

ABOUT THE FAMOUS FAQIH (A SCHOLAR OF ISLAMIC LAW) FROM MOVAROUNNAHR AND HIS WORK "QUESTIONS AND ANSWERS"

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ABSTRACT

The East is one of the cradles of world civilization. It is known that great cultural and historical heritage has been left by the scholars who lived in Mawarannahr. Unfortunately, most of people are aware of this in general terms only. Meanwhile, more detailed introduction to this vast layer of history and culture – not just to satisfy idle curiosity, is rather a duty of every civilized and intelligent person. It is difficult to expect a normal future without historical, cultural and spiritual memory.

In addition, the introduction to this great heritage will help once again to realize that people of all ages and nations have common human values, and we are all children of one great family – humanity.

The Uzbek nation has a long and rich political and legal culture formed in antiquity and the Middle Ages as a result of the interaction of different cultures. Ancient civilizations such as Soghdiana, Parthian-Khorasan, Bactrian-Tokharistan with rudiments of statehood, cultural, political and legal traditions have existed since ancient times in the territory of Mawarannahr, Khorasan and Balkh. For a long time, territory occupied by the ancestors of Uzbeks has been consistently included in a group of states of the Assyrians (7 B.C.), the kingdom of the Achaemenids (6th-7th centuries B.C.), the empire of Alexander the Great (starting from 328th B.C., the Greco-Bactrian kingdom (starting from the mid-3rd B.C., the Kushan state (from 1st to 5th centuries B.C.), and starting from 5th B.C. – the kingdom of Eftalits and then the Turk khanate.

Uzbekistan embodies experience of the state starting with the ancient Sogdiana and Khorezm, Samanids state, Khorezmshahs, Timur and the Timurids, and the historical experience of our ancient nation with its age-old dream of its own state. The Uzbek state and law are inseparably parts of universal and national statehood, and have been developing in accordance with spiritual potential of our civilization more than three thousand years.

Legal culture of people in Mawarannahr derives from its civilization, common and state culture, morality of the nations. Long-living cultural tradition part of which is the legal tradition is operating not only in the area of official statehood, but also in the moral regulation in the nations and people. Here is the value of historical, cultural and legal traditions of Mawarannahr.

As a result of the Arab conquest of Mawarannahr, the country with rich cultural and legal traditions was introduced with Islam and Sharia. From that time it started the centuries-old interaction, which incorporates the elements of the Middle Eastern civilization and law with local cultural and legal traditions.

The term “Mawarannahr” is derived from the Arabic “ma wara’a an-nahr” – the other side of the river. The word first appeared in the third quarter of the 7th century, when Arabs conquered Khorasan and came to the Amu Darya River and began to make the first forays into the land

lying on the other side of the river. Gradually, with the advancement of the Arabs to the north of Amu Darya, the geographical concept of “Mawarannahr” was filled with more specific content and expanded through addition of new territories, which included not only Soghd, Ferghana, Ustrushana, Isfidzhab, Huttal, Ilac and Shash, but even in some periods Mevra, Khorezm and partly Turkestan, although they were not part of the rivers Amu Darya and Syr Darya. In the 10th-13th centuries Mawarannahr, due to number of reasons of political, economic and cultural origin, turned from the geographical concept into a political one. It started to represent the territory of Central Asia with the Muslim population.

Ethnicity of Central Asia was multinational. In addition to the Uzbeks and other Turkic nations, Mawarannahr was inhabited by representatives of other countries and nations – Indians, Tibetans, Arabs and vice versa: in many Eastern countries immigrants from Mawarannahr lived. In these cities there were even rabad of Khorezmians, street of people from Fergana, Ustrushana, Bukhara, etc.

Cultural links reflected in a wide mutual flow of scientists, poets, writers and theologians. Bukhara and Khorezm, Samarkand and Merv were considered as major educational and research centers, where people used to come to study from the Maghreb, Andalusia, Azerbaijan, Tabaristan, Khorasan and other places. However, scientists of Mawarannahr in search of knowledge reached Egypt, Iraq, and Syria.

The main Sunni legal and theological madhab in Mawarannahr was Ḥanifizm. However, according to al-Muqaddasī, some areas of Mawarannahr, such as Shash, Ilac, around Bukhara, Taraz, Sugnak, Khiva were dominated by supporters of the right-wing Shafī legislation. One can also find reference on the existence of adherents Maliki School of law in Mawarannahr. These data allow us to clarify the statement that “the Turkic people in line with adoption of Islam also adopted the Ḥanafī law”.

Legislation of any country is an inseparable part of the national heritage; in a sense is a product of tradition, heritage of ancestors and a way of expressing of a given society. It is impossible to imagine the law of Mawarannahr apart from Shariah or Islamic Law. Mawarannahr jurists while referring to the works on Islamic law which had been created earlier, made a significant contribution to doctrinal design and development of Shariah. They came to forefront as the scholars of Islamic law who were famous throughout the Islamic world – the commentators of the Qur’an, collectors of hadith, faqih and muhaddith. Their works had a significant influence to the development of the Islamic culture and law.

For more than ten centuries, legal consciousness of the people of Uzbekistan and throughout Central Asia was primarily determined by the norms and traditions of Shariah and adat (practice, customary law). Shariah would acted not only as a religious system, but also was a complex of institutions including social and spiritual life of society and have a profound impact on historical and legal traditions, moral views of people and their way of life. Social life has not created for the Muslims other rules than the religious ones that were integral part of Shariah. Starting from the tenth century in Mawarannahr, mainly in big cities there were established madrasahs, Islamic schools for the training of lawyers and preachers, i.e. theological and legal education institutions teaching Shariah.

Mawarannahr was one of the main centers that designed and developed Ḥanafī madhab of law. Ḥanafī madhab of law is one of the four Sunni schools of Islam. Abū Yūsuf Ya‘qūb ibn Ibrāhīm (d. 795) from Kufa and Muḥammad ibn al-Ḥasan al-Shaybānī (died 805), disciples of a founder of this school of thought, famous faqīh Abū Ḥanīfa (698-767), played a significant role in design, development and spread of Ḥanafism that arose in Iran.

Ḥanafī School of law was widely spread in many parts of the Arab Caliphate, including Mawarannahr. This is explained by such specific features of the madhab as flexibility, liberalism, wide use of local customary law (adat, urf). Only faqīh, an expert of the sacred religious law, could publicly speak out about the actions of the authorities, to judge about the compliance of local customs and traditions to the ideals and norms of Islam, and to make a judgment that were issued in the form of a fatwa. When making a decision, jurists were independent of the authorities, which often led to their persecution by the latter. A faqīh who enjoyed respect in his community was addressed by the residents of the region regarding to various issues of life, work, personal and social life. Faqīhs tried to keep up with life. Provisions of the Ḥanafī School of law allowed for changing outdated solutions based on changes in the human lives. Mawarannahr’s faqīh took credit for fixing the local customs, traditions and legal systems in the Ḥanafī School of thought.

Scientists of Mawarannahr during 11th-13th centuries created more than 300 works on fiqh, which occupy an important place in the history of world of religious and legal thought. They are important in two respects:

First, those works has made a separate stage in the scientific development of Ḥanafī madhab on an overall Muslim scale; Second, they reflect characteristics of the regional form of Islam in Central Asia.

However, a study of the legal heritage of the fiqh school of Mawarannahr is at an infant stage. Several works on the Islamic theology (kalam, akaid) and Methodology of the Islamic Law (“Uṣūl al-fiqh”) have been published. Most works on the practical part of law (“furū‘ al-fiqh”) remain in a manuscript form. In such situation, a rigorous study of the heritage of the Ḥanafī fiqh becomes an urgent task.

Study of works of such a prominent scientist as Majduddīn Abū al-Faṭḥ Muḥammad ibn Maḥmūd ibn al-Ḥusayn ibn Aḥmad al-Ustrūshanī, the author of many outstanding works, a follower of great faqīh Burhān al-dīn al-Margīnānī is of a double importance.

Abū al-Faṭḥ Muḥammad ibn Maḥmūd ibn al-Ḥusayn ibn Aḥmad al-Ustrūshanī came from Ustrūshana, lived in the late 12th and early 13th centuries in Mawarannahr. Major part of the life of Maḥmūd al-Ustrūshanī passed in Samarkand. His life coincided in time with the final period of the Samarkand school of fiqh and the start of the Mongols conquest of Samarkand. At that time, his fans and contemporaries called him “Jalāl ad-dīn” – “The greatness of the Islamic faith and religion”. Value and historical significance of his scientific legacy is defined not only by the fact that he attempted to resolve the most pressing and religious the problems that had not been not researched before him in that time, but also by the fact that he provided a fair, coherent, historically justified and life-backed characteristic to all issues he touched.

The formation and development of Islamic jurisprudence did not touch upon just theoretical issues, but also issues like how to apply the codes and laws. His works served as guidelines of

how and in what angles should be interpreted this or that disputed case, how to hold assize, as well as how to achieve a fair solution for both parties. He earned respect by the fact that a solution of various issues proposed by him did not cause any disputes or misunderstandings of the Muslim community. His works clearly and specifically provide an understanding on the basis of everyday examples of such rights and obligations as personal rights, responsibility for violations, civil rights, heritage rights, economic and rights to property, family law, procedural law and etc.

A scientist is briefly praised in the extant manuscripts and they mainly refer to his works . It is also reported about Muḥammad ibn Maḥmūd al-Ustrūshanī in the works from the series of *tabaqat* limited and sometimes repetitive information. Authors such as ‘Abdulqādir ibn Abī-l-Wafā’ al-Qurashī (d. 1373/775), Mustafā ‘Abdullah Ḥajjī Khalīfa (d. 1067/1657), ‘Abdulḥay al-Laknavī (d. 1886/1304), and Khayr ad-dīn az-Zirīklī mentioning al-Ustrūshanī, give a short list of his works. Their information in many cases looks quite similar.

A. Muminov was one of the modern scholars in the Uzbek Islamic studies who first informed of Muḥammad ibn Maḥmūd al-Ustrūshanī and his works . Sh. Kamaliddinov in his Candidate degree dissertation, “Kitāb al-ansāb”, of Abū Sa’d ‘Abd al-Karīm ibn Muḥammad ibn Manṣūr al-Tamīmī al-Sam’ānī, as a source on history and cultural history of Central Asia” gives information about the Ustrushan region and some Ustrūshans. But Muḥammad ibn Maḥmūd al-Ustrūshanī lived in the late 12th – the first half of the 13th century and that is why he was not mentioned in the “Kitāb al-ansāb” by as-Sam’ānī.

Another work by al-Ustrūshanī is found in the form of an essay “al-As’ila wa-l-ajwiba” (“Questions and Answers”), which was kept at the Institute of Oriental Studies, named after Abu Rayhan Beruni, of the Academy of Sciences of Uzbekistan (hereinafter IOSAS). This piece of work has still not been recorded in the works of the *tabaqat* genre and has not attracted the attention of modern researchers.

While information on the life and scientific activity of al-Ustrūshanī is lacking, the work of al-Ustrūshanī, “al-As’ila wa-l-ajwiba” (“Questions and Answers”), has recently been found among the manuscripts kept at IOSAS. The work has not been touched in any researches that cover the genre of “*Ṭabaqāt*” and has, in fact, been ignored by modern researchers. What is more, the work provides additional information on the biography of al-Ustrūshanī. Although previously documented sources state that al-Ustrūshanī died in the year 632/1234-1235, they do not mention the date of his birth. However, “al-As’ila wa-lajwiba” includes the following information in its last part: “... This book was completed on Dhū al-qa‘da 6, 637 hijrī before noon” . According to this quote, the scholar was still alive at the age of 60 in 637/May 29, 1240. It turns out that al-Ustrūshanī did not die in 632/1234 1235, as is stated in later biographical sources. If al-Ustrūshanī completed “al-As’ila wa-lajwiba” on 637/May 29, 1240, at the age of 60, his date of birth actually would be around 577/1182. However, the exact date of the scholar’s death is still unknown.

According to this new source, al-Ustrūshanī’s upbringing played a vital role in the development of his theological outlook and thinking. Al-Ustrūshanī was the part of the dynasty of faqihis; moreover, Maḥmūd al-Ustrūshanī’s father had the honorable title of “Jalāl ad-dīn” (the Greatness of the Religion); his uncle Aḥmad ibn al-Ḥusayn al-Ustrūshanī was also conferred

the title of “Burhān ad-dīn” (the Argument of the Religion); his mother’s grandfather was conferred the title of “Shams al-A’imma” (the Sun of Imams); and his maternal uncle Muḥammad ibn Aḥmad was nicknamed “Shams ad-dīn” (the Sun of the Religion). An extensive research on al-Ustrūshanī has shown that he held the office of muftī (Islamic legal expert) as well.

Al-Ustrūshanī’s Scientific Activity

As it has been noted above, al-Ustrūshanī’s family played an important role in al-Ustrūshanī’s scholarly development. His father and al-Ustrūshanī’s were both taught by the famous scholar Burhān ad-dīn al-Marghīnānī. Thus, Maḥmūd was a highly respected man amongst scholars and was often addressed as “Ṣāhib al fuṣūl’s father” or “the disciple of Burhān ad-dīn al-Marghīnānī”. Unfortunately, existing sources do not provide information on whether Maḥmūd al-Ustrūshanī held an office or had an important position in society at that time; there is also no information about his birth and death. In addition, Maḥmūd had a so-called work “al-Fawā’id”. Although we lack outside information on al-Ustrūshanī’s father, we gain some insight when we look at some of his works.

Al-Ustrūshanī wrote that he completed the first half of “Kitāb al-Fuṣūl” on Ramaḍān 22, 607/March 13, 1211. We know that al-Ustrūshanī completed “al-As’ila wa-l-ajwiba” on 637/May 29, 1240. However, al-Ustrūshanī managed to complete it at the age of 32”. How can an interval between the first half and the second half of the work be explained? It is known that during the period of 607-609/1211-1213, the Khorezmshahs actively interfered in the political life of Samarkand. Eventually, after the assassination of ‘Uthmān ibn Ibrāhīm, the governor of the Qarakhanids, the Khorezmshahs took possession of Samarkand.

Moreover, al-Ustrūshanī’s father was still alive when al-Ustrūshanī was writing the first half of “Kitāb al-Fuṣūl”, as these words demonstrate: “I read it in my father’s book al-Fawā’id”, may Allah be pleased with him”. The author, however, speaks about his father as deceased in the second half of the work. Maḥmūd ibn al-Ḥusayn al-Ustrūshanī, in fact, died in the chaos in Samarkand between 607-609/1211-1213.

Almost all extant sources show that Burhān ad-dīn al-Marghīnānī played a larger role in Muḥammad ibn Maḥmūd al-Ustrūshanī’s emergence as a faqīh. Similarly, the faqīh Aḥmad ibn al-Ḥusayn al-Ustrūshanī assisted Muḥammad ibn Maḥmūd al-Ustrūshanī much in reaching the peak of proficiency. Muḥammad ibn Maḥmūd al-Ustrūshanī not only mentioned his uncle in “Kitāb al-fuṣūl” and “al-As’ila wa-l-ajwiba” but also, as he stresses, he followed some of his opinions. We have information that Maḥmūd ibn al-Ḥusayn al-Ustrūshanī created a work entitled “al-Fawā’id”.

Muḥammad ibn Muḥammad ibn Yūsuf ash-Shahīd as-Samarqandī, a famous scholar who has given the title of “Nāṣir ad-dīn”, was another teacher of al-Ustrūshanī. This master wrote a great number of works on fiqh, including “al-Fiqh an-nāfi”, “al-Jāmi‘ fī-l-fatāwā”, “Maṣābīḥ as-subul”, “Īmān an-nawāzil”, “Kitāb al-akhsāf”, “Ma’āl al-fatāwā”, “al-Multaqaṭfī-l-fatāwā”. As-Samarqandī was executed in Samarkand in 556/1161. Muḥammad ibn Maḥmūd al-Ustrūshanī considered this master as one of his ideal teachers and took full advantage of his works

Muḥammad ibn Aḥmad ibn ‘Umar Zahīr ad-dīn al-Bukhārī (d. 619/1222), a competent scholar, was also one of al-Ustrūshanī’s teachers, and completed two works on fiqh: “al-Fatāwā az-zahīriya” and “al-Fawā’id az-zahīriya”.

Obviously, Muḥammad ibn Maḥmūd al-Ustrūshanī was brought up and his outlook and scientific thinking started forming at the same time that fiqh developed in Central Asia.

We have so far touched upon the teachers of Muḥammad ibn Maḥmūd al-Ustrūshanī. In turn, al-Ustrūshanī managed to train lots of disciples as well. Muḥammad ibn ‘Uthnān ibn Muḥammad al-‘Alīābādī as-Samarqandī, muhaddith, mufassir, was one of the disciples of al-Ustrūshanī and held the title of “Ḥusām ad-dīn”, as well writing several books, including “Kāmil al-fatāwā”, “Maṭāla‘ al-ma‘anī” and “Manba‘ al-mabānī”

The Legacy of al-Ustrūshanī

Scientific contribution to the development of Islamic law by al-Ustrūshanī was determined by the fact that the scientist tried to answer many public, interpersonal, social and legal issues of the contemporary period from the angle of logic and the observance of rights of all parties involved. His known works are “Kitāb al-fuṣūl”, “Jāmi‘aḥkām al-ṣighār”, “Qurrat al-‘aynayn fī Iṣlāh al-Dāryn”, “al-Fatāwā”, “al-Qurūḍ wa-d-ḍuyūn”, “al-As’ila wal-ajwiba” and others.

The first work of Majduddīn al-Ustrūshanī is called “Kitāb al-fuṣūl” or “Fuṣūl al-Ustrūshanī”. This work is devoted to the need to solve social and economic issues by the kazi (cadi) that are often encountered in the life of Muslims. Al-Ustrūshanī wrote this work to reform the activities of kazi of his time and to provide scientific support to them. To do this, he used the works of more than 100 well-known mujtahids and faqihs. Up today, this book consisting of thirty chapters and examples of the Shariah, keeps its value in the Islamic world. There are 14 copies of the manuscript of this work, six of them are stored in the manuscript collections of Tashkent and the other eight manuscripts are in the collections of libraries in foreign countries.

Second – “Jāmi‘aḥkām al-ṣighār” (“Law on Infants”). He finished the work on 28 July, 625/1228. The work “Jāmi‘aḥkām al-ṣighār” is considered to be the largest and most significant work on fiqh. It is necessary to emphasize the fact that this treatise is on the rights of children in Islamic jurisprudence. The treatise was written in 1228 and is the most significant and important work of al-Ustrūshanī. It contains about 100 laws and precepts that define the rights of children and minors. The treatise is a unique work of the Middle Ages, which encompasses many aspects of the real life of society and its relation to minors.

Since “Jāmi‘aḥkām al-ṣighār” is a valuable source of the Islamic jurisprudence, his many manuscript copies are spread around the world. This work was first published utilizing modern print in the Republic of Iraq in 1982 by Professor ‘Abd al-Ḥamīd ‘Abd al-Khāliq al-Bayzālī. Four copies were used, which remain under a number 1704 at the Library of Princeton University, USA, 1/9626 in the Baghdad library “The National Museum of Iraq”, 3741/1 and 7460/1 at the “Central Library of Waqfs” in Baghdad and the manuscript number 9/7 at the “Central Library of Waqfs” in Mosul, Iraq.

The second edition of this work in two volumes is prepared by Professor Abū Muṣ‘ab al-Badrī and “al-Azhar” university professor Maḥmūd ‘Abd al-Raḥmān ‘Abd al-Mun‘im in the Egyptian capital Cairo. In this issue, researchers have made great use of the manuscript by the number

901 in the Egyptian library “Dār al-Kutub” and microfilm by the number 9334, and the first edition of this work.

There are 11 manuscript copies of “Jāmi‘aḥkām al-ṣighār”, six of them are stored at the funds of libraries in other countries and five – within the assets of manuscripts in Tashkent.

Comparing the second edition of “Jāmi‘aḥkām al-ṣighār” prepared in Egypt with the manuscript copies stored in Tashkent, M.R. Atayev has found errors while copying most of the sentences and phrases in Farsi and serious errors in the instructions of the chapters of the book and a brief background of the faqih.

A major part of the work “Jāmi‘aḥkām al-ṣighār” is dedicated to the social, economic and legal issues, and a minor part to the upbringing and ibadat (worship). In this work created on the basis of Islamic jurisprudence, the problems that arise in children’s rights are resolved justly. Apart from this, thousands of issues ensuring child safety and privacy rights have been discussed. Numerous arguments and instructions to law enforcement agencies are given in the present work. Having embodied the most important and sophisticated systems of Islamic law, this work is one of the preferred sources which has proven its indispensability for eight centuries. Deep and thorough study of this work provides a comprehensive view on a history of the religious legal system of our region.

The sources also mention the name of another scientist working on fiqh, which is called “al-Fatāwā”. In describing this work al-Ustrūshanī, at the end of his “Jāmi‘aḥkām al-ṣighār”, wrote the following: “I named my first work “Kitāb al-fuṣūl”, ... my second work “Jāmi‘aḥkām al-ṣighār” and I intend to name my third work “al-Fatāwā”. This book throws light upon legal decisions on everyday issues in a simple and understandable way. Explanations of issues are based on hadiths and sayings of mujtahids and mutasawifs.

The work consists of forty chapters which provide the complete content and essence of religion, norms of behavior, classification of knowledge, rules of conducting amri-maruf (the command of doing good deeds) and nahiymunkar (refraining from evil deeds), rules of reading the Koran and respecting those reading it. Ḥanafī views on fatwas, the transition from one school of thought to another, naming your child or wife into doing good deeds, the inappropriateness of prohibitions for the wife on certain issues, the right of parents to children, the responsibility of the debtor on Judgment Day, about the varieties of committing a sin, the rules of exchanging greetings, visiting the sick, keeping birds and other animals, the game of chess and other games of chance, on the execution of marriage ritual, the appropriateness of wearing apparel, the importance of differentiated assessments of students on knowledge and many other vital questions are explained in his work.

Another known work of al-Ustrūshanī is “Qurrat al-‘aynayn fī Iṣlāh al-Dāryn” (“Joy of Eyes to the Happiness of the Two Worlds”). One manuscript copy of the work remains, which is kept under number I/340 at the “National Library of Egypt”. However, none of his works mentions about this composition.

Another work of al-Ustrūshanī – “al-Qurūd wa-d-ḍuyūn” (“Variety of Duties”). This book is not recorded in other sources. The author recorded the name of this work in his book “al-As’ila wa-l-ajwiba”. This composition is also a work on fiqh, but so far only its name is known.

Another work of al-Ustrūshanī is “al-As’ila wa-l-ajwiba”. As we have stated above, the book that we noticed, in a lucky moment, among the rows of manuscripts kept at the Institute of Oriental Studies of the Academy of Sciences, is “al-As’ila wa-l-ajwiba” (Questions and Answers) which was not mentioned in the works associating with the genre of *tabaqat* and has, in fact, been ignored by modern scholars. The book encompasses the issuer of *fiqh* and was completed in 637/May 28, 1240.

Al-Ustrūshanī in this work, answers mainly in Arabic and sometimes in Persian languages to the questions of *ulama* and *faqih*s of the *Ḥanafī* madhab who lived before 13th century. Questions are related to various problems on *fiqh*. In his work he answered regarding to the position of *Shariah*, *fatwa* of more than 100 *fiqh*s and *mujtahids* who are famous in the world of Islam. The book contains the names of many books on *fiqh* and *fatwa*. The author has chosen and retold the questions and answers taken from these works.

Written in the first half of the 13th century on issues of the Islamic law, “al-As’ila wa-l-ajwiba” up to now has not been mentioned among the works in the *tabaqat* genre and remained below the attention of the scientific community. In Uzbekistan this work, life and works of the author are not sufficiently studied, and foreign researchers even partly continue to study the life and works of the author.

Dealing with *fiqh*, the work in your hand embraces precious data on the traditions, social and economic life in *Mawarannahr* in the second half of the 12th century and the first half of the 13th century. A work in the form of question-answer on *furū` al-*fiqh** involves *fatwās* in Arabic, 65%, and in Persian 35%.

Works of a question-answer form like “al-As’ila wa-l-ajwiba” can be met in the history of the *Ḥanafī* Madhab. Here below are some of them:

The works “an-Nawādir” by Muḥammad ibn Sammā‘a ibn ‘Abdullah ibn Hilāl atTamīmī (102/720-192/808), Hishām ibn‘Ubaydullah al-Māzil (d. 201/817), Ibrāhīm ibn Rustam Abū Bakr al-Marwazī (d. 211/827), Bishr ibnWalīd al-Kindī (d. 238/862);

The work “az-Zawā‘id alā-l-fawā‘id fī anwā‘i-l-‘ulūm wa-l-fatāwā” by Abū-l-Ḥasan‘ Alī ibn Sa‘īdar-Rustughfanī (d. 345/957);

The work “an-Nawāzil” by Abū-l-Layth Naṣr ibn Muḥammad ibn Aḥmad ibn Ibrāhīm as-Samarqandī (301/913-375/985);

The work “Khizānat al-wāqiāt” by Abū-l-Abbās Aḥmad ibn Muḥammad ibn ‘Umar an-Nātifi (d. 446-1055);

The work “al-Wāqiāt” by Ḥusayn ibn ‘Alī Abū-l-Qāsim Imāduddīn al-Lāmishī (d. 522/1128);

The work “al-Hāwī fī-l-fatāwā” by Muḥammad ibn Ibrāhīm ibn Anūsh al-Husayrī alBukhārī (d. 500/1106);

The work “Zahīrat al-fatāwā” by Burhānuddīn Maḥmūd ibn Tājiddīn Aḥmad ‘Abdulazīz ibn ‘Umar ibn Māza al-Bukhārī (551/1156 –616/1220);

The work “Majmū‘ an-nawāzil wa-l-ḥawādith wa-l-wāqi‘āt” by Aḥmad ibn Mūsā ibn Īsā ibn Ma‘mūn ibn Aḥmad ibn Mūsā al-Kashī (d. 550/1155);

The work “al-As’ila al-lāmi‘a wa-l-ajwiba al-jāmi‘a” by ‘Imāduddīn Abū-l-Ḥasan Maḥmūd ibn Aḥmad al-Farābī. There are 3 manuscript copies of “al-As’ila wa-l-ajwiba” at the Institute of Oriental Studies, named after Abu Rayhan Beruni, Academy of Sciences of Uzbekistan.

1) Number tag – 3109/1. The manuscript is of 222 pages, an orientally designed cardboard cover a brown sheet glued on. The paper dimension is 26×16 cm. The text size is 31 “al-As’ila wa-l-ajwiba”, the work by al-Ustrūshānī that is preserved at the Institute of Oriental Studies named after Abu Rayhan Beruni of the Academy of Sciences of Uzbekistan, under a number tag №3109/I is wrongly classified with in the catalogue of Institute of Oriental Studies named after Abu Rayhan Beruni of the Academy of Sciences of Uzbekistan as “Kitāb al-fuṣūl”, and in the 4th Questions and Answers 13 21×11. There are 25 rows in every page. A thick oriental yellowish paper. The script is naskh. Pages are numbered in an oriental style. The copy was inscribed by Farīd ibn Maḥmūd ibn Muḥammadshāh ibn Ḥasan al-Jarzuwānī, in 785/1383. The stamps on every page evidence that it was given as a waqf (donation, endowment).

The compiled manuscript includes two works:

a) The work “al-As’ila wa-l-ajwiba” by Muḥammad ibn Maḥmūd al-Ustrūshānī. It is given on pages 1^b –70^a .

b) Aḥmad ibn Muḥammad ibn Abī Bakr`’s “Khizānat al-fatāwā”. The work is on pages 71^b –221^b

2) Number Tag 6341/III. The manuscript is the compilation of three works and there are 296 pages in its entirety. An orientally designed cardboard cover carries a green sheet glued on. The coversheet has medallions in the shape of sun and tulip. The dimension of the work is 29x15 cm. The text size is 22x11. There are 27 rows in every page. A thick oriental yellowish paper. In the naskh script. Pages are numbered in an oriental style. The copyist is unknown. Muḥammad Azīz ibn Hudāyār established the copy as an endowment, in 1211/1796. The stamps on every fourth page evidence that it was given as a waqf.

There are following works within the manuscript:

a) The work “Bustān al-‘arīfīn” by Abū-l-layth Naṣr ibn Muḥammad ibn Aḥmad ibn Ibrāhīm as-Samarqandī (301/913-375/985). The work is on pages 1^b –77^a .

b) The work “Khizānat al-fatāwā” by Aḥmad ibn Muḥammad ibn Abī Bakr. It is on pages 80^a – 229^b.

c) The work “al-As’ila wa-l-ajwiba” by Muḥammad ibn Maḥmūd al-Ustrūshānī. The work is given on pages 230^a –296^b. A work of drawback – it lacks the ending part.

3) Number Tag 2533/III. The manuscript includes five works. Totally 258 pages. A cardboard cover of oriental designed carries a dark green sheet glued on. The coversheet has three – one small and two big – medallions in the shape diamond. Chinese thick white paper. The dimension of the paper is 20x12 cm. The text size is 15,3x7,3. There are 19 rows in every page. A certain Jalāl ad-dīn established the copy as a waqf, that is evidenced by the stamps at the top of every page. The manuscript was completed by ‘Abdullah al-Balkhī, a calligrapher, on September 27, 1230/1815.

The folding manuscript embraces the following works:

The work “Risālat arkān aṣ-ṣalāt” by Muḥammad al-Chalabī al-Barakīar-Rumī, on pages 1^a – 19^b.

b) The work “Manāqib khwāja Yūsuf al-Hamadānī” by ‘Abdulkhāliq al-Ghijduwānī, on pages 20^a –36^b .

c) The work “al-As’ila wa-l-ajwiba” by Muḥammad ibn Maḥmūd al-Ustrūshānī, on pages 38^b – 158^b . This part carries certain codicological features: in the black ink, words as “asked”,

“replied”, “said” and some other words carry red upper lines. The titles of issues are given in red ink.

d) The work “Muntakhab katāib a’lām al-akhyār min fuqahā’i madhab an-Nu’mān al-mukhtār”, on pages 160^a –199^a . It was taken from “Katāib a’lām al-akhyār min fuqahā’i madhab an-Nu’mān al-mukhtār” by Maḥmūd ibn Sulaymān al-Kafawī (d. 990/1582-83) and transformed into a selected one. The author of «Muntakhab katāib a’lām al-akhyār min fuqahā’i madhab an-Nu’mān al-mukhtār» is perhaps its calligrapher.

e) “Muntakhab tabaqāt al-Ḥanafiyya”, on pages 201^a –258^b . This work was taken from “Tabaqāt al-Ḥanafiyya” by ‘Abdulqādir ibn Abī-l-Wafā al-Qurashī (d. 775/1373), and was transformed into a selected work. The author is unknown.

The copies preserved at the Institute of Oriental Studies named after Abu Rayhan Beruni, Academy of Sciences of Uzbekistan, under the number tags № 3109/I, 6341/III and 2533/ III are employed in making the scientific-critical text of “al-As’ila wa-l-ajwiba”. The used copies are conditionally given as follows:

1. Manuscript – 3109/I, copied by Farīd ibn Maḥmūd ibn Muḥammadshāh ibn Ḥasan al-Jarzuwānī – (أ).

2. Manuscript – 6341/III, Unknown calligrapher – (ب)

Manuscript – 2533/III, the calligrapher is ‘Abdullah al-Balkhī – (ج.)

The criteria below are observed in composing the scientific-critical summary:

– The cornerstone in making the scientific-critical text has been the copy, (أ), (done by Maḥmūd ibn Muḥammadshāh ibn Ḥasan al-Jarzuwani in 785/1383. In the critical text, all features of the manuscript have been maintained. Every fatwā (religious ruling) in the text has been compared to other two manuscripts, semantic differences have been recorded into the scientific device.

– Classical Arabic and Persian spelling norms have fully been followed. – In case if there is no ending part of a fatwā in any copy, the footnote offers the missing محذوفة القسم (...): جاءت هذه الفقرة في...الخير وهو...

– Part-lacking sentences in the copy are re-established in the text, and after ... لم توجد في in the footnote, a conditional mark of an incomplete copy is provided. – If a certain fatwā is fully omitted in a copy, a conditional mark of an incomplete copy is provided after ... لم توجد هذه الفقرة في in the footnote.

If there are several synonyms in the copies, the most appropriate one is selected among them and other versions are provided in the footnote.

– In case if a word is provided differently in a sentence, the most sentence-suitable one is picked and others are given in the footnote.

– The name of the faqih (jurist) whom Majduddīn al-Ustrūshanī turned to is provided in bold and full information about him is given in the footnote. –

– Majduddīn al-Ustrūshanī , in some cases, referred to the titles of scholars, which are given in bold in text, and the carriers of those titles are provided in full personal details in the footnote.

– In some cases, Majduddīn al-Ustrūshanī mentions sobriquets of scholars. The bearers of those nicknames are made certain in the text by giving in bold, and in the footnote, rich details are offered.

- Majduddīn al-Ustrūshanī , in some cases when referring to the scholar, says “the author of the book”. The text gives the word “the author of the book” in bold, while the footnote offers a rich personal detail of the scholar.
- Majduddīn al-Ustrūshanī , in some places, referred to a jurist-scholar by using his paternity title (kunya: abu ...). This is given in bold in the text, while the footnote provides rich information about him.
- Some of the scholars whom Majduddīn al-Ustrūshanī turned to are not found within the biographical sources we have. The name of the faqih (jurist) is offered in bold in the preserved sources the (لم نعثر على ترجمته في المصادر التي تحت أيدينا) says footnote the while, text by us could not offer this name).
- When mentioning Abū Ḥanīfa, Majduddīn al-Ustrūshanī refers to him as أبو حنيفة in the Arabic sentences and in Persian, he applied اعظم امام .The text gives both in bold, while the footnote gives full information about the scholar.
- When turning to Burhān al-dīn al-Margīnānī, Majduddīn al-Ustrūshanī used شيخ الاسلام برهان or شيخ الاسلام هذا or شيخ الاسلام الدين These are in bold in the text and enriched with more details in the footnote.
- Majduddīn al-Ustrūshanī used والدي جلال الدين or والدي when referring to the points of his father. Bold in the text, his father is given with more details in the footnote.
- Majduddīn al-Ustrūshanī mentions some of the scholars by their popular names in the past. This name is given in bold in the text and the footnote offers his real name.
- The sources employed by Majduddīn al-Ustrūshanī are provided in bold in the text, whose author and the book are illustrated in more details in the footnotes.
- The Quranic Verses employed by Majduddīn al-Ustrūshanī are given in bold, in brackets in the text and the footnote provides the name of the chapter the verse belongs to.
- The hadiths mentioned by Majduddīn al-Ustrūshanī are set within quotation marks, while a footnote offers the sources of the hadith.
- Some of the hadiths employed by Majduddīn al-Ustrūshanī are not found in our sources. The text of the hadith is provided in bold and in quotation marks, while the footnote says: this offer not could us by preserved sources the (لم نعثر على هذا الحديث في المصادر التي تحت أيدينا) name).
- The archaic Arabic words, difficult to discern, are semantically illustrated in the footnote. Persian archaic words are illustrated through the agency of scientific literatures.
- There are such fatwās within the work whose replies in the copies are contradicting. For instance: the (ب) and (ج) copies say بنوشم the (ا) copy says ننوشم .Or, the (ج) copy says يصح , while the (ا) and (ب) copies say لا يصح .Or, حيوته is given in the copy (ج) while (ا) and (ب) copies say حيوته .In cases like that, the main has the answer that was seen in the two copies, while other versions are provided in the footnote.
- The phrases vanishing due to holes on the paper are re-established through auxiliary copies in the text. The phrases are complete in the footnote, and a conditional mark of incompleteness after provided is ... هذا الموضع من المخطوطة ساقط بسبب اندراسه واختراقه في
- Matter are given in bold capital letters in the text, while the footnote provides scientifically-based lexical, terminological and legal connotations.

– Words such as سئل or قال وكتب or أجوبة or قلت وذكر at the beginning of every fatwā are given in bold, used as the starting word of a new row.

In the compilation of the text, sentence building and spelling rules are all fully observed. That is to say, marks such as “!”, “?”, “:”, “,” and “.” are utilized in the text.

Similarly, at the beginning of the scientific-critical text, there is more information about Majduddīn Muḥammad ibn Maḥmūd al-Ustrūshanī and his scientific heritage, activity, his principles in making a text and the manuscript copies of the work. When the main text finishes, there are details, based on the Middle Ages Arab sources, on the historical and geographical location of Ustrūshana region, the birthplace of the scholar, and urban and rural areas of the region, and scholars who were raised in the region. Furthermore, five catalogues have been made.

Thus, Muḥammad ibn Maḥmūd ibn al-Ḥusayn al-Ustrūshanī is one of the prominent lawyers of his time, his works are still of high importance. Studying his works, one can be ascertained once again in versatility of the Islamic law.

Research and return of values of the Islamic culture and names of scientists is one of the urgent and important tasks of the modern jurisprudence and Islamic studies in Uzbekistan. This direction is noted as an important strategy for cultural and spiritual development of Uzbekistan. That is why the study of the scientific heritage of al-Ustrūshanī is considered as an important and urgent task of modern historical, legal and oriental thinking.

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