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Research Article

Islamic Notarial Acts Tradition In The Classic Movarounnakhr Khanafi School

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Abstract:

This Article Informs About The Sources Containing Legal Documents Such As Shurut, Mahdar, And Sijill Documents Used In The Central Activity Cities Of Movarounnakhr Such As Bukhara And Samarkand Qadi Courts In The X-Xiii Centuries. Moreover, The Way Of Registering The Other Documents In Qadi Court. The Author Tried To Analyze Them From A New Point Of View. This Article Is An Introduction To The Practice Of Khanafi Judicial Courts In Bukhara And Samarkand, The Central Cities Of Movarounnakhr In The X-Xiii Centuries, As Well As Shurut (Bilateral Legal Agreements Concluded In Judicial Courts), Mahdar (Court Protocols), Sijil (Copies Of Court Cases), Provides Valuable Information Through Manuscript Sources And Research On Islamic Studies Written In The West.

Keywords: Shurut, Mahdar, Sijil, Qadi, Fatava, Tahavi, Movarounnakhr, Transoxiana, Khanafi, Madhab.

Introduction

In A Broader Sense, The Shurut Literature Grew Out Of Jurists' Attempt To Bring Ideal Theory And Practice Closer Together. They Were Aware Of The Growing Separation From The Very Beginning, For Even While They Were Elaborating Their Doctrine, They Created Ways To Make Room For The Practice, Although Without Explicitly Admitting That This Could Be Done. The Aim Was To Keep Practice Under The Control Of Doctrine, For Otherwise, Own System Would Have Been Undermined.

The Works On Shurut Are An Outstanding Example Of This Literature. These Handbooks, Or Formularies, Were Designed Especially For The Professional Notary And Contained Model Contracts, Legally Correct In Every Detail, For All Possible Needs. The Notary Had Only To Select The Model That Suited The Particular Need Of His Client, Fill In The "Blank Spaces" (That Is, Their Equivalents, Haza And Fulan, "Such-And-Such" And "So-And-So"), And Add The Signatures Of The Witnesses. If The Paradox In The Official Rejection And Widespread Use Of Written Contracts Epitomizes The Conflict Between Theory And Practice, These Shurut Works' Very Existence Shows Us How The Scholars Tried To Make That Conflict Less Sharply Felt.

Another Outstanding Example Of This Empirical Literature Is The Treatises On Hiyal (Klaus Schwarz, 2001. P. 201), Legal Devices, Or Evasions. Often Compiled By The Great Jurists Themselves, Hiyal Works Were Handbooks Showing Interested Persons, Particularly The Merchants, How They Could Follow The Law's Letter And Yet Arrive At A Different Result Than That Intended By The Law.

The Shurut Formularies, Of Course, Were Not Meant In Themselves To Evade The Formal Prescriptions Of The Law. They Also Differed From The Hiyal Works In That They Had A Much Broader Application In Practice, Simply Because The Legal Subject Matter Covered By The Document Was More Extensive. It Was Natural, Then, That The Shurut Treatises Would Be More Widely Distributed.

However, The Two Were Alike In That Their Effectiveness Depended On A Fool-Proof Legal Validity That

Would Pass The Qadi's Scrutiny Who Had To Apply The Shari'a. The Purpose Was To Carry Out The Client's Intentions – Regardless Of Whether These Were Legal Or Illegal – And To Avoid The Transaction Being Upset In Any Way. The Shurut Directly Served The Hiyal, For Each Step Of A Complicated Transaction Was, As A Matter Of Course, Recorded In A Separate Witnessed Document. Most Important, Like The Hiyal Works, The Shurut Treatises Expressed The Unequivocal Acknowledgment By The Hanafi Jurists That The Needs Of The Practice Had To Be Met In The Most Direct Way Possible.

Materials And Methods

Books On Shurut And Hiyal Were Two Important Subdivisions Within This Category Of The Empirical Literature. Another Group Of Works Was The Mahadir And Sijilat, Formularies Containing Model Documents For The Use Of The Qadi And His Clerks Acting In The Capacity Of Notaries (Emile Tyan, 1945 – P. 99; Wael. B 1995 – Pp.109-134; Joseph Schacht, 1930 – P. 58). More Precisely, The Mahadir Were The Written Records Of The Proceedings Before The Qadi, The Court's Minutes, And The Sijilat Were The Written Judgment Containing The Qadi's Decisions (Wael B. 1998 – Pp. 415-438). These Formularies Were, By Their Very Nature, Closely Connected With Shurut Works. They Often Appear As Separate Chapters At The End Of Shurut Treatises (Michael. H. Thung. 1997 – P.135). An Author Of One Frequently Will Have Composed A Separate Work On The Other. On The Other Hand, Each In The Handbooks' Commentaries Differs Somewhat Because The Mahadir And Sijilat Were Not Private Deeds But Were Documents Preserved In The Official Court Archives.

Several Other Subjects Of Practical Importance Completed This Branch Of Legal Literature. Among Them Were Working On The Duties Of The Qadi (Adab Al-Qadi, Vilayat Al-Qadi), On Pious Endowments (Waqf) (Gafurova, Irodaxon, 2020), Legacies (Vasaya) And The Law Of Succession (Farai'd Or Tarika), And Maintenance Of A Wife (Nafaqat). They Were All Loosely Tied Together Because They Tended To Appear Connected With The Same Authors And Because An Absolute Literary Continuity Was Maintained Over The Centuries.

The Hanafi School Scholars In The Older Period Played A Unique Role In The Creation Of This Literature. Perhaps It Was The Hanafi Jurists' Common Sense Characteristic, Combined With Their Tendency Toward Speculative Reasoning, That Prompted Them To Cultivate These Themes. Whatever The Reason, A Continuing Tradition Was Established, And With One Important Exception, None Of The Other Schools Was Able To Produce A Comparable Body Of Literature.

It Has Been Shown, For Example, That Although Shafi'i Authors Eventually Produced Hiyal Works Themselves, These Were Later Synthetic Creations Made Possible Mainly By The Success Of The Hanafi Works. In The Case Of Treatises On Shurut, The Shafi' Was Also Far Behind. Although The Imam Al-Shafi'i Was Himself The Author Of A Shurut Work (Muhammad B. Ishaq Al-Nadim. 1405/1985 – Pp. 264-268.), The Number Produced And The Quality Of Those That Have Survived To Allow Us To Make The Same Judgment As Was Made In The Case Of The Hiyal Works (Al-Fihrist, 1405/1985 – Pp. 264-268.).

The Hanbalis, In Keeping With Their Highly Idealistic And Uncompromising Approach To Religious Law, Produced No Shurut Works That We Know Of, While They Took A Distinctively Negative Attitude Toward Hiyal. This Is Not To Say That The Actual Use Of Written Documents Was Not Equally Widespread In All Schools. The Hanbalis Undoubtedly Drew Up Written Contracts To The Same Extent As Everyone Else, Even Though The Practice Of So Doing Was Not Complemented For Them By Afield Of Intellectual Speculation (Oussama Arabi. 1998 - Pp. 29-50). However, The One Exception To These Remarks Applies To The Independent Development In The Maliki School Of Vathai'q Literature, As Shurut Was Called In The West. For Although The Maliki Jurists Were, In Fact, Hostile To The Subject Of Hiyal, Their Interest In The Formularies Began At A Very Early Date. However, The Maliki Tradition Went Through A Somewhat Different Process Of Development. Gradually, The Science Of Shurut Was Pursued Not Only For Its Own Sake, As A Subject Of Intellectual Interest, But Even More As A Practical Outcome Of Customary Law In North Africa (Chalmeta P., Carriente F. 1983 – P. 675).

Results

The Vathai'q Works Eventually Became Closely Connected With The Amal, The Courts' Practice, Because Documents Were Always Drafted Following This Judicial Practice, Regardless Of Whether Or Not It Agreed With Classical Doctrine. The Jurists' Opinions In Defining This Practice Were Thus Expressed In These Works (As Well As In Other Handbooks), And They Became An Authoritative Source For Establishing And Expounding The Amal (Gafurova Irodaxon, 2020).

Maliki Vatha'iq And Khanafi Shurut, Then, Maybe Studied And Discussed Separately Without Loss Of

Understanding. However, There Is A Positive Reason For Doing So, Related To The Nature Of Islamic Legal Literature In General (Bekmirzaev, I. 2020).

Certainly, Shafi'i And Maliki Handbooks Circulated In Egypt And Syria At The Time, Yet There Is No Reference To Them At All, Nor To Their Authors, Or The Formulas Their Authors Preferred. So Although It Might Be Useful, In Studying Individual Contracts, To Compare Formulas As Used In The Actual Practice, There Is Little To Be Gained In Treating Shurut Literature As A Single Entity.

The Khanafi Shurut Tradition Was Already Firmly Established By The Time Tahavi Composed His Handbook In The Second Half Of The Third Century. Several Specialists Had Composed Written Works Before This Date, But The Shurut Tradition Representatives Also Included Several Persons Whose Opinions On The Writing Of Formulas Were Handed Down Orally.

The Two Most Famous Disciples Of Abu Hanifa, Abu Yusuf (Christopher Melchert. 1997 – P. 244) And Muhammad Al-Shaybani Christopher Melchert. 1997 – P. 244), Also Stand Out Prominently In The Hanafi Shurut Tradition. Abu Yusuf's Interest In The Practical Side Of Islamic Law Is Reflected In The Titles Of Some Of His Works, Among Which Were His "Kitab Al-Hiyal" (Satoe Horii. – P. 90) And "Kitab Adab Al-Qadi" (Http://Almeshkat.Net/Books/List). No Book On Written Documents Is Attributed To Him, But It Would Be Possible To Reconstruct A Detailed Formulary (Just As In Abu Hanifa`S Case). Studying As A Youth With Abu Hanifa And Trained In Fiqh By Abu Yusuf, Muhammad Al-Shaybani Naturally Absorbed Their Teachings On Shurut.

Shaybani's Work On Shurut Has Been Preserved For Us, And In One Sense, Can Be Called The Oldest Formulary Known. It Exists In Extracts Incorporated Into Al-Sarakhsi's "Mabsut" (Kavakcı Y. Z. 1976 – P. 322; Shams Al-A'imma Al-Sarakhsi. 1413/1993) Perhaps The Best Known Systematic Presentation Of Shaybani's Doctrine. Another Source For His Formulas Is The Contracts Scattered Here And Shaybani's Important Work, "Kitab Al-As" L (Jeanette A. Wakin. 1972 – P. 17). It Is Worth Noting In Passing How Early These Contracts Found Their Way Into Theoretical Works.

Another Scholar Whose Name Was Closely Associated With That Of Abu Hanifa, And Who Was At The Same Time A Prominent Authority On Shurut, Was Abu Khalid Al-Basri(D. 189/905) (Usman Abdullah. 1413/1993 – P. 65.). For A Time, Yusuf Was Governor Of Basra, But Withdrew From Public Life After He Made The Acquaintance Of Abu Yusuf And Turned To The Study Of Religious Law. Nothing Is Known About His Writings, Except That A Kitab Al-Rahn Is Attributed To Him (Fatava Alamgriyya, 1406/1986). However, He Must Have Been A Great Expert On Shurut; Tahavi Cities His Opinions Frequently. His Name Is Nearly Always Mentioned Together With That Of Hilal B. Yahya, Not Because They Necessarily Held The Same Opinions, But Because Hilal Was His Pupil And The Two Became Identified With One Another (Qadi Nu'man Bin Muhammad. 1972 – P. 262).

One Of These Authors Was Muhammad B. Sama'a, Qadi Of The West Side Of Bagdad (Yousef Moukdad. 1971 – P. 161) For Many Years Under Ma'mun. The Fihrist Reports That In Addition To Having Related The Books Of Shaybani, Muhammad B. Sama'a Himself Composed A "Kitab Adab Al-Qadi" And "Kitab Al-Mahadir Va-L-Sijilat" (Qurashi Abu Muhammad Abd Al-Qadir B. Abi-L-Vafo Muhammad B. Muhammad Al-Misri. 1413/1993, P. 189). Muhammad, Born At About The Same Time As Shaybani, Died In 233 At An Advanced Age.

The Fihrist Is Also Our Source Of Information For Qutayba B. Ziyad (Al-Fihrist, 1405/1985 – P. 154-158). Ibn Al-Nadim Remarks That He Was Exceptionally Proficient In Composing Books On Shurut And Notes A "Kitab Al-Shurut", The Whole Of Which Ibn Al-Nadim Had Seen Personally, As Well As An Extensive Work With The Comprehensive Title Of The "Kitab Al-Mahadir Va-L-Sijillat Va-L-Vathai'q Va-L-'Uqud".

Khassaf Also Wrote A "Kitab Al-Mahadir Va-L-Sijillat", And Two Works On Shurut, A "Kitab Al-Shurut Al-Kabir" And "Kitab Al-Shurut Al-Saghir". These Are Lost, Unfortunately, And Because Tahavi Does Not Quote Khassaf Extensively In The "Shurut Al-Tahavi", Except Perhaps, Indirectly, As "One Of The Baghdadis," We Are Unable To Gain An Idea Of What His Formulas Were Like. It Is Possible, Of Course, That Tahavi Never Had Access To These Works. Khassaf Had Been Court Lawyer To Muhtadi, And When The Caliph Was Murdered In 256/869, Khassaf's House Was Sacked By The Turkish Guard. Although He Managed To Escape To Bagdad, His Library Was Destroyed, And Some Of His Manuscripts May Have Disappeared In This Way. It Is More Likely, However, That Tahavi Does Not Rely On Khassaf As Much As We Would Expect Because, Even Though They Are Close Together In Time (Khassaf Died In 261/874), Khassaf Stands Somewhat Outside That Branch Of The Shurut Tradition, The Line Of Teachers And Pupils That Leads Directly To Tahavi In Egypt.

Other Hanafi Shurut Authors Were Active At This Time. The Arabic Bio-Bibliographical Sources Mention At Least Four, But We Have Less Information On Them; And Because Tahavi Does Not Include Them Among His Sources, Their Places In The Tradition Are Not Exact.

Among Tahavi's Companions And Teachers In Egypt, None Enjoyed Greater Esteem Than The Qadi Abu Bakr B. Qutayba (Jeanette A. Wakin, 1972 – P.). Born In Basra In 182/798, He Studied There With Isa B. Aban And Hilal Al-Ra'y. Nevertheless, Bakr Was To Be Identified With Egypt After 246/860, The Year He Came To Fustat To Become Qadi Of Egypt And The Acknowledged Head Of The Egyptian Hanafis (Jeanette A. Wakin, 1972 – P.). As His Influence Grew, He Played An Increasingly Important Role In Spreading The Doctrine Of The Madhab In General, And The Views Of The Scholars Of Basra In Particular. His Book Refuting Shafi'i's Criticism Of Abu Hanifa, The "Kitab Al-Naqd Ala Al-Shafi'i" Won Him High Praise. At The Same Time, Bakr Sat At The Center Of A Wide Circle Of Egyptian Lawyers And A Smaller But Active Circle Of Ghuraba', Basrians Immigrated To Egypt. Among These Last Were Many Names Prominent In Tahavi's Text: Sulayman B. Shuayb And His Father, Ahmad B. Abi Imran, Ibrahim B. Marzuq, Yazid B. Sinan And Several Others.

Bakr Was The Author Of At Least Two Works On Forms For Documents, The "Kitab Al-Mahadir Va-L-Sijilat" And "Kitab Al-Vathai'q Va-L-Uqud" Also Attributes To Him A "Kitab Al-Shuru "T. His Relationships With Tahvi Must Have Been Enduring And Close. Tahavi Had Been Bakr's Katib (Legal Secretary). It Was From Him, According To The Biographers, That Tahavi Learned The Science Of Shurut, And After His Death In 270/884, He Assumed Bakr's Position As The Leading Hanafi In Egypt (Muhammad Abdulhay Al-Lakhnavi, 1419/1998 – P. 42.).

Tahavi's Journey To Syria In 268/882 Put Him In Touch With Abu Khazim Abd Al-Hamid Abd Al-Aziz (D. 292/904). Born In Basra, Abu Khazim Received His Education From Some Of That City's Leading Shaykhs, Isa B. Aban. He Later Went On To A Successful Career As Qadi Of Karkh, The Top Suburb Of Bagdad And Kufa, And Damascus's Post When Tahavi Began His Studies With Him. Abu Khazim's Best-Known Works Are His "Kitab Al-Mahadir Va-L-Sijila't" And "Kitab Adab Al-Qadi" And A Work On The Dividing Of Legacies The "Kitab Al-Fara'id", Reflecting His Interest In The Practical Applications Of Mathematics. Although Abu Khazim Has Frequently Named Tahavi's Shaykh, Their Association May Not Have Continued For Long Because Tahavi Was Back In Egypt In 270, The Year Bakr Died. We Cannot Tell Whether Shurut Was A Subject Of Interest Between Them: Tahavi Cities Abu Khazim's Opinion Only Once In The "Shurut Al-Tahavi."

Tahavi Or To Give Him His Full Name, Abu Ja'far Ahmad B. Muhammad B. Salama Al-Azdi Al-Tahavi Is Considered One Of The Great Religious And Legal Scholars Of Islam, And He Played A Crucial Role In Developing Shurut Works In Our Region Central Asia Too, Yet Only The Bare Outlines Of His Life Can Be Sketched. He Was Born In Taha In Upper Egypt Some Time Between 229/844 And 239/854.

Tahavi Went To Syria As A Hanafi And, After Traveling Through Jerusalem, Gaza, And Asqalan To Hear Traditions, Began Studying Fiqh (Law) With Abu Khazim In Damascus. Back In Egypt, He Resumed His Association With The Qadi Bakr And With Ahmad B. Abi Imran (D. 280/893), The Hanafi Scholar To Whom He First Turned When He Broke With His Uncle. There Is No Evidence That He Ever Lived Outside Egypt After That. Much Respected During His Time, Tahavi Died In Fustat In 321-22/933-34, When He Was In His Eighties Or Early Nineties (Qurashi. Al-Jawahir. – P. 259; Brockelmann C., 1898-1993).

The Arabic Bio-Bibliographical Sources Give Us Little More Than The Names Of Tahavi's Handbooks On Forms For Documents. In Addition To His "Kitab Al-Mahadir Va-L-Sijilat," They Mention Three Version Of A Work On Shurut: The "Kitab Al-Shurut Al-Kabir" – Or To Give It The Title Usually Mentioned In The Sources – The "Jami' Al-Kabir Fi-L-Shurut", The "Kitab Al-Shurut Al-Avsat" And An Abridgment Of The Most Prolonged Work The "Kitab Al-Shurut Al-Sagir". The Last Is Called On The Title Page Of The Extant Manuscripts, The "Kitab Al-Shurut Via-L-Varaqa." The Chronology Of His Writings, In General, Is Not At All Precise, But We Can, At Least Date The Shortest Version From The Opening Lines In The Mehmet Murat Manuscript Which Indicate That It Was Completed By The Year 305/918. This Date Then Is Likely The Terminus Ad Quem For His Shurut Works.

Fortunately, The Entire Manuscript Of The "Shurut Al-Sagir", As Well As Four Complete Chapters Of The" Jami' Al-Kabir," Have Been Preserved So That We Are In A Position To Compare And Make Individual Judgments About Both.

However, Despite The Existence Of Tahavi's Formulary, The Demand For New Handbooks On Shurut Did Not Cease For Hanafi Scholars Continued To Produce Them For Along Time To Come? Many Of These Are Lost, And Only Their Titles And The Names Of Their Authors Are Known. Nevertheless, Many Others, A Right Proportion Of Them From The Samanids, Karahanids, Saljukids, And Ottoman Period Survive In Manuscript Libraries. Some Of These Extant Works Were Composed Of Outstanding Khanafis, Some By Authors Whose Dates Cannot Be Precisely Determined, And Many Are Anonymous.

Extracts Of Some Of These Works Have Been Preserved In The Collection Mentioned Above, The Fatava

Alamgriyya. Compiled By The Baburiy Emperor's Order From Mavorannahr Avrangzeb (Alamgir) During The Years 1075-1083/1664-1672, The Fatava Alamgriyya Is Not A Collection Of Fatwas At All But An Enormous Compendium Of Hanafi Law. The Intention Was To Gather Together The School's Authoritative Opinions Scattered In The Various Works Of Fiqh, And This Included In The Mind Of The Shaykh Nizam, Its Chief Editor, Works On Documentary Practice. The Collection Thus Contains Two Extensive Chapters On Mahadir And Sijilat And Shurut.

The Primary Source From Which The Chapter On Shurut Is Derived Is Easily Identified As A Work Composed In The Sixth/Twelfth Century By Zahir Al-Din Abu-L-Mahasin Al-Hasan B. Ali Al-Marghinani (Zahir Al-Din Abu-L-Mahasin Al-Hasan B. Ali Al-Marginani. Manuscript № 009654.— Pp. 162a-182b).

Discussion

The Two Works Are Similar In Several Ways. Most Important Is That The Formulas Agreed Upon As Correct Are More Or Less The Same. Second, The Arrangement Of The Subject Matter Follows The Same General Outlines. Third, Although Marghinani's Work Is Not Mentioned, His Commentary Forms The Framework For The "Fatava Alamgriya". Moreover, Both Texts Open With An Exciting Section On Terminology, Reflecting The Eastern Provenance Of Work Dependent On Others Born In The Central Islamic Lands. However, The Chapter In The "Fatava Alamgriya" Is By No Means A Mere Reproduction Of Marghinani's Text, For There Is Many More Subdivisions In The Indian Work, While The Formulas And Commentary Are Both More Detailed.

At Approximately The Same Time That Marghinani's Composed His Book On Shurut, Other Scholars Produced Works That Easily May Have Been Related To His. The First Was Fakhr Al-Din Al-Hasan B. Mansur Al-Uzjandi Kadikhan (D. 592/1196) (Imam Fakhr Ad-Din Hasan B. Mansur Al-Uzjandi Al-Fargani. 1994/1986 – P. 343, P. 408), The Author Of A "Kitab Al-Mahadir". Kadikhan Was The Teacher Of Marghinani And Had Been A Pupil Of Marghinani's Father Before That. He Is Best Known For His Collection Of Fatwas, But In The Field Of Empirical Legal Literature, He Wrote A Commentary On Khassaf's "Adab Al-Qadi" As Well.

Another Jurist Of The Time Whose Name Can Be Linked With That Of Marghinani Was Umar B. Abd Al-Aziz B. Maza (D. 536/1141), (He Is Famous Under The Al-Sadr Al-Shahid) (Husamuddin Al-Sadr Al-Shahid. 1397-1398/1977-78), A Member Of The Well-Known Family Of The Banu Maza In Bukhara. For The Most Part, His Writings Concerned Practical Affairs So That Later Jurists Frequently Used Excerpts In Their Works. Among These Was Work On Shurut, And Like Kadikhan, He Wrote A Commentary On Khassaf's "Adab Al-Qadi". His Son, Also A Well-Known Scholar, Was Marghinani's Teacher.

Another Shurut Scholar, Whose Work Seems To Have Been Popular At About This Time, Was Jalal Al-Din (Or Jamal Al-Din) Hamid B. Rukn Al-Din Muhammad Al-Righdamuni (Jalal Al-Din Hamid B. Rukn Al-Din Muhammad Al-Righdamuni, 254). His Detailed Formulary, The "Ghurar Al-Shurut Va-Durar Al-Sumut" Is Preserved In Several Manuscripts. One Of The Primary Sources For Righdamuni's Work Was The "Fa'ik Fi Shurut Al-Vatha'iq" By Najm Al-Din Abu Hafs Umar B. Ahmad Al-Nasafi (D. 537/1147) A Famous And Prolific Author From Samarqand Known Chiefly For His Aqeedah(Belief) Or Creed.

The Titles Given Here By No Means Exhaust The List Of Works On Documentary Forms Written After Tahavi's Jami Al-Kabir. Nor Do They Consider The Numerous Printed Texts Of Transoxiana (Central Asia) And Ottoman Hanafi "Sukuk" Collections Based On Older Works And Used In The Modern Period (Jeanette A. Wakin, 1972. – P. 21).

Conclusion

The Initial Research Showed That Shurut Is A Complex Of Rules That Teach The Conditions Of Drawing Up The Contracts And Are Of Practical Importance. The Shurut Chapters Met In Fiqh (Law) Sources Studied The Following Social Problems: Trade "Ashriyya", Marriage "Ankiha", Divorce "Talaq", Gift And Charity "Hiba Wa Śadaqa," Waqf-Property At The Disposal Of The Religious Organization "Awqaf", Testaments "Wasaya", Renting "Ijarat", Authority "Vakala", Guarantee "Kafala", To Solve The Conflict Based On Reconciling "Sulh," (The Partnership) "Mudaraba," (The Partnership) "Sharikat", The Norms Of International Contracts And Safeness (To Seek Asylum) "Muwada'at Wa Kutub Al-Aman", Decorations "Huliy" And Others.

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The Authors Declare The Absence Of Obvious And Potential Conflicts Of Interest Related To The Publication Of This Article And Report On The Contribution Of Each Author.

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List Of References

- Brockelmann C. (1898-1993) Geschichte Der Arabischen Litteratur. Vol 3. Weimar-Berlin: Hay'a Al-Misriyya.
- Bekmirzaev, I. (2020). Subject: Qādī's Dīwān Activities In Islam (The 10th-13th Centuries). The Light Of Islam, 2020(2), 98-109 // Https://Uzjournals.Edu.Uz/Iiau/Vol2020/Iss3/7.
- 3. Chalmeta P., Carriente F. (1983) Formularo Notarial Hispano-Arabe Por Elalfaqui Y Notario Cordobes Ibn Al-Attar (Sx). Madrid: Academia Matritense Del Notariado Instituto Hispano-Arabe De Cultura.
- 4. Christopher Melchert (1997) The Formation Of The Sunni Schools Of Law, 9th-10th Centuries. New York-Köln: Brill Leiden.
- 5. Emile Tyan (1945) Le Notariat Et Le Regime De La Prevue Par Ecrit Dans La Pratique Du Droit Musulman. Lyon: Universite De Lyon.
- 6. Fatawa Alamgriyya (1406/19866) Volume / Ed. Abdullah Nizamuddin. Beirut: Dar Ihya Al-Turas Al-Yarabi.
- 7. Gafurova, Irodaxon (2020) "Role Of Wakf Properties In The History Of Turkestan," The Light Of Islam: Vol. 2020: Iss. 3, Article 7 // Https://Uzjournals.Edu.Uz/liau/Vol2020/Iss3/7.
- 8. <u>Http://Almeshkat.Net/Books/List</u> (Hanafi Law).
- 9. Husamuddin Al-Sadr Al-Shahid. Sharh Adab Al- Qadi Li-L-Hassaf. 4 Vol. / Ed. Mahi Hilal Al-Sarkhan. Bagdad: Dar Al-'Arab, 1397-1398/1977-78.
- 10. Imam Fakhr Ad-Din Hasan B. Mansur Al-Uzjandi Al-Fargani. (1994/1986) Fatawa Qadikhan. Ed. Moulvy Wilayat Husein Vol. 1-2. New Delhi: Kitab Bhavan.
- 11. Jalal Al-Din (Or Jamal Al-Din) Hamid B. Rukn Al-Din Muhammad Al-Righdamuni. Ghurar Al-Shurut Wa-Durar Al-Sumut. Istanbul: Sulaymaniye Library. Asad Afandi Section // Manuscript № 722.
- 12. Jeanette A. Wakin. The Function Of Documents In Islamic Law: The Chapters On Sales From Tahawi'S Kitab Al-Shurut Al-Kabir. New York: Albany. State University Of New York Press, 1972.
- 13. Joseph Schacht (1930) Das Kitab Al-Shuf'a Aus Dem Al-Gami' Al-Kabir Fil-Shurut Des Abu Ga'far Ahmad Ibn Muhammad Al-Tahawi. Heidelberg: Carl Winter'S Universitätsbuchhandlung.
- 14. Kavakcı Y. Z. (1976) Xı Ve Xıı Asırlarda Karahanlılar Devrinde Ma Vara' Al-Nahr İslom Hukukçuları. Алкага: Sevinç Matbaası.
- 15. Klaus Schwarz (2001) Verlag Berlin.
- 16. Michael. H. Thung. (1997) Written Obligations From The 2nd \8th To The 4th\10th Century. Amsterdam: Amsterdam University Press.
- 17. Muhammad Abdulhay Al-Lakhnavi (1419/1998) Al-Fava'id Al-Bahiyya Fi Tarajim Al-Hanafiyya / Ed. Ahmad Al-Zahabi. First Edition. Beirut: Dar Al-Arqam B. Al-Arqam.
- 18. Muhammad B. Ishaq Al-Nadim (1405/1985) Al-Fihrist / Ed. Mustafa Al-Shawimi. Tunis: Dar Al-Tunisiyya Li-L-Nashr.
- 19. Oussama Arabi (1998). Contarct Stipulations (Shurut) In Islamic Law: The Ottoman Majalla And Ibn Taymiyya. The Journal Middle East Studies. 30.
- 20. Qadi Nu'Man Bin Muhammad (1972) Kitab Ikhtilaf Usuli-L-Madhahib / Edited With A Critical Introduction By S.T. Lokhandwalla // New Delhi: Indian Institute Of Advanced Study.
- Qurashi Abu Muhammad Abd Al-Qadir B. Abi-L-Vafo Muhammad B. Muhammad Al-Misri. (1413/1993)
 Al-Javahir Al-Muziy'A Fi Tabaqat Al-Hanafiyya. 5 Volume / Ed. Muhammad Al-Hulv. Cairo: Hijr. Vol: 2.
- 22. Shams Al-A'imma Al-Sarakhsi (1413/1993) Al-Mabsut. Vol: 28. Beirut: Dar Al-Kutub Al-Ilmiyya.
- 23. Usman Abdullah (1413/1993) Al- Qada Fi-L-Islam. Cairo: Dar Al-I'Tisam.
- 24. Wael B. (1998) Hallaq The Qadi's Diwan (Sijill) Before The Ottomans // Bulletin Of The School Of Oriental And African Studies. London, № 61.
- 25. Wael B. (1995) Model Shurut Works And The Dialectic Of Doctirine And Practice // Islamic Law And Society. Leiden: E. J. Brill, № 2.
- 26. Yousef Moukdad. Richteramt Und Rechtswesen In Bagdad Von Der Stadtgründung Bis Zum Ende Der Buyidenzeit (145/763-447/1055). Hamburg: Der Universität Hamburg, 1971.

27. Zahir Al-Din Abu-L-Mahasin Al-Hasan B. Ali Al-Marginani. Fatawa Zahiriyya. − Bagdad: National Library Of Irak // Manuscript № 009654.