (for that

160 كتاب الفرائض 2823 . ابن ماجة في سننه

he should study shares of inheritance), knowledge about relationship of inheritors with Mayyit to whom wealth is to be distributed and the mathematical knowledge.¹⁶¹

Zaynudheen Makhdoom, further, discusses the *Rukns* (parts) of inheritance law, conditions, causes, and those which will prevent the person from inheritance.

Tharsheehul Musthfeeden, composed the causes and *Mavani's* (الموانع) in beautiful verses.

علم الفرائض الذى قد يبحث	قدرا و قسمة عن اللذ يورث
اسباب ارتنا هي القرابة	ثم الولا الاسلام و الزوجية
وركنه مورث و وارث	وقد حق وكذا ما يورث
وشرطه موت مورث كذا	ان يوجد الوارث حين موت ذا
وان يكن اذ ذاك حملا فصلا	اي لحياة استقرت وتلا
تحقق الحياة بعد موته	وفى الثبوت علم حيثيته
نحو قرابة واما المانع	رق و قتل و اختلاف واقع
دينا و ردة و دور و اختلاف	عهد وما زاد عليها فخلاف
حقيقة كا الجهل فى السبقية	ومثله موتها معا
وحيث قام مانع بالشخص لم يرث	وكان مع سواه كا العدم ¹⁶²

Zaynudhen Makhdoom has explained those inheritors in Fathul Muin and their shares. It is also composed in lines.

و الوارثون من الرجال عشرة	اسماء هم معروفة مشتهرة
الابن وابن الابن مهما نزلا	والاب والجد له وان علا
والاخ من اي الجهات كانا	قد انزل الله به القرانا
وابن الاخ المدلى اليه بالاب	فاسمع مقالا ليس بالمكذب

¹⁶¹ ترشيح المستفيدين: 270

¹⁶² ترشيح المستفيدين: 283

والعم وابن العم من ابيه	فاشكر لذي الايجاز و التنبيه
والوارثات من النساء سبع	لم يعط انثى غير هن الشرع
بنت و بنت ابن وام مشفقة	و زوجة وجدة و معتقة
والاخذت من اي الجهات كانت	فهذه عدتهن بتانت

Munakahat is the third part of Islamic Jurisprudence as well as that of the Fathul Muin. Marriage is a social necessity because it is the base of establishment of family which is the fundamental unit of our society. Furthermore, marriage is the only legitimate way to indulge in intimacy between man and woman. Islam takes the middle position to sexual relations, it neither condemns it like certain religions, nor does it allow it freely. Islam urges us to control and regulate our desires, whatever they may be so that we remain dignified and not become like animals.

To make marriage a solid relation between a man and woman it should be bounded in some juristic laws which would help to regulate their relation, to construct a concrete familial order.

Fathul Mu'in comments on the juristic laws of marriage system as per Shafie Islamic Jurisprudence. With reading text we come to realize Fathul Mu'in is not mere a juristic text but it guides the spouses who intend to marry in a proper way. It promotes Marriage as he starts the text by the word "Yusannu", ie, recommended. That is the marriage is recommended in Islam which means that celibacy is not promoted in Islam.

Zaynudheen Makhdoom begins the chapter:

سن لتائق قادر وسن ينظر كل الاخر غير عورة

It means the marriage is recommendatory for those who are physically able; it is also recommend for look each other. This sentence is enough to tell us about Islamic juristic approach towards marriage. The prophet recommended the suitors to see each other before going through marriage. It is unreasonable for two people to be thrown together and be expected to relate and be intimate when they know nothing of each other. Though,

‘seeing each other’ will help to strengthen their relation and would increase mutual understanding.

This does mean that Islam has permitted to see each other only for the sake of knowing each other. It is also mentioned here, according to Islamic law that the physical relationship is not allowed at any cost before marriage.

As far as the functional-objectives of marriage are concerned, Fathul Mu’in points to two major primary objectives; It says ¹⁶³ *لما فيه من حفظ الدين وبقاء النسل*, means marriage will help to protect his “Din” and to the continuation of his generation. The general purpose of marriage is to love each other, procreate children and live in peace and tranquillity according to the orders of Allah.

Zaynudheen akhdoom orders in this chapter as follows:

باب النكاح و اركانہ ومحرماتہ و الاولياء و الكفاءة و عيوب النكاح و نكاح الامة و التمتع بالزوجة و الصداق و نكاح المتعة و الوليمة و القسم و النشوز و الخلع و الطلاق و التطليقات الثلاث و العدة و الرجعة و الإيلاء و الظهار و حكم الاستبراء و النفقة و فسخ النكاح الحضانية

The fitness, match (كفاء) is one of the important prerequisites of the marriage which may not be denied by anybody in the society. The marriage, in which spouses are not matched by any of reason, may cause tensions. Sometimes that relation would end in seperation. It doesn’t mean the marriage of non-matched spouses is not proper, but it is also recommended for the real marriage as per the Shafi’i school of law. Though, it is recommended for the smooth running of familial system. It is a reality that the match is playing a key role in securing the marital attachment and to maintenance love and mutual understanding in family. That is why Zainudheen Makdoom fixed one sub chapter to explain the “match” in the marriage.

“Mahr” is one of the integral parts of marriage. Without “Mahr” the marriage is invalid. Mahr is a marriage gift (compulsory gift) given by male to female. This could be prompt or deferred depending on the agreement between the parties. Fathul Mu’in commented on Mahr in detail as he described the Mahr is the right of female bride. It should not be

¹⁶³ Fathul Mu’in 214

forgiven by Waliy (Gardian). After this, author discusses the waleema (feast) after the marriage to familial members, friends and neighbours. If his family members are many, he may hold it in small style without inviting all of them but some of them. But zaynudheen Makhdoom opposes such kind of activities that is to exclusive feast for rich people having out the poor ones.

Then he speaks about some disciplines which should be maintained in the feast. To him, to accept the invitation is mandatory; even though he has been excused to attend a function if he has already one another invitation. Meanwhile, he would not be compelled to go to such feast of *Shubha*, that of mixed with improper earnings. Author adds one can relax from going to such function, having some wrong things like the presence of some men who will make the people laugh with dirty tips and lies. Fathul Mu'in opposes such marital functions of luxury with music nights and other uncultured gatherings, which are common in Kerala now a days.

The next subject discussed in Fathul Mu'in is about livelihood to be given to his wife which includes many things from food to shelter. The sum of entire chapter indicates that the responsibility of male is very large and nobody can escape from it as long as she is his wife except during the time of *Nushuz* (disobedience). According to Fathul Mu'in the man must provide food, additional food (ادم), salt, water for drink, with the expense to prepare food such as grinding and cooking, provide the vessels and other needed equipments for eating and drinking, dresses or clothing with shoes, the blanket in winter, and cleaning tools like soaps ,comb, *miswak*, oil, medicine, suitable shelter and servant.

Author has also commented on *Thalaq* (divorce) and *Fasaq* . According to him both are serious issues and the decision about them must be taken after due consideration. There is also discussion on *Khul'* ,*Raja'* , *idda* and *Zihar*. (Foot notes)

Zainudheen Makhdoom states in the fourth part of Fathul Mu'in about criminal laws which include the following subjects:

الدية و الكفائة الجنائية و اللردة و حد الزنا و حد القذف و حد الشرب و حد السرقة و قطع الطريق و التعزير و الصيال و اتلاف البهائم و الختان و ثقب الاذان و الجهاد و الدعوى و البيئات و الشهادات و الايمان و الاعتاق و الكتابة و الاستيلاء

The chapter begins with the describing of *Qisas* (Punishment) when it will apply and what type of action will be taken for the crime. Here author points towards the characteristic of crime and the juristic law for that crime. He has categorised the crimes to three in terms of its charecteristics; (1) intentional (2) semi intentional and (3) by mistake. Each of them deserves separate laws. Says:

لا قصاص الا فى عمد و هو قصد فعل و شخص بما يقتل و قصدهما بغيره شبه عمد و عدم قصد احدهما خطي¹⁶⁴

No *Qisas*(Punishment) is applicable except but in intentional (crime). It is a person's intention to kill and his act of killing intentionally. There is semi intentional killing. Killing without intention is a mistake.

After explaining the conditions for *Qisas* he discusses the juristic laws of different crimes. The *Qisas*, may be substituted with *Diya* (compensation) but only, if the heirs agree to it. Then he discusses the *Qisas* of *Ridhath*, actions towards fornication, action against defamation, wine drinking, robbery.

Here some important things are also discussed which include the discussion on circumcision, for both male and female, and discussion on the piercing of ears which were very common in Kerala during those days and even now.

Zaynudheen Makhdoom also explains about *Jihad* in detail. According to Fathul Mu'in *Jihad* is "Fard kifaya" but only with the conditions and in certain circumstances.

Then he discusses about judiciary and related topics, such as argument, evidences and witnesses, rights of Judges and his qualities, powers of the judiciary, the powers of *Ahlul Hal Wal Aqd* (body of dealings and solutions), *Ijtihad* of *Qazi*, *fatwa*, its requirements, judgement, removal of *Qazi* from the post, going voluntarily, *Muthawalli* and his conditions, his responsibilities, holding the judgement and implementing, prosecutor, prosecution and *Qasam* (oath).

At last he ends the text by the chapter of *Itq* (freeing) and its rules and other related teachings. He ended Fathul Mu'in by this chapter optimistically to get *itq* from the Hell. *Nihayathu zzin* says:

¹⁶⁴ Fathul Mu'in 274

ختم كتابه بباب العتق تفاؤلا بان الله يعتقه و قارنه و شارحه و ناسخه من النار¹⁶⁵

He ended his work with the chapter of Itq hoping that Allah would free him, its readers, interpreters and the Copyists from the Hell.

Says:

اعتقنا الله تعالى من النار و حشرنا فى زمرة المقربين الأختيار الأبرار و اسكننا الفردوس دار القرار و من على فى هذا التأليف و غيره بقبوله و عموم النفع به وبالأخلاص فيه ليكون ذخيرة لى اذا جاءت الطامة و سببا لرحمة الله الخاصة و العامة الحمد لله حمدا يوافى نعمه و يكافى مزيده و صلى الله وسلم افضل صلاة و اكمل سلام على اشرف مخلوقاته محمد و آله و اصحابه و ازواجه عدد معلوماته و مداد كلماته و حسبنا الله و نعم الوكيل و لا حول ولا قوة الا بالله العلي العظيم¹⁶⁶

May Almighty Allah free us from the hell and include us in the group of the close people who are good and winners, and shelter us in Firdous (heaven) the house of immortal. And grant us- in this work and other- with acceptance and wide benefit by it and sincerity in it that is to become an asset for me in the Day of Judgement and a cause for the special and common mercy of Allah. All Praise to Allah, Praise which equals to his blessings and more than that. May Allah bless with most of Salat and best of peace on his Messenger the most honoured among his creatures and up on his family, his companions, his wives, equal to the number counting of His knowledge and to the ink of his words. We are satisfied with Allah and He is the best carer .There powerpower but Allah who deserves all prayers and nobody can get away from the sin without the help of Allah. He is great and power ful inclusionHe became great and powerful.

Commentaries of Fathul Mu'in

Fathul Mu'in is exquisite for having a good account of commentary works written by very excellent scholars in and outside of Kerala. Apart from reputed works, many articles, research papers and academic theses have been prepared which give an extensive account of knowledge of the text. The very rich account of the commentary works formed various notions in reading and analysing the text. Each of those explanatory

¹⁶⁵ 394 نهاية الزين على قرّة العين

¹⁶⁶ Fathul Mu'in :334

works expanded the range of text and disclosed a wide world of knowledge in juristic studies.

1) I'anathul Musta'een ala Fathul Mu'in اعانة المستعين حاشية فتح المعين

This is the first commentary work on Fathul Mu'in, written by Ali bin Ahmad bin Saed Basabreen,¹⁶⁷ eminent scholar in Shafi school of Jurisprudence, who lived in 13th century AH.

The text is in two volumes, the first one consists of 553 pages starting from the beginning up to chapter Bai' (كتاب البيع) while the second consists of 560 pages, from chapter Bai' (كتاب البيع) up to the conclusion. For being the first and prominent work among the commentaries of Fathul Mu'in it is also quoted by a number of Ulama in their books, for example Allama Abdul Hameed Al Sarwani¹⁶⁸ has quoted in his commentary work on Tuhfatul Muhtaj.

In the introduction, Imam Basireen has written why he is impressed by Fathul Mu'in and what makes Fathul Mu'in more valuable and dependable. He mentioned that Fathul Mu'in differs from other books for being short and comprehensive text in Shafie School of jurisprudence; moreover it collected the most approved opinions and views of Shafiee Scholars. The year of writing can be identified from his own words in the last page of the book. He says that he finished from the writing of this work in a Saturday of fifteenth Dhil Qada, after the Zuhr Prayer in 1261. He adds he has taken exactly one year to finish this work.

2) I'anatu Talibeen fi sharhi Fathul Mu'in اعانة الطالبين في شرح فتح المعين

I'anatu Talibeen is the most popular and established commentary of Fathul Mu'in which has undoubtedly played a key role to make it familiar in the academic world. The authenticity, accuracy and the elucidative mode of expression of I'ana differentiate it from all other commentary works. This also a 13th century text written by very renowned

¹⁶⁷ According to manuscript kept in King Saud University.

¹⁶⁸ عبد الحميد المكي الشرواني المتوفى : 1301.

Islamic scholar Allama Al Sayyid Abubaker bin Al Sayyid Muhemmed Shatha Al Dimyathi¹⁶⁹ who is famous by the name of Al Sayyid Bakri.

In the preface, the author has written about the inspiration behind doing such a great task. In his words he used to collect the valuable annotations on the textual words of Fathul Mu'in when he was teaching the students at Bitul Haram. On the completion of full text, some of his friends and mates suggested to coordinate those collections in a book. After a lot of thinking he intended to accomplish such a great work confidently seeking the grace of Al mighty Allah. In I'anat we can see the opinions of four Schools of thought explained along with the opinion of Fathul Mu'in and of Shafi'i school of thought.

I'anat is in four volumes, each consists of more than four hundred pages. The first volume comprises the first part of Fathul Mu'in (ربع العبادات) from beginning to chapter صلاة الجماعة. He finished the writing of this first volume in Dil Qada²⁹ in 1298 AH. The second volume consists of remaining part of first part ربع العبادات and the first chapters of second part, it is up to باب البيع. He finished it on Shaban 12 in 1299 A H. The third is up to فصل الطلاق from the third part باب المناكحات. He finished it in Rajab 1300. The last part is up to last and finished 13 Shawal 1300AH.

3) Tharsheehul Mustafeeden bi thausheehi Fathul Mu'in.

ترشيح المستفيدين بتوشيح فتح المعين.

Another admired work among the commentaries of Fathul Mu'in is written by renowned scholar in Islamic Jurisprudence Allama Al Sayyid Al Alawi bin Al Sayyid Ahmad Al Saqqaf.¹⁷⁰ This is prepared systematically and comprehensively in four hundred and fifty pages. The author himself has pointed towards the motivation to accomplish such a productive task in the introductory note of Tarsheeh. He cited that Fathul Mu'in has recorded the views for the scholars of Shafie School of Jurisprudence without attaching

¹⁶⁹ Born in 1226 AH in Makkah, he was famous as Al Saayyid Bakri

¹⁷⁰ -علوى بن أحمد بن عبد الرحمن السقاف - 1255-1335

the non approved opinions, though, it preferred to explain the interpretation in short sentences, to complete the discussions perfectly, to add some essential chapters which are not in the text, to elucidate the difficulties and to disclose some hidden mean.

So far as the features of Tarsheeh are concerned, it is presented fluently which can be accessed easily and effortlessly. It contains some very important juristic views which are not mentioned by Zainudheen Makhdoom. He quoted the observations of Ulamas of recent centuries such as Ibnu Qasim , Al Shabramilsi, Al Bujirimi, Al Sarqawi and Al Bajuri. The rich account of juristic opinions of these excellent scholars helped the Tarsheeh to increase its authenticity. Sometimes the author brought the views of three Imams of Schools into discussion along with the approved opinion of Shafie School. The present edition of Tarsheeh has been attached with some annotations and explanation and with one short work of author himself named as الباقيات الصالحات و الدروع السابغات. It consists of *Adkars* and *Ad'iys*.

Al Usthdh Al Fadil Al Shaikh Mahmood Al Basary has composed some poetic lines praising Tarsheeh which starts with these lines.

كواكب افق ام بدور سوافر	نتائج فكر ام معان زواهر
وتلك رياض ام ورود تفتتت	وتلك حياض ام بحور زواخر
وتلك حواش قد اضاءت بدورها	تسر بها طول الدهور الخواطر
بلى انها ترشيح حبر مهذب	وقرة عين للذى هو ناظر

4) Sharh Fathl Mu'in شرح فتح المعين

It is in two volumes written by very eminent jurist Al Moulawi Ahmad bin AlShikh Al Sheerazi Al Nadfarami. D 1326

5) Tansheetul Mutali'een تنشيط المطالعين

It is also one of the prominent commentaries on the Fathul Muin. It was written only up to chapter Salath. It is Written by Allama Moulawi Alawi Abdur Rahaman Al Naqshabandhi, from Tanur. D 1347.

6) Sharh ala Fath Mu'in شرح على فتح المعين

Written by eminent Islamic Scholar Allama Al Shaikh Kunji Muhammad Musliyar bin Al Shaikh Al Allama Al Moulawi Ahmad Kutti Musliyar from Kodanjeri then he settled in Tirurangadi.D. 1352

7) Sharhu Fathu Mu'in شرح فتح المعين

Two volumes, written by Al Shaikh Al Allama Zainudheen Makhdoom Al Akheer(final) from Ponnani.

8) Fathul Mulhim فتح الملهم

Written by two eminent scholars of Kerala Beeran Mualiyar D1403 A H and K K Aboobakar Hazrat. D 1413 AH

9) Khulasatu Fathul Mu'in خلاصة فتح المعين

It is in three parts written by A Ustad Al Moulawi Abdur Rahman Bava bin Al Shikh Muhammad bin beeran Kutti Musliyar

10) Nihayathul Zain fi Irshadil Mubtadi'een Sharh Ala Fathul Mu'in

نهاية الزين في ارشاد المبتدئين شرح على فتح المعين

Written by Al Allama Abi Abdul Mu'thi Muhamad bin Umar bi Ali Navawi from Java. He was among the Islamic scholars of the 14th century.

11) Al Taqreeru Ala Fathil Mu'in التقرير على فتح المعين

Written by Al Allama Abi Ahmad Moosa bin Ahmad D 1393

12) Nazmu Qrratil Ain li Matni Fathil Mu'in نظم قرّة العين لمتن فتح

المعين

Written by Al Shaikh Al Alim Al Jaleel Al Moulawi Muhammad bin Ahmad from Arakkal D. 1304

الحمد لله المعين كلما قرت بعلم عين من تعلمنا

حمدا يوافي بره اكمله كما انبغى لوجهه و اشمله

Fathul Mu'in as a juristic guide for Kerala Muslims

As mentioned earlier, the author depended in writing Fathul Mu'in on some of the much approved texts of Shafi'i Jurisprudence. It was also stated by the author himself in the foreword, so he brought the names of those experts with the special reference of late Scholars. Evidently the juristic approach adopted by Zaynudheen Makhdoom in scripting Fathul Mu'in is attributed to these geniuses. In other words, Fathul Mu'in has been influenced by the very authentic works of that period, tenth century, in which the Shafie School of jurisprudence advanced with a rich account of juristic studies and texts.

Tuhfatul Muhtaj was the first and foremost text which deserves to be mentioned among them, written by the brilliant scholar of the Shafi'i Jurisprudence, Ibn Hajar Al Haitami, as a commentary on Al Imam Al Nawawi's Minhaj al Talibin. It is in ten volumes, and is considered as the foremost resource for fatwa in late Shafi'i School.

By the time of appearance of Tuhfatul Muhtaj there were two very solid schools of thought on shafi'i jurisprudence. One belonging to Al Ramli, author of Nihayat Al Muhtaj Ila Sharhil Minhaj, and the second one is of Ibnu Hajar Al Hytami author of Tuhfatul Muhtaj. Both of them observed the issues in various angles and expressed their own views which resulted in the formation of two solid different thoughts. Even so both are obtained accessibility among the Shafie followers around the world. Those in India, Hadramoth, Syria, Pakistan, Yemen, Hijaz prefer Ibnu Hajar Al Haitami, while those in Egypt are following the way of Ramli especially, according to his major work Nihayath.¹⁷¹

¹⁷¹ Al Muneer : Ismika Karmashastram Rajana bhodattinte Aunithyam: by Salahudheen Vengur page no :261

In Kerala, Juristic Scholars of later period prefer *Tuhfatul Muhtaj*. This is a tradition since the period of Zaynudheen Makhdoods first and second. Fathul Muin's role in forming such a unified way of thought is not negligible; better to say Fathul Muin builds a lasting connection with the juristic thoughts of Ibn Hajar Al Haitami, subsequently with all Juristic world of Shafi'i Jurisprudence.

This solid bent with the Shafie Juristic world through Fathul Mu'in facilitated the Fiqh Scholars of Kerala to be aware of juristic discourses around the world. Consequently, this scholarship around the world influenced Kerala's Juristic studies and teaching system, unquestionably, Fathul Mu'in played a marvellous role in this regard.

If anyone says that Fathul Mu'in was (and is to an extent) the central study text in the religious academic system, then it may not be a mistake at all, it is for its importance in the religious syllabi. Analysing the academic system in the religious institutions of Kerala, both Islamic colleges and *Palli Darsas*, we came to know that Fathul Mu'in has acquired an indisputable position in the minds of Kerala Muslims.

As far as the Dars system is concerned, a well planned syllabus has been functioning all over Kerala especially in the region of Malabar. "It (dars system) is the most fundamental type and the longest lasting educational system in Islam pioneered by the Prophet himself who arranged facilities for a selected few, called Ahlu al-Suffa, to stay in his mosque at Medina to learn more about Islam from him and to be expert scholars who can play a major role in disseminating religious knowledge. *Dars* system, which is Known in the Islamic history by the name of 'mosque schools' and 'mosque colleges', developed and transformed in various forms throughout the centuries. Muslim propagators promoted Prophet's system of mosques school in the new areas they reached resulting in the expansion of 'Dars' system across the Islamic world. Hundreds of mosques in Baghdad, Alexandria, Isfahan, Mashhad, Ghom, Damascus, Cairo, Granada and several other Muslim cities ran effective and quality *Dars* systems in the golden era of Islam. In course of time, most of the mosque schools either ceased to exist or adopted institutional forms like formal colleges and universities. However, as we discussed in the previous chapter,

Darses existed in various kinds until later periods in different parts of Muslim world from Morocco to Algeria, Yemen and Iraq as the defenders of the traditional knowledge”¹⁷²

The exact time of establishment for this Dars system in Kerala is not available, but we strongly believe it might be along with the establishment of Masjids throughout Kerala by the missionaries of Islam in the 7th century and onwards. Then it developed in such style what we see presently was introduced by Makhdooms in Ponnani. A well arranged syllabus has been launched by Makhdooms which is accepted, further, throughout Kerala.

Fathul Mu'in enjoys a remarkable standing in this Syllabus, because, the main aim by Dars system,- the trained religious scholars having deep knowledge of Islamic Jurisprudence in order to lead society - has been fulfilling usually- in Kerala- with the help of this text.

As of Darses, Fathul Mu'in is not being studied at primary level as some texts are taught in that stage like Path Kitab or Ashrat kutub which means ten books is a generally accepted syllabus for this stage. It dealt with faith (*Aquaid*), Moral science (*Akhlaq*), and Islamic mysticism (*Tasawwuf*). Along with this, grammar books *Zanjan* and *Ajnas*, were taught respectively. This system helps to prepare a student for the further studies which include mainly Fathul Mu'in and Alfiyya, the former for Islamic Jurisprudence and the latter for Arabic grammar. It would not be a wrong if said Alfiyya is being taught for the easy understanding of Fathul Mu'in and then other texts in advanced studies. With Alfiyya a student becomes capable of delving into the depths go in the depth of Arabic texts, the Commentary works of Quran and Hadiths and juristic works. It is possible to have some slight differences in selecting texts within this syllabus, yet it was compulsory to include Fathul Mu'in in the course. That is for a student who didn't learn Fathul Mu'in shall not be considered as an Islamic scholar all over Kerala.¹⁷³

As for Scholars of Kerala, Fathul Mu'in is viewed as an authentic juristic text in Shafie School of Jurisprudence by which they got an opening to the vast world of Jurisprudence. They learned, for instance, Tuhftul Muhtaj of Ibnu Hajar Al Hitami through Fathul Mu'in.

¹⁷² MPhil thesis Development and Modernization of religious education in Kerala: Role of Samastha Kerala Jam'eyyathul Ulama, third chapter page no:64 by Zubair K

¹⁷³ Fathul Mu'in Malayala Paribasha by Ibrahim Puthur Faizy ,page no: 15

They read *Nihayatul Muhtaj* of Imam Ramli or *Mugni Al Muhtaj* of Al Khateeb Sharbeeni through *Fathul Mu'in*. Moreover they reached to the crux of *Al Umm* of Imam Al Shafi'i with the exposure got from the *Fathul Mu'in*. Though, All Scholars of Kerala have a firm connection with this historic text. So they approach *Fathul Mu'in* every juristic issue and find their solution. They sought the remedies for both individual and social problems from *Fathul Mu'in*. It is surely not a mistake to say that Kerala Scholars lead the society with the directions of this dazzling text.

As for common people, *Fathul Mu'in* was a bylaw on which they structured their daily life. For any queries relating to practicing Islam they go back to *Fathul Mu'in*. In spite of having no language skill they remain concted with *Fathul Mu'in*, firstly they kept their relation with the Ulamas and secondly through some traditional practices in society which are being transferred from generation to generation. The constant touch of common mass to the Masjids as well as to the Darses was another factor that proves what connection was there between Scholars and public. In the past decades and even now some were or are the permanent members of these Darses. They usually attend in the classes with the regular student to hear the classes of *Fathul Mu'in*. The day workers habitually utilize these classes at evening time enthusiastically and actively.

Before or with the establishment of Dars system, a kind of institution had been introduced there for the purpose of imparting basic Islamic education named *Othupallies*. Usually, it was held outside and adjacent to the Masjids and it was a sort of primary school for religious and Arabic education for young Muslim boys and girls. Early, only Quran recitation was learnt through this institution, but, later, some basic knowledge about the Islamic *Ibadats* also began to be studied here. This system was generally utilized by the common people. Teachers of these *Othupallies* were those who studied *Fathul Mu'in* from the Darses. With the system the masses understood what *Fathul Mu'in* is and what knowledge *Fathul Mu'in* contains.

Wa'z programme was another means of linking common people with *Fathul Mu'in*. *Wa'az*, literally means preaching and sermon, is an amazing institution adopted by Muslims since their early times to teach public more about Islam and various Islamic subjects and to frequently remind them about the facts of life here and in hereafter. It is

very popular medium among the Muslims for transmitting cultures and practices. The Wa'z programmes were conducted in Kerala in different styles and methods. And some are usually held for many days and some for few days. "In olden days when such programmes were conducted with much glow and pomp as well as with enormous public enthusiasm, some scholars used to continue their Wa'az programmes for weeks and even months. Renowned traditionalist scholar, Poonthavanam N Abdullah Musliyar has the fame of delivering wa'az for six months continuously. Abdullah Musliyar and Koottanandu KV Muhammed Musliyar, both of whom were known from among the traditionalist scholars of 20th century for their efficiency in pure literary Malayalam language, were the speakers in alternative years at the six-month long Wa'az programmes conducted by *Ansarul Muslimeen Sangam* of Kuttichira in Calicut."¹⁷⁴ As far as the subjects of these Wa'z programmes are concerned they were mostly those related to beliefs and practices. The Juristic studies, especially Fathul Muin had enjoyed a great role among them.

Zubair K says:

"Almost all religious subjects from those related to beliefs, rituals, thasawwuf, and jurisprudence to social life, education, personal and social responsibilities were discussed in these wa'az programmes. Sometimes days-long programme will be held depending on single popular religious text like Zainuddin Makhdoom's renowned book of Shafi'i law school, *Fathhul Muin*, and Imam Al-Gazali's masterpiece *Ihya'u Uloom al-din*. These 'open air services in the nights, which have a strong emotional impact' were well attended by locals, both men and women, and people from the nearby villages. The attendance also depends upon the fame and oratory skills of the speaker. Wa'az does a yearly wake-up call to locals to renew their faith and better their service to Allah the Al mighty, and 'the religious leaders more and more depend on a combination of Ramadan programmes and religious educational activities to nurture the community. The open air

¹⁷⁴ M phil thesis Development and Modernization of religious education in Kerala: Role of Samastha Kerala Jam'eyyathul Ulama, third chapter page no:64 by Zubair K pageno:61

services take the form of extended pedagogical addresses by Maulavis, often guest speakers, combined with antiphonal responses by those assembled.¹⁷⁵

For some speakers of Kerala, Wa'z programme was an articulation of what said in Fathul Mu'in, they discussed one point after another and presented in different styles and methods. Some preferred a special style of poetic expression while some depended up on fluent form of oratory. However, the chapters, subchapters and other major discussions of Fathul Mu'in were conveyed from Ulams to the common people.

In the sphere of Fatwa, no doubt, Fathul Mu'in has played a key role by which the fatwas have been unified and standardized to at some extent. Kerala Ulama or Scholars usually depend on Fathul Mu'in when they are asked questions and then other texts in Shafi'i Jurisprudence. Hence, Fathul Mu'in, through fatwas, not only helped regulate and Islamize people's conduct, but also brought all sorts of human action in its sphere. It was the prime effect of this great text in Kerala that the hold is still continues in various forms and institutions. Fatwas acted as a medium of contact between the people and the Ulams. In Kerala Fathul Mu'in occupied this position to a great extent; as a result, Fathul Mu'in is firmly placed in the minds of common man. For that they say it is not possible or not acceptable to consider those people who haven't studied Fathul Mu'in an Islamic scholar or an *Alim* in Kerala.

Hence, evidently we say, In Kerala, Fathul Mu'in has importance in the transmission of Islamic rules and values from the scholar to the layman and from generation to generation. Fathul Mu'in was a means of intermediation utilized by Ulama of Kerala to maintain communication with masses on the religious issues. This intermediation in the problems of these masses impacted their cultures, rituals and social activities so it impacted the socialization of the next generation. Fathul Mu'in, indeed, impacted their rituals, customs, better to say it unified rituals and practices according to the Quran and Sunnah and according to the teaching of Scholars and Ulamas. In other words Zaynudheen Makhdoom observed all the customs and practices in Kerala and Islamized them in accordance of the authentic texts. He stood firmly against those practices which

¹⁷⁵ M phil thesis Development and Modernization of religious education in Kerala: Role of Samastha Kerala Jam'eyyathul Ulama, third chapter page no:64 by Zubair K pageno:61

are not as per the Islamic laws as well as teachings. At the same time he recognized the territorial *Urfs* (common practices) but as per the juristic laws.

Methods to study Fathul Mu'in

There were some methods to study or teach Fathul Mu'in. Traditionally Fathul Mu'in, has been taught with commentary texts like *Ianathu thaliben* and *Tharsheehul Musthafedeen*. Generally teacher will explain the text in detail quoting these commentaries and student will add referring those books. According to oral history few methods are being practiced to teach Fathul Mu'in. Some are explaining the texts word by word and discuss all *Masails* (problems) related to that situation. This style will help the student to make himself aware on several problems and solutions. Although, some are giving lectures after a detailed reading of source texts including annotations and commentaries. The system would carry the students to a vast world of knowledge.

Going back to past centuries, there were students who learned Fathul Mu'in three times. With first reading the student covers all chapters of Fathul Mu'in thoroughly. In the second reading he shall read along with Fathul Mu'in those juristic discussions in *Tarsheehul Mustafeedin* and *Ianatu thaliben*. Though, in the final reading he reads Fathul Mu'in with chapters in *Tuhfatul Muhtaj* and *Mahalli*. This sort of analysis makes him a scholar who can issue fatwas and juristic explanations.

In some Darses, teachers promote students to conduct debates on particular subjects in order to make them much trained and experienced. These debates teach them how to face a problem and to answer. Definitely Fathul Mu'in makes their discussions and symposiums more active and energetic.

Shortly Fathul Mu'in is a very popular and eminent Shafie Juristic text which influenced the social and religious life of Kerala Muslims. It has unified the customs and rituals across the state in an extent and voice against the social injustice. Fathul Mu'in Islamized their practices and removed what is not as per Islamic law and jurisprudence.

Conclusion

Conclusion

This is a humble attempt to explore those most important remarks on the topic 'Significance of Fathul Muin in the social and religious life of Kerala Muslims, An analytical study'. To conclude, it is required to sum up what we discussed in former pages and to highlight those crucial points which we traced out through the research. However, this effort enabled me to show up some notable aspects regarding the topic and thus to draw attention of readers towards the very rich account of text works in Islamic Jurisprudence or Islamic legal system which are yet to be studied. To discuss the topic I followed the analytical method of the available documents and sources in Arabic, English and in Malayalam as well. Even though the discussion on such topic might not be completed if neglected a very precious account of oral history. Unveiling that kind of history can contribute more enough about our subject because those who learned texts like Fathul Muin in a traditional method of teaching have, definitely, to share their thoughts, experience and their times in religious institutions like Palli Darsas.

As the part of study I have met many who belongs to such background and collected tips which helped me in writing this thesis, moreover, I myself have some sort of experience as I studied in religious institutions for a long time. Though, let me say this is the culmination of my attempt to explore very significant notes on the topic using those above said sources. Here I sum up those most important remarks regarding the topic along with some suggestions arose in my mind during the study.

During concentrate reading of relevant details and documents and close examination of various faces of Muslims in Kerala, along with the proposed concept, I could reach in to clear cut of finding that the life of Muslim community is closely connected with the religious texts, most particularly to the Juristic texts because the juristic texts generally discuss on a human life from top to bottom. In other words we can say the juristic texts regulate one Muslim's life, teaches what to do and what is not to do.

As far as the Muslims in Kerala, today, are concerned they have a firm and undeniable attachment to Fathul Muin an eminent juristic work of 16th century. Almost all Muslims

in Kerala follow Fathul Muin and practice in their day to life except some so called reformists who emerged only in the first phase of 20th century.

Before entering to this core subject we discussed on the evolution of Islamic Jurisprudence and its origin and development in Kerala during one and two chapters respectively. In first chapter we started with the reference of Quranic words to seek knowledge and Hadith which commands Muslims to chose either of options of being a scholar or a learner or a listener or a lover to the knowledge.

After a short explanation about the meaning of 'Fiqh' it is started to talk on the stages of Islamic Jurisprudence along with its evolutions and development in different political phases. The emergence of four schools of thought in Islamic Jurisprudence is the main event in this regard and I believe my first chapter has given an overview about all school. This chapter has also put the light on the life of four Imams, their disciples who spread these schools in across the world, major scholars of late period and works and reference and the phases of the development of these schools.

Moving to the next chapter which exposes the origin and development of Islamic Jurisprudence in Kerala, we identify the insufficiency of sources and records. The study on the Islamic jurisprudence is obviously connected with the history of Muslim community in Kerala, their emergence, growth and development. But the study on Muslim community is not too much. Dr AP Ibrahim Kunju observes,

'Very few studies have appeared dealing with the history and culture of the Mappila¹⁷⁶ Muslims of Kerala. Neither do works dealing with Indian Muslims, give any detailed account of the Mappilas. This is nothing surprising as Mappilas themselves had failed to provide the raw materials for a connected history of their own. The earliest probably the only historical work on the early history of the Mappilas was Shaykh Zaynudin, the junior's work, Tuhfat ul Mujahidin fi Ba'zi Ahaval il Burtuqaliyyin (on offering to the Holy Warriors in the respect of brief account of the Portuguese), in Arabic. It deals with the history of Kerala Portuguese relations in the 16th century. Zaynudin's work has been

¹⁷⁶ Māppiḷa refer to the Muslim community in Kerala and neighboring states

acclaimed as one of the best historical treatises, produced on modern lines. No work of this quality has been produced ever since'¹⁷⁷.

As it told just before, we have only Tuhfatul Mujahideen to map out the history of Muslims dependably and authentically. Tuhfatul Mujahidin, the 16th century's very reliable source put light on the expansion of Islam in Kerala in 8th century. Beside that we have also the travelogue of Ibn Batuta, 13th century itinerant who observed the Islamic culture and laws in the regions of Kerala. Analysing both of these sources along with many of latest writings we reached in the result that there were Islamic culture and practice of Islamic Jurisprudence as well. Stephen F Dale observes

'A thriving Islamic culture had already developed in these various trading ports, served by mosques and members of the Ulma', those educated in the Islamic religious science, who came from the centres of Islamic learning in Mecca, Medina and Bagdad. At Mt.D'Eli, for example another of early mosque sites mentioned by Zayn al-Din, Battuta found a large Juma' or 'Friday' mosque where there were students supported by funds provided by the charitable donations of seamen, who often made their first land fall in India at this point. However, it was at Calicut that the greatest number of traders and evidently the largest number of Muslims was concentrated'¹⁷⁸.

From the concentrate reading of these sources we realize there were Islamic Jurisprudence and its wide practice. According to Ibnu Battuta there were the extensive exercises of Shafie Islamic Jurisprudence as he observed many of Ulamas belongs the Shafie madhab came from the Arab countries. Even though the exact time of emergence of Shafie thought in Kerala is not known, but we believe, it has emerged here in Kerala soon after its emergence in Arabia. That is because of the continuous and constant relation of Traders of Arabia with the Kerala, who were mostly, belonging to Shafie Jurisprudence.

Another very important point which deserve mention here that there were, in sixteenth century, practice of Shari'a even in Judiciary under the Hindu Rajas. The actions have

¹⁷⁷ Mappila Muslims of Kerala, introduction page no: 10 by Dr. Ibrahim Kunju.

¹⁷⁸ Islamic Society on The South Asian Frontier. The Mappilas of Malabar. 1498-1922. Page no:27

taken who violated the Islamic rules. Muslims were respected by the Hindu rajas. This was due to their firm connection with the Arab traders. Zynudheen Makhdom observes.

‘Muslims throughout Malabar have no leader possessed of power to rule over them. But their rulers are Hindus, who exercise judicial authority and organize their affairs by enforcing payment of debt or fine if anyone is subjected to such payment. Notwithstanding with these, Muslims enjoyed great respect and regard from the Hindu rulers. The main reason for this is that the construction and development of the country is taking place largely by through the Muslims. Hence the rulers make it convenient for Muslims to organize Friday congregation prayers (jum’ah) and the celebrations like ‘Id. The remuneration for the Mu’adhins (those who call prayers) and the qadis (religious judges) are paid by the government. The government makes special arrangement for the implementing among the Muslims their own religious rules and regulations. In greater part of Malabar, whoever neglects the Jum’ah (the Friday congregation) is punished of made to pay a fine’.¹⁷⁹

But, because of the colonization by Portuguese, Dutch and British the change has occurred in these systems and after the independence of India it has transformed in another structure. During these stages Muslims were also lead by several Ulamas and leaders Like Mamburam Thangal, Umer Qazi and later by the leaders of Samastha Kerala Jam’yyathul Ulama. The life sketches of these great leaders along with their contributions especially for the development of Islamic Jurisprudence are articulated here in this thesis. However, I believe it would help the reader to get an overview about the origin and development of Islamic Jurisprudence in Kerala.

After, we discuss the main topic of this thesis, ‘Significance of Fathul Muin in the social and religious life of Kerala Muslims’. Fathul Muin is 16th century text in Shafie Islamic jurisprudence written by eminent scholar Zyinudhen Makhdom the second. The Islamic laws and rules are brilliantly and finely articulated in this text by which it has been famed and recognized among those in and outside Kerala. To talk authentically about Fathul Muin, the study about what contents are included in it is required. That is why the chapter has explained the contents of Fathul Muin - four parts of Islamic Jurisprudence

¹⁷⁹ Tuhfat al-Mujahidin. Translation page no 45,46 by S Muhammad Husayn Nainar.

and the chapters and sub chapters-. Shortening the content of 336 page long Fathul Muin in few words is really not easy in terms that would sufficient the reader. Even though, the chapter shall reveal on very important sections of Fathul Muin.

Here is an attempt to examine, why and how Fathul Muin enjoys such a good privilege in among the society and what factors keep it alive in the hearts of Muslims in Kerala even after the four centuries. The study proves that Fathul Muin firstly defers from other juristic works for having short, but with comprising almost chapters and topics of Islamic Jurisprudence. Secondly it is easy to grasp for those who have a basic knowledge in both Arabic language and Islamic Jurisprudence. In Kerala, before the emergence of Fathul Muin, people were generally used to learn Tuhafatul Muhtaj and Kanz al Ragbeen, (which is widely known as Mahlli) but these are very prolonged work as it has been utilized as reference work in Islamic Jurisprudence of Shafie School. There were no any text which will discuss almost all juristic laws briefly without going its details and depth. Here, we recognize what Fathul Muin is, and why it defers. Thirdly, to having not deal with the juristic differences and views, even so it did not ignore any of very relevant discussion having the juristic differences.

Fathul Muin is a close text not only to the Ulamas of Muslims in Kerala but to the commons as well. They respected this great work even they do not ready to consider those who did not learn Fathul Muin as an Alim or Islamic scholar. They kept their touch with Fathul Muin through asking fatwas to the Ulamas who usually depend on Fathul Muin and by participating in Va'z programs in which Fathul Muin is being studied. It is to be mentioned here that there were months long Va'z programs in some areas of Malabar where Islamic Jurisprudence and more importantly Fathul Muin were studied in different styles and methods.

For Ulamas it was their strength and guide, their source and reference. All Ulamas learn Fathul Muin and some among them teach it too. Fathul Muin made them perfect scholars in Kerala who have depth knowledge in Islamic Jurisprudence. Through Fathul Muin they reached to other texts of Shafie School, it means their study of Fathul Muin made them capable to refer other reference texts of Shafie School. In some methods of teaching students shall learn Fathul Muin thrice. In first reading the student will read out the text

thoroughly. In second reading the student shall read with Fathul Muin those juristic commentaries in Tarsheehul Mustafeedin and Ianathu thaliben. Though, in the final reading he reads Fathul Muin with chapters in Tuhfatul Muhtaj and Mahalli. This would help the student to become a perfect scholar and to get the depth knowledge in the text as well as other major works in Shafie School. That is why it is widely considered that one Scholar should have read Fathul Muin other vice the commons would not consider him as a Scholar.

There are also mentioned its commentaries in Arabic and most of them were written by the scholars in Kerala itself. This rich commentary works also influenced the Kerala Muslims a lot. Fathul Muin has many of translations in Malayalam which made the text close to the commons in Kerala.

Fathul Muin played a key role in unifying the customs and practices of Muslims. It means Kerala Muslims legitimised their rituals and customs through the teachings of Fathul Muin or to say the practices of Muslims are formed under the teachings of Fathul Muin. Those practices which are not coming as per the Islamic law and Jurisprudence are neglected by the scholars and pious Muslims in Kerala. Finally I would like to say that more studies are needed to explore the influence of Islamic juristic texts in Kerala as well as other regions in and outside India.

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