A STUDY OF AL-SHA'RA'Nİ'S AL-MIZÂN AL-KUBRĀ

IN THE NAME OF ALLAH

by

Hikimuthulla Bin M.H. Babu Sahib
(Hikmatullah Babu Sahib)

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IN THE NAME OF ALLĀH
THE MOST MERCIFUL THE MOST COMPASSIONATE
ABSTRACT

This thesis is an analysis of the work *al-Mizān al-Kubrā* by an Egyptian scholar of the 10th century h., al-Sha'rānī. This work is essentially an attempt to bring about a reconciliation between the four *sunnī* madhāhib. The author has been very much influenced by ṣūfī thought. The thesis is divided into: An introduction, which apart from introducing the subject, also traces the life of the author, and the factors which contributed towards him writing the book. In Chapter 1, al-Sha'rānī's main argument on the nature of shari'ah and causes of differences is presented. Chapter 2 consists of an analysis of the structure, style and approach of the work. In Chapter 3, there is an analysis of al-Sha'rānī's attitude towards sunnah and hadīth. Chapter 4 deals with al-Sha'rānī's views concerning the different madhāhib. In Chapter 5, there is a detailed examination of al-Sha'rānī's doctrines on Islāmic legal reasoning. Chapter 6 tries to trace the origin of his theory of takhffīf and tashdīd. The conclusion assesses al-Sha'rānī's contribution to the reconciliation of the madhāhib. This is followed by appendices and a bibliography.
NOTES ON TRANSLITERATION

This study follows the system of transliteration of the United States Library of Congress as outlined in the Cataloging Service Bulletin No. 49 (November, 1958). However, the ta' marbūtah has been written as "h" at the end of a word when it is not part of the idāfah construction, in which case it is written as a "t".

-o0o-

The quotations from the Qurʾān are mostly translated directly from the Arabic. However, occasional references to the translation of A. Yusuf Ali are made when necessary.

-o0o-

Following the thesis writing requirement in the United Kingdom, I have omitted the phraseology of praise after mentioning the name of the Prophet and other savants of Islām. This should not be taken as my wilful omission of these phrases. However, it is my intention that the reader should understand them whenever the Prophet and the savants are mentioned.
LIST OF ABBREVIATIONS

The following list represents the books cited more frequently in this thesis. The abbreviations of other works which are less frequently cited are mentioned at their first citations and the phrase *op. cit.* is used in their subsequent citations.

Afandi - Daftar Kutubkhanah 'Asad Afandi.

Ahmadiyyah - Fihris makhtūtāt al-Maktabah al-Ahmadiyah bi Tūnis.

A'īmām - Ziriklī, al-A'īmām.

Amījah - Daftar Kutubkhanah 'Amījah Husayn Pasha.

'Āshir - Daftar Kutubkhanah 'Āshir Afandi.


Bankipore - Catalogue of the Arabic Manuscripts in the Oriental Public Library at Bankipore.

Başmalar - İstanbul Universitesi Kutuphanesi Arapça Başmalar Alfabe Katalogu.

Batavia - Codicum Arabicorum In Bibliotheca Societatis Artuumet Scientiarum Quae Bataviae Floret Asservatorum.

B.H. - Before Hijrah.
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>BN</td>
<td>Bibliothèque Nationale: Catalogue des Manuscrits Arabes de Nouvelles Acquisitions 1884-1924.</td>
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<tr>
<td>b</td>
<td>bin (son of).</td>
</tr>
<tr>
<td>bt.</td>
<td>bint (daughter of).</td>
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<tr>
<td>Bukhārī</td>
<td>al-Bukhārī, Ṣaḥīḥ Abī 'Abd Allāh al-Bukhārī.</td>
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<tr>
<td>CAB</td>
<td>Catalogue of Arabic Books in the British Museum</td>
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<tr>
<td>CCO</td>
<td>Catalogus Codicum Orientalium.</td>
</tr>
<tr>
<td>Chester</td>
<td>The Chester Beatty Library: A Handlist of the Arabic Manuscripts.</td>
</tr>
<tr>
<td>Chicago</td>
<td>A Catalogue of Arabic Manuscripts in the Oriental Institute of Chicago.</td>
</tr>
<tr>
<td>Codicum</td>
<td>Catalogus Codicum Manuscriptorum Orientalium.</td>
</tr>
<tr>
<td>Daftar</td>
<td>Daftar Kutubkhanah Wali al-Din.</td>
</tr>
<tr>
<td>DAPT</td>
<td>Die Arabischen, Persischen und Turkischen Handschriften der Kaiserlich-Königlichen Hofbibliothek.</td>
</tr>
<tr>
<td>Daud</td>
<td>Daftar Kutubkhanah Daud Ibrahim Pasha.</td>
</tr>
<tr>
<td>Dawūd</td>
<td>al-Sijistānī, Sunan Abī Dawūd.</td>
</tr>
<tr>
<td>DCOM</td>
<td>A Descriptive Catalogue of the Oriental Manuscripts Belonging to the Late E.G. Browne.</td>
</tr>
<tr>
<td>Dībāj</td>
<td>Ibn Farḥūn, Dībāj al-Madhhab fī maʿrifah Aʿyān al-Madhhab.</td>
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ed. - edited by.
edi. - edition.
EI - Encyclopaedia of Islam.
FORE - Encyclopaedia of Religion and Ethics.
FEI - E.J. Brill's First Encyclopaedia of Islam.
Fihrist - Ibn Nadım, Kitāb al-Fihrist.
Findek - Iktifā al-Qanū‘a bi mā huwa maṭbū‘.
GAL - Geschichte der Arabischen Litteratur.
GALS - Supplement to Geschichte der Arabischen Litteratur.
Garrett - Catalogue of Arabic Manuscripts (Yahuda Section) in the Garrett Collection of Princeton University Library.
Gotha - Die Arabischen Handschriften der Herzoglichen Bibliothek Zu Gotha.
h. / h. - hijrī.
Hammd - Hammādiye Kutubkhanah. Daftar I.
Hilyat - Ḥilyat al-Awliyā’.
HOM - Handlist of Oriental Manuscripts.
Hughes - Hughes, Dictionary of Islam.
Ibadan - A Catalogue of the Arabic Manuscripts Preserved in the University Library, Ibadan, Nigeria.
‘Ibar - al-Dhahabī, al-‘Ibar fī khabar man ġhabar.
| **Ibn Sa’d** | - Ibn Sa’d, al-Ṭabaqāt al-Kubrā. |
| **IGM** | - Index General de Manuscrits Arabes Musulmans de la Bibliothèque Nationale de Paris. |
| **IJMES** | - International Journal of Middle Eastern Studies. |
| **Intiqā’** | - Ibn ‘Abd al-Barr, al-Intiqā’ fi faḍā’il al-Thalāthat al-A’immat al-Fuqahā’. |
| **I’tidāl** | - al-Dhahabi, Mizān al-I’tidāl fi naqil al-Rijāl. |
| **JQ** | - Catalogue of the Arabic Manuscripts in the Library of the India Office. |
| **JSS** | - Journal of Semitic Studies. |
| **K** | - Kitāb. |
| **Khalīfah** | - Khalīfah, Kashf al-Zunūn ‘an asāmī al-Kutub wa al-Funūn. |
| **LAM** | - A List of Arabic Manuscripts in Princeton |
University Library.

**LCC**

**LDMB**

**MA**
- Manuscrits d’Afghanistan.

**Ma’ārif**
- Ibn Qutaybah, al-Ma’ārif.

**Madras**
- A Descriptive Catalogue of the Islāmic Manuscripts in the Oriental Manuscripts Library, Madras.

**Madrid**
- Catalogue de los Manuscritos Arabes Existentes en la Biblioteca Nacional de Madrid.

**Ma’had**

**Mājah**
- Mājah, Sunan al-Muṣṭafā wa huwa sunan Ibn Mājah.

**al-Manāqib**

**Mingana**
- Catalogue of the Arabic Manuscripts in the John Rylands Library Manchester.

**al-Mīzān**
- al-Sha‘rānī, al-Mīzān al-Kubrā.

**MJK**
- Majallah Ma’had al-Makhtūtāt al-‘Arabīyah.

**MMA**

**Mosul**
- Kitāb Makhtūtāt al-Mawsil.

**MT**
- Makhtūtāt al-Ta’rīkhīyah.

**Mu’jam**
| Muslim | Śahīh Muslim al-Musammā al-Jāmi‘ al-Ṣahīh. |
| MW     | The Muslim World Quarterly. |
| NC     | The National Union Catalog (Pre-1956 imprints). |
| Nuskh  | Fihrist-i Nuskhaha-i Khāṭṭi Kitābkhānā-i Dānishkada-i Ilāhiyāt wa Ma‘ārif-i Islāmi. |
| Osman  | Nur Osmaniye Kutuphanesi Katalogu. |
| Oster  | Katalogue der Arabischen Handschriften der Österreichischen Nationalbibliothek. |
| p. / pp. | page / pages. |
| PAM    | Catalogue of the Persian and Arabic Manuscripts of the Saulat Public Library. |
| Qūniyyah | al-Makhtūtāt al-‘Arabiyyah fi maktabat muthaf (Mawlānā) fi Qūniyyā. |
| Rabat  | Catalogue de Manuscrits Arabes de Rabat Deuxième Series I 1921-53. |
| SAP    | Supplementary Catalogue of Arabic Printed Books in the British Museum. |
| Shadharāt | Ibn ‘Imād, Shadharāt al-Dhahab. |
al-Shirāzī - al-Shirāzī, Ṣabaqāt al-Fuqahā’.
Sindah - Jami‘ Kutubkhanah Sindah.
Slane - Catalogue des Manuscrits Arabes.
Tadhkirah - al-Dhahābī, Tadhkirat al-Ḥuffāz.
Taghribīdī - Ibn Ṭaghribīdī, al-Nujūm al-Zāhirah fī mulūk Miṣr wa al-Qāhirah.
Tahānawī - al-Tahānawī, Kitāb kashshāf istilāḥāt al-Funūn.
Tahdhib - al-‘Asqalānī, Tahdhib al-Tahdhib.
Tağrib - al-‘Asqalānī, Tağrib al-Tahdhib.
al-Ta‘rifāt - al-Jurjānī, al-Ta‘rifāt.
Tārikh - al-Baghdādī, Tārikh Baghdād.
TBM - A Descriptive List of the Arabic Manuscripts Acquired by the Trustees of the British Museum since 1894.
Tehran - Fihrist-i naskhā-i khaṭṭī.
TH - Ṣabaqāt al-Ḥanābīlah.
TKS - al-Sha‘rānī, al-Ṣabaqāt al-Kubrā.
TS - al-Sha‘rānī, al-Ṣabaqāt al-Sughrā.
Turāth - Akhbār al-Turāth al-‘Arabī nashratun yasduruha ma‘had al-Makhtūtāt al-‘Arabiyyah.
VA - Verzeichnis der Arabischen Handschriften der universitätsbibliothek Zu Tubingen.
Vatican - Elence dei Manoscritti Arabi Islāmici della Biblioteca Vaticana.
vols. - volumes.

**Vivantes** - Catalogue de la Bibliothque de Paris l'Ecole des Langues Orientales Vivantes.

**Wafayât** - Ibn Khallikân, Wafayât al-A'yân.

**Wakf** - al-Kachchaf Catalogue Generale des Manuscrits Arabes de la Bibliotheque Generale des Wakfs de Bagdad.


**Winter** - Winter, Society and Religion in Early Ottoman Egypt: Studies in the Writings of 'Abd al-Wahhâb al-Shaʿrâni.


**Zâhiriyah** - Fihris makhtūṭât dâr al-Kutub al-Zâhiriyah.

**ZDMG** - Zeitschrift der Deutschen Morgenlandischen Gesellschaft.
ACKNOWLEDGEMENT

Praise be to God, for without whose benevolence and mercy this work would not have seen the day light. The Prophet, on whom be the regard and salutation of God, has rightly said: \textit{lam yashkurillah man lam yashkur al-nās} [one who has not thanked people has not thanked God]. True to this statement, I am deeply indebted to many individuals and organisations for their assistance and co-operations.

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I also thankfully acknowledge many of my relatives and my father's students and friends who came forward to assist me in my studies.

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DECLARATION

I, the undersigned, do hereby truly declare that this thesis has been written by me and does not represent the work of any other person.

(Hikmatullah Babu Sahib)

-000-
DEDICATION

I dedicate this work to the loving memory of my paternal grandparents

MOULAVI MUḤAMMAD ḤASBULLĀH ṢĀḤIB

&

MADAM ‘Ā’ISHAH THAMĪNAH

May the Almighty Allāh enshroud them with His infinite mercy and everlasting bliss.

Āmīn!
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INTRODUCTION

Works on *ikhtilāf* (legal differences) are many.¹ Most of such works merely state the differences between the various schools of law (*madhāhib*),² without attempting to synthesise or reconcile such *ikhtilāf*. Only a few scholars have attempted to bring about a reconciliation between the *madhāhib*.³ One such person is an Egyptian born ṣūfī-scholar of the 10th century h., ʿAbd al-Wahhāb al-Shaʿrānī.⁴ This thesis is a study of his monograph, entitled *al-Mızān al-Kubrā* [The Greatest Balance],⁵ hereafter referred to as *al-Mızān*, which was written sometime around 950 h., during the Ottoman Conquest of Egypt. This work was written with a view to forging unity in the ranks of various *madhāhib*, particularly the four main *sunnī* legal *madhāhib*.⁶

Al-Shaʿrānī’s firm belief is that these *madhāhib* do not represent the existence of four completely different sets of Islamic Law. They are there to signify the different shades of meaning and interpretations of one and the same law. These different shades of meaning and interpretations are mainly resultant from the ambiguity (i.e. plurality of application) of certain words in the Qurʿān and the *sunnah*⁷ and the strength or weakness of the chains of reporters of the various *sunan*⁸ judged by the individual mujtahids,⁹ who are fit for double reward, if their judgement was right in the eyes of God, and for a single reward, even if their judgement was wrong in His eyes.¹⁰ This underlines the fact that despite their judgements
ranging from right to wrong, all of them are still fit for reward, because, by so judging, they would not have gone outside the parameters of the Divine Law as contained in the Qur'ān and the sunnah and because, despite their differences of opinion their sincere aim in practising *ijtihād* was to deduce correctly the laws from the Qur'ān and the sunnah with sincerity to God and the Messenger of God. This only proves the flexibility of the law as contained in the Qur'ān and the sunnah. It is because of that flexibility that it is said that the difference of opinion among the *a'immah*, i.e. the mujtahids, is a Divine Mercy unto the ummah, because, if not for the ambiguity of certain words employed in the Qur'ān and the differing reports of the ḥadīth and the difference of opinion based on the different interpretations of those things by the mujtahids, Islāmic Law would have been more rigid. Therefore, those differences of opinion and their causes are regarded as a manifestation of Divine Mercy to the ummah. Thus, those differences of opinion and the resultant differences of the madhāhib have not affected the essential "oneness" of the nature of the Islāmic Law and the natural jurisprudential concord between the four *sunnī* legal madhāhib in Islām. For *sunnīsm* is based on certain doctrinal constants and they did not permit any doctrinal variables to penetrate their midst. And they had a set of jurisprudential constants on which all of them agreed and they only differed in opinion in respect of the jurisprudential variables. These variables provides for a diversity within the essential unity of the *shari'ah* or Islāmic Law. These variables are based on the quwwah (strength) and duʿf (weakness) of mukallafs (i.e. those who are subject to the demands of the *shari'ah*) in respect of their īmān (belief) and their physical capacity, which will vary at different times of their lives. Therefore, they are addressed with the
two aspects of the shari‘ah, amr (injunction) and nahy (prohibition), on the two grades of takhfīf (lightening) and tashdīd (hardening). For, those who are strong have been addressed by the rigorous aspect of the law and urged to carry out the ‘azīmah (determination to do a thing as is required) and those who are weak are addressed by the lighter aspect of the law and to avail themselves of the rukhshah (Divine concession or privilege). Both groups of people will be considered to have obeyed one and the same shari‘ah from their Lord. Therefore, in deducing any particular law from the sources, the criteria of the madhāhib fluctuate between the two sides of the balance of the rigorous and lighter aspects on the basis of the strength and weakness of the people to whom the law is addressed. It is on this balance that the madhāhib reach their jurisprudential concord in respect of the jurisprudential variables. It is as though an agreement to disagree on the particular law brings about an agreement to use all the various possibilities of interpretation and shades of meaning without neglecting any of two differing sunnahs or opinions, because it indicates the completeness of the position of īmān (belief).

The Islamic Lawyers, (i.e.: the fuqahā’), including the mujtahids themselves, did not have any reservation against learning from, or teaching, one another’s Islāmic jurisprudence, despite the difference in their schools of law and jurisprudence. This further proves that, in spite of their differences, they were members of one single integrated jurisprudential movement. This has to be established on the basis of their student-teacher relationship that existed amidst the leaders (i.e. Singular ʿimām and plural aʿimmah) of the four sunnī legal madhāhib and their respect for each other.13 Further, these four madhāhib have not necessitated the setting up of four distinct churches in Islām, contradicting
each other. Any Muslim of any of the four madhāhib is free to say his ṣalāt in any of the sunnī mosques (masājid)\(^{14}\) in any part of the world, according to the madhhab he practises and he may also follow, in his ṣalāt, any imām (prayer leader) who practises any other of the four schools of law. Therefore, it is unthinkable that Islām which came to establish and maintain harmony and peace amongst mankind is itself the cause for disharmony and discord amidst its own people. It is with such beliefs that al-Sha‘rāni came to write the Mizān.

**Sources:**

The primary source for this study is, of course, al-Mīzan. This work has undergone many imprints, a few editions and two translations. The first edition was done in 1862 by ʿHasan al-ʿAdawi, while the second edition was by Qāḍī Binyamin in 1869. This second edition was the page-for-page reprint of the Cairo edition with occasional marginal glosses.\(^{15}\) In the following year a French scholar Dr. Perron\(^{16}\) attempted a brief translation of al-Mīzan, omitting a number of sections, including the entire sections dealing with purely ritual matters as well as those concerned with slaves. In his introduction, Perron states that he chose to translate al-Mīzan because al-Sha‘rāni’s declared intention was to seek a compromise between the teachings of the four madhāhib, whereby a measure of flexibility would be introduced into the law of Islām.\(^{17}\) This work was edited by Jean Dominique Luciani and was published by the Gouvernement General de l’ Algerie in 1898. Even this edition is short of proper footnotes and commentary. After a gap of almost a century, an Indonesian scholar, Dr. Hj. O.K. Rahmat S.H., translated with some annotation, al-Mīzan into Bahasa Malaysia (Malay Language), in 1977,
under the title: *Neraca Raya (Al-Miyzaanu'l-Kubraa): Perbandingan Mazhab-Mazhab Fiqh.* This edition also lacks proper footnotes and commentary. In 1989 Dr. 'Abd al-Rahmān 'Umayrah edited *al-Mizān* for the third time. This edition abounds with mistakes both factual and typographical. For example, the editor has said Shīhāb al-Dīn al-Ḥanbalī al-Futūhī was as Ahmad b Ḥanbal. However, al-Malijī has mentioned him among al-Sha'rawnī’s teachers. Further the editor has failed to include elucidations of şūfi terms. In explaining this omission, Dr. 'Umayrah states at the end of the third volume that the explanation of these şūfi terms will be treated separately in another edition. He also omitted al-Sha'rawnī’s conclusion. On the whole it is an unsatisfactory edition. In my study of *al-Mizān*, I have used the 1962 imprint, on the margin of which another ikhtilāf work is printed.

These printed versions of *al-Mizān* were compared with a handwritten manuscript which I procured from the British Library (O/C 1607 no. Or 4298). Apart from these works I have also referred to other works of al-Sha'rawnī both in manuscripts and in prints. Further references to works on biographical details, books of *fiqh, taṣawwuf, uṣūl, 'aqā'id, hadīth* and history are made.

**Methodology:**

In this study, I have tried to collate the author’s thoughts on various jurisprudential issues which are scattered throughout *al-Mizān*, and reorganise them under relevant topics. Further I have tried to reshape his theory of *takhfīf* and *tashdīd* into a logical paradigm and to trace the origin of this theory. Moreover, I have taken into consideration the historical factors which had contributed towards his composing this
balance. Therefore, this introduction will look into al-Sha'rānī's life and those factors which have contributed in his zeal to find a compromise between the four *madhāhib*.

**Life of al-Sha'rānī:**

Al-Sha'rānī traced his descent back to 'Ali. He was the descendant of Muḥammad b al-Ḥanafiyyah, the son of 'Alī b Abū Ṭālib by his second wife. His ancestors migrated to the far west in an attempt to escape the continued persecution of the household of the 'Alawites (bait al-'alawiyyah) by both the Umayyads and the Abbasids. However, the 'Alawites failed to find unity among themselves and disintegrated into multitudes of petty kingdoms and households. Such a kingdom was the city of Tilmisan and its dependencies. This was under the suzerainty of the tribe Banū Zughlā to which al-Sha'rānī traces his ancestry.

The 'Alawites claimed that there was combined in them the spiritual and temporal leadership. Thus one could find in the history of Banū Zughlā, elements of leadership and *sūfism*. Al-Sha'rānī's ancestor Mūsā b al-Sūltān Ahmad preferred *sūfism* to rule and its glory. He became the disciple of 'Ali b Madyan and left for Egypt in pursuit of this aim.

It is not clear when Mūsā went to Egypt. However, he established his base in a village in upper Egypt and started his spiritual mission. Mūsā's family continued to stay there till the beginning of 9th century *h.* when his grandson Ahmad Shihāb al-Dīn moved to the village of Sāqiyyat Abū Sha'rā in the province of Munūfiyyah where he established a religious seminary (zāwiyyah) for learning and worship.
Ahmad married a woman descended from the Anṣārī who gave birth to al-Sha’rānī’s grandfather Nūr al-Dīn ‘Alī, who, unlike his father, was very learned and was permitted to issue religious ruling (fatwā) at the age of twenty. He studied together with Zakariyyā al-Anṣārī at al-Azhar. He was also a member of the ṣūfī circle headed by Ibrāhīm al-Matbūlī whose direct disciple was al-Sha’rānī’s spiritual mentor ‘Alī al-Khawāṣ. These links played important roles in al-Sha’rānī’s education and spiritual life.

Nūr al-Dīn’s son Shihāb al-Dīn Ahmad was the father of al-Sha’rānī. He was a faqih, a muḥaddith, a nāḥwī and a qārī. Ahmad was a student of Ibn Ḥajar al-Asqalānī. He died in 907 h. when al-Sha’rānī was then about nine years of age.

Al-Sha’rānī was born as ‘Abd al-Wahhāb b Ahmad in 899 h. at his paternal grandfather’s home in the village of Qalqashandā in the province of Qalyūbiyyah. He was brought to his parent’s village, in the province of Munūfiyyah after the forty days. He memorised the Qur’ān while he was in his village and his brother ‘Abd al-Qādir helped him memorize the books of Abū Shujā‘ah and al-Ajurūmiyyah, after the death of his father.

Both his parents died before he was brought to Cairo. Describing his move to Cairo al-Sha’rānī says in his al-Minan:

I came to Cairo at the beginning of the year 910 hijrī. I was then twelve years of age. I was made to study in the mosque of my master Abū al-‘Abbas al-Ghamrī. May God have mercy on the shaykh and on his children, I stayed amidst them as if I was one of them, eating what they ate and wearing what they wore. I stayed with them till I memorised the basic texts (mutūn) of the books of law (shara‘i) and the literary techniques from the teachers (ashyākh) there.
Thus al-Sha' rānī spent his time in study, prayer and spiritual exercises, for nearly ten years. During these years he won the hearts and admiration of scholars like Nūr al-Dīn 'Alī al-Shūnī,63 who made him lead the sessions of praise for the Prophet (mahyā)64 which the latter had started.65 This aroused jealousy among his comrades, particularly among the children of Abū al-‘Abbās al-Ghamrī.66 Therefore, he moved to the madrasah67 of Umm Khund. Al-Sha' rānī found peace in the new abode where his mahyā sessions were well attended by dignitaries and emirs. By then he had his own zawiyah, built for him by Qādī Muḥyī al-Dīn 'Abd al-Qādir al-Uzbekī,68 who feared the confiscation of his extensive lands by the conquering Ottomans. This endowment by al-Uzbekī provided economic security for al-Sha' rānī, his family and for the residents of the zawiyah.69

Al-Sha' rānī had four wives. Of them only his fourth wife Umm Ḥasan70 was a sharīfah or sayyidah.71 He emphasises that a man should not marry a sharīfah, unless he is absolutely certain that he can treat her with due respect.72 He had many children from his marriages, but only a son and a daughter, by name 'Abd al-Rahmān73 and Ḥusnā74 respectively survived him.75

Al-Sha' rānī's education was wide ranging. He studied fiqh, hadīth, sirah, nahw, kalām and taṣawwuf. He takes special pride in the fact that, in fiqh, he studied the books of all four madhāhib.76 However, it seems that from the books he claims to have studied, there is nothing relating to philosophy, logic or other intellectual sciences. Among the teachers with whom al-Sha' rānī studied, the names of Āmīn al-Dīn al-Ghamrī,77 Zakariyyā al-Ansārī and Jalāl al-Dīn al-Suyūṭī78 are prominent. Though
his acquaintance with al-Suyūṭī was short lived; al-Sha'rānī met him a month before his death, his influence on the young al-Sha'rānī was great indeed. His frequent quoting of al-Suyūṭī in his works bears testimony to this truth. Likewise he had many spiritual masters. Among them mention should be made of Nūr al-Dīn 'Alī al-Maṭṣaḥī, Muḥammad b 'Inān, Muḥammad al-Shināwī, Afḍal al-Dīn Ṭhamās81 and, above all, 'Alī al-Khawwāṣ al-Burullūsī.83

‘Alī al-Khawwāṣ’s association contributed immensely in moulding al-Sha'ráni’s sūfī outlook. Describing his master ‘Alī al-Khawwāṣ, al-Sha’rānī says “he was an unusual human being (insān ghayr ‘ādi), nay he was a unique type in his time and he had maqāmāt84 and karāmāt85 which were not known to any one other than God.”86 He was an ummi87 neither did he read nor write, yet he used to speak on the Book, the sunnah, the states of the sūfī community (qawm)88 and their stations, in a lofty and precious speech. He was a humble man and upheld the idea of service to others.89 He used to clean mosques, latrines and carry the garbage and empty the refuse dumps, every Friday, to earn the satisfaction of God.90 He used to sell sycamore (al-jummaiz), pressed dates (al-‘ajwah), soap and all that he could find, when he was a novice in the circle of Ibrāhīm al-Matbūlí, in Birkat al-Ḥaḍ91 outside Cairo.92 Thereafter, al-Matbulī gave permission to ‘Alī al-Khawwāṣ to open an oil shop, which he operated for nearly forty years and he ended his life as a palm-leaf plaiter.93 Al-Sha’rānī says that his speech was not always intelligible and sounded like Hebrew or Syriac.94 However, scholars like Nāṣir al-Dīn al-Laqqānī, Shihāb al-Dīn b al-Subkī, Shihāb al-Dīn al-Ramālī97 and the grand Qādī Shihāb al-Dīn al-Futūḥī used to stand subdued before his speech.98 Al-Sha’rānī mentions that when he became a disciple of ‘Alī al-Khawwāṣ, the
latter ordered him to sell all his books and to give the money in charity. For he decreed that only by getting rid of the acquired knowledge (al-‘ilm al-muktasab) could al-Sha’rānī get access to the heavenly knowledge (al-‘ilm al-ladunni). Al-Sha’rānī acted accordingly and then composed his first book, "al-Anwār al-Qudsiyah fī bayān ādāb al-‘Ubūdiyyah [The Sacred Light in respect of elucidating the manners of Servanthood]," which ‘Alī al-Khawwās approved of. Apart from this book, al-Sha’rānī wrote two books in which he collected the opinions and fatāwā of his master, such as, "Durar al-Ghawwās fī fatāwā al-Khawwās [The Pearl Diver’s Pearl in the Rulings of al-Khawwās]" and "al-Jawahir wa al-Durar [The Gems and the Pearls]." ‘Alī al-Khawwās died in the year 930 h.

Al-Sha’rānī’s popularity did not go unnoticed. He earned the admiration of the rulers and the wrath and the jealousy of his enemies within the scholarly circle of Cairo. Of all the members of the ruling class, al-Sha’rānī was very close to Sūlṭān Sulaymān, under whose rule he lived for forty-five years. Al-Sha’rānī felt a strong affinity with the Sultan to such an extent that he became ill at the same time as the ruler; at the Sultan’s indisposition, al-Sha’rānī interrupted the Ramadān fast for ten days, as a sign of solidarity with him. His high standing with the rulers has been described by a writer in these words:

The powerful (emirs) and Arab chieftains used to express their love for him. It reached such a degree that no one would accept a government appointment without first meeting the Shaykh to hear his opinion. Often the emir, as he passed by his zawiyah, stopped his retinue at the gate and went inside, kissed the Shaykh’s hand, and returned encouraged by his meeting, relying on his words.

This association and familiarity of al-Sha’rānī with the ruling circle infuriated his enemies who tried many ways to discredit al-Sha’rānī and
his works. They even attempted to take his life. However, nothing seemed to damage his popularity. Thus he remained an undisputed șūfī-scholar till his death at the beginning of 973 h. at the age of seventy-four, after he had lain paralyzed for twenty-one days. His funeral was attended by all the dignitaries of the state, including 'Alī Pāshā. He was buried by the side of his shaykh Nūr al-Dīn ʿAlī al-Shūnī.

Details of al-Shaḥrānī's life and works have been written by scholars like al-Malijī and others. Lists of works on his biography and writings are appended to this thesis.

**Sūfī - Fuqahā' Controversy:**

The controversy between the șūfīs and the ʿulamā' is the controversy between the sharī'ah and the haqīqah. One believes that İslām has no need for the tašawwuf while the other believes that without tašawwuf there is no İslām. In this respect it is claimed that Ḥāmid b Hanbal used to say:

One who treads in tašawwuf without learning the fiqh has indeed gone astray; while one who has learned the fiqh without treading in tašawwuf has indeed become a zindiq; however one who integrates them has indeed become enlightened.

Though al-Shaḥrānī was not the first who endeavoured to reconcile these two factions, he nevertheless tried to "enliven this discussion and add to it a fresh dimension." He was preceded by scholars like al-Junayd, Ḥākim al-Tirmidhī, al-Qushayri, al-Ghazzālī, and others who exerted their efforts in seeking integration between haqīqah and the sharī'ah. The controversy lies in the question of who is better: a șūfī or a faqīh? To al-Shaḥrānī, the șūfīs are superior to the fuqahā', not only in
religious matters, but also in the spiritual and moral domain. He says that even the founders of the madhāhib (a’immah) like Āḥmad b Ḥanbal used to consult Ḥārith al-Muḥāṣibī,119 a sūfī, in matters of religious nature.120 He believes that the fuqahā’ were "egocentric, vain, spiteful and greedy, whereas the sūfīs were selfless and forgiving."121 To illustrate the differences in the understanding of the above two groups, al-Sha’rānī relates a story that al-Junayd and his friend, the faqīh Ibn Surayj122 had argued over the religious standing of the sūfīs and the fuqahā’. Al-Junayd threw a stone into a group of sūfīs, whereupon they exclaimed "Allāh, Allāh, Allāh". When the same experiment was repeated with a group of fuqahā’, they shouted ḥarām."123 The point of the story lies in a play on the double meaning of the word "ḥarām," a legal term denoting "prohibition," and also an exclamation meaning 'shame on you' or 'how dare you!'124

Thus it can be seen that there is an essential interdependence between the shari‘ah and haqiqah. Al-Qushayrī says that the shari‘ah which is not informed by the haqiqah is unacceptable just as every haqiqah not restricted by the shari‘ah is unacceptable.125 Continuing his statement al-Qushayrī says:

The shari‘ah exists for the regulation of mankind while the haqiqah informs (us) of the disposition of God. The shari‘ah exists so that you worship Him and the haqiqah (exists) so that you contemplate Him. The shari‘ah exists for obedience to what He has commanded and the haqiqah for witnessing what He has decreed and destined.126

Then he says that he heard Abū ‘Ālī al-Daqqāq127 saying, "The (Qur‘ānic) verse [iyyāka na‘budu] 'Thee do we serve'" is for preserving the shari‘ah, whereas [iyyāka nasta‘īn] 'Thy help we seek' is for the confirmation of the haqiqah.128 So al-Qushayrī says, "Know that the
shari'ah is the haqiqah, since He ordained it as obligatory and the haqiqah is the shari'ah because it is the knowledge of God likewise ordained by Him. In the same vein al-Hujwiri tries to establish the relationship between the shari'ah and haqiqah. He says, referring to these two terms:

These are terms used by the sufis to denote soundness of the outward state and maintenance of the inward state. Two parties err in this matter: firstly, the formal theologians who assert that there is no distinction between the shari'ah and the haqiqah, since the shari'ah is the haqiqah and the haqiqah is the shari'ah; secondly some heretics, who hold that it is possible for one of these things to subsist without the other and declared that when the haqiqah is revealed, the shari'ah is abolished...The proof that the shari'ah is virtually separate from the haqiqah lies in the fact that in faith, belief is separate from profession; and the proof that the shari'ah and the haqiqah are not fundamentally separate but are one, lies in the fact that belief without profession is not faith, and conversely profession without belief is not faith; and there is a clear difference between profession and belief. Haqiqah then signifies a haqiqah which does not admit of abrogation and remains in equal force from the time of Adam to the end of the world, like the knowledge of God and like the religious practice which is made perfect by sincere intention; while shari'ah signifies a haqiqah which admits of abrogation and alteration like ordinances and commandments. Therefore, shari'ah is man's act, while haqiqah is God's keeping and preservation and protection. As such it follows that shari'ah cannot possibly be maintained without the existence of haqiqah. (Likewise) haqiqah cannot be maintained without observing shari'ah. Their mutual relationship may be compared to that of body and spirit; when the spirit leaves the body the living body becomes a corpse and the spirit vanishes like wind, for their value depends on their connection with one another. Similarly, the shari'ah without the haqiqah is ostentation, while the haqiqah without the shari'ah is hypocrisy...Hence the shari'ah is one of the acts acquired by man, but the haqiqah is one of the gifts bestowed by God.

As such, the one cannot be rejected in favour of the other; that is, if anyone were to abandon the shari'ah in favour of a false belief that he has attained spiritual perfection, he stands accused of heresy. Likewise, if he were to reject the haqiqah by accepting the shari'ah alone, he has committed infidelity.

Even though many scholars have attempted in their times to resolve and reconcile the so-called conflict between these two essential
components of Islam, yet the dichotomy continued to stress itself and the gap between them kept widening. The main reason could have been the incompetence and ignorance of both groups. Al-Sha'rānī says, "It is ignorance which kindles controversy." In his Adāb al-'Ubūdiyyah, al-Sha'rānī says:

Know that the fuqara\textsuperscript{134} are firm in (acting according to) the principles of the shari'ah. However, only the incompetent ones among the fuqaha' reject that from the incompetent among the fuqara'. As for the perfect ones in both groups, they do not have amidst them any rejection. For they are one in respect of the Path.\textsuperscript{135}

While in his al-Minan, al-Sha'rānī reiterates the same idea, but with more details. He says:

Know, O, my brother, that most of what occurs between the fuqaha' and the sufis is due to the incompetence (qāṣir) of both of them. If not the perfect among the fuqahā' submit to the 'ārif\textsuperscript{136}, and the 'ārif (too) submit to the fuqahā'. This is because the shari'ah came on two sides: takhfif and tashdid. And for each of these sides there are people who act according to it. Thus whoever is strong, is addressed with tashdid and acts according to the 'azā'īm. (Likewise) whoever is weak, (he) is addressed with takhfif and acts according to the rukhsah. It is just like Moses...who was guided by God, so was al-Khidr\textsuperscript{137}...It was due to this that Moses submitted to al-Khidr in the end when he came to know that for the shari'ah there are two sides: a side which was particular to the common people and a side which was particular to the 'ārif. As such there is no difference between them in respect of substance.\textsuperscript{138}

This ignorance is not attributed to one particular group alone. For both these groups stand equally blamed for that. Moreover, the socio-economic situation and standing of these two groups have contributed enormously to their ensuing conflicts. Egypt at the time of the Ottoman conquest had many madhāhib and sufi tariqahs.\textsuperscript{139} There was rivalry between these groups to win over the rulers' admiration and favours. Each tried to curry favour with the rulers. The fuqahā' rated themselves above the sufis, while the sufis denounced the fuqahā' as those who are concerned with the exoteric teachings of the Qur'ān alone. On the other
hand, they were also masters of its esoteric teachings. This controversy and competition did not interest the Ottomans. In fact after their conquest, the socio-economic situation of the Egyptian 'ulamā’ was much affected. They were marginalised by the Ottomans. Many of their favours, privileges and activities were taken away from them. Their economic well-being was made difficult. They were removed from official posts and replaced by Ottoman 'ulamā'. This does not mean that the 'ulamā’ in general were oppressed by the Ottomans. It just happened that the Egyptian 'ulamā’ did not gain the confidence and admiration of the Turks. On the other hand, the sūfīs were highly respected by both the Mamlûks and the Ottomans. Perhaps this was due to the nature of both these groups. The sūfīs were preoccupied more with the thought of the Divine than worldly matters, as opposed to the 'ulamā’ who, by virtue of being interpreters of the shara’ and as the inheritors of the shāri’, exercised more authority in implementing the shari’ah. This might have been construed by the Turks as a challenge to their authority. Thus, the Ottomans might have felt that the 'ulamā’-influence could be undermining to their rule. Moreover the 'ulamā’ themselves could be condemned. For they were fond of engaging in hair-splitting arguments over trivial issues, using language understandable only to themselves. In contrast, the sūfīs used "precise down-to-earth language (when not writing about theosophy and mysticism!)..."(They) wrote for simple people who were not versed either in poetry and adab, or in the theological or judicial sciences. They opposed the tendency to overestimate language and poetry, a fact which shows in their writings, both implicitly and explicitly." Further, sūfīs "cared about the spiritual and religious needs of simple Muslims and paid special attention
to the instruction of women."144 When compared with the usual *madrasah*-trained Muslim intellectual with his legalist leanings, the *ṣūfī* writers, says Winter, "represented a different type of cultural attitude, not necessarily a lower cultural level."145 This was the reason why few theologians went so far as to attack *ṣūfīsm* itself publicly. What the outspoken polemicists like Ibn Taymiyyah146 and his like opposed was "the superstitions and deviations from the *sunnah* and not the true *ṣūfīsm*."147 Al-Sha'rānī's works reflects this animosity between these two groups. He maintains that an *ʿālim*148 with no knowledge of *ṣūfīsm* has missed an important element of religion.149 While quoting Zakariyyā, al-Sha'rānī says:

A *faqīh* without *ṣūfīsm* is like a slice of dry bread without anything added to enrich it.150

He says that one should not argue with the *fuqahā*, since the latter could not understand *ṣūfīsm*; they should not even be shown *ṣūfī* writings. One should avoid arguments with them, because, "an argument could lead to further troubles and curses against the *ṣūfís*."151 Al-Sha'rānī refuses to acknowledge the *fuqahā* as *ʿulamā*.152 In interpreting the *ḥadīth*, "the *ʿulamā* are the heirs of the prophets,"153 al-Sha'rānī says, "only those who transmit the prophets' teachings are the heirs of the prophets."154 As such, only the *muhaddiths* could be regarded as their heirs, and they will be resurrected with the messengers, however the *fuqahā* will be "resurrected with the common people."155 This is because, the *muhaddiths* were the bearers (*naqalah*) of the revelation and they were the inheritors of the prophets in respect of communication (*tablīgh*), on the contrary, the *fuqahā* had no such status.156 The *akhlaq* (manners) of the *fuqahā* might have contributed to al-Sha'rānī's dislike of them. For
he says that they occupied several posts simultaneously and accepted their salaries without fulfilling their duties.\textsuperscript{157}

Al-Sha’rani’s most serious charges against the fuqahā’ were concerned with their attitude towards the common people.\textsuperscript{158} While attacking the rural dervishes for exploiting the innocent farmers and corrupting their women and youth morally, al-Sha’rani accuses the fuqahā’ of not doing their job in teaching the farmers their religion.\textsuperscript{159} He did not hesitate to condemn those among the ṣūfī orders who engaged in such exploitations and deviations. He particularly singled out the khalwatiyyah\textsuperscript{160} order who were known for such misbehaviour.

Despite this criticism of the fuqahā’ and his insistence that the ṣūfīs were superior, he, nevertheless had high regard for the ‘ulamā’. He even claims “there was no quarrel or contradiction between a perfect ṣūfī and a perfect faqih; the disagreement was between those who were not qualified in both groups.”\textsuperscript{161}

**Conflicts within the madhāhib:**

Cairo, on the eve of Ottoman conquest, had ‘ulamā’ from all the four madhāhib. Of the four madhāhib, the madhhab of al-Shafi’i\textsuperscript{162} held the central position in the social, scholarly and professional life of the fuqahā’ of Cairo. In fact, most of the men of distinction in the Egyptian society were Shafi’ites. The adherence to the madhhab of al-Shafi’i was made a prerequisite for appointments to positions like teachers at madāris\textsuperscript{163} and shaykhs\textsuperscript{164} at khanqāhs.\textsuperscript{165} Thus, to quote Winter, “Shafi’ism was the essence, the moving spirit of Egyptian scholarship.”\textsuperscript{166}
The Shafi‘ite dominance in the Cairo intellectual scene had come about as a result of the policies of the first Ayyubid Sultan, Salah al-Din Yūsuf b Ayyūb, who himself was a Shafi‘ite. But this was modified in the reign of al-malik al-sāliḥ Najm al-Din Ayyūb, when large numbers of Mamlūk mercenaries were brought to Egypt. The apparent backing of these mercenaries contributed to the reestablishment of the Ḥanafites, who, after a long silence, emerged as a force to be reckoned with. The Ḥanbalites, being few in number, never had been contenders for prominence in Egypt. However, it was the Mālikites who were very much affected by these changes and they felt that they were fast losing ground.

Prior to the coming of the Fātimids, it had been the Mālikites and the Shafi‘ites who competed with one another for prominence in Egypt. When the Fātimids moved to Cairo in 363 h. the post of qāḍī was occupied by a Mālikite by the name of Abū Tāhir al-Dhuḥli who had been installed by the Ikhshidid ruler Kāfūr, and remained in that position for sixteen years. The Fātimid Caliph al-Mu‘izz confirmed al-Dhuḥli in this position, but later had him replaced, in 366 h. when the latter’s health failed, by an Ismā‘īlī propagandist, ‘Alī b Nu‘mān, and his son, al-Ḥusayn who was installed in 389 h. He was the first on whom was conferred the title of qāḍī al-qūdāt. The Chief Judgeship apparently remained in the hands of the Ismā‘īlites till the year 525 h., when the Imāmite wazir, Ibn al-Afdal seized de facto rule and instituted a system of multiple Chief Judgeships, appointing four independent judges, “each judging and looking into inheritance matters according to his own school.” Thus the Mālikites and the Shafi‘ites were recognised as coequals among the Sunnites of Egypt during his rule. However, the
Chief Judgeships of both groups were subsequently reappropriated by the Shi’ites. This has been confirmed by Ibn Iyās, who says that when Ṣalāḥ al-Dīn took power he removed the entire institution of Judgeship "because they were all Shi’ites."\(^{181}\)

It was during the reign of Ṣalāḥ al-Dīn, first as wazīr to the last Fāṭimid Caliph, al-ʿĀdīd,\(^{182}\) then as sultan, that the Shafi’ites were steered to the forefront. When he ousted the Shi’ite judges in 566 h., he consolidated their offices into one and replaced them with a single Chief Judge, a Shafi’ite by the name of Sadr al-Dīn b Darbās.\(^{183}\) He made this into an institution, and for almost a century, that is up to the reign of Baybars,\(^{184}\) the Shafi’ites enjoyed an absolute uncontested monopoly over the Chief Judgeship of Egypt.\(^{185}\) This move by Ṣalāḥ al-Dīn had a monumental impact on the socio-political situation in Egypt. For under this new arrangement, the Shafi’ites were put in a position above the other madhāhib so as to preside over the judgements passed down by the judges of other madhāhib.\(^{186}\)

Moreover, the Shafi’ites were given prominence in the distribution of religious endowments (awqāf) in the form of madāris. Of the twenty seven madāris which al-Maqrizi and Ibn Duqmaq listed in their works, the number of institutions distributed according to the various madhāhib is as follows:\(^{187}\)

<table>
<thead>
<tr>
<th>No. of Institution</th>
<th>madhhab</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Shafi’ite</td>
</tr>
<tr>
<td>4</td>
<td>Malikite</td>
</tr>
<tr>
<td>4</td>
<td>Hanafite</td>
</tr>
</tbody>
</table>
Thus it can be seen that the set-up at that time was highly Şafi‘ite inclined. Not only did the rulers of this period support the Şafi‘ites with positions of prestige and political importance, they even became Şafi‘ites themselves upon their accession to power.¹⁸⁸ To quote Ibn Iyās:

> No sultān ever sat on the throne of Egypt as a follower of any madhhab other than that of al-Shafi‘i but that he was quickly ousted or killed.¹⁸⁹

For instance, the Mamlūk sultān Sayf al-Dīn Qutuz¹⁹⁰ remained a Ḥanafite even after becoming ruler of Egypt. However, he was killed within a month of coming to office by his leading general and successor, Baybars, who became a Şafi‘ite and ruled over Egypt for seventeen years.¹⁹¹ However, during Najm al-Dīn’s time, two new elements were added to the political equation of Egypt. Firstly, Najm al-Dīn, in the hope of establishing a new power base, imported Turkish slaves to serve in his army. Secondly, in an attempt to pacify and to gain legitimacy with the Egyptian fuqahā’ he founded the Şālihiyyah College, where all the four madhāhib were represented equally. These new initiatives altered the balance of power among the madhāhib in Egypt. The Ḥanafites gained a foothold and began to compete with the Mālikites and the Şafi‘ites.¹⁹² Thus, all the madhāhib were equally assertive, irrespective of their political standing and strength. Najm al-Dīn’s decision to import the Turkish slaves was an attempt to resolve the internal political crisis in Egypt. The details of this crisis have been discussed by Ibn Wāsīl in his

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Mufarrij al-Kurūb fi akhbār bani Ayyūb.193 This move of replacing the Kurdish soldiery with Turks proved very quickly to have its own liabilities. The Mamlūks were foreign implants, whose unruly behaviour stirred up the antipathy of Egyptian society. However, their presence bolstered the position of the Hanafites in Egypt. The Hanafites were displeased with the Shāfiʿites' monopoly over religious endowments and estates of orphans. They demanded that these jurisdictions be shared with them.194 Thus by the end of 8th century, the Hanafites were openly recognised as equals to the Shāfiʿites in Egypt. This change of fortune in favour of the Hanafites did not please other madhāhib, particularly the Mālikites, who felt that they had been side-lined by the Hanafites. The situation continued till the appearance of the Ottomans. Even though the Hanafites were gaining strength, the influence and prominence of the Shāfiʿites remained unaffected. But the situation changed after the Ottomans' take over of Egypt. As mentioned earlier, the Ottomans changed the religious establishments in favour of the Hanafites.195 Cairo lost its importance, since Istanbul became the epicentre of power. 'Ulamāʾ were virtually "transported" to Istanbul in the hope of raising its status as the seat of learning as well. In Cairo, the 'ulamāʾ were vying with each other for eminence and prominence. The Shāfiʿites were not as adversely affected as were the Mālikites. They were somewhat removed from the mainstream of the scholarly and social life in Cairo. They maintained strong scholarly and personal ties with North and West Africa. The West African components of the Mālikites were puritanical and aggressive traditionalists. This caused tensions between the Mālikites and scholars of the other madhāhib. They adhered to their own books, particularly to al-Mudawwanah al-Kubrā.196 They were also the
staunchest opponents of the šūfīs. Dhū al-Nūn al-Miṣrī\textsuperscript{197} had been persecuted by a Mālikite jurist, while al-Ghazzālī’s books were burnt by the Mālikite fuqahā’ of Spain.\textsuperscript{198} Even Abū al-Ḥasan al-Shādhilī\textsuperscript{199} was victimised by the Mālikites. Al-Sha’rānī, however, enjoyed hospitality from the Mālikites. He had many colleagues, supporters and even admirers among them. He says that he showed respect to the Mālikites just because his imām al-Shāfi‘i was a student of imām Mālik.\textsuperscript{200} He even states that al-Nawawī,\textsuperscript{201} the famous Shāfi‘ite scholar, endured insults from a Mālikite for the same reason.\textsuperscript{202}

The Hanbalites were few in number. They had teachers from other madhāhib, since scholars from that madhhab were few indeed. The situation at al-Azhar, during al-Sha’rānī’s time, was not encouraging. Scholars there were preoccupied with writing commentaries upon commentaries on books written by previous generations. There was a great scarcity of scholars who practised what they preached. Scholars there viewed the šūfīs with contempt. They even accused al-Sha’rānī of being a zindiq.\textsuperscript{203} The šūfīs’ attitude towards al-Azhar was somewhat reserved. They considered some of the subjects taught there, such as certain branches of fiqh, farā‘id\textsuperscript{204} and nahw as worldly; therefore, they were not related to true religion. Explaining his dismay at al-Azhar graduates, Ibrāhīm al-Matbūlī says:

The children of the farmers who study at al-Azhar are like those who learn the art of war for the purpose of engaging in jihād, but after learning that art they become highwaymen and think that it is enough. They use their learning as a weapon against their adversaries, forgetting the ideals of asceticism and piety for the sake of which knowledge was given.\textsuperscript{205}
However, for al-Sha'rānī, al-Azhar was "the citadel of Islām,"\textsuperscript{206} the holiness of which was not appreciated by the students who desecrated it by their abusive talk.\textsuperscript{207}

**Accusation against the a'immah:**

The influence of competition and rivalry between the fuqahā' and their madhāhib caused their students to find fault with the 'ulamā' of other madhāhib, especially the founders. Al-Sha'rānī has devoted a number of sections in his al-Mizān, to defending the a'immah, particularly Abū Ḥanīfah. The Ḥanafites were accused of exercising ra'y\textsuperscript{208} in matters of religion. Al-Sha'rānī puts forward a strong yet sympathetic defence in support of the a'immah, by quoting extensively scholars who had expressed their views on the a'immah. Since this will be discussed later in the text, there is no need for it to be repeated here.

As replies to the above "confusions" in the mind of the people, al-Sha’rānī composed a number of works to bring the matter into right perspective. He wrote three treatises covering the above confusions. They include:

- al-Mizān al-Khidriyyah
- al-Mizān
- Kashf al-Ghummah 'an jamī' al-Ummah.

A study of these works will show that al-Sha’rānī uses almost the same introduction in all of them, thereby showing their close relationship. Of these, in the first two works, the order of the sentences is not altered. However, in the third work, sentences are arranged in different order.
This has been indicated in the pages appended to this chapter. In the introduction to *Kashf al-Ghummah*, the author says that groups of workers and simple people came to him to complain, and express their disappointment and confusion. Whenever they performed one of the religious rites or concluded a contract according to one *madhhab*, the *fuqahā* of another *madhhab* declared them null and void. When al-Sha‘rānī advised them to sit with the *fuqahā*, and listen to the discussions so that they would be able to tell right from wrong, they answered that they had often done so, but only seldom had they heard the *fuqahā* mentioning a *hadīth*. For the *fuqahā* were concentrating on understanding one another’s words. Then they based their *fatāwā* on those arguments, as if they were legal proofs. Moreover the common people were confused as to which *madhhab* they should follow and what were the actual opinions of the *madhhab*. Realizing that such learned discussions would not help the people out of their confusion, al-Sha‘rānī suggested that they quit their work and devote themselves to acquiring knowledge. To this the workers replied that they could not afford to do so, since they had to work in order to support their families and pay their oppressive taxes and debts. They added that they were not content to sit in a *madrasah* or a *masjid* and eat the people’s “dirt” meaning their alms, as the *fuqahā* did. If they did so, they would have to give up their trades. They had tried to eat from the *waqf* money and discovered that it lay heavily on their hearts. Therefore, they asked al-Sha‘rānī to collect in one book the principles of religion according to the four *madhāhib*.

Thus in his attempt to reconcile these contradictions al-Sha‘rānī composed *al-Mizān*. This work is the commentary and enlarged version of *al-Mizān al-Sughrā* or as it is called *al-Mizān al-Khidriyyah*, since it
was the latter who taught him this balance. In the following chapters an attempt has been made to present the discussion of *al-Mīzān*.
Introduction of al-Mizān al-Ṣughrā:
واناً لاحظ فيهما الاختلاف بالعديد من التفاصيل، فإننا لا نستطيع الاعتراف بهم. نجد أن هناك اختلافات في ترتيب الأحداث وتفاصيل القصة، وهذا يتطلب فهماً عميقاً للنصوص العربية.

ومن الملاحظ أن النصوص العربية تتميز بالسلاسة وال красотة في التعبير، وهذا يعكس التوجه الإسلامي نحو الفن والجمال في اعمالهم. ومع ذلك، فإننا نوصي بالTôiاء على السادة المختصون في هذا المجال للحصول على تفاصيل أكثر دقة.

وأخيراً، فإننا نأمل أن تكون هذه النظرة الأولى على النصوص العربية تساهم في فهمنا العميق لهذه الثقافات الرائعة. نشعر بالرضا الشديد عندما نلاحظ أن هناك الكثير من القيم 공동ية بين النصوص العربية والعالم الغربي. هذا يحفزنا على استمرار النجاح في مشاريعنا في هذا المجال.

النص العربي: 

سأذكر أن的城市 وال Размер واليمامة والمجهل، وما يليكم من النص من النصوص العربية كله.

النص الإنجليزي: 

I will mention the city of Medina, the Penninsula, and the abandoned city, and whatever you want to know from the Arabic texts. We see a similarity between the Arabic texts and the Western world.

Finally, we hope that this initial look at the Arabic texts will contribute to a deeper understanding of this great culture. We are pleased to see that there is a great deal of common values between the Arabic texts and the Western world. This motivates us to continue our work in this field.
لا يمكنني قراءة النص العربي في الصورة المقدمة.
Introduction of al-Mizān:

الخليفة الذي جعل الشريعة المطهرة جيلاً يبتعد عنه جميع جنرال العلوم الطائفية والجماع،
وأجرى جداوله على أعماق للعب حتى روى منها قائمة التأسيس من حيث التأسيس لخالفلا والذين،
ومن على من شاء من عبادة المختصين بالإشراف على بناء الشريعة المطهرة، وجميع أحداثها
وآثارها المتنكرة في البلدان، وأطلعه الله من طريق كشفه على غير الشريعة الأولى التي يبتعد
منها كل قول في سائر الأدوار والأزمان، فأقر جميع العلماء والمتعلمين بكل حسن رأى
أفضلهم في صناعة الشريعة مطهرة ومعرفة الجوانب، وشارك جميع المحققين في التفسير من بين
الشريعة الكبيرة وإن تقاسعت عنهم في النظر وتأخرهم في الأزمان، فإن الشريعة كانتogne
الكتابات المتكررة وأقوال عامة كما يتضح من غير تفصيل ولا مبرر
من غير تفصيل كما لا بذولة أبدية من غير جدريان، وقد أحج أهل العلم على أن كل من أخرج
فولا من أقوال علماء الشريعة عنها بما ذكره لقصورهم عن درجة القرآن، فإن رسول الله صلى
الله عليه وسلم قد أعد عامة أمته على شريعته بقوله «اللهام ألم ينقرح الرسول مال خلقوا السبطان»
وعلى من العصامتين أن يؤمن على شريعته خوان، وأجمعوا أيضاً على أنه لا يدعي أحد علما إلا
إن يبدع عن منازع أقوال العلماء، وعرف من أن أكبدهما في الكتاب والسنة لامن روحا
بطرق الجهل والعدوان، وأن كل من رد قولا من أقوال علمائها وأخرجوا عنها فكانهم يداعب
على نفسه بالجيل ويقول ألا أشهد أي جاهل بدليل هذا التقول من السنة والقرآن، فكس من
قبل أقوالهم وتقديمهم وأقوالهم الدليل بالبرهان، وصاحب هذا السبوب الذي لا يدلي قولا من أقوال
علماء الشريعة إلا مماثله من قارئ يصوم العالم لم يجدقه في كلام أحد منهم في الأزمان، وغابته
أن له يثبط على دليله لا أنه نجبه خلافا صرحا للسيلة أو القرآن، ومن خلقبها فليس لنا
من أقواله مخرج عنها وكن تم تزول على صاحبها كما تزول على قواعد الشريعة بأوضح
دليل وبرهان، فم إن يدل ذلك على بيدي هذه النبتة الملكية فإن بمعنى مقتدى في ذلك (أنا)
هو مقتدى الهواء والشيطان، فإن اعتقائنا في جميع الأثاث أن أحدم لا يقول قوله إلا بعد نظره في
الدليل والبرهان، وحيث أطلانا القسم في كلامنا أننا به من كان كلامه مندرا تحت أصل
من أصول الإمام وإلا فقد عدونا التأسيس له زور وهمان، وما تقول من أقوال علماء الشريعة خارج
عن قواعد الشريعة فهما علماء، إنما أقوالهم كثيرة بين فر وفوق وندع وأعدان النظر لقلم كل إنسان
وشاعر نور الشريعة يصفهم كله، ويهمهم وينتقدون بذكر نظم الإمام والإيمان والإحسان،
أحمد حمدو من كرر من عين الشريعة المطهرة حتى نبيع ورويها لنفس الجامع واللحن، وحل أن نخرج
محمد صلى الله عليه وسلم جاء شريعة واسعة جامع في اقامة الإسلام والإيمان والإحسان وأنا لاخرج

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ولا تضيع فيها على أحد من المسلمين، ومن شهد ذلك فيها فشهوداً تنظن ويهيذ، فإن الله تعالى
قال – وما خلقت في الدين من حرج – ومن ادعى الحرج في الدين فقد خالف صريح القرآن.
وأشكره شكر من علم كال شرعة محمد صلى الله عليه وسلم فوقه عند ماهماً من الأمر
والنبي والديني والديني الفضيل والعبد، ولم يصب فيها شيئاً إلا إن شهد له شعب الدين والهراء، فإن الشارع
ماكو عن أبي، إلا أن الله لأولدول ولاشيان وأظهر إن م الأخذ والإيمان إمام طريق
الثقة وتمدخين وأمام جميع أحوال الدين والهراء، إمام طريق النظر والاستدلال وإمام طريق
التسليم والإيمان وإمام طريق يكون سامراً في هذه الطرق. بذابن
مكتب الجناين قوله للسالين فإن سارأمة الساعدين على غده من رهم في كل نوم، ولا
نل مصل إلى هذا اعتقاد من طريق السكنف والعاب، وجب عليه اعتقاد ذلك من طرق القلم
ومعهد، والاكتفؤنا الطي فنيابة مع اختلف شرائعنا فكذكذاج إنزونا الطباع
فنا استبناجتي الواضح من جرة الإلهام دون بذار الإلهام والاستحسان، يوضح لك ذلك أن تعز باختي أن
الشرع يرجع، من حيث الأمر والشي على مهني تخفيف وتشديد لاعمال وجهة إياها إضافه
في اليران، فإن جميع المكاين لتحجرون عن فصين. قومى ووصف من حيث إسلام أوجمه
في عصر وزمام، فإن قومي منهم خوطب الشذرة والديني والديني بالإسحاق، ودعوا موعث
بالجهين والديني والإيمان عлибо ذو الرمز، كل مهني واجهة قطعة، شارب في وقته
الذاتي. لذا فإن الله تعالى مصطفى، والمانع بوصوله إياها في الجبال، وประหย على أن
لأعرف قراء هذا الكتاب لأن العقل الذي لا يرجع في أصول أمة الديني...
متحبل عند صاحب اليران، فاستطاع أن يأتيها ما فيه لك في كل حدث وغالبه عليه أوتيت تون
وizontally ونحو ك الكل واحد منهماً لا يكتب غيرها إلا عليك منهما بالاثر، والسند، ومسجل في
الأعمال ومن المله أن يبجلي ولكن، منهما رجل في حال مباشرين
الواحدة ثلاثان أو أكثر أو أقل، في مختلفة برز كقول إلى مسابلية تقارن في التخفيف
وتشديد حسب الإنسان، وقد قال الإمام الشافعي وغيره: إن أعمال الجميع والتزام الأول من
إيامه أحداً وأن ذلك من كمال مقيم الإنسان، وقد أمرنا الله تعالى بأن تقيم الدين ولا تنفر عليه
نحن له عن تهمتهم الأركان فإن الله الذي من عيننا إقام الدين، وعمل إيضاحه حيث ألمتنا
العمل بما تضمنه هذه الإيران، 
وأشهد أن لا الله إلا الله وحده لا شريك له شهادة نوبي، فإنها غرف الجناين، وأشهد أن سيدنا
ومولايا عمتا عبد ورسوله الذي فضل على كافلة خلقه ونعه الشيرة السمعية، وجعل إجلام أنه
محقق في وجه العمل بالمنزل والقرآن، ولم صلى عليه وعلي سائر الأبناء والرسليين وعلى
أمم ومملؤهم جميع، وجميع الناس لهم، بإمثناء اليوم الدين سنة وسلامنا دابن به، ودام كان
الإيران والجنان آمين لله آمين.
و بعد: هذه ميزان نعمة عالية المقدار، فهمان يتجه بين الجناين، من فازتها في الزمان، 
بين أحوال جميع المكاين ومعهم من الأواب والأخرين إلى يوم القيامة، كذلك ولأعرف
أحسن متي إلى ذلك في سائر الأدوار، ووصفتها بإسقته أجزاء أهل العصر من شرائع الإسلام
وأقرع العصر بعد أن عرضها عليهم قبل إبلاها وذكروا لهم ما لا أحب أن أنيها إلا بعد أن
Introduction of *Kashf al-Ghummah*:

The work which deals with the criticism of the party of Shafi‘i with whom he disagreed thoroughly in regard to the hadith from which the religion of Islam and the laws of the Shafi‘i school were derived. It is a book on the subject of those who are opposed to the Shafi‘i school of thought, and it is a work of great importance in the field of Islamic scholarship. It is a work that is highly regarded by scholars and students of Islamic law.

The author of the work is *Shihab al-Din ibn al-Maghili*, a scholar of the Shafi‘i school, who was known for his sharp criticism of the Hanbali school. The work is divided into three parts, each of which deals with a different aspect of the Shafi‘i school of thought.

The first part of the work deals with the criticism of the Shafi‘i school of thought in general, and it is a work of great importance in the field of Islamic scholarship. The second part of the work deals with the criticism of the Shafi‘i school of thought in particular, and it is a work of great importance in the field of Islamic law.

The third part of the work deals with the criticism of the Shafi‘i school of thought in general, and it is a work of great importance in the field of Islamic scholarship. The work is written in a clear and concise manner, and it is a work that is highly regarded by scholars and students of Islamic law.
ENDNOTES TO INTRODUCTION

1 A list of works on *ikhṭilāf* is Appended to this thesis. see Appendix on pp. 340-6.

2 It is the plural of the term *madhhab*. It is derived from *dhahhaba* which means "he went". Thus the term *madhhab* means "the path of a man's treading," or more simply, a man's opinion. Regarding the rendering of the term *madhhab* into English as sect, rite or school, George Makdisi says: "This term was first translated as 'sect', then as 'rite' or 'school'." But a Sunni *madhhab* could not be a sect, since the term 'sect' is applied to a dissenting religious body, one that is heretical in the eyes of other members within the same communion. That is not the case with the Sunni *madhhabs*. all of which are regarded equally as orthodox. Nor is the term 'rite' an adequate one, since it applies to a division of the Christian church as determined by liturgy; and, unlike a transfer from one rite to another in Christianity, a transfer requiring certain formalities, the transfer in Islam is made from one *madhhab* to another without any formalities whatsoever. The term 'school', for lack of a better term, is the most acceptable; it is the one that offers the least difficulty. In using it we must keep in mind what the late Professor Schacht has said about the early schools: that the term 'ancient schools of law' implies neither any definite organization, nor any formal teaching, nor any official status, nor even the existence of a body of law in the Western meaning of the term. [see Makdisi, George, "The Significance of the Sunni Schools of Law in Islamic Religious History," in *IJMES*, 10 (1979), p. 1; Schacht, J., An Introduction to Islamic Law, (Oxford, 1964), p. 28]. Hereafter the Arabic term *madhhab* is used.

3 For instance, Ibn Rushd wrote his work *al-Bidāyat wa al-Muṭqāṣid wa al-Nihayat wa al-Muṭqāṣid*, with the aim of resolving the differences by explaining the reasons for differences and the preferred opinion.

4 The origin of the term *al-Sha‘rāni* has been discussed by many scholars. Some have claimed that he is al-Sha‘rāwi, while some others have conjured that he is al-Shi‘rāni. Both these conjectures are not valid. [see Vollers, K., "Sha‘rāwi und Sha‘rāni", in *ZDMG*, 44 (1890), p. 390].


6 They include Hanafites whose eponym is Abū Ḥanīfah [refer to note 27 on p. 129]. Mālikites its founder is Mālik b Anas [refer to note 200 below]. Shafi`ites whose *imām* is Muhammad b Idris al-Shafi`i [see note 162 below] and the Ḥanbalites their leader is Ahmad b Ḥanbal [see note 20 below].

7 The word *sunnah* literally means al-‘ādah (custom). Technically it is a homonym (mustārak) between that which emanated from the Prophet of the word, or action, or tacit approval and that which the Prophet assiduously practices (wāzūba) without any imposition. It is of two kinds: (1) *sunnah mu‘akdah* like call to *ṣalāt* (al-‘adān) etc. Its rule is like the wājib [see note 211 on p. 91] except that the one who abstained from acting according to it will not be punished. (2) *sunnah zawā‘īd* like the adhān of a single person (al-mutafarrid). see *al-Tā‘irāt*, p. 128.

8 It is the plural of *sunnah*. see note 7 above.

9 i.e. one who strives to derive new rules from the the sources of *Islam* Law. [see Hallaq, Wael B., "Was the gate of *ijtihād* closed?," in *IJMES*, 16 (1984), p. 16].


11 The term *ijtihād* literally means *istīlāf* al-wūs (wuhū), amr min al-umūr mustazīm li al-kulshā wa al-mashā‘qīh [the exertion of one's (utmost) ability in attaining a matter which is deemed necessary owing to difficulty or hardship]. see *Taḥānawī*, p. 198. Technically it was applied first for the use of individual reasoning in general and later, in a restricted meaning, for the use of the method of reasoning by analogy. According to the classical doctrine of legal theory, *ijtihād* means
exerting oneself to form an opinion in a case or rule of law. This is done by applying analogy to the Qur'an and the sunnah. see EN, 3:1026-7.

12 The term ummah meaning community or nation. For details see EI, 4:1015-6.


14 This does not mean that a sunni Muslim cannot perform his salat in a shi'i mosque. The purpose in writing as such is to show that there is no difference within the sunni fold. In fact one should not make such distinction in respect of mosque.

15 see CAR, p. 207.

16 It is said that he also translated a Malikite book of law, Mukhtasar al-Khalil into French. see Perron, Balance de la loi musulmane: Ou esprit de la Legislation Islamique et Divergences de ses Quatre Rites Jurisprudentiels par le Cheikh el-Charani, (Alger, 1898), p. xv.

17 see Perron, Balance de la loi musulmane par le Cheikh el-Charani, 14 (Revue Africaine - Algiers, 1870) 81:209-17.

18 This was printed by Pustaka Aman Press Sdn. Bhd., Kelantan, Malaysia.

19 He is Shihab al-Din Ahmad b 'Abd al-'Aziz al-Futuhi al-Hanbali, known as ibn al-Najjar, born in 862 and died around 920 h. see TS, pp. 80-1. While al-Ghazzi gives his year of death as 940 h. see al-Kawakib, 2:112-3.

20 He is Ahmad b Muhammad b Hanbal b Hilal, born in 164 h. in Baghadd and died in 241 h., see TKS, 1:55-6; al-Shirazi, p. 101. see also text on p. 365 no. 52.

21 It is said that Muhammad Mubayt al-Din Abü al-Anas al-Malijji, an affiliate of Sha'ranian Shi'i Order and was initiated by Yahya Abü Saläh b 'Abd al-Rahman b Abü al-Wadhah b Sha'ranii. see JKV, p. 346.

22 Al-Manaqib, p. 40.

23 'Umayrah, 3:449.

24 Ibid.

25 It is entitled as, Rahmat al-Ummah fi ikhtilaf al-A'immah, written by a scholar named Abü 'Abd Allah Muhammad b 'Abd al-Rahman b al-Dimishqi.

26 It is capable of being applied to various fields of Islamic studies, for instance the Principles of law are called usul al-fiqh, the Principles of Qur'anic commentary are called usul al-tafsir, the Principles of Prophetic tradition (hadith) are called usul al-hadith, while the Tenets of Islam are called usul al-din. Here it is referred to usul al-fiqh.

27 He was the cousin and a son-in-law of the Prophet and became the fourth Orthodox Caliph of Islam. He was assassinated at Kufa in 40 h. see TKS, 1:15-7, EI, 1:283-5. see text on p. 361 no. 1.

28 He is Abü al-Qâsim Muhammad b 'Ali b Abü Tâlib. He is known by his mother al-Hanafiyah Khaalvah bt Ja'far b Qays, who was taken as a captive from Yamamah, so as to distinguish him from 'Ali's sons from Fatimah, the daughter of the Prophet. see Wafâyât, 4:169-73.

29 It is said that he married her only after the death of Fatimah.

30 This expression refers to the descendants of 'Ali (see note 27 above). However, this term should not be confused with the 'Alawite sect, who believe in the Godship of 'Ali. They are found in Syria and in the South-Eastern part of Turkey.

31 This is situated in the North-Eastern part of Algeria and near to its border with Tunisia. It is called Tlemcen.

32 Perhaps it is a family name. It is named after Sultan al-Zughli. see note 33 below.

33 He is the son of Sultan Abü 'Abd Allah Ahmad al-Zughli who was the ruler of Tilimisan (Tlemcen) and its dependencies. Information on al-Sha'ranii's royal ancestors are scarce indeed. It is said that Mûsâ died in Egypt in 707 h. see Al-Manaqib, pp. 5-7.

34 Shu'ayb b Husayn Abû Madyan of Bugia was born in Cantillana near Seville and studied in Fez. He was initiated by 'Abd al-Qâdir al-Jilâni (details follow) in Makkah. He died in 594 h and his tomb is in Tlemcen. see EI, 1:98; Boase. Roger and Farid Sahnoun, 'Excerpts from the Epistle on the Spirit of Holiness (Risâlah Rûh al-Quds), in Hirtenstein, S., and M. Tiernan (ed.), Muhyiddin ibn 'Arabi: A Commemorative Volume, (Dorset, 1993), p. 68n28, hereafter cited as MACV. It is stated that he was the spiritual mentor of 'Abd al-Sâlâm b Mashish (d. 625 h.) whose disciple was Abü al-
Hasan al-Shadhili [details follows below], the founder and the eponym of the Shadhili Spiritual Order. see also Winter, p. 89. It is also stated that Ibn 'Arabi was a disciple of Abū Madyan. Ibid, p. 166. However this has been denied. For it is said that he "never actually met him." In this respect, one may perceive a parallel between their relationship and that of the Prophet Muhammad and Uways al-Qarni. see MACV, op. cit., p. 689n28; Addas, Claude, "Abu Madyan and Ibn 'Arabi", in MACV, op. cit., pp. 163-80.


36 He was an illiterate and said to have passed away in 828 h. see Al-Manâqib, pp. 8-9.


38 The term zawiyyah refers to the place to where a sufi retires for meditation and educating disciples. This is usually smaller than a khanqah. For its details see Winter, p. 163-80. The term zawiyyah refers also used interchangeably with ribât and khânâqahs see EI, 4:1220; see also Little, Donald P., "The Nature of Khânâqahs. Ribât, and Zawiyyas Under the Mamlûks," in Islamic Studies Presented to Charles J. Adams, ed. by Wael B. Hallaq and Donald P. Little, (Leiden, 1991), pp. 91-105.

39 That is one of those lineage went back to a member of those who helped the Prophet in Madinah. It is said that al-Sha'râni was an Anšûr. see Winter, p. 43.

40 For his details see al-Manâqib, pp. 9-26. TKS, 2:99-104.

41 He is Zakariyyâ b Muḥammad b Ahmad b Zakariyyâ al-Ansârî, born 826 h. and died in 926 h. see TS, pp. 37-44; al-Shawkâni, Muḥammad b 'Ali, al-Badr al-Talî bî maḥâsin man Ba' da al-Qarn al-Sâhibî. (Cairo, 1384 h.), 1:252-3. Hereafter cited as Badr. see also text on p. 372 no. 146.

42 Winter, p. 43.

43 He died in 880 h. at Ashdûd, in Palestine while visiting the tomb of King Solomon. It is said that he did not have any shaykh except the Prophet. see Ibid., p. 96; TSK, 2:83-7; Ibn Iyâs, Badâ'i' al-Zuhûr fi waqā'î' al-Duhûr, ed. by Muḥammad Muṣṭafâ, (Cairo, 1982), 3:88. Hereafter cited as Badâ'I'. However, according to al-Sakhâwi, Matbûlı had a shaykh named Yusuf al-Burûlûsî al-Ahmadî. see Winter, p. 95.

44 Ibid., p. 44.

45 Ibid.

46 For his details see al-Manâqib, pp. 27-9.

47 i.e.: an expert in Law.

48 i.e.: an expert in Prophetic Tradition (hadîth).

49 i.e.: an expert in Arabic Grammar.

50 i.e.: an expert in reciting the Qur'ân.

51 He is Shihâb al-Dîn Abû al-Fadl Ahmad b 'Ali b Muḥammad b Muḥammad b 'Ali b Ahmad al-Aṣqâlânî, born in 773 h. in Cairo and died there in 842 h. see Badr. op. cit., 1:87-90, see also text on p. 372 no. 143.

52 Winter, p. 45; al-Manâqib, p. 29.

53 It is situated about three farsakh from Cairo. For its description see al-Qalqashandi, op. cit., 3:399.

54 It is situated about one and a half farsakh north of Cairo. see Ibid.

55 This custom is widely practised in the Muslim World. Normally an expectant mother is sent to her maternal home for delivery, especially her first born child.

56 For his details see al-Manâqib, pp. 30-7.

57 It is a basic book in Shâfi'î law.

58 It is a basic text in Arabic Grammar.

59 Al-Manâqib, p. 41.
60 His autobiography. The full title is Latā'if al-Minan wa al-Akhlaq fi wujūb al-Tahadduth bi ni'mat Allāh 'alā al-Itlāq, or simply called al-Minan al-Kubrā or even as al-Minan.

61 He is the son of the founder of the mosque, Muhammad b 'Umar al-Ghamri, a sūfi-shaykh who has been active in Cairo and its suburbs, died in 905 h. see TKS. 2:110-1.


63 For his biographical details see TKS. 2:171-3.

64 Describing this session Winter says, ‘It is a special prayer in honour of the Prophet. This Prayer session ...began after the evening service on Friday nights. [It is called as such, because] the participants spent (yuḥyū) the entire nights in this prayer.’ see Ibid., p. 47. Cf. Husayn, Dr. ‘Ali Šāfī, al-Adab al-Sufī fi Misl fi al-Qarn al-Sabī al-Hijri. (Cairo, 1963), pp. 216-8.

65 Winter. p. 47.

66 Ibid.,

67 i.e.: the religious seminary.

68 He was a relative of Sharaf al-Din b al-Kharazi al-Qutbi, the head of the state council at the time of the Mamluks and the Ottomans, about whom Ibn lyās says that he was a qādi of coptic origin. see Badā'i', op. cit., 4:331.


70 She was the fourth wife of al-Sha’rānī. She was the daughter of Sīdī Abū al-Sa’ūd. She was the sayyidah. see Winter, p. 52.

71 i.e.: both these terms denote that such person is a descendent of the Prophet. see EI, 7:324. This is still in use in many parts of the Muslim World. This title is prefixed to a person’s name such as Syed Jamāl al-Din al-Afghānī. Occasionally in place of Syed they use words like Patcha Sahib [in Afghanistan] and Tanggal [in Tamil Nadu] to denote a person’s genealogical affinity with the Prophet.

72 Winter. p. 52.

73 For his details see al-Manāqib, pp. 163-70.

74 Winter. p. 52. Unfortunately no information is available on her.

75 Ibid.,

76 Ibid., 1:53.

77 He was the imām of Jāmi’ al-Ghamrī, died in 929 h. see TS. 59-61. see also text on p. 372 note 150.


79 He studied under Zakariyyā al-Ansārī [see note 41 above]. He died around 930 h. see TKS, 2:127-9.

80 He died in 905 h. Ibid., 2:117-22.

81 He died in 932 h. Ibid., 2:132-4.

82 He is not only al-Sha’rānī’s shaykh but also his close friend. see Winter, p. 58.

83 For his biography see, al-Kawākib. 2:220-1: TKS. 150-69.

84 It is the plural of the term maqām (spiritual stations), which in the usage of the sūfis means to perform correct etiquettes [istīfā' ḥaqūq al-marāṣim]. For if the etiquettes pertaining to the stations are not performed correctly, then it is not valid for him to ascend to that which is above it, just as one who has not ascertained contentment so that he took possession (of himself) then he will not be
able to have \textit{tawakkul} (i.e. to perform an action while having trust in God)... see al-Qāshānī, Kamāl al-Dīn 'Abd al-Razzāq, \textit{Iṣṭilāḥāt al-Ṣūfīyyah}, ed. by Dr. Muhammad Kamāl Ibrāhīm Ja'far, (Cairo, 1981), pp. 87-8. Further it is said that \textit{tawbah} is the root of all stations and is the first of the \textit{maqāmāt}. see al-Suhrawardī, Shihāb al-Dīn Abū Ḥafṣ 'Umar b Muḥammad b 'Abd Allāh b Muḥammad, \textit{Kitāb 'awārif al-Maʿārif}, (Cairo, 1939), p. 330. While al-Hujwīrī says, "Station" (\textit{maqām}) denotes anyone's 'standing' in the way of God, and his fulfilment of the obligations appertaining to that 'station' and his keeping it until he comprehends its perfection so far as lies in a man's power. It is not permissible that he quits his 'station' without fulfilling the obligation thereof. Thus, the first 'station' is repentance (\textit{tawbah}), then comes conversion (\textit{inābat}), then renunciation (\textit{zuḥd}), then trust in God (\textit{tawakkul}), and so on: it is not permissible that anyone should pretend to conversion without repentance, or to renunciation without conversion, or to trust in God without renunciation." see al-Hujwīrī, 'Ali b. 'Uthmān al-Jullābī, \textit{Kasīf al-Mahīub}, trans. by R.A. Nicholson, (London, 1976), p. 181. Hereafter cited as \textit{Mahīub}. Elsewhere he says that \textit{maqām} denotes the perseverance of the seeker in fulfilling his obligations towards the object of his search with strenuous exertion and flawless intention. Everyone who desires God has a station, which in the beginning of his search, is a means whereby he seeks God. Although the seeker derives some benefit from every station through which he passes, he finally rests in one, because a station and the quest thereof involve contrivance and design, not conduct and practice. \textit{Ibid.}, pp. 370-1.

85 It means defined as \textit{zuḥr amr khāriq li al-ādāh min qibāl shakhs ghayar muqārin li da'wā al-Nubūwwah} [the manifestation of a matter which is miracle emanating from a person who is not associated with any claim of prophethood]. see \textit{al-Ta'rifāt}, p. 193; also see \textit{Mahīub}, op. cit., pp. 218-35; al-Kalābādī, Abū Bakr Muḥammad, \textit{al-Ta'arruf li madhhab ahl al-Tasawwuf}, ed. by Dr. 'Abd al-Halīm Mahmūd and Tāhā 'Abd al-Baqī Surūr, (Cairo, 1960), pp. 71-9.

86 \textit{Lata'if}, op. cit., p. 25.

87 It is an epithet of the Prophet in the Qur'ān, which means unlettered. For details see \textit{EI}, 4:1016.


89 \textit{Al-Kawākib}, 2:221; \textit{Winter}, p. 57.

90 \textit{Al-Kawākib}, 2:221.

91 It is a village situated towards the east of Cairo where the pilgrims gather before departing to Makkah. see Mahmūd, Dr. Munī 'Abd al-Halīm, \textit{al-Akhīaq al-Matbū‘īyyah li 'Abd al-Wahhāb al-Shārānī}, (Cairo, n. d.), 1:81n1.

92 \textit{Al-Kawākib}, 2:221.

93 \textit{Winter}, p. 57.

94 \textit{Ibid.}

95 He is Nasīr al-Dīn al-Laqqānī al-Mālikī, died in 958 h. see \textit{TS}, p. 84-5.

96 Unable to locate.

97 He is Shihāb al-Dīn Ahmad al-Ramlī, born in Muḥūfīyyah province and died in 957 h. He was one of the eminent disciples of Zakariyya al-Anṣārī. [see note 41 above]. \textit{TS}, p. 67-9; \textit{Al-Kawākib}, 2:119-20.

98 \textit{Al-Kawākib}, 2:221.

99 \textit{Winter}, p. 57.

100 \textit{Ibid.}

101 \textit{Ibid.}

102 \textit{Ibid.}

103 \textit{Al-Kawākib}, 2:221.
104 He is the tenth and the greatest of the Ottoman Sultans, reigned from 1520 to 1566. The Turks call him Qântu'ân Sultân Suleyman and Western authors Soliman the Magnificent. He was born in 900 h. (i.e.: 1495) as the son of Sultân Salim and 'A'isha Sultân. For details see EI. 4:522-7.

105 Winter, p. 62.
106 Ibid.,
107 Bashâ, 53(1963) 14:111; Winter, p. 68.
108 Surur, op. cit., p. 142-3.
109 It is a name and title borne by numerous statesmen and generals of the Ottoman empire. FEI, 1:293. Perhaps he is the one whose surname is Semîn (the fat). He was the son of a Dalmatian from Brazza who became the governor of Egypt for four years. He succeeded Rustam Pasha as grand wazir and arranged the treaty of Prague with the Austrian Ambassador, Busbek on June 1, 1562. He died in 1565. see Ibid., p. 294.

111 see Appendix on pp. 309-27.
112 This term is applied on one who is a free thinker or an unbeliever. see Wehr, Hans, A Dictionary of Written Arabic, ed. by J. Milton Cowan, 3rd ed. (New York, 1976), p. 383. Hereafter cited as Wehr.
113 Surur, op. cit., p. 132.
114 Winter, p. 230.
115 He is Abû al-Qâsim al-Junayd b Muhammad b al-Junayd al-Khazzâz al-Qâwâiri, born in Baghdad in 215 h. and died there in 298 h. see Shadhârân, 2:228-30. Ibn al-Subki, 2:28-37. Also see Arberry, A.J. (trans.), Muslim Saints and Mystics: Episodes from the Tadhkirat al-Auliya’ (Memorial of the Saints) by Farid al-Din Attar, (London, 1966), pp. 199-213. Hereafter cited as Arberry. He is quoted as saying, “whoever has not learned the Qur’ân by heart and has not formally studied hadîth, and has not learned law before embarking on sufism, is a man who has no right to lead”. see Kader, Dr. ‘Ali Hassan Abdel, The Life, Personality and Writings of al-Junayd, (London, 1962), p. 3. see also text on p. 364 note 47.
120 Ibid.,
Abu 'Ali al-‘Abbās Ahmad b ‘Umar b Surayj, died in 306 h. at Baghdaḏ at the age of 57. Ţārīḵeh 4:287; Ibn al-Suhbī, 2:87; Ībar, 2:132; Shadharīt, 2:247. See also text on p. 366 no. 68.

Abu ‘Ali al-‘Abbās Ahmad b ‘Umar b Surayj, died in 306 h. at Baghdaḏ at the age of 57. Ţārīḵeh 4:287; Ibn al-Suhbī, 2:87; Ībar, 2:132; Shadharīt, 2:247. See also text on p. 366 no. 68.

Lāṭif, op. cit., p. 88; Winter, p. 230.

Wintertime, p. 230.


Ibid.

He is the teacher of al-Qushayrī. See Wafayaṯ, 3:206.

Al-Qushayrī, op. cit., 1:261; JKV, p. 63.

Ibid.


Sūrūr, op. cit., p. 135.

It is al-Anwār al-Qudsiyyah fi bayan ṣadab al-‘Ubūdiyyah, printed on the margin of his al-Tabaqāt al-Kubrā. Hereafter cited as Ṣūrūr. Muhammad Kamal Hasan of Malaysia has rendered a brief study on this book under the title of The Sufi Concept of ‘Ubūdiyyah. See text p. 331 for details.

This is the plural of faqīr which in Arabic signifies “poor,” but is it used in the sense of being in need of mercy, and poor in the sight of God, rather than in need of worldly assistance. This epithet is added to the name of sūrīs, because, “their maxim was to renounce the goods of the earth; and to live in entire abnegation of all worldly enjoyments, following thereby the words of the Prophet, al-faqīr fakhri, or “poverty is my pride.” See Hughes, pp. 115-6.

‘Ubūdiyyah, op. cit., 1:50-1.

This term refers to the sūrīs.

Khidr is one of the four prophets whom the Islamic tradition recognizes as being “alive” or “immortal”. The other three being Idrīs (Enoch), Ilyas (Elias), and ‘Īsā (Jesus). See Schimmel, Annemarie, Mystical Dimensions of Islam. (Chapel Hill, 1975), p. 202. However, Ibn ‘Arabi does not include Idrīs. See Ibn al-'Arabi, Muḥyī al-Dīn al-Futuḥāt al-Mawṣūm, ed. by Dr. Uthmān Yahyā, (Cairo, 1975), 11:268. Hereafter cited as Ṣūrūr. He has been equated with St. George. See Wilson, Peter L., ‘‘The Green Man: The Trickster Figure in Sufism’’, in Gnossis Magazine, Spring 1991, p. 23. Some have even said that he was the ‘‘Eternal Wanderer’’ [see Schwarzbaum, Haim, Biblical and Extra-Biblical Legends in Islamic Folk-Literature. (Waldorf-Hessen: Verlag fur Orientkunde, 1982), pp. 17-8], and as Elijah [see Anderson, George K., The Legend of the Wandering Jew. (Providence, 1965), p. 409, FURE, 7:6935]. The Qur’ān does not mention him by name, instead, he has been mentioned along with Moses in Chapter 18 (Ṣūrah al-Kahf) verses 60-82, where he is said to have “transgressed” the shara‘i limits by introducing an innocent boy and performing other acts which to the knowledge of Moses were against the law. The influence of Khidr in sufism is very great indeed. For instance, in the Uwaṣi-tarīqah a murīd is “initiated by the mysterious prophet-saint Khidr.” [see Schimmel, Annemarie, And Muhammad is His Messenger: The Veneration of the Prophet in Islamic Piety. (Chapel Hill, 1985), p. 22; Corbin, Henry, Creative Imagination in the Sufism of Ibn ‘Arabi. (New York, 1969), pp. 32, 53-4; al-Tha‘labī, Abū Ishaq Ahmad b Muhammad, Kitāb Qīṣas al-Anbiyā‘ al-Mawsūm bi al-‘Arā‘is al-Hāwī min al-Akhbār Nafā‘is al-Nafā‘is, (Cairo, 1331 h.), pp. 151-60. Hereafter cited as al-Tha‘labī]. While speaking about Khidr, al-Sha‘rānī says that he (whom al-Sha‘rānī calls as Sayyīdina wa Mawlana Abū al-‘Abbās al-Khidr ‘alayhi al-salāt wa al-salām) will not come to anyone in sleep or awake except as a teacher and not as a student, for he is not in need of anyone to teach him, since God has bestowed upon him knowledge from Him. There were people who have had audience with Khidr. They include ‘Umar b ‘Abd al-‘Azīz, Dhu al-Nūn al-Misrī, Abū Yāzīd al-Bīstāmī, Ibrāhīm b Adham, Muḥyī al-Dīn b ‘Arabī, Abū al-Hasan al-Shādhilī, ‘Abī al-Khawwās, Afdal al-Dīn and a score of others. See al-Sha‘rānī, Abū al-Wahhāb b Ahmad b ‘Alī, al-Mīzān al-Khūshīrīyyah, ff. 4b-5a). Also see Irfan Omar’s ‘Khidr in the Islamic Tradition’, in MW, 83(July-October 1993)3:4-279-91; al-Tha‘labī, op. cit., pp. 151-60].

Lāṭif, op. cit., p. 68; Sūrūr, op. cit., p. 134.
139 This point is discussed in some details in Winter, pp. 88-116.

140 It is the plural form of the word ʿālīm (i.e.: one who is learned). However it is more technically used for those who are learned in jurisprudence and law. Thus, it is synonymous with faqīh. According to Tustari, there are three kinds of ʿulāma’: (1) ʿulāma’ al-Rabbānī are those who perceive God as Lord, (2) ʿulāma’ al-Nūrānī are those who perceive God as Light, and (3) ʿulāma’ al-Dhāti are those who perceive God as Essence. [for further discussion see Bowering, Gerhard, The Mystical Vision of Existence in Classical Islam: The Qur’ānic Hermeneutics of the Śūfī Sahīh at-Tustari (d. 283-896), (New York, 1980), p. 228]. Hereafter cited as Tustari.

141 Although the shaykh(s) represented a real threat to the central power, there is no evidence to sustain the fact that they had plans to take over the authority of the state. In fact their lack of political ambition allowed them to retain their relative freedom, even after the Ottoman conquest. What shaykh(s) did was to use their control over the population to maintain their influence on government officials, a matter which allowed them to proceed with their social activities in their zāwiyah(s). see Fernandes, Leonor, “Some Aspects of the Zāwiyah in Egypt at the eve of the Ottoman Conquest,” in Annales Islamologiques 19(1983):16.

142 i.e.: Literatures.

143 Winter, p. 27. Even al-Ghazzālī strongly denounces such usage of bombastic language. [see Al-Ghazzālī, ʿAbū Ḥāmid Muhammad, Ihyāʾ ʿutm al-Dīn, (Cairo, 1967), 3:151-2]. Hereafter cited as Ihyāʾ. While al-Ghazzī says about one ‘Abd al-Qādir b Muhammad b Ḥabīb that even though the latter’s odes were extremely popular, the grammarians did not approve them see al-Kawākhī, 1:245.

144 Winter, p. 28.

145 Ibid.


147 Winter, p. 30.

148 i.e.: one who is learned. Its plural is ʿulāma’. see note 140 above.

149 Winter, p. 30.


152 Winter, p. 231; ‘Ubd al-Waṭāʿī, op. cit., 1:54.

153 Ibid.; see also Ihyāʾ. op. cit., 1:34, where al-Ghazzālī expresses his low opinion of the barren erudition of the ʿuḏāyyah.

154 Winter, p. 231; ‘Ubd al-Waṭāʿī, op. cit., 1:54.

155 Ibid.

156 ‘Ubd al-Waṭāʿī, op. cit., 1:54.

157 Winter, p. 231.


159 Ibid.

160 The principle of this order was the concept of khalwah (seclusion or solitary retreat). It is from this principle the group got its name. The mystical classics of Ibn ʿArabī and Ibn al-Fārīd were part of the esoteric lore studied by them. For instance, Ibn ʿArabī says that if a person wants to gain knowledge of things as they are in themselves, “He should follow the path of the great masters and dedicate himself to retreat and invocation. Then God will give direct awareness of that to his heart.” see Chittick, William C., Ibn ʿArabī’s Metaphysics of Imagination: The Śūfī Path of Knowledge, (Albany, 1989), introduction xiib. They were popular among the Ottomans as the eminent personalities of this order were all of Turkish extraction. Even though al-Shaʿrānī and his master Ali al-Khawwās condemned them for their concept of khalwah and their zeal to know the hidden decrees of God, yet al-Shaʿrānī had respect for the founders of this order. For details see Winter, pp. 105-12; Martin, B. D., “A Short History of the Khalwātī Order of Dervishes,” in Scholars, Saints and Sufis, ed. by Nikkie R. Keddie, (Berkeley, 1972).
161 Winter, p. 234; Latīf, op. cit., p. 47. Al-Ghazzālī believes that a faqīh can be a ṣūfī. see Ihvā, op. cit., 2:196.
162 He is Abū 'Abd Allāh Muhammad b Idris al-Shāfī’ī. He is related to the Prophet through the latter’s ancestor Ḥāshim b al-Muṭṭalib b ‘Abd Manāf. His grandfather Shafī’ met the Prophet. He was born in 150 h. at Gāzā and died in Egypt in 204 h. see Yaqūt, 17:281; Ḥiyāḥ, 9:63; Tārikh, 2:56; TH, 1:280; Fihrist, p. 209; Dībāj, p. 327; Tahdhib, 9.25; Wafayāt, 4:163-9. see text on p. 364 no. 45.
163 It is the plural of madrasah. see note 67 above.
164 This term is used to denote spiritual mentor.
165 Winter, pp. 219-20. The term khānqah or a khānqaḥ also means a zāwiyyah [see note 38 above]. Perhaps it is derived from the words khān-i aqah which means the residence of the spiritual master. For details see EIN.
166 Winter, p. 220.
169 He succeeded his brother al-Malik al-Masʿūd Yūsuf b Muhammad b Abū Bakr b Ayyūb as the ruler of al-Shām, born in 603 h. and died in 648 h. see Wafavat, 5:84-6.
170 Explaining the reason for such inter-madhahib competition, Prof. George Makdisi says, “There was rivalry among the various legal systems for greater membership. Greater membership led to greater influence in the community; and this influence led, in turn, to greater financial support from those in power who were interested in controlling the masses”. see his ‘Ash’ārī and the Ash’ārites in Islamic Religious History, in Studia Islamica 17 (1962): 45.
171 He is Abū 'Ṭāhir Muḥammad b Abū ‘Abd Allāh b Naṣr b Mufayr b ʿAlī b Usamah al-Dhuhlī, died in 367 h. see Wafavat, 5:417.
172 He is Abū al-Misk Kāfir b ‘Abd Allāh b al-Ikshidī, a slave born in Nūbīa in 219 h. became a ruler of Egypt and Syria. He died in 357 h. see Wafavat, 4:99-105; FEI, 4:623-4.
174 He is Abū Tamīm Maʾīn b al-Mansūr b al-Qāʾim b al-Mahdi. ‘Ubayd Allāh known as al-Muʿīzz li Din Allāh, born in 329 h. and died in Cairo in 365 h. Wafavat, 5:24-8.
175 He is the son of the famous qāḍī Abū Ḥanīfah Nuʿmān, born in Maghrib in 329 h. and died in Cairo in 374 h. Wafavat, 5:417-9.
176 Unable to find details.
178 The term wazir refers to a cabinet minister. see Wehr, op. cit., p. 1064.
179 His name is given as Abū 'Alī b Afdāl. Allouche, op. cit., p. 318.
180 ibid., p. 317.
183 Unable to locate. Perhaps he is mentioned by Ibn Ḥajar in his Rāḍ ṣ al-Īṣr ‘an qūdāt Misr, which the researcher is unable to procure.
He is al-Malik al-Zahir Rukn al-Din Abū al-Fath Baybars, the son of al-Malik al-Sālih Najm al-Din Ayyūb b al-Malik al-Kāmil b al-Malik al-ʿAdil b Ayyūb, died in 17th June 1227 A.D. see Sadeque, Dr. Sayedah Fātimah, Baybars I of Egypt, (Pakistan, 1956); see also Wafayāt, 4:155.

Badāʾīʾ, op. cit., 1:233; Taghribirdī, 7:134.

He is al-Malik al-Muzaffar Sayf al-Din Qutuz b ʿAbd Allah al-Muʿīzzi. He was assassinated in 658 h. see Wafayāt, 4:155.

Maqrizi. op. cit., 2:376.

Muḥyī al-Dīn Abū Zakariyya Yahya b Sharaf al-Nawawī, born in 631 h. and died in 676 h. on his way to hajj. see Shadharat, 5:278; Husn, op. cit., 1:222.

Lataʿif, op. cit., p. 266. He is Abūʿ Abū Allāh Mālik b Anas [b Malik] b Abū ʿAmir, born in 95 h. and died in Madīnah in 179 h. see Wafayāt, 4:135-9; Taghribirdī, 2:96-7; Intiqāq, pp. 8-63; Tahdhib, 10:5-9; Kahhalah, 8:168; El, 3:223-7; Segzin, op. cit., 1:457-64; al-Shirāzī, 53-4. He is Muḥyi al-Dīn Abū Zakariyya Yahya b Sharaf al-Nawawī, born in 631 h. and died in 676 h. see al-Daqār, ‘Abd al-Ghānī, al-Imām al-Nawawī: Shaykh al-Islām wa al-Muḥaddithin, (Beirut, 1975). see text on p. 371 no. 131.
CHAPTER ONE

The Main Discussion of al-Mizān.

One of the most important features of al-Sha'rānī's presentation of the shari'ah is his concern to demonstrate that, in fact, despite all the differences there may exist between the different madhāhib, the shari'ah is a unity. The book al-Mizān deals with the nature of shari'ah, its various interpretations, the causes for such variations and how these variations could be reconciled. In this respect, al-Sha'rānī asserts that the shari'ah is "pure,"1 "spacious"2 and "perfect"3 in its origin as it is from God.4 Therefore, it is God who gives the ability to His chosen servants to discover the essence of the shari'ah which al-Sha'rānī describes as "the spring5 of the shari'ah."6 The chosen elite will witness the essential oneness of the shari'ah, irrespective of the variations in its interpretations and applications.

The nature of the shari'ah

Al-Sha'rānī, like most of his predecessors believes that the shari'ah of Muḥammad is the continuation and perfection of the shari'ah which was sent down to all his predecessors. He regards this shari'ah which incorporates earlier legal injunctions (sharā'i') and culminated in the shari'ah of Muḥammad as the "greater shari'ah,"7 quoting the Qur'ān to support this:
He has established for you of the religion (din) which He enjoined on Noah and that which We have inspired to you, and that which We enjoined on Abraham, Moses and Jesus; (namely) that you should remain steadfast in the religion, and make no divisions therein.8

However, each subsequent shari‘ah abrogates part of the preceding one. Thus, according to al-Sha‘rānī the shari‘ah of the Prophet Muḥammad abrogates certain elements in the shari‘ah of Prophet Jesus.9 Therefore, he asserts, "It is obligatory to act according to the shari‘ah of the Prophet and to abstain from that which was abrogated from the shari‘ah of Jesus."10 Al-Sha‘rānī is, nonetheless, reluctant to understand abrogation as the complete removal of the rule abrogated. The fact that he refuses to discuss the possibility of abrogation in the Qur‘ān itself may indicate that he was of the opinion that the abrogating and abrogated verses could be reconciled. Indeed his attempt to show that the previous sharā‘i‘ were not in reality completely abrogated lends support to this view. He maintains, "There can be no abrogation in the shari‘ah in reality,"11 though the prophets' new sharā‘i‘ "resemble the abrogation of the shari‘ah before them."12 Instead, the laws of all the prophets preceding the Prophet Muḥammad are contained in his shari‘ah in the form of the opinions and ijtihād of the ‘ulamā‘.13 Thus, the differences in the opinions of the ‘ulamā‘ of the ummah of the Prophet should not be construed as differences in the shari‘ah itself. In this regard al-Sha‘rānī quotes his master Ḥāfīẓ al-Khawlānī as saying:

None of the doctrines of the madhāhib, whether existing now or having ceased to exist, are anything other than doctrines which have been in the religion of a previous prophet. The reality which God intended by His grace and benevolence was to give this ummah a share in the pious deeds arising from the legislation of the prophets in order that they (i.e.: the members of the ummah) can obtain part of the reward which was available to those who practised them according to the laws of the prophets. (In this way) He especially favoured this ummah, by virtue of the fact that the shari‘ah of their prophet encompasses the totality of the rules of the preceding sharā‘i‘.14
Thus the shari'ah of the Prophet took the essentials of all those preceding shari'ah and purified them from possible distortions of the past. Thus, during his lifetime the Prophet perfected the religion by perfecting the shari'ah. However, after the demise of the Prophet, many new issues cropped up before the 'ulamā' who were forced to exercise their intellectual abilities to deduce appropriate substantive laws to suit the needs of the time. In this way differences of opinion arose among them according to the intellectual ability and spiritual station of each mujtahid. Even though there were differences in their opinions, nothing is considered to have gone outside the periphery of the shari'ah. Al-Sha'rānī maintains that this is because, according to the Prophet, "The shari'ah has come down in 360 paths, and as such none has trodden in anyone of them except that he has succeeded."15 For, according to al-Sha'rānī, the shari'ah came with the breadth and width capable of including all the opinions of what he terms "the imāms of guidance"16 from al-ummah al-Muhammadīyyah17 and that everyone of them, in terms of his doctrine, is perspicacious and on a straight path (al-sirāt al-mustaqim)18. Therefore, he says, "Their differences of opinion are only a mercy to the ummah which grew from the administration of the All Knowing and Wise."19 But it is only a mercy to the ummah of the Prophet Muḥammad, and not to those preceding umam.20 He then quotes the famous hadīth in support of this:

He made the difference of my ummah as a mercy, whereas it was a trial for those who preceded us.21

This is what al-Sha'rānī calls "the special feature of his (i.e.: the Prophet's) ummah."22 And that special feature is that, "God has given the shari'ah to the Prophet according to tashdīd and takhfīf which do not
distress the ummah." This doctrine will be analysed in detail later. However, it should be noted that whatever al-Sha’rānī means by *tashdid* and *takhfīf* are more rigid and less rigid applications of the rules of the *shari’ah* according to the ability of the individual worshipper. Thus, it is owing to this favour from God that the "Prophet showed mercy to the strong ones in his ummah by commanding them to earn the merits and the highest status by performing the ‘azā’im………, while he showed mercy to the weak ones by not compelling them to do what they are incapable of doing," so that they may "receive rewards by performing the rukhas." However, al-Sha’rānī claims that the differences in the opinions of the ‘ulamā’ will continue "till the appearance of al-Mahdī," when "the continuing to act according to the opinion of one who preceded him from the madhāhib will become invalid," and "the rule will be absorbed by the shari’ah of Muḥammad" through the "rule of congruity" to such an extent that, "Had the Messenger of God been present, he would, certainly, have established it over all his rules," as has been indicated in the ḥadīth about al-Mahdī:

Establish my signs (which) will not be mistaken.

He argues that when Jesus descends for the second time, the shari’ah of Muḥammad will be revealed to him "through the tongue of Gabriel." In return Jesus will acknowledge "the reality of the shari’ah of Muḥammad" such that none from among the prophets nor from the ‘ulamā’ who came before and after will go out from the "orbit of the shari’ah of Muḥammad."

Moreover, whoever had acted according to what all the ‘ulamā’ had agreed, "had indeed acted according to the majority of the *shara‘i*i' of
the Prophets" and perhaps he would get "a reward like all the rewards of the followers of all the Prophets, as a gesture of honouring (ikrām) towards the ummah of Muḥammad."37

Therefore, it is an obligation to believe and to attribute truthfulness to the "sharāʾi” of all the messengers despite their variations in respect of legislation."38 Further the ahl al-kashf maintain that "every opinion of the ‘ulamā’ of this ummah is in agreement with the shari’ah in respect of the same issue, even though it has not seemed so to some of the followers, just as every opinion of the ‘ulamā’ of this shari’ah is in agreement with the shari’ah of a prophet who had preceded."40

All their opinions are, thus, connected with the spring of the greater shari’ah. This connection of the opinions of the ‘ulamā’ with the spring of the shari’ah is like "the connection of the shadow with the pole”41 or the "palm to the fingers."42 Thus, "no ‘ālim has given in detail that which has been general in the speech of those who preceded him in time, except for the light which is connected to him from the shari’ (i.e.: the Prophet).”44 Therefore, it is the Messenger of God, who as the master of the shara’ "gave the ‘ulamā’ that subject by which they detailed what was general in respect of his speech,"45 just as the favour after him continues in each period which follows it.46 As such none could pass over those who are before them in time.47 For, by so doing "their attachment to the shārī“ would become disconnected and they would not have been guided in elucidating the difficult passages nor the details of the general concepts."48

Had it not been for the elucidation of the Messenger of God, the Qur’ān would have remained in "its general concepts.”49 Similarly in the
case of the a‘immah of the mujtahids, "had they not detailed that which was general in the sunnah, the sunnah would, certainly, have been left in its general (concepts)." The situation would continue to be the same to the present day. Therefore, "had the reality of the ijmā‘ not been all-pervading in the universe of the ‘ulamā’, no books would have been commented on, nor would they have been translated from one language to (another) language, nor would the ‘ulamā’ have written glosses on the commentaries." 

Therefore, what is called in the hadith the "mistake of the mujtahid" should not be taken in the literal sense, simply because there can be no mistake or even error in the shari‘ah. For it is God who guides and inspires these mujtahids to witness the spring of the shari‘ah and thereby enables them to deduce laws suiting the needs of the time and place. Al-Sha‘rānī describes the spring of the shari‘ah, according to Zakariyyā al-Anṣārī, as "like the ocean and, therefore, from whichever direction you scoop from it, it is one." But the amount of water scooped from the spring of the shari‘ah depends on the physical, intellectual and spiritual abilities and capacities of the mujtahids concerned.

Whoever has succeeded in witnessing the spring of the shari‘ah, will know that the "shari‘ah of Muḥammad came as a broad shari‘ah embracing the positions of islām, īmān and iḥsān." There is in it "no difficulty (ḥaraj) nor any inconvenience (dayyiq) for any Muslims." On the contrary, "whoever witnessed in it any inconvenience, then his witnessing is obstinacy (tanattu‘) and is a calumny (buḥtān)." For God has categorically stated that:

He has imposed no difficulties on you in religion.
The *shari‘ah*, according to the author, falls within the following three categories:

a) that which the revelation has brought from the *ahādīth* and that which went in place of the established principles in respect of the *shari‘ah*.59

b) that which God has permitted to his Prophet so that he could set a path according to his opinion. This is in the form of guidance to his *ummah*.60 For example, his prohibition of men wearing silk and his saying in the *hadīth* prohibiting the cutting of trees in Makkah except the *idhkhir*61 when his paternal uncle al-‘Abbās62 said to him: "except the *idhkhir*, O, Messenger of God."63 If not, God would have prohibited the cutting of all plants of the Ḥaram,64 and the Prophet would not have excluded the *idhkhir*.65 Al-Sha‘rānī gives further examples from the sayings of the Prophet. For instance, when the Prophet was asked whether the *ḥajj* was obligatory every year, he said, "No, if I had said yes, then it would have certainly become obligatory."66 It is because of this that the Prophet used to prohibit the *ṣaḥābah* from asking questions by saying:

Leave me with what I have left for you all,67 fearing that there will be "many revelations of rules arising out of their questions, which they would be unable to carry out."68

c) that which the *shāri‘* has made as a favour to his *ummah* and as a good gesture (*adab*) towards them.69 For, if they perform it they will obtain the favour and if they abstain from it, then there is no objection.70 This is like Prophet’s prohibition of the work of the cupper,71 the prohibition on women visiting the grave and so on.72
Regarding the opinions of the 'ulamā’ being part of the shari’ah, al-Sha’rānī says that their opinions, too, will not “depart from the two sides of the balance of takhfīf and tashdid.” This is because, “they followed the Messenger of God,” and as such “what they found of the injunctions and prohibitions (which) the Messenger emphasised (shaddah), they (too) emphasised, and what they found from him in which he had shown takhfīf (khaffah), they (too) made the takhfīf.” He further stresses that, at times all the a’immah of the mujtahids used to encourage their disciples to act according to the literal meaning of the Book and the sunnah, saying that if their opinions contradicted the literal meaning of the Book and the sunnah, then they should act according to the Book and the sunnah and should “throw their statement at the wall.” This they said only “as a caution to the ummah and as a mark of good manners towards the Messenger of God, so that none of them increase in respect of his shari’ah anything which he did not increase and was not pleased with,” while fearing that by doing so they might be included among those “who have strayed away from the right path.” Therefore, according to al-Sha’rānī, the limit of the opinions of the a’immah which will not please God and His Messenger is “to depart from the principles of the established shari’ah.” Therefore, all that “which the shari’ah bears witness to as valid and which agrees with its principles is counted as part of the shari’ah, even though the shari’ did not openly state anything about it.” For, he argues, “Had they not explained to us that which is general in the ahādīth, the shari’ah would, certainly, have remained in its general (concepts).” This trend of relating the opinion of one period with that which preceded it will, according to al-Sha’rānī, “continue to be current in the speech of the ‘ulamā’ till the Day of Judgement.” Therefore,
none of their opinions will depart from the *shari'ah*, since they "built the principles of their *madhāhib* on the reality (*haqīqah*) which is the higher of the two sides of the *shari'ah* (i.e.: the esoteric and the exoteric aspects of the *shari'ah*)." According to what al-Sha'rānī quotes from Afdal al-Dīn "the *shari'ah* never opposes the *haqīqah*." However, the *haqīqah* differs from the *shari'ah* owing to the shortcomings on the part of the witness. For had he (i.e.: the witness) been honest in respect of witnessing, the *haqīqah* would not have lagged behind the *shari'ah*. This is because "every *haqīqah* is a *shari'ah* and vice-versa." It is due to this relation between the *haqīqah* and the *shari'ah* that the Messenger of God "has ordered us to determine the conditions of the people on the basis of appearance while prohibiting us from investigating and looking into what is in their hearts, as a mercy to this ummah." The *a'immah* also "used to act according to the *haqīqah*," because, they were "*ulamā* of *haqīqah* and *shari'ah* together." The *a'immah* used their ability to spread the *shara'i* proofs in their *madhāhib* and on other *madhāhib* according to the rule of the two sides of this balance, so that none after them will stand in need of thinking about the opinions of the other *madhāhib*, since all of them were "people of justice and *kashf*." By this they know that "the matter resides in the knowledge of God according to a number of particular *madhāhib* and not according to one single *madhhab*." In other words no single *madhhab* could contain all the *takhfifs* or the *tashdīds*. Therefore, every *mujtahid* has left to those who came after him a number of issues which he would know through their being unveiled to him that they as a whole belong to another *madhhab*. This was done according to "the intent of God and
not out of affection for the nearness of the *shari'ah* and the dislike for the *sunnah*.  

Al-Sha'rānī quotes 'Alī al-Khawwāṣ as saying that it is not valid for the opinion of *a'immah* to have departed from the *shari'ah*, "through their study of the subject-matter of their opinions from the Book, the *sunnah*, the opinions of the *sahābah* through valid *kashf* and through the meeting of their spirit with the spirit of the Messenger of God."[95] In other words, he is maintaining that there was some kind of spiritual meeting between the Prophet and 'ulamā' who came after him. Describing this meeting of the spirits of the Messenger of God and the *a'immah*, al-Sha'rānī says that the *a'immah* ask the Prophet regarding everything they understood from the Book and the *sunnah* before they compiled their books by saying: "O, Messenger of God, we had understood such and such from such a verse and we understood such and such from your saying in such a hadith, are you pleased with it or not?"[96] Upon receiving the indication of approval from the Prophet, they practise according to the requirement of his saying.[97] This indicates that the 'ulamā' in their deduction of rules from the Book and the *sunnah*, according to what they have understood from them, do "consult" the Prophet as to the correct import of the verses and *ahādīth*. It is a way of validating their opinions. That is to say that the Prophet gave his approval of their interpretation of the texts.

Thus, according to al-Sha'rānī, the rules of the *shari'ah* will be completed only when one joins together "all the *ahādīth* and *madhāhib* with one another until they become as if they were one *madhhab* with two sides."[98] Therefore, all those who broaden their observation and have
extensive knowledge of the shari'ah, through examining the opinions of its 'ulamā' at all the levels (adwār), will find that the shari'ah was woven from the āyāt,99 akhābār100 and the āthār,101 and that both its thread (sada) and weft (lahmah) were from them.102 Therefore, whoever excludes a ḥadīth or an athar or an opinion of the 'ulamā', is qāṣir (limited) and jāhil (ignorant).103 Moreover, his knowledge is defective in respect of that.104 Al-Sha'rānī likens the knowledge of such an ignorant person to a piece of cloth which is short of one or more threads in its length or weft which it should have.105 Only by joining together and reconciling the contradictory ahādīth and opinions could one claim that he has fully comprehended the intent of the shāri' (i.e.: the Prophet) and his shari'ah.106

The causes for the variations in the shari'ah

According to al-Sha'rānī, the shari'ah varied according to the physical and intellectual abilities of the mukallafs and according to the time and place of the application of the shari'ah. When the mukallafs are physically sound they are given the task of acting according to that which befits their physical constitutions. Even the reward and punishment are determined according to these conditions.107 But, the causes for such differences are not of the making of man. For, every believing servant knows that God is the Knower of all things and is Wise in respect of all things from the azāf108 to the abād.109 Thus it is perfectly in the knowledge of God when He created this universe strengthening its conditions and distinguishing its various states thereby setting its perfection in order, He made it appear with unlimited differences and variations in respect of their constitutions, compositions, conditions and the manners of acting according to the rule of His foreknowledge and
according to what His Will has caused to happen.\textsuperscript{110} Thus the entire creation in the universe came into existence according to these factors and limitations. Therefore, it was due to God’s innovative wisdom, great favours and all encompassing mercy that He divided His servants into two categories: \textit{shaqi}\textsuperscript{711} and \textit{sa’id},\textsuperscript{112} and made them depend on the promise of reward and the threat of punishment, which He had created for them, in order to test their allegiance to His cause.\textsuperscript{113} Again it was owing to His justice and the vastness of His favour that He had made for each of the two, in this world, what is suitable for his state in his present life and in the hereafter.\textsuperscript{114} Thus God perfected His creations and thereby the order of the existing things was secured according to the two aspects of Time and Place.\textsuperscript{115} And of all the creation man was considered as the best, as has been indicated in the \textit{Qur’ān}:

\begin{quote}
We have, indeed, created man in the best of moulds.\textsuperscript{116}
\end{quote}

However, even after creating these perfections in creation, and more particularly in man, God did not make every beneficial thing absolutely beneficial, nor every harmful thing absolutely harmful.\textsuperscript{117} Instead, He made a balance between these two extremities by making a thing benefit one while harming the other and vice-versa,\textsuperscript{118} thereby making the entire creation revolve around His dictates and will. Therefore, no one shall exceed the limits and order set for him by God, as has been stated in the \textit{hadith}:

\begin{quote}
Everyone is capable of acquiring whatever he has been created for.\textsuperscript{119}
\end{quote}

Al-Sha’rānī maintains that when one knows this truth that man is incapable of changing what God has ordained for him, and thus no action by him would do any good in creating something which He did not intend
to create, at that time man would understand the rationale behind such variations in the shari'ah. For it is God who wants His shari’ah to be in a specific state so that He can measure the sincerity of His servants. Al-Sha’rānī maintains that it is purely out of Divine mercy that He sent down the prophets with commandments and commanded them to address the mukallafs according to their level of understanding. For, according to al-Sha’rānī, God did not create all human beings equally intelligent. He has given some spiritual strength but weak physical strength, and to others He has given intellectual strength and weak spiritual strength. By so doing God examines their degree of obedience to Him and maintains a balance in His creation. He is perfectly cognisant of what each and every individual is capable of. Thus, al-Sha’rānī maintains that, it is "due to God’s primordial knowledge of the believers that He made them follow various madhāhib, which would lead them towards one single entity from which they would not be allowed to turn away to something else."

However, al-Sha’rānī suggests that, "these differences in the madhāhib are not on the basis of the religion," as has been indicated by the Qur’anic verse:

\[
\text{He has established for you of the religion which He enjoined on Noah and that which We have inspired to you, and that which We enjoined on Abraham, Moses and Jesus; (namely) that you should remain steadfast in the religion, and make no divisions therein.}\]

Instead, according to al-Sha’rānī, these differences are found in the substantive laws (al-furū’). The main purpose of these differences in opinion is "sometimes a means of raising men higher than they were, and sometimes to protect their status from defect." He argues that it is valid to say that, "all the takālīf are laid down in order to elevate constantly those who perform them in their proper manner." If God had created everyone in one state, then there would have been no need for Him to
mention any perfection, for perfection is known through the existence of imperfection. Therefore, in order to bring man towards this perfection, God, through His foreknowledge of what befits His servant, "creates for the servant a guiding imām who would make him understand the general opinion concerning the obligation in respect of his duty and who would inspire the servant to follow him, so that he would cling to what is most appropriate in respect of him."126 It is due to this foreknowledge of God that He gave the author, al-Sha'rānī, the inspiration of witnessing the spring of the greater shari'ah from which all the madhāhib branch out, and made him see by means of the Qur'ān and the sunnah the fundamental truth that, even though the paths to the source are varied, yet the source is one and the same, such that from whichever direction one scoops from it, it is one.127 The differences, as mentioned earlier, occur owing to the differences among the mujtahids, who are not to be blamed for their shortcomings just because they, in reality, do not have any hand in the making of the shari'ah. This is why the "mistake of the mujtahid" in the hadith has been interpreted in the metaphorical sense.

Having caused the differences in the form of madhāhib, God has indeed shown us the path to reconcile them and thereby attain the best of what He had intended for us.

Shara'i reconciliation of the variations
In elucidating the reconciliation of the shara'i variations, al-Sha'rānī says, "The shari'ah came in respect of the injunction and prohibition in the two grades of takhīf and tashdīd and not in a single gradation."128 This is because God created the mukallafs in two divisions: qawī (strong) and da'īf (weak) in respect of their belief or body in all
ages and times.\textsuperscript{129} Therefore, whoever of them is strong both in body and belief is addressed with the \textit{tashdīd} by which he takes resolute action (\textit{al-‘azā‘īm}), whereas whoever of them is weak is addressed with the \textit{takhfīf} by which he takes the easier course of action (\textit{al-rukḥāṣ}).\textsuperscript{130} Mukallaafs belonging to both these categories conform to the \textit{sharī‘ah} of their Lord at the time of their adherence to their respective categories.\textsuperscript{131} Therefore, neither will the strong be commanded to descend to the \textit{rukḥāṣ} nor will the weak be compelled to ascend to the \textit{‘azīmah}.\textsuperscript{132} Al-Sha‘rānī firmly believes that only by attributing the contradictory opinions and \textit{ahādīth} to these two respective categories of the \textit{mukallaafs} according to their degree of \textit{iμān}, \textit{iṣlām} and \textit{iḥsān}, could one do away with the \textit{sharī‘ī} differences. He maintains that this attribution of \textit{takhfīf} and \textit{tashdīd} to the \textit{sharī‘ah} is such that it is impossible for us not to find two sayings together on one (and the same) law \textit{mukhaffaf} and \textit{mushaddad}.\textsuperscript{133}

Likewise, it is possible that in one single problem there will, at times, be three opinions or more or a single but detailed opinion.\textsuperscript{134} Therefore, the clever one (\textit{ḥādiq}) will refer all opinions to what is appropriate to it and nearer to it in respect of \textit{takhfīf} and \textit{tashdīd}, according to the ability of the individual.\textsuperscript{135} This is because, according to what al-Sha‘rānī argues, all the opinions of the \textit{mujtahids} range between the likely (\textit{qārib}) and the more likely (\textit{aqrāb}), and the unlikely (\textit{ba‘īd}) and the more unlikely (\textit{ab‘ād}), according the legal position of each individual, while the rays of the light of the \textit{sharī‘ah} encompass and include all their opinions despite the fact that they differ in terms of \textit{iṣlām}, \textit{iμān} and \textit{iḥsān}.\textsuperscript{136}
Regarding acting according to the conflicting opinion, al-Sha’rānī quotes al-Shāfi‘ī as saying:

To put two traditions or opinions into practice is better than to eliminate (ilghā) one of the two (traditions or opinions without practising it).  

This, al-Sha’rānī says, is the perfection of the position of ʾimān.  

On the other hand God has ordered the mukallafs to establish the religion and not to be divided in respect of it, by protecting it from the collapse (tahaddum) of its pillars.  

Further, al-Sha’rānī believes that the pure shari’ah provided, in respect of the injunction and prohibition present in every issue, two degrees of takhfīf and tashdīd and not just single degree. For, had it provided one of the two sides of the balance only, then there would certainly be a great difficulty for the ummah in respect of the category of tashdīd and there would be no indications in the religion in respect of the category of takhfīf. Thus everyone who follows a particular imām in respect of an issue wherein that imām had given an opinion which was tashdīd would not have been permitted to act according to opinions of others in difficult and pressing situations. This would have posed great difficulties for the ummah. That is why God made the shari’ah of Prophet Muhammad on a more perfect state through the "rule of equality", such that whenever a mukallaf is faced with tashdīd in one issue, there will be a takhfīf in the same issue, either in the form of a hadīth, or an athar, or in an opinion of another imām, or by an opinion in the madhhab of that mushaddid which is less preferred. This is the main reason for the occurrence of difference of opinion with the ensuing contradiction. However, when there is no difference of opinion there is no contradiction in the same matter. This is because, al-Sha’rānī
argues, "the totality of the shari'ah goes back to amr and nahy, and each of these two, according to the 'ulamā', divides into two sides: takhfiḥ and tashdīd."  As far as the fifth rule is concerned, it is the mubah (permissible), which is the mean between the two sides. Through a good intention it refers to the division of mandūb (desirable), while by an evil intention it refers to the division of makrūḥ (undesirable). This makes up the totality of the laws of the shari'ah. In explaining this, al-Sha'rānī says that among the a'immah, there are those who have interpreted the term injunction (muṭlaq al-amr) to be the absolute necessity (al-wujūb al-jāzim). While others have interpreted it to be recommended (nadb). Likewise in the matter of prohibition some of them have interpreted it to be a prohibition (tahrīm), whereas others have interpreted it as undesirable (karāhah). There are people who act according to these interpretations. Thus, those who are strong in respect of their beliefs and bodies are called upon to perform the 'azimah and the tashdīd which came in the shari'ah clearly or that which is deduced from it in the madhhab of that mukallaf or others. On the other hand, those mukallafs who are weak in respect of their bodies and beliefs are called upon to perform the rukhsah and takhfiḥ according to what has come clearly in the shari'ah and that which is deduced from it. It is due to this inability on the part of the mukallafs, that God has said:

So fear God to the level of your ability.

While the Prophet is reported to have said to such a mukallaf:

If I order you to do a thing, do of it what you are able.

Therefore, the strong man will not be commanded to descend to the level of rukhsah and takhfiḥ, while he is able to carry out the action on the
level of 'azīmah and tashdīd,159 for this would be like playing with the religion.160 Likewise, the weak man will not be compelled to ascend to the 'azīmah and tashdīd, when he is unable to act accordingly.161 However, if he takes on this burden of performing the 'azīmah, he should not be stopped, except in a shari'ī way.162 This is because, according to al-Sha'rānī the inability is of two types: physical inability and legal inability.163 The physical inability refers to any physical defects,164 while the legal inability is like the situation when a mukallaf, even if he is strong in terms of belief and body, wishes to reach a place where there is water in order to ritually purify himself but is prevented by a predator or a highway robber.165 In this situation, if the mukallaf is determined to reach the place of water irrespective of the danger, he will gain no reward, even though he did that in the hope of earning a reward, following that saying of God:

Whoever performs a good act voluntarily, then it is good for him.166

This cannot be considered a good effort, unless he is able to reach the place of water without endangering himself. If not, it will be tantamount to throwing oneself into self-destruction.167 In such a situation the mukallaf should act according to the rukhsah and takhfīf of the shari'ah by performing the ablution through tayammum.

This is a situation where there is a choice for the mukallaf to act according to what he deems to be appropriate for him. Otherwise in ordinary circumstances the stated two levels of takhfīf and tashdīd are on the order of obligation (tartīb al-wujūb) and not on the order of choice (tartīb al-takhyīr).168 Then al-Sha'rānī warns the readers not to commit the mistake of permitting a mukallaf who is physically capable of using water to perform tayammum.169 Likewise one should not permit a
mukallaf who is able to stand in the obligatory salāt to perform his salāt sitting nor should one who is able to perform his salāt sitting, perform it lying down on his side (janb). The same is the rule in the rest of the wājibāt. Even in respect of the opinion regarding most meritorious (afḍal) of the acts of sunnah with regard to the less meritorious (mafdūl) acts of sunnah these rules apply. Therefore, al-Sha‘rānī stresses that it is not of adab for one to do the less meritorious when he has the ability to do the most meritorious, even though the former is the original. Therefore, whoever wants to avoid blame should not descend to the mafdūl, unless he is incapable of performing the afḍal.

Further, al-Sha‘rānī states with regard to the contradictory and opposing opinion in respect of the šara‘i laws and of its scholars that these are eliminated (irta‘a‘a), because "the speech of God and His Messenger are far from contradiction." The same is the case with regard to the opinions of the ‘ulamā‘ and mujtahids as they are able to see the manāzi‘ (intent) of their sayings and places of their (i.e. the laws) deductions, that is, from the Qur‘ān and the sunnah. This is the basis of al-Sha‘rānī’s balance. Explaining the term "the place of controversy (manza‘)" of every opinion, al-Sha‘rānī says that it is, "its starting point (mansha‘)." For example, regarding the opinion of some of the ‘ulamā‘ who prohibit the seeing of the face of a handsome beardless youth, al-Sha‘rānī opines that the starting point of this opinion is caution. The proof of this cautious person (al-muḥtāt) is in accord with the saying of the Prophet:

Leave what causes uncertainty in you for that which does not cause uncertainty in you.
Explaining further, the author says that when one ponders over the saying of God:

Do not approach (i.e.: handle) the wealth of the orphan, except (with the intention of bringing something) which is good (for the orphan in return),\(^{182}\)

it becomes clear that the prohibition from approaching the orphan, except in the way required, is aimed at deterring (\textit{tanfîr}) harm from the orphan and his property.\(^{183}\)

Further discussion on al-Sha'rānī's exposition of the important theory of \textit{takhfîf} and \textit{tashdîd} is treated in a separate chapter that follows later.\(^{184}\)

**The proofs for the Balance**

In the course of al-Sha'rānī's exposition in the previous pages he has also tried to provide proofs. He states that the \textit{shāri'} (i.e.: God) had sought from the \textit{mukallafs} "the agreement and not the difference"\(^{185}\) as has been stated in the Qur'ān.

He has established for you the religion which He enjoined on Noah and that which we have inspired to you and that which we enjoined on Abraham, Moses and Jesus, (namely) that you should remain steadfast in the religion, and make no divisions therein.\(^{186}\)

This is in respect of the agreement in which neither a Qur'ānic text nor a tradition provides evidence.\(^{187}\) However, in respect of the agreement for which the Qur'ān and the \textit{sunnah} give evidence, it is for the unification of the religion and not for its division.\(^{188}\) Al-Sha'rānī gives the following Qur'ānic verses as the proof for this balance:

(1) God intends ease for you and does not intend difficulty for you.\(^{189}\)
He did not make any difficulty for you in respect of the religion.  

Fear God to your ability.

God does not compel a soul except according to its ability.

God is kind and merciful towards the people.

After mentioning these Qur’anic verses, al-Sha’rānī goes on to list some of the ahādīth which come as proofs for his balance. They are:

1. Religion is easy (to practise) none makes it difficult except it overwhims him.
2. In respect (of what you could) enjoy and dislike, (follow) that which (is in) your ability.
3. If I ordered you to do something, do it whatever you are able.
4. Go for ease and do not go for difficulty and give glad tidings (to people) and do not drive (them away).
5. The difference (of opinion) of my ummah is a mercy.

Commenting on the last listed hadīth, al-Sha’rānī says that it (i.e. ikhtilāf) is a broadening of scope for them and for their followers in respect of the conditions which are connected with the substantive laws (furū’) of the shari’ah. However, it should not be misconstrued that such differences are in respect of the basic principles of religion like tawḥīd and its related sciences; some maintain that differences are meant only for worldly matters. The pious predecessors, as al-Sha’rānī maintains, used to dislike the very word al-ikhtilāf. Instead they said that it was only a broadening of the meaning of the text, fearing that anyone among the common people might misunderstand it to be the opposite of what was intended. In this respect al-Sha’rānī quotes Sufyān al-Thawrī as saying:
Do not say (that) the 'ulamāʾ differed in opinion on such and such a thing; (instead) say (that) the 'ulamāʾ had broadened (the application of the meaning) to the ummah in such matters.205

Al-Sha‘rānī gives the opinion of al-Shāfi‘ī as a further proof for the validity of the two sides of the balance, that is, al-Shāfi‘ī says:

To act according to two (different) ahādīth or two opinions by relating them to two states is better than repealing one of them.206

Therefore, according to the author, no imām will raise any objection nor express ignorance of these two sides of the sharī‘ah.207

When the imām is informed of the state of a mukallaf who is incapable of performing the 'azīmah which he has put forward, then he would certainly issue him a fatwā with rukhsāh which has been put forward by others by way of ijtihād.208

Apart from the above proofs, al-Sha‘rānī gives proofs from the Divine Revelation before the balance descended through Gabriel.209 In this respect he says that the people of kashf are unanimous that the five rules of the religion were sent down from different places and not from one place as it has been supposed by some of them.210 Thus the wājib211 descended from the Highest Pen,212 the mandūb213 from the Guarded Tablet,214 the harām215 from the Throne,216 the makrūh217 from the Seat218 and the mubah219 from the Lote Tree.220 The wājib and the harām bear witness to the side of tashdīd while the makrūh and the mandūb bear witness to the side of takhffī.221 As far as the mubah is concerned, it is a matter related to the barzakh,222 which God made as a mercy to His servants so that, by performing it, they could get ease from the difficulty of the compulsion and hindrance.223 Thus, in that way they will neither be under injunction nor prohibition.224 This is because man is subjected to
hindrances which he has no power over. However, according to some of the ārisīs, even the mubah is divisible into takhfif and tashdid. That is by looking at what falls under category of being the best and that which falls short of the best. Al-Sha’rānī outlines the wisdom involved in specifying the sending down of the five rules from the above-mentioned places in these words:

The wisdom in respect of that is that every place supports its šāhib. Thus, from the Highest Pen, there will be a consideration of the wājibat, thereby supporting its šāhib according to what he sees in it. From the ‘arsh there will be a consideration of the al-mahzurat, thereby supporting the šāhib with mercy. This is because the ‘arsh is the seat of the name al-Rahmān (The Merciful). Thus, He will not see the people in His presence except with the eye of Mercy….according to that which suits him, (either by the) Mercy of Creation or the Mercy of Sustenance or the Mercy of Delaying the Punishment. From the kursī there will be a consideration of the makrūḥat and He will rush to its people with forgiveness and disregard. This is because the one who abstains from the makrūh will not be rewarded and He will not punish those who do it. As for the sidrah it is the fifth stage. It was called as muntahā because none of the actions of the sons of Adam will pass over it….Thereafter it will depend on the behaviour of the mukallafs.

The legal maxims which al-Sha’rānī quotes in the text can also be considered as proofs for this balance. They include the maxims like:

1. al-maqāṣid ăkadu min al-wasā’il. [the aims are more important than the means].
2. kullu ma juwwiza li al-darurah yataqaddaru bi qadrihā. [all that which was permitted for inevitable (situations) will be determined according to their measure].
3. al-maysur lā yasqut bi al-mas’ur. [facility will not be cancelled by difficulty].
4. al-darurāt tubiḥ al-mahzurat. [necessities permit the forbidden].
5. kullu man ‘azumat martabatuhu ‘azumat saghiratuhu. [all those whose positions increase in greatness, their minor mistakes will be counted as great].
He also gives the opinions of other scholars which support this balance. He quotes particularly Ibn al-'Arabī. What al-Sha'rānī quotes from Ibn al-'Arabī and other men of kashf is that if the servant followed the stations of the sūfīs confining himself to one madhhab alone without giving any consideration to other madhāhib, then that madhhab must bring him to the spring from where his imām has deduced his opinions. There, he will see that the opinions of all the a'immah are scooped from one sea. Thereafter, he will not necessarily restrict himself to his madhhab, instead he will judge all the madhāhib as equal in their validity as opposed to what he used to believe before.

One may wonder why he has repeatedly claimed at many places in his al-Mizān, that none has preceded him in composing a balance like this, even after God has revealed this truth in His Book. Did those who preceded al-Sha'rānī overlook these Qur'ānic verses? Or were they simply ignorant of such a balance? If not, then in what way is al-Sha'rānī's claim valid? These questions will be answered later when a study on the origin of the theory of takhfīf and tashdīd is made.

**Purpose in composing al-Mizān**

In the introduction of al-Mizān, al-Sha'rānī states his purpose and aim in writing this balance. He says that personally he "likes agreement (wifāq) and dislikes disagreement (khilāf), especially in respect of the qawā'id al-dīn (principles of Religion)," even though the difference of
opinion is a mercy according to others. He says further that the greatest motives for him to write this balance are three fold:

(1) To act according to what is contained in Qur'an:

He has established for you of the religion that which He enjoined on Noah and that which we have inspired to you, and that which we enjoined on Abraham, Moses and Jesus; (namely) that you should remain steadfast in the religion, and make no divisions therein.

(2) To bring about agreement between the saying and belief of the mukallafs that "all the imāms of the Muslims are guided by their Lord." so that by undertaking the duty of following their imāms, they (i.e.: the mukallafs) may accumulate the rewards which result from that in the other world (dar al-akhirah). However, if the saying and belief of the mukallafs disagree with their imāms who are rightly guided by their Lord, then such mukallafs go beyond (yakhruju) "the quality of minor hypocrisy (al-nifāq al-asghar)," which the Prophet has blamed. Moreover, God has blamed the hypocrites among the unbelievers for their hypocrisy, which is in addition to the blame they acquired for their unbelief, in His saying:

O, you, the Messenger, let not those give grievance to you, who compete with one another in respect of unbelief (whether it be) among those who say: "we believe" with their lips whereas their hearts have no faith.

(3) To discourage the muqallids from "hurrying towards criticising the mujtahid who opposes the principles of their madhhab." This is because the mujtahid is guided by his Lord. By this, he may, perchance bring forth (ażhara) his supportive evidence (mustanad) in his madhhab to one who criticises him so that the latter could acknowledge it.
Genesis of al-Mizân

Describing the genesis of al-Mizân, al-Sha'rānī states that when he started teaching this balance to the students, they did not agree with it, until he agreed for it to be read by the scholars of the four madhāhib.248 Then they acknowledged its merit as it had been acknowledged by the scholars of the madhāhib and had proceeded to read it and copy it till the chapter on what is forbidden with regard to marriage.249 That was only after they asked him to elucidate it with an explanation which was fuller (awsa') than the previous explanation, and to convey (iṣāl) its understanding to their hearts as an experience without undertaking any effort on the path of riyāḍah250 according to the principles of the ṣūfīs.251 He says that that was as though they had, by that, "loaded on my back all the mountains of the world, despite my weak body."252 Thus, he got into a situation that, whenever he tried to explain to them the concord between two aḥādīth or two opinions in one category (bāḥ), they would bring to his attention a ḥadīth or an opinion concerning another category which according to them contradicts the one which the author had presented (muqābilahu).253 From all these, al-Sha'rānī says he "earned (nothing but) severe fatigue."254 It was as if they had gathered together the rest of the religious scholars, from the first to the last until the Day of Judgement, who put forward their opinions in the circles of scholars and then had said to him, "Argue with all these people and make them see that all the madhāhib whether now lost (mundarisah) or still practising (musta'malah), are valid."255 For there is "no preference among them for one madhhab over the other madhhab, for all of them have been scooped from the spring ('ayn) of the Pure shari'ah."256 That is the most difficult task which "the 'ārifān could bear with (regard to) the secrets of
the rules of God.” 257 Then he sought proper guidance from God and answered their questions in explaining the Balance. 258 In that al-Sha’rānī stuck to the ultimate of what he knew would create a great (masās) need for it, through the exposition and the explanation of their meanings, both the aḥādīth of the shārī‘ah, which were said to be contradictory to them, and all the opinions of the mujtahids and their followers in respect of all the chapters of the fiqh, i.e.: from the Chapter of Purification to the last chapter of the fiqh, which were based on the two sides of the shārī‘ah, namely takhfif and tashdid, so that there would not remain with them any contradiction in respect of the shārī‘ah, and instead it would become a source of kindness for them. 259

As we would expect from a scholar like al-Sha’rānī, he explains the means by which he came to understand the balance as being a result of his ṣūfī outlook and his profound reading of the works of earlier scholars. As far as ṣūfism being at the heart of his balance was concerned, he explains it as follows:

(a) through dhawq, 260 kashf and yaqīn

(b) through extensive reading and research on the evidences of his predecessors.

He states in this regard that he first took the knowledge, belief and the acceptance of this truth from al-Khīḍr. Thereafter, he took to sulūk under his spiritual mentor ‘Alī al-Khawwās to the extent that he was able to examine the “spring of the shārī‘ah through dhawq, kashf and yaqīn, without even having any doubt as to the truth and the origin of the shārī‘ah.” 261 In the course of attaining this stage of witnessing the spring of the shārī‘ah, al-Sha’rānī says that he undertook strenuous spiritual
exercises (riyāḍāt) such as tying a rope around his neck so that his flanks did not touch the earth, and he denied himself any food which did not befit his humble status.262 Instead, he swallowed dust in the absence of such food;263 he did not eat anything till he completed his investigation on the source of the food and was not contented with the rukhas of the shara’.264 Thus, he looked into the colour or flavour or taste of the food.265 For the ḥalāf food he sensed a good flavour and for the ḥarām food he sensed a bad odour.266 However, for the shubahāt food, al-Sha’rānī says that, "there is a flavour different from the bad odour of the ḥarām" food.267 On the appearance of these signs he freed himself from looking at the possessor (sāhib al-yad) of that food and he would not depend on him.270 Moreover, he did not pass through the places of injustice like the archway erected by Sultān al-Ghawrī271 between his madrasah and his blue dome and other buildings of the governors (wulāt).272 By these self-imposed restrictions, al-Sha’rānī attained the stage of piety.273 He was not alone in this matter.274 Other people had preceded him, like Ibrāhīm b Adham,275 who is, also, reported to have swallowed dust for twenty days, when he did not find food that befitted his humble status.276

Then when al-Sha’rānī attained this stage of piety, he managed to understand from the core of his heart "about the essence (i.e.: spring) of the pure shari‘ah from where the opinion of every scholar branches out"277 and there he says that he saw that "for every scholar there is a stream from it, and I saw all of them as a pure shari‘ah, and I learnt and ascertained that every mujtahid is correct (both) in kashf and yaqīn and not in supposition and approximation,"278 and that there is "no madhhab better in terms of the shari‘ah than any other madhhab."279 His conviction of this reality is so firm that he did not easily incline towards
one who debated with him without any clear proof for the preference of one madhhab over another.\textsuperscript{280} However, he says that he might have done it out of sociability towards the debater and said to him, "Yes, your madhhab is preferred"\textsuperscript{281} that is for the debater, since he is veiled from seeing this reality.\textsuperscript{282} Then al-Sha’rānī describes what he has seen in the spring. According to his narration, he saw the madhāhib of the mujtahids as streams emanating from the spring of the shari’ah.\textsuperscript{283} From the totality of what al-Sha’rānī had seen in the spring of the shari’ah are the streams of all those mujtahids whose madhāhib are lost.\textsuperscript{284} However, they had dried and had become mere stones. He did not see any stream running from them except the streams of the four imāms.\textsuperscript{285} He interpreted that to mean that "their madhāhib will exist until the appearance of the Final Hour."\textsuperscript{286} Then al-Sha’rānī says that he "saw the opinions of the four imāms going out from inside the streams."\textsuperscript{287} This is because the opinions of the ‘ulamā’ of the madhāhib reach the shari’ah and enable one who acts by it to reach the Door of the Heaven, if God wills.\textsuperscript{288} Therefore, according to al-Sha’rānī’s opinion, all those madhāhib which are prevalent now are attached to the ocean of shari’ah, like the attachment of fingers to the palm, and the attachment of the shadow to the pole.\textsuperscript{289} He says that after realising this truth, he withdrew from his previous belief which he used to believe in before;\textsuperscript{290} he used to give preference to his madhhab over the others, and believe that the right one among the imāms was only one, but without specification.\textsuperscript{291} Then, when he went to perform his ḥajj in the year 947 hijri\textsuperscript{292} he prayed to God in the hijr\textsuperscript{293} under the mīzāḥ\textsuperscript{294} of the ka’bah\textsuperscript{295} to increase him in knowledge.\textsuperscript{296} There he heard a voice from the sky saying, "Is it not sufficient for you that we have given you a Balance by which you will establish all the
opinions of the mujtahids and their followers till the Day of Judgement which you will not see anyone among your contemporaries experiencing. Then you said 'God is sufficient for me', and asked for increase in knowledge?'

Thus, he establishes the Divine origin of his al-Mizān. That is, he attained this stage of balancing the contradictory opinions and ahādīth through adhering to the sulūk and undertaking strenuous spiritual exercises, and he managed to earn this Divine Favour. It is on this basis that he makes his assertion that none had preceded him in composing a balance like his. However, the list of books he states that he studied before arriving at this balance could have contributed to his formulating the balance. He states in this respect that he realized this through dhawq and not through 'ilm. For al-Sha'rānī maintains that, "'ilm will stay away from its possessor and veils from him as opposed to dhawq." Thus, he classifies the books which he had studied before laying down this balance under the following three categories:

(1) books, the texts of which he had committed to memory.
(2) books, the commentaries of which he had studied under the 'ulamā'.
(3) books, which he had studied on his own and consulted the 'ulamā' when faced with difficulties in comprehending them.

After giving a long list of works he had consulted before laying down this balance, al-Sha'rānī stresses that whoever doubts that he studied these works, "should bring to me any book he wishes from these books and recite it before me and I shall solve it without studying it." Thereafter he advises those who wish to have a comprehensive
understanding of the opinions of the 'ulamā' to study in the same way that
he had studied.304 One may wonder why he had listed all these works
which he had studied before laying down this balance. In other words,
does this categorization of takhfīf and tashdīd also apply in all these fields
of study? Al-Sha’rānī argues that the principles of takhfīf and tashdīd
apply to all the sciences of the sharī‘ah including lughah,305 nahw and
usūl.306 Thus to require ordinary people to recite the Qur’ān with the
meticulous pronunciation of an expert on classical Arabic would be
tashdīd (and probably impossible to achieve),307 whereas to allow them to
recite somewhat incorrectly would be takhfīf.308 Presumably the
incorrectness is one of faulty pronunciation.309 Similarly a student who is
required to study the Qur’ān and hadīth in the light of the full range of
grammatical and linguistic rules of the Arabic language is subject to
tashdīd, whereas the one who is allowed to limit his study to the mere
inflection (i‘rāb) is allowed the takhfīf.310 The study of these sciences
involves both fard kifāyah311 and fard ‘ayn312 in terms of tashdīd.313
Provided there are ‘ulamā’ who are fully cognizant of the sciences, the
fard kifāyah is attained.314 However, anyone who wants to embark on the
full study is subject to the fard ‘ayn of the tashdīd in terms of his study.315

In reply to a hypothetical question: "What is the benefit of
composing this Balance, when it is known that the people of all the
madhāhib know that all those who are incapable of performing the
‘azimah, are permitted to act according to the rukhsah?,"316 al-Sha’rānī
says:

The answer is that what this man has said is valid, but the people of the
madhāhib if they act according to the rukhsah, will act according to it,
but they have (some) limitation and inconvenience thereof in themselves
due to their lack of knowledge of its basis and its agreement with the
Book and the sunnah as opposed to the Master of this Balance. He acts
according to it with a joyful heart because he understands its basis and its agreement with the Book and the *sunnah*. Therefore, what is the position of one who is certain in respect of the validity of his worship to one who doubts it?\(^{317}\)

**Manner of reaching the spring of the pure *shari‘ah***

Al-Sha‘rānī states that one should try to establish the evidence and proof for all the opinions of the *imāms* and their *muqallids* either by:

1. *Nazar* (speculation) and *istidlāl* (inference).
2. *Taslim* (acceptance) and *īmān* (belief) or
3. *Kashf* (unveiling) and *‘iyan* (direct-vision).\(^{318}\)

And there is no other way. It is, therefore, necessary for every Muslim to have one of these ways in order that his belief agrees with his saying that all the *imāms* of the Muslims are guided by their Lord in all opportunities and times.\(^{319}\) This is because the belief of one who says that all the *a‘immah* are guided by their Lord, but keeps away from acting according to the opinion of people other than his *imām* is not perfect except if his action agrees with the opinion of every *mujtahid* equally.\(^{320}\) Thus, for all those who did not attain this belief by way of *kashf* and *‘iyan*, it is obligatory to believe that by way of *taslim* and *īmān*.\(^{321}\) For, al-Sha‘rānī quotes al-Shāfī‘ī as saying "Acceptance is half of *īmān*."\(^{322}\) While al-Rabī‘ al-Jīzī\(^{323}\) said to him "Nay, it is the whole of faith, O, Abū ‘Abd Allāh."\(^{324}\) Further, al-Shāfī‘ī is reported to have said:

> It is of the perfection of faith of the servant that he does not discuss the principles, nor does he question it with "why" nor "how."\(^{325}\)

This is only for those who are unable to understand the means of deducing the law from the sources. As for those who are able to infer such laws from the sources, al-Sha‘rānī suggests that they could attain the
ability to reach the spring of the shari‘ah only through kashf and yaqin. Such an ability is a favour from God, as has been stated in the Qur‘ān:

That is a favour of God which is given to whomsoever He wishes. Verily God is a Master of the greatest favour.

This is because, according to al-Sha‘rānī, the ability to reach the position of the a‘immah through thought process or inference was not claimed by anyone after the four a‘immah, except Muḥammad b Jarir al-Ṭabarî. However, this has not been established.

Nevertheless it is attainable, according to al-Sha‘rānī, by one who adheres to the sulūk under the guidance of the spiritual master who is cognisant (‘ārif) of the balance of every movement and pause on condition that he submits himself to him (i.e. to the spiritual master) so that he (i.e. the spiritual master) could have the right of disposal over him and over his wealth and his family in whatever way he (i.e. the spiritual master) wishes with the completely delighted (acceptance) of the murid’s heart.

This adherence to the sulūk and submission to the spiritual master might be difficult to bear. For instance, al-Sha‘rānī says that when a spiritual master tells his murid to divorce his wife or to give up his right over his wealth or his job and the murid hesitates, then he will “not get any sniff of the way to reach the spring of the abovementioned pure shari‘ah, even if he worships God for a thousand years in the customary manner.”

When a person studies the spring of the shari‘ah, it is not valid for him to be ignorant of any of the principles of the rules pertaining to the shari‘ah nor of the disputed opinions of the ‘ulamā‘. instead, as al-Sha‘rānī emphasises, he should begin to establish all the madhāhib of the
mujtahids and their followers in his heart. There is no need for him to look into the Qur'ān because a person of this status knows through kashf and yaqīn the method of the chain of every opinion in respect of the knowledge towards the shari'ah and thus he knows from where in the Book and the sunnah the mujtahids took their opinions. Such a person even knows, according to al-Sha'rānī, that the authority of every opinion is based on the Precinct of the Name which emanates from the Divine Precinct. This is the true status of the 'ulamā' with regard to God and His laws.

Therefore, it is obligatory on the mukallaf to adhere to this path under a shaykh till he reaches the stage of witnessing the first spring of the shari'ah. This is because, according to al-Sha'rānī, "all that which does not enable one to reach the wājib, except through it, is itself a wājib." Thus the witnessing of the spring of the shari'ah should be according to the status of īmān, islām and iqān of the mukallafs, by virtue of the fact that "for every one of these statuses there is a spring which is peculiar to it, just as for every act of 'ibādah there is a condition in respect of all its statuses which is known to the ahl al-kashf." It is on the basis of this that one of them begins to believe that every mujtahid is right and that all the a'immah of Islām are guided by their Lord. However, this belief will not be valid, except when it is held with certainty (jāzim). The real certainty will not be valid except by witnessing the spring from where all opinions branch out.

In following the sulūk one must adhere to the following conditions:
(1) the *murīd* should not spend a single moment in ritual impurity neither in the day nor at night.

(2) He should not break fast, during his *sulūk* period, except for necessity.

(3) He should not eat anything in which there was an animal soul.

(4) He should not eat except when early indication of emergency occurs.

(5) He should not eat the food of any man who is careless in respect of his occupation, like one whom the people feed because of his piety and asceticism.

(6) He should not allow himself to be unmindful of God at any moment. Instead he should continuously perform his *murāqabat* night and day.

Even after adhering to the restrictions imposed for the attainment of piety such as eating the permitted things and abstaining from sins, one cannot attain the position of standing on the first spring of the *shari'ah*, without a spiritual mentor. This is because, al-Sha'rānī maintains, "In the pious deeds of the servants there are imperfections. Nay, if the removal of the imperfection from his worship is assumed, then it will not be valid for him to attain the (status of) standing at the spring of the *shari'ah*, due to his imprisonment within the confinement of *taqlīd* towards his *imām*." As long as he is veiled by his *imām* from witnessing the spring of the *shari'ah*, it will not be possible for him to surpass his *imām*, except by following another person who is above the *imām* in spiritual station, like the 'ārif.
Therefore, anyone wishing to attain the understanding of the balance through dhawq and wanting to establish the madhāhibs of the mujtahids and their muqallids, must follow the path of the qawm and the riyādah under a true shaykh who has experience in the path so as to teach him the sincerity and truthfulness in respect of knowledge and action, thereby removing the frivolities of the self which hinder him.350 The murid should imitate the shaykh's direction until he reaches the status of "relative perfection (al-kamāl al-nisbi)"351...and witnesses the first spring of the shari'ah from which the opinions of every 'ālim spring out.352 On the other hand proceeding without a shaykh he will not be free from pride, arguments and rivalry in worldly matters.353 Therefore, it will not make him reach the spring of the shari'ah even if all his contemporaries bear witness to him with the title of al-qutbiyyat al-kubrā.354 However, al-Sha'rānī contradicts himself in another place in the text where he says, "Whoever has been called a qutb (Spiritual Pole) cannot be a murid to another qutb. Even some men of certitude (muḥāqqiqs) have said: 'Since the qutb is unable to encompass his own stations, how is it possible for him to know the merits of those other than him?'"355 This is because, the author suggests, "The attributes of a qutb in respect of 'ubūdiyyah (servanthood) contradict the qualities of rubūbiyyah (mastership), since it is not possible to limit the attributes of rubūbiyyah, likewise one cannot limit the attributes of 'ubūdiyyah."356 In elucidating this Muḥīy al-Dīn Ibn al-'Arabī says in the 73rd chapter of his Futūḥat357 that "whoever follows the path without a shaykh or without observing piety over what God had prohibited, then there is no means for him to attain the gnosis (ma'rifah) of God....even if he worshipped God for as long as the age of Noah."358 Thereafter, when the servant reaches the
gnosis of God, there is "after that neither a purpose nor a progress beyond
God." There he will study by kashf and yaqin the Presence of Divine
Names and he will see the connection of all their opinions with the
Presence of the Names and there the disagreement with him in respect of
all the madhāhibs of the mujtahids will be removed due to his witnessing
the integration of all their opinions with the Precincts of the Names and
Attributes. Thus none of their opinions will be excluded from their
presence.

Even though al-Sha'rānī places great importance on the knowledge
attained through kashf, he nevertheless asserts that one should "compare
the knowledge which he gained through kashf with the Book and the
sunnah before acting according to it." This is due to the possibility of
his kashf being permeated with the deceit of the Iblīs, whom God has
made powerful, so as to erect for the mukashif the picture of the location
from where he took his knowledge of the Sky, or the Throne, or the Seat,
or the Pen, or the Guarded Tablet, whereas he might be mistaken that the
knowledge is from God, thereby making himself go astray and leading
others astray. Therefore al-Sha'rānī suggests that after making such
comparison between the kashf and the naqli evidences, one should act
according to that in which they agree, and if not he should abstain from
acting upon it. However, whoever took his knowledge from the spring
of the shari'ah without deceit by way of his kashf, then it is not valid for
him to withdraw from it as long as he lives, since it agrees with the
shari'ah. In short, al-Sha'rānī says that the correct kashf will always
be in agreement with the shari'ah. From this one will know that the
nature of kashf is to complement the naqli evidences. That is, it does not
add anything new to the knowledge, instead it helps to strengthen one's
conviction. Despite al-Sha'rānī's emphasis on the importance of *kashf*, he does not discuss whether *kashf* does in any way add to that which has already been revealed in the Qur'ān, because this could be misconstrued to mean that the Qur'ān is deficient in knowledge, whereas it clearly states that nothing has been left out of it, meaning that it is comprehensive and perfect. Perhaps, the role of *kashf* is merely to confirm what has been stated in the Qur'ān. In other words, "*kashf*", as the author says, "Is a way of conveying information on a matter according to what it is in itself." And the recipient of such *kashf* is on par with with the mujtahids in respect of certitude. Moreover, he says that for such a person there is "no need for him to acquire the tools of *ijtihād* which they (i.e.: the *a'imma*) had made a condition in respect of the mujtahid." Al-Sha'rānī compares this person to an ignorant man sailing through the sea who comes with a scholar to fill his waterskin (*siqā'ahu*) with water. There is no difference between the water which the scholar takes and the water which the ignorant takes. This is the rule of all people who believe in this balance in terms of the laws which the shari'ah has declared as opposed to what it has not declared. However, if a person wishes to deduce it from an *āyah* or a *ḥadīth*, he certainly needs to understand the instruments like *nahw*, *uṣūl*, *ma'āni* and others.

However, according to al-Sha'rānī, in the event of one's non-comprehension of the balance through *kashf* and *dhawq*, one should act according to the preferred opinion, as long as one did not reach the status of experiencing this balance. However, it is not appropriate to act according to the less preferred (*marjūh*) opinion, except if it is considered
more prudent (ahwaṭ) in respect of the religion than the preferred opinion. As an example, al-Sha'ra'īnī quotes the opinion of the Shāfi‘ites in respect of the nullification of purification (i.e.: ablution), by touching a young girl, the hair and the nail. Even though they considered this opinion as weak, it nevertheless is prudent in respect of religion. Therefore, to repeat ablution is better.
ENDNOTES TO CHAPTER ONE

1 Al-Mizān, 1:2.
2 Ibid.
3 Ibid.
4 Ibid.
5 The word 'ayn has a number of meanings including eye, look, hole, eye of a needle, eyelet, bud of a tree, small opening, defect, aspect, countenance, spy, watchet, stroke of the evil eye, party of men, direction, human being, self, substance, one of the two saddle-bags, one scale of a balance, sun, money, cash and so on. See Hava, I.G., al-Fāra'īd al-Durriyyah: Arabic - English Dictionary, 5th ed., (Beirut, 1982), p. 514. However, for the philosophers this term denotes a particular concrete thing perceived in the outside world as distinguished from the concept of that thing in the mind; in this sense it is synonymous with the term shakhs. It is also sometimes used in the sense of substance. The sūfis, on the other hand, use the term 'ayn for the inner essence of a thing and more specifically for the universal idea of a thing eternally existing in the mind of God. Hence the term al-{n}ā'īn al-dhābīnāt...for the eternal ideas existing in the mind of God which are said to be really real, of which this world is a mere shadow or dream according to the Platonic tradition, see Sheikh, M. Saeed, A Dictionary of Muslim Philosophy, (Lahore, 1970), p. 79. Al-Sha'rānī uses this term in the sense of "spring", though it is known in Arabic as a'yān. However, he is not consistent in his use of the term spring. Occasionally he calls it as the ocean of shari'ah (bahr al-shari'ah) see al-Mizān, 1:28.
6 Al-Mizān, 1:2.
7 Ibid.
8 Ibid., 1:4, 7 and 25; al-Qur'ān, 42:13. Commenting on this verse al-Rāzī says, "this verse indicates that the shari'ī are of two kinds: that which does not entertain abrogation and changes therein, instead, it is essential to be maintained in all shari'ī and religion, like opining about the ugliness of lies, injustice and so on; that which changes with the change of the shari'ī and religion", see al-Rāzī, Fakhr al-Dīn Muhammad b Diyā' al-Dīn ‘Umar, Tafsir al-Kabīr wa ma‘āli‘i al-Ghayb, (Beirut, 1985), 27:157. Hereafter cited as Mafā’īh. Thus the fundamentals of the shari'ah remains fixed from the azal (this term is defined below), while the peripherals of it change according to the changing circumstances. This is not only true in respect of the greater shari'ah that which was revealed to all the prophets - but also true with the shari'ah which was revealed to the Prophet Muhammad. Commenting on the causes for such variations and differences in the greater shari'ah in different ages, Shah Wali Allah says that when the signs of the old shari'ah are nearly lost, and no more practised and mankind is heading towards a crisis, the new shari'ah comes to rescue the suffering humanity from further ruination. However, whenever, a particular shari'ah is planned for the people, due consideration is always paid to their bodily and intellectual abilities. Thus, from Adam down to the time of the Prophet Idris, humanity was passing through its initial stage and its development was restricted to the first irtīfāq (stage of social evolution). Then came the age of Prophet Nūh, wherein people were stout and strong in their physique. Accordingly they were given a shari'ah suitable for crushing their animal vitality. Praying at night and fasting during the day was made obligatory for them, and in addition to these, other forms of rigorous worship were also prescribed in order to suppress their bestiality. During the ages of Hūd and Sālih, the people of 'Ad were punished for their mistreatment of their prophets. Mankind during the intervening period of Sālih and Ibrāhīm had departed from the mainstream of the belief in the unity of Divinity and started worshipping and adoring other objects of nature. But this situation was rectified by the sending down of the Prophet Ibrāhīm who advocated the religion of fir′āh, by making the human heart the manifestation of Divinity and the seat of its sciences, and this was known as huna‘fīyah. He was followed by many other prophets like Yūsuf, Dāwūd and Sulaymān. Dāwūd was skilled in the state administration and in the rule of the country. He fixed the limits of religion, waged wars against unbelievers and was an expert in solving difficult problems. All of them did nothing regarding the caliphate. But, it was during Mūsā’s time that the caliphate took a definite shape. During the time of his successor 'Īsā, some leniency in the shari'ah was introduced. Some things which were previously unlawful for people were rendered lawful for them. Even after these leniencies people deviated from the teachings of Prophet 'Īsā. The situation remained as it was till the appearance of Prophet Muhammad, who was sent as the seal of the prophets. See Jalbani, G.N., Teachings of Shah Waliyullah of Delhi, (Lahore, 1967), pp. 96-9. Unfortunately Jalbani has arranged the prophets out of order.
9 Al-Mizān, 1:33.
10 Ibid.
17 *Ibid.*. This term should not be confused with the term Mohammadinism. For both have different connotations. The former refers to the community of the Prophet, while the latter seems to imply that Islam was a religion invented by the Prophet Muhammad.
18 *Al-Mizān*, 1:7.
20 This is the plural of the term *ummah* [see note 12 on p. 33].
26 *Ibid.* 1:49. Literally Mahdi means “the guided one”. *Hughes*, p. 305; *EI*, 3:111; Ibn Khalūdān, ‘Abd al-Rahmān, *al-Muqaddimah*, ed. by Hujār ‘Āsī, (Beirut, 1986), 2:142; *FORE*, 8:336; Friedlaender, Israel, *The Heterodoxies of the shiites in the presentation of Ibn Hazm*, in *JAOS*, 29:52. It is stated that he will be among the ahl al-bayt (i.e.: the member of the Prophet’s household); that is he will be among the descendants of Fāṭimah. see *Majāh*, 2:517-9.
27 *Al-Mizān*, 1:49.
32 It is believed that Jesus will descend for the second time, but as a “follower of Muhammad, for the law of Jesus has been abrogated (nuskhāt). There will be no revelation nor setting up of judgements on his behalf, but he will be a khāliṣah (vicegerent) of the Messenger of Allah. Thus it is more correct to say that he will worship with the people and lead them [in worship]” see *Majāh*, 2:507-17; Elder, Earl Edgar, *A Commentary on the Creed of Islam: Sa’d al-Dīn al-Tāftāzānī on the Creed of Najm al-Dīn al-Nasafī*, (New York, 1950), p.132. Hereafter cited as *Elder*, see also *Tha‘labī*, op. cit., p. 270; *al-Futūhāt*, op. cit., 11:252.
33 *Al-Mizān*, 1:49.
39 The word *khashī* literally means unveiling or removal of the veil. Technically it means “the studying that which is behind the veil of the hidden meanings and the matters of the reality as in presence and witnessing. see *al-Ta‘rifāt*, p. 193. Thus ahl al-khashī means people of unveiling who are able to study the otherwise hidden meanings of the reality - a term used synonymously with the sūfīs.
40 *Al-Mizān*, 1:42.
43 i.e.: one who is learned. Its plural is ‘ulāmā’. Also refer to note 140 on p. 39.
44 *Al-Mizān*, 1:37.
51 The term *ijmā’* literally means "al-‘azm" or "al-ittifāq." Technically it refers to the agreement of the mujahids of the ummah of Muhammad in a period of time on a legal rule. This agreement could be in the form of upholding the same belief, or sayings, or actions, or silence, or tacit approval. See *Tahānawī*, p. 238; *al-Ta'rifāt*, p. 8. It is of two kinds: 1) *murakkab* (Compound) and 2) *ghayr* *murakkab* (Non-Compound). For details see *Tahānawī*, p. 240.

52 It is called lemon grass *Andropogon Schoenanthus*. It may have been known in the ancient Mesopotamia. Dioscorides calls it as aromatic rush. The best he claims from Nabutaeu; then the Mesopotamica. The Libyan variety is inferior. Galen considers it to be slightly astrignent and diuretic. In India, lemon grass is given to children as an infusion for weak digestion. Maimonides says that *idhkhir* is *tuba makkah* in the Maghrib and its flower is *jawz jina*. The latter comes from Persian *gor giāb*, "herb of the wild ass". Ibn Baytar quotes Abū Hanifah as writing that lemon-grass has a root buried in the ground, thin twigs, and a pungent odour. Today the *Schoenanthus* is sold in Egypt as a diuretic, emmenagogue, astrignent and as a heating agent. See Levey, Martin (trans.), *The Medical Formulary or Aqrābādhīn of al-Kindī.* (Madison London, 1966), pp. 225-6; Meyterhof, Max, *Moses Maimonides’ Glossary of Drug Names*, trans. and ed. by Fred Rosner, (Michigan, 1979), pp. 9-10; Qal‘ājī, Muhammad Rawwās and Hamid Sādiq Qunālī, *Mu’jam lughat al-Fuqaha’: Arabic - English*, (Beirut, 1985), p. 52. Hereafter cited as *Lughah*.

61 He is al-‘Abbās b. ‘Abd al-Muṣṭalib, a paternal uncle of the Prophet, born two years earlier than the Prophet. After the battle of Badr, he embraced *Islam* and he used to send reports on Makkah to the Prophet. He migrated to Madinah a little before the conquest of Makkah. About him the Prophet has said, "whoever hurts al-‘Abbās he has indeed hurt me" and as "the best of the Quraysh". He died in Mādinah in 32 *hijri*. [see al-‘Asqalānī, Shihāb al-Dīn Abū al-Fadl Ahmad b. ‘Alī b Hājar, *al-Isabah fi tamyīz al-Sāhābāh*, (Cairo, 1328 h), 2:271]. Hereafter cited as *Isabah*.

63 al-Mīzān, 1:55; *Nisā’i*, 5:160-1. Regarding whether the Prophet said it through his *wahy* or through his *ijtihād* al-Suyūṭī says that people differed in respect of that. Some said, "God has given him the absolute authority in this issue". While some others opine that it was revealed to the Prophet before the event took place that if anyone asks for exception for anything from that (i.e.: the trees), then answer his question. See al-Suyūṭī, Jalāl al-Dīn, *Zahr al-Rabū ‘alā al-Mujtābā*, (Cairo, 1964), 5:161.

64 It is the limit or boundary of the sacred place. There are two places where such limits have been established: (1) at Makkah and (2) at Madinah. The Makkkan one covers the following areas:
While at Madinah the haram is between the two mountains in length and the two valleys in width. see *Lugha, op. cit.*, p. 178. The sacredness of the limits indicates that within these places certain acts are unlawful which are lawful elsewhere, such as carrying arms, killing, cutting grass or the like. According to 'Ali b Abū Tālib the sacred limits of Madinah are from Jabal 'Air to Saur. However, according to Burton, the diameter of the haram at Madinah is from ten to twelve miles. see *Hughes*, p. 163.

65 Al-Mizān, 1:55
66 Ibid.
67 Ibid.
69 Al-Mizān, 1:55.
70 Ibid.
71 Ibid. The text of the hadith is kasb al-hajjam khabithun wa mahr al-baghi khabithun [the work of the cupper is offensive and the dower of a prostitute is offensive]. This hadith is recorded in the Musnad of Ibn Hanbal and the Sahih of Muslim. It is stated that the work of cupper is offensive, that is detestable due to its lowliness (dana'ah) and it is not generally prohibited, for the majority have permitted it. This hadith, according to them is abrogated by that hadith in which the Prophet had paid the cupper after having his blood cupped. It is also stated that the prohibition was intended for avoidance (taazzih) and for (cultivation of) noble characters. Commenting on this hadith, al-Nawawi says, "the 'ulama' differed in respect of the work of the cupper. Most of the salaf and the khalaf opined that the work of the cupper is not prohibited... by a free person but not a slave. This is the predominant opinion in the madhhab of Ahmad b Hanbal... They based their opinion on the hadith of Ibn 'Abbas that the Prophet paid the cupper after he had been cupped by the former. They argued that if it had been prohibited the Prophet would not have paid his fee... Whereas those who took this hadith as prohibition opined that if it had been prohibited, then there is no need to differentiate between a free person and the slave. For, it is not allowed for a person to free his slave with that which is not legally permitted (halal)." see al-Nawawi, Zakariyya b Yahya, *Salilh Muslim bi sharli al-Nawawi*, (Beirut, 1987), 10:233. Hereafter cited as Nawawi. *Al-Tirmidhi* says that some of the scholars among the sahābah and others made rukhsah in respect of the work of the cupper. This is also the opinion of al-Shāfi'i. see *Al-Tirmidhi*, Abū 'Isā Muhammad b 'Isā b Sūrah, *Sunan al-Tirmidhi wa huwa al-Jami' al-Sahih*, ed. by 'Abd al-Rahmān Muhammad 'Uthmān, 2nd ed., (Beirut, 1974), 2:374. Hereafter cited as Tirmidhi.
72 Al-Mizān, 1:55
73 Ibid. 1:5 and 26.
74 Ibid.
75 Ibid. 1:5.
76 Ibid. 1:55.
77 Ibid.
78 Ibid.
79 Ibid.
80 Ibid.
81 Ibid. 1:46.
82 Ibid.
83 Ibid. 1:43.
84 Ibid. 1:45.
85 Ibid.
86 Ibid.
87 Ibid.
88 Ibid.
89 Ibid. 1:43.
90 Ibid.
91 Ibid.
92 Ibid.
93 Ibid.
94 Ibid.
This is the plural form of the word "ayah," which literally means, "sign" or "token." [see al-Qur'an, 2:248-9 and 17:12-3]. However, it is used to indicate the Qur'anic verses. see EIN. 1:773-4; Bell, Richard, Introduction to the Qur'an, (Edinburgh, 1963), pp. 153-4.

It is said that it is a synonym of the word hadith. While some others maintain that it is more general than the latter. Tahanawi, p. 410. Further it is said that khabar only refers to the sayings of the Prophet and not to his actions. Ibid., p. 65; see also al-Ta'rifat, pp. 101-2.

This is the plural of the word athar, which literally means, "traces." However, technically it denotes: 1) A Prophetic tradition (hadith); or 2) a relic of the Prophet such as the impression of his feet). see EIN. 1:736. According to al-Tahanawi, there is yet another kind of athar, which refers to both the sayings and actions of the Prophet. Moreover, it also refers to the actions of the sahabah (i.e.: Prophetic Companions). According to the doctors of hadith (muhadiths), it is applied to the maqāf̄ hadith (i.e. a hadith; the chain of which stops at one of the sahabah and does not trace to the Prophet) and maqūd hadith (a hadith; the chain of which stops at one of the tabīn in (followers of the sahabah) or one who came after him. see Tahanawi, p. 1200. Some say that the word athar is applied only to the maqāf̄ hadith. While some others maintain that the speech of the sāla (i.e.: the pious predecessors) is also called athar. Ibid., p. 65. Al-Jurjāni, on the other hand says that athar has four meanings: 1) the result (al-matālijah), 2) the sign (al-'ulūmāt), 3) the narration (al-khabān) and 4) the rule (al-hukm). see Ibid.; Cf. al-Ta'rifat, p. 7.

Al-Mizān, 1:27.

Ibid.,

Ibid.,

Ibid.,

Ibid.,

Ibid.,

Ibid.,

Ibid.,

Ibid., 1:6

It is a term used to denote beginningless beginning. Al-Jurjāni defines it as, istimrār al-wujūd fi azminah muqaddarah ghayr mutanāhiyah fi jānib al-madū (the continuation of the existence in a determined time which is not bounded by the direction of the past). see al-Ta'rifat, pp. 5 and 16]. While 'Abd al-Karim al-Jilli says that there are two kinds of azāl: (1) azāl in relation to God, which is called as al-ażal al-muṭlaq or as azāl al-ażal. God's azāl is existent even now as it was existent before our existence and He did not incur change from His having beginningless beginning and He continues to have beginningless beginning in the perpetuity of perpetualities (abad al-ābād), (2) azāl in relation to the accidental existence. Each and every accident has an azāl distinct from another accident. Thus the azāl of the mineral is other than the azāl of the organism, because that occurs before it, for the organism does not have existence, except after the existence of the mineral. Therefore, the azāl of the organism was in the state of existence of the mineral, not that it was before the mineral. And the azāl of the mineral was in the state of existence of the atom and the azāl of atom was in the state of existence of matter and the azāl of the matter was in the state of existence of the speck and the azāl of the speck was in the state of existence of the humours and the azāl of the humours was in the state of the existence of the basic elements and the azāl of the basic elements was the state of the existence of the celestial beings such as the Pen, the First Intellect, the angel named the Spirit and the like, and they are the whole of the universe. And their azāl was the word of the Precinct of God. [see al-Jilli, 'Abd al-Karim b Ibrāhīm, al-Insān al-Kāmil fi ma'rifah al-Awālīr wa al-Awālīl, (Cairo, n.d.), 1:60-1]. Hereafter cited as Insān.

Ibid., 1:6

11 It is a term used to denote perpetuity. It is defined as, istimrār al-wujūd fi azminah muqaddarah ghayr mutanāhiyah fi jānib al-muṣtaqbil (the continuation of the existence in a determined time which is not bounded by the direction of the future). see al-Ta'rifat, pp. 5 and 16; Insān, op. cit., 1:61-2.

Al-Mizān, 1:6.

In defining the term shaqāwah which is the masdar of the word, the noun agent of which is shaqī, al-Hilli says, hiya husūl al-alam wa buwa idrāk al-mansūf wa al-shar wa usūthimā ilāh al-ain al-bada' wa al-badan (it is the acquiring of pain. It is the realization of the prohibited thing and the bad, reaching them, that is the self and the body). The reason for for the shaqāwah is the realization of the prohibition because of prohibition. see al-Hilli, Jamīl al-Din Abū Mansūr Hasan b Yusuf b 'Ali b Muṭahhar, Idāh al-Maqāṣid sharh hikmah 'ayn al-Qawā'id of Dabārān Kā'ībi Qazvīn, ed by 'Ali
There are four signs of shaqāwah: (1) observing passivity in matters of religion (jumūd al-dīn), (2) a heart of remorselessness (qaswāh al-qalb), (3) extreme greediness in pursuit of worldliness (shiddah al-hars fi talab al-dunya), and (4) persistence in committing sin (al-īsrār 'alā al-dhanb).


112 Saʿādah is the masdar of the word, the noun agent of which is saʿīd. It is defined as, hiya idrāk al-kamal wa al-khayr wa wusuluhuma ilailii [it is the realization of the perfection and the good and reaching them]. The reason for the saʿādah is the realization of the propitious because it is propitious, see al-Hilli, op.cit., p. 244; Tahanawi. p. 640. Lane defines it as "prosperity, good fortune, happiness or felicity". He says it is of two kinds: ukhrawīyyah (relating to the world to come) and dunyawiyyah (relating to the present world). The latter is of three kinds: nafsiyyah (relating to the soul), badaniyyah (relating to the body), and khārijiyyah (relating to external circumstances). Lane, op.cit., 1:4 (1362b), s.v. saʿādah.

114 Ibid.
115 Ibid.
118 Ibid.
119 Ibid. 1:6; See Bukhārī. 6:140-2, 8:104, 9:128; Muslim. 4:212; Dāwūd. 4:223; Tirmidhi. 4:445; Majāh. 1:30, 2:725.
120 Al-Mizān. 1:7.
121 Ibid.
122 Ibid. See also note no 8.
123 Ibid.
124 Ibid. 1:8.
125 Ibid.
126 Ibid. 1:7-8.
127 Ibid. 1:8. Refer also to note 16 above.
128 Al-Mizān. 1:3.
129 Ibid.
130 Ibid.
131 Ibid.
132 Ibid.
133 Ibid.
134 Ibid.
135 Ibid.
136 Ibid. 1:2 and 28.
137 Ibid. 1:3.
138 Ibid.
139 Ibid.
140 Ibid.
141 Ibid. 1:4.
142 Ibid. 1:27.
143 Ibid.
144 Ibid.
145 Ibid. 1:4.
146 Ibid.
147 Ibid.
148 Ibid.
149 Ibid.
150 Ibid. This has been illustrated in the following diagram
Usamah b. Zayd narrates from Abu Hurayrah saying that the Messenger of God said to us during the Friday sermon (Khuza'ah), "ayyuhā al-nās qidfurida 'alaykum al-hajj fa hajjū" [O, you people, hajj has been made obligatory on you all, therefore, perform hajj]. Then a man said: "Is it every year, O, Messenger of God?" But he was silent until the man repeated it a second and a third time. Then the Messenger of God said, "law qulūnta 'alaykum bi kathra 'alā 'ilāmīhim wa ikhtilāfihim al-'ilmīhim, fa 78

151 Ibid...
152 Ibid...
153 Ibid...
154 Ibid...
155 Ibid...
156 Ibid...
157 Ibid.: al-Qu'ān, 64:16.
158 Al-Mizān, 1:5. The full text of the hadith is, Usamah b. Zayd narrates from Abu Hurayrah saying that the Messenger of God said to us during the Friday sermon (Kha'aba), "ayyuhā al-nās qidfurida 'alaykum al-hajj fa hajjū" [O, you people, hajj has been made obligatory on you all, therefore, perform hajj]. Then a man said: "Is it every year, O, Messenger of God?" But he was silent until the man repeated it a second and a third time. Then the Messenger of God said, "law qulūnta 'alaykum bi kathra 'alā 'ilāmīhim wa ikhtilāfihim al-'ilmīhim, fa 78
امارتكم بي شائي فاتو منهو ما استاتكم، وآيده نبأتمكم "أن شاي فاده" (leave me with what I have left for you all. For, verily those before you were destroyed due to the abundance in their questions and their opposition to their prophets. Therefore, if I ordered you a thing, do of it what you are able, and if I forbid you from a thing, then abstain from it). See مائات، 1:3.

159 Al-Mizan، 1:5.
160 Ibid.
161 Ibid، 1:5.
162 Ibid، Al-Sha'ra'ni states about Zakariyya al-Ansari that he saw him after he (i.e. zakariyya) had reached the age of 100 years performing his نافايل (supererogatory salat), in his state of sickness, while standing. He begins to incline to the right and left, as though he was unable to stand without inclining. Al-Sha'ra'ni told him one day, "People in your state (of health) are not compelled by God to perform the salat while standing، O، my master". To this zakariyya replied: "O، my son، the self by its nature is lazy and I am afraid that it might overcome me، thus I complete (the rest of) my life in that". See TS، p. 38.

163 Al-Mizan، 1:36.
164 Ibid,
165 Ibid، 1:19 and 34، al-Qur'an، 2:184. In another verse God says: "Whoever performs a good act voluntarily، then God will indeed be thankful and all knowing". Ibid، 2:158. Commenting on this verse، al-Razi says، "the word الشكر (i.e. one who is thankful) literally means a manifestation of receiving blessing (الممزح في السلم) which in respect of God is absurd. Therefore، the word الشكر in His respect is used in the metaphorical sense". See مائات، op. cit، 4:179.
166 In the Qur'an it is stated that وا لا تلقي بيدكم على التحلوك (do not throw your hand (i.e. yourself) to your destruction). Ibid، 2:195.
167 Al-Mizan، 1:5
168 Ibid، The word تامامم refers to the substituted purification through rubbing the hands and the face with sand.
169 Ibid،
170 Ibid،
171 Ibid،
172 Ibid،
173 i.e. good manners، or propriety، or decorum. See Wehr، op. cit، p. 9، s.v. adab.
174 Al-Mizan، 1:5
175 Ibid،
176 Ibid،
177 Ibid،
178 Ibid،
179 Ibid، 1:29.
180 Ibid،
181 Ibid،
182 Ibid، al-Qur'an، 6:152.
183 Al-Mizan، 1:29.
184 See text pp، 281-96.
185 Al-Mizan، 1:25.
186 Ibid، see also note 8 and 128.
187 Ibid،
188 Ibid،
191 Al-Mizan، 1:25، al-Qur'an، 64:16.
193 Al-Mizan، 1:25، Lata'il، op. cit، p، 193، al-Qur'an، 2:143.
194 Al-Mizan، 1:25.
195 Ibid،
196 Ibid،
197 Ibid،
198 Ibid،

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Regarding the Qur'anic verse wa law shâ‘a rabbuka la ja‘ala al-nâsa ummatan wa‘idatana wa la yaze‘una mukhtalifina illâ man rahima rabbuka wa lidha‘ilsa khalqahum [if your Lord had wished, He would certainly have made the mankind into a single community, whereas they will continue to be in the state of differences, except those on whom your Lord has shown mercy, and that is why He created them] al-Qur‘an. 11:118-9, al-Shatibi says that God created them for the differences. see al-Shatibi, Abû Ishâq Ibrahim b Mūsâ b Muhammad al-Lakhmi, al-I‘tisâm, (Cairo, 1988), 2:391. This ikhtilâf according to Ibn al-‘Arabi is influenced by the following factors:

(1) the sharâ‘i’ differed due to the differences in the Divine Relation (al-nasab al-ilahiyyah)
(2) the nasab differed due to the differences in the states (ahwâl)
(3) the ahwâl differed due to the differences in the durations (azmân)
(4) the azmân differed due to the differences in the movements (harâtât)
(5) the harâtât differed due to the differences in the directions (tawajjubât)
(6) the tawajjubât differed due to the differences in the aims (maqâsid)
(7) the maqâsid differed due to the differences in the manifestation (tajalliyât)
(8) the tajalliyât differed due to the differences in the sharâ‘i’. see al-Futuhat, op.cit., 4:185-93. Thus it becomes clear that ikhtilâf is essentially a divine action. Therefore, no one can do away the ikhtilâf. It is in this sense that the hadith “Differences of my ummah is a mercy” should be understood. For the definition and the applications of the term ikhtilâf, see Tahânawi, pp. 441-3.

203 Al-Mizân. 1:25.
205 Al-Mizân. 1:25.
206 ibid.
207 ibid.
208 ibid.
209 ibid., 1:28.
210 ibid. Al-Sharâ‘în evidently has taken this idea from Ibn al-‘Arabi. see al-Futuhat, op.cit., 4:325-6.
It is defined as al-fāʾl alladhi faradabu Allāh, al-ibād wa lam yurakhkhīs tahum fi tarkīhī [the action which God made as obligatory on their servants and He did not make any concession in respect of abstaining from it] or as al-fāʾl alladhi alzama al-Shāriʾ bi al-iyyān bihi [the action the performance of which the Lawgiver made as necessary]. This is a synonym of fard. However, the Hanafites viewed that there is a distinction between fard and wājib. To them a rule is considered fard if it is obligatory in the first degree, that is when there is a clear textual evidence. However, if the evidences are speculative then the obligation derived from such evidence is given a degree below that of the former. This distinction between the fard and wājib is only in form and not in substance. Explaining this al-Ghazzālī says, "As far as we are concerned, there is no distinction between fard and wājib; the two terms are synonymous. According to the Hanafsī, fard is based on definitive authority but wājib is found in speculative proof. Once again we do not deny the division of wājib into definitive and speculative (maqṭūʿ wa-maznūn) and there is no objection to the use of different expressions once their meaning is clear. See Kamāli, Mohammad Hashim, The Principles of Islamic Jurisprudence, (Cambridge, 1991), p. 325. Hereafter cited as Kamāli. It is divisible into many kinds: (1) wājib 'ayn wa wājib kafāʾī [Personal and Collective Obligation], 2) wājib tāʾyini wa wājib takhyīrī [Specific and Preferential Obligation], 3) wājib muwaggat wa wājib ghayr muwaggat [Time-limited and Time-limitless Obligation], 4) wājib al-mutlaq wa wājib al-muqayyad [Absolute and Restricted Obligation], 5) wājib taʿabbūdi wa wājib awassūlī [Ritual and Connective Obligation], 6) wājib muḥaddad wa wājib ghayr muḥaddad [Quantified and Unquantified Obligation], and 7) wājib nafsī wa wājib ghayrī [Essential and Non-Essential Obligation]. For details see al-Hakim, Muhammad Taqi, al-Usūl al-ʾAmāmah li al-Fiqh al-Muqārīn, (Beirut, 1963), pp. 58-62. Hereafter cited as Hakim.

212 It is an expression about the first specification of the Truth in the manifestation of the creation on the basis of distinction. It is the prototype (nâmūdaj) which inscribes that which it preordains in the Guarded Tablet. This Pen is the First Intellect. Both are two aspects to the Muhammadan Spirit. The Prophet said to Jābir, "The first thing God created was the spirit of your Prophet." Thus, the Lofty Pen, the First Intellect and the Muhammadan Spirit all became an expression about an individual atom (jawhar fard). It is, in relation to the Creation, called the Lofty Pen, and in relation to the Absolute Creation, the First Intellect, while through its annexation to the Perfect Man is called the Muhammadan Spirit. see Inṣāa, op. cit., 2:5-6; Tahanawī, p. 1223.

213 It denotes a demand of the Lawgiver which asks the mukallāfī to do something which is, however, not binding on the latter. To comply with the demand earns the mukallāf spiritual reward (thawab) but no punishment is inflicted for failure to perform. see Kamāli, op. cit., p. 327; al-Taʾrifū, p. 250. It is variously known as suunah, mustahabb and nafī. see Kamāli, op. cit., p. 327; Hakim, op. cit., p. 63.

214 It is an expression about a divine light pertaining to the Truth, unveiling in a place of witness (mashhād) pertaining to the creature, in which the existent things are imprinted, as an original imprint. [see Ibid., Nicholson, R.A., Studies in Islamic Mysticism, (Cambridge, 1921), pp. 111-2]. According to the majority of the people of shara' this refers to a body which is above the seven heavens in which all that had happened and will happen is written till the Day of Resurrection. see Tahanawī, p. 1291. Describing the lawh, Ibn Abī Abbas says, "It is made of white pearl, the length of which is between the sky and the earth, while its breadth is between the east and the west" [Ibid.,]. Al-Ghazzālī says that the lawh of God does not resemble the lawh of the creature, just as the Divine Essence and His attributes do not resemble the essence and the attributes of the creature. [Ibid., p. 1293]. While al-Jurjānī defines it as al-kitāb al-mubin wa al-naṣ al-kullīyyah [it is the clear book and the universal self]. The alwāḥ (pl. of lawh) are four kinds: (1) lawh al-qadāʾ (the Tablet of Divine Decree) which controls (al-sāʾiqa) the erasure and confirmation. It is the tablet of the First Intellect. (2) lawh al-qadr (the Tablet of Divine Power), that is the tablet of the Universal Rational Self (connected al-naṣ al-ṣāʾiqa al-kullīyyah) in which the universalis of the First Tablet are detailed and connected with its reasons. It is called the Guarded Tablet, (3) lawh al-naṣ al-juzʿiyyah al-samāwīyyah (the Tablet of the Celestial Particular Self) in which all that is in this universe are inscribed by their forms, manners and measures. It is called the earthly heaven (al-sama' al-dunya). It is at the meeting place (mathābah) of the image of the universe (khīyāl al-ʾālām), just as the first one is at the meeting place of its spirit, while the second one is at the meeting place of its heart. (4) lawh al-hayūli (the Tablet of Matter) which accepts the form in the world of witness (ʾālām al-shahādah). see al-Taʾrifū, p. 204; El, 3:19-20; ELN, 5:698.

215 It is a binding demand of the Lawgiver in respect of abandoning something.... Committing the harām is punishable and omitting it is rewardable. It is of two types: (1) harām li-
dhāth [that which is forbidden for its own sake] and (2) harām li-ghayrih, [that which is forbidden because of something else]. see Kamāli, op. cit., p. 329-30; Hakim, op. cit., pp. 63-4.

216 It is the mazhar al-'azumah (manifestation of the greatness) and the makānāt al-tajalli (the place of Divine Manifestation), and the speciality of the Essence. It is called jism al-hadra (the body of the Precinct) and its place, but the place is free from the six directions. It is the highest view (al-manzar al-a'la) and the location of radiation (al-mahall al-azhāh) [see Insān, op. cit., 2:4]. Al-Jurjāni defines it as al-jism al-mubīh bi jami’ al-ajsām [the body which encompasses all the bodies]. For details see al-Ta‘rifat, p. 155.

217 It is a demand of the Lawgiver which requires the mkallal to avoid something, but not in strictly prohibited terms. It is also called as al-naḥy al-tanzihīy. This is the opposite of ma‘dūḥ. see Kamāli, op. cit., p. 331; Hakim, op. cit., p. 65.

218 It is an expression about the manifestation of the entire attributes of action. Thus, it is the manifestation of the Divine Power and the location of the authority of the injunction and prohibition. see Insān, op. cit., 2:5. While Ibn al-‘Arabi defines it as mawdi‘ al-amr wa al-naḥy [the place of the injunction and prohibition], see al-Ta‘rifat, p. 297. In the opinion of the bukamā it is the falak al-āliak, while according to the sūfīs it is the heart of the Perfect Man. see Tahānawi, p. 981.

219 It is defined as communication from the Lawgiver concerning the conduct of the mkallal which gives him the option to do or not to do something. It is of three types: (1) that which does not entail any harm to the individual whether he acts upon it or not, (2) that the commission of which does not harm the individual although it is essentially forbidden and (3) mubah per se. see Kamāli, op. cit., pp. 333-4; Hakim, op. cit., pp. 65-7.

220 It is the tree at the far end of the heaven, at which ends the knowledge of the earlier people (awwālin) and the later people (ākhārin), see Tahānawi, p. 728. While al-Jilāni defines it as, 'the end of the place which the creature reaches in his journey towards God... There is nothing after it except the place which is specific to the Truth... There is no step for the creature, nor is it possible for the creature to reach that which is after the sidrāt al-muntahā. This is because there the creatures are grated (mashūq), annihilated (mamhūq), disguised (madmūs), obliterated (matmūs) and annexed to absolute non-existence. There is no existence in the creature in that which is after the sidrāt. see Insān, op. cit., 2:7. However, it is mentioned that only the Messenger of God is able to cross over it. see Tahānawi, p. 728. Its root is in the sixth heaven and most parts of it are in the seventh heaven. And it is situated on the right side of the 'arsā. Ibid.

221 Al-Mīzān, 1:28.

222 The word barzakh designates anything that constitutes a screen, a barrier, an interval between two things. In verse 23:102, it takes on an eschatological meaning as the "barrier" that arises behind those who die, until the moment when they will be resuscitated (elsewhere it refers to the "barrier between the two seas", 25:55; 55:20). With Suhrāwardi, in his Theosophy of the Orient of lights...it designates everything that is material body in general, hence everything that is opaque and imprisons light and light particles. The eschatological meaning is thus transposed to earthly existence itself, in accordance with the Gnostic and Manichaeeizing tendency of the book: the material body imprisons the soul, a being of light, until the death that is its resurrection. Here according to Ibn Zayd’s gloss, the barzakh designates the intellectus materialis (‘alā hayūliā), see Corbin, Henry, Avicenna and the Visionary Recital, trans. by Willard R. Trask, (London, 1960), p. 324 n1; also see Bercovich, Titus, “Concerning the Barzakh”, in Studies in Comparative Religion, 13(1979):II. 24-30. Ibn al-‘Arabi calls the Prophet as al-barzakh, the latter being “(the intermediary stage) between the Godhead and the Phenomenal World - a link between the Eternal and the Temporal, the Necessary and the contingent, the Real and the phenomenal, the Active and the passive and so on.” see Affifi, A. E., The Mystical Philosophy of Muhidy Din-ibul ‘Arabi. (Cambridge, 1939), p. 74.

223 Al-Mīzān, 1:28.

224 Ibid.

225 Ibid.

226 Ibid. This is because, the very nature of mubah is that it is a mean between the two extremes, due to the silence of the šāri‘ (i.e.: the Prophet) on it and his absolute non-objection to its performance or abstinence or injunction or prohibition. It is for the ordinary people an indulgence (tanzīf) from God to them, for their souls could not bear the continued restraints (tahjīr). Thus, that was for them a mercy from God. As for the ārif there is no mubah for them, since their vision permanently stays under the injunction and prohibition without disentangling even for a twinkling of an eye, due to the knowledge that in every wink there is a portion of share from the ‘ubūdiyyah. see al-
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wa
against
subjugation of the souls (riyadat al-nufus). If it
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subjugation, riding and
there is
inculcation there is
its
lips what is
'Ammarah,
Muhammad
Messenger of God...
Hypocrisy. God
(2)
Ibn 'Arabi,
Sha'rani, 'Abd
al-Qudus
Born in Murcia in Andalus. Then moved to Seville (Ishbiliyah). He travelled extensively in the
Middle East and settled in Damascus where he died in 1240 A.D. see Landau, Rom, The Philosophy
of Ibn 'Arabi, (London, 1959), pp. 15-6; also see Austin, R.W.J., Sufis of Andalusia: The Rûh al-

This indicates that even hypocrisy is divided into gradations: (1) al-nifâq al-akbar
and (2) al-nifâq al-aksabar. It is narrated by Mahmûd b Labid that the Messenger of God said:
"The thing which I fear most from my ummah is the lesser shirk". They asked: "What is lesser shirk, O,
Messenger of God...?" He replied: "Hypocrisy. God says if He were to reward people for their action
go to those whom you used to see in the world and see whether you find them any reward". [see al-
Mundhari, Hafiz Zaki al-Din 'Abd al-'Azim b 'Abd al-Qawi, Tarhib wa al-Tarhib, ed. by Mustâfâ
Muhammad 'Ammârah, (Cairo, n.d.), 1:58].

Al-Mizân, 1:4; al-Qur'ân, 5:41. In another verse the Qur'ân says: "They say with their
lips what is not in their hearts, whereas God is more knowledgeable of what they conceal. Ibid., 3:167.

It is defined as, "an expression about inculcating valuable and precious etiquette. For, in
its inculcation there is protection from the slips of nature and the way to get rid of them. see al-
Tarîfî, p. 119. Ibn al-'Arabi defines it as "(the act of) surmounting (tadhlîl) the most difficult task".
Thus, whoever surmounts a difficult task is said to have subdued (râda) it. It will not be attained
except through difficult (self) impositions or a lot of defiances... The young foal (for instance) is tamed
because of its defiance and ignorance about the (purpose) for which it was created. It was created for
subjugation, riding and conveyance. However, the young foal declined that, because, it did not understand
it. Therefore, it is tamed till it submits to the 'anah of the Divine rule. Likewise, it is the
subjugation of the souls (riyâdat al-nafûs). If it was not for the defiance in it, its master did not have
to subdue it. For the human souls, when God created them according to the Divine form, displayed
arrogance against those things in the entire universe which do not have this reality. Thus, they were
veiled from the Divine realities to which the realities of the universe relays. Therefore, it earned (for
itself) the riyâdat due to this defiance, thereby was subdued under its control... Therefore, riyâdat is
the absolute disassociation from the inclinations of the self without any restriction. Then the riyâdat
in the usage of the sôfî community is concerned with the spiritual status (ahwâl). There are two types of
riyâdat: (1) riyâdat al-adab, and (2) riyâdat al-talab. Riyâdat al-adab according to the sôfîs is the
disassociation from the natural inclinations of the self. While riyâdat al-talab refers to the
validity of the intention in the search. [see al-Ghurâb, Mahmûd Mahmûd, al-Tarîq ila Allâh ta'âlâ: al-
Shaykh wa al-Murîd min Kalâm al-Shaykh al-Akbar Muhyî al-Din Ibn al-'Arabi, (Damascus,

251 Al-Mizān, 1:8.
252 Ibid.
253 Ibid.
254 Ibid.
255 Ibid.
256 Ibid.
257 Ibid.
258 Ibid.
259 Ibid.

260 It is defined as "a power originated in the nerve spreading out in the tongue by which the tastes are grasped through the mixture of dampness of saliva in the mouth with the tastes and its reaching the nerve". In the gnosia of God it is "an expression about the light of knowledge which the Truth casts, through His manifestation, into the hearts of His friends by which they differentiate between the truth and the false without taking that from any book or anything else. see al-Tariq, p. 112; Tahānawi, p. 513-4. According to Ibn al-'Arabi, al-dhawq is the first rubric of divine manifestation. Ibid., p. 288. It varies with the variation of the Divine manifestation; that is, if the manifestation was in respect of form, then the dhawq will be khiyali (Conceptual), whereas if it was in respect of the Names of Divine and Universe, then that dhawq will be 'aqli (Intellectual). The influence of al-dhawq al-khiyali is on the self, while the influence of al-dhawq al-'aqli is on the heart. The rule of the al-dhawq al-khiyali is applied on the bodily struggle (al-mujāḥadat al-bātiniyyah) such as hunger, thirst, night prayers, recitation of the Qur'ān, recitation of dhikr, acting according to the injunctions and abstaining from prohibitions, and to struggle in the path of God. The rule of al-dhawq al-'aqli is applied to suppressing the self (riyaḍah al-naṣiyyah) and to the cultivation of morals. see al-Tariq, op. cit., pp. 65-6. While others define it as "the first stage of witnessing the Truth by the Truth". Tahānawi, p. 514.

261 Al-Mizān, 1:20.
262 Ibid.; Lātā'if, op. cit., p. 85.
263 Al-Mizān, 1:20.
265 Ibid.

266 i.e.: a food which lawful. This legality of the food also include the manner in which such food is attained. That is whether the food is from a lawful source or not.

267 Al-Mizān, 1:21.
268 I. e.: the food wherein there is doubt.
269 Al-Mizān, 1:21.
270 Ibid.

271 He is al-Malik al-Asrāf Saif al-Dīn al-Ghawri al-Qānsūh, of al-Gūr division of the Mamlūks from Afghanistan. He served for a long time as a khashki (Lifeguard) and ḥāmid. He became the governor of the province of al-Bahriyah when he was about 40. Then in his 60th year he became the sūfīān. However, the chroniclers number him among the bad sultāns. see FT, 2:720-1; al-Bādī, op. cit., 2:45-5; Petry, Carl F., Twilight of Majesty: The Reigns of Mamlūk Sultāns al-Asrāf Qāytbāy and Qānsūh al-Ghawri in Egypt (New Jersey, 1993).

272 Al-Mizān, 1:20-1; Lātā'īf, op. cit., p. 86.
273 Al-Mizān, 1:20.
274 Ibid.

275 He is Ibrahim b Adham b Mansūr al-'Ajlī, Abu Ḥāqal al-Balkhi. Died in 162 H. see Tahdhib, 1:102-3; TKS, 1:69-70; Lātā'īf, op. cit., p. 94n1; Arberry, op. cit., pp. 62-80; Shadharat, 1:255-6; For details see Mahmūd, Dr. 'Abd al-Halim, Ibrahim b Adham: Shaykh al-Sūfīyah, (Cairo, 1972). see text on p. 363 no. 34.

276 Al-Mizān, 1:20.
277 Ibid.
278 Ibid.; 1:21
279 Ibid.
280 Ibid.
Al-Sha’rānī, however, contradicts this in another place where he says that he ascertained the truth that the *shari‘ah* came in two sides of the balance of *takhfīf* and *tashdid* in the year 933 *hijri*. That is about 14 years earlier. *Ibid.*, 1:27. Perhaps, the best way to reconcile this difference is by saying that the author of the book took 14 full years to probe into the evidences of this truth.

It is the House of God situated at Makkah. see diagram below.

![Diagram of Ka‘bah](image)

Aerial diagramme of *Ka‘bah*

1. *hajar al-aswad* (the black stone)  
2. *tab al-Ka‘bah* (the door of the *Ka‘bah*)  
3. *maqam Ibrahim* (the station of Abraham)  
4. *mizab al-rahmān* (the spout of mercy)  
5. *hijl* (the semi-circular wall)

Ibid., 1:77.
Ibid., 1:79.
Ibid., 1:23.
Ibid., 1:25.
Ibid., 1:3.
Ibid., 1:20.
Ibid., 1:24.
Ibid., 1:25.
Ibid., 1:25.
Ibid., 1:22.
Ibid., 1:23.
Ibid., 1:24.
Ibid., 1:25.
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Ibid., 1:26.
Ibid., 1:26.
Ibid., 1:26.
It is defined as, istidamat ilm al-'abd bi ittila' al-rabb 'ala 'l-huwa bi jami' ahwalihi [the continuance of the knowledge of the servant with the cognisance of God on him in all his conditions].

The word taqlid is defined as 'ibarah 'an qubul qawl li al-ghayr bila hadith wa la dalil fan expression about accepting the statement of others without a proof nor an evidence.

This term refers to "the station of the pole of the poles, which is the inner self (batin) of Muhammad. Therefore, it will not be for anyone other than his heir, due to his perfection. As such the seal of the saintliness and the pole of the poles are within the seal of the prophethood". This is derived from his biography in Ibn Kathir, Abū al-Fidā Ismā'īl, Qisas al-Anbiyā', ed. by Muhammad 'All Qutb, (Cairo, 1993), pp. 74-109; al-Najjar, 'Abd al-Wahhab, Qisas al-Anbiyā', (Beirut, n.d.), pp. 30-48.

It is referred to Proofs based on traditional sources such as Qur'an and hadith and is used as antonym of aqli dalil (Intellectual Proof).
CHAPTER TWO

An Analysis of the Structure, Style and Approach of *al-Mizān*

The book consists of a lengthy introduction in which the author states the purpose and the foundations on which the balance (*al-Mizān*) which he is proposing is erected, by quoting relevant Qur'ānic verses and Prophetic *ahādīth* in support of his theory. This introduction is followed by sections of hypothetical questions and their answers. There are twenty-nine sections. Each section consists of a number of sub-questions and their answers. In this way, al-Sha'rānī tries to expound his stand on the fundamentals of *Islamic* Jurisprudence and lays the base for his balance, providing tangible examples through illustrated diagrams depicting the essential oneness and the unity of legal thought and its Divine origin. He explains that he will put forward some sections of his work which will be helpful in explaining the more obscure elements in his analysis of his theory of the balance. The diagrams form part of this explanation and are, according to him, "like the hallway through which one could reach the centre of the house." In trying to explain how all the *madhāhib* branch out (*tafrī*) from one and the same spring (*'āyn*) of the greater *shari'ah*, al-Sha'rānī spells out the Divine origin of the *shari'ah*. He argues that the *shari'ah* emanates from "the Presence of Divine Revelation" and passes through various stages till the Last Day, as shown in the following diagram.
These stages are connected to one another. Thus, the muqallids by their mere adherence to any one of the a'imma have, indeed, acted according to the Divine commands. By this illustration, al-Sha'räni tries to prove that all the opinions of the a'imma are well within the ambit of the shari'ah, and whatever the mujtahids deduce from the nass, from time to
time, will become an integral part of the *shari‘ah*, owing to their connection with the Presence of Divine Revelation. For, it is He Who inspires and guides the *mujtahids* to ponder over the *shari‘ah*, as has been indicated in the *hadith*:

On whoever God intends good He will make him ponder over the religion.⁹

Since pondering over the religion is considered a good omen from God, then how could He reveal something contravening the spirit of His *shari‘ah*? Thus, whatever they opine is to be taken as commands of the *shāri‘* (i.e.: the Prophet) by the mere fact that they are ‘the trustees (*umānah*) of the Messengers, as such no Messenger would entrust his *shari‘ah* to an untrustworthy person.”¹⁰ Therefore, the *mukallafs* should act according to the opinions of the *a‘immah*, for the latter only interpret the *shari‘ah* in the language of the people in order that they could understand and abide by it. Thus, their mission was just that of translating and expounding the original message rather than innovating something beyond the domain of the *shari‘ah*. Al-Sha‘rānī tries to prove this through the examples of the tree (*shajarah*), the circles, the netting (*shabakah*), and the sea. For example, through the diagram of the tree, (see diagram below),¹¹ al-Sha‘rānī establishes the essential link between the "spring of the *shari‘ah* and its fruit."¹²
That is, according to the author, "the big branches are the example of the opinions of the a’immah of the madhāhib, while the smaller branches are like the opinions of the great personalities among the muqallids, and the boughs branching out from the side of the branches are like the opinions of the disciples of these muqallids, while the red dots which are on the top of the smaller boughs are like the issues that come out from the opinions of the 'ulamā' in every period." Thus, all the opinions of the a'immah and their muqallids are contained in the shari'ah and whatever they opine
is only an explanation and expansion of the same principles, so as to facilitate the understanding of the otherwise ambiguous, if not concise, injunctions and prohibitions. And in the example of the circle (see diagram below),

al-Sha'ra'ni illustrates the "connection of all the madhāhib of the mujtahids with the spring of the pure shari'ah," from which "branches out every opinion of the mujtahids and their followers till the Day of Judgement." These are "like the path leading to the central spring on all sides." Thus, according to the author, this proves to one who ponders over what he
explains that, "there is no madhhab better in shari'ah than (another) madhhab, because all of them return to one (and the same) spring."\textsuperscript{18} This point is further elaborated by al-Sha'rānī in the diagram of the net of the hunter (see diagram below).\textsuperscript{19}

\begin{center}
\includegraphics[width=\textwidth]{diagram}
\end{center}

In this, the author, tries to "establish the connection of every mesh with the first mesh in every stage."\textsuperscript{20} Thus, the "first mesh is comparable to the spring of the shari'ah"\textsuperscript{21} and that which branches out from it is compared to "the connection of all opinions of the 'ulama' of the shari'ah with the spring of the shari'ah."\textsuperscript{22} By this one could see that there is "no opinion which is considered not to have originated from the spring of the shari'ah."\textsuperscript{23} Therefore, whoever clings to any mesh will be able to "reach the first mesh"\textsuperscript{24} and thus he will see that "all the opinions are equal in validity."\textsuperscript{25} Then, al-Sha'rānī attempts to prove the form of connection of
the madhāhib of the mujtahids and the opinions of their followers towards the Book and the sunnah through the following "apparent chains of transmission:" 26

(1) Abū Ḥanīfah 27 (quoting) ‘Aṭā’ 28 from Ibn ‘Abbās 29 (quoting) the Messenger of God from Gabriel from God.

(2) Mālik 30 (quoting) Nāfi’ 31 from Ibn ‘Umar 32 (quoting) the Messenger of God from Gabriel from God.

(3) al-Shāfi‘ī (quoting) Mālik from Nāfi’ from Ibn ‘Umar (quoting) the Messenger of God from Gabriel from God 33.

(4) Ahmad b Hanbal (quoting) al-Shāfi‘ī from Mālik from Nāfi’ from Ibn ‘Umar (quoting) the Messenger of God from Gabriel from God.

Al-Sha’rānī goes on to explain by way of a diagram (see below) 34 that “all the leaders of the mujtahids do intercede in respect of their followers” 35 (on the Day of Judgement) and do take care of them (i.e.: the followers) in all their difficulties in their worldly life (dunyā), the intermediary life (i.e.: the barzakh - the grave), and the Day of Resurrection (yawm al-qiyāmah). 36
Another diagram shows how the a’immah will enable them to cross over the Path (sirāt), which divides Heaven from Hell. This sirāt, according to al-Sha’rānī, “in reality is only one in itself.” However, “it gives form to one who ascends it through the form of his knowledge and action.” He illustrates the form of the sirāt of those "who stood straight on the shari‘ah in the abode of earth" as under:
This is the position (mawqif) of the a’immah of the mujtahids, "who keep an eye on their followers on the sirāt so that they arrive at heaven without falling into the fire." On the other hand, the sirāt of "one who deviated from the shari’ah in this world" has been illustrated by al-Sha‘rānī as follows:

Thus, "whoever slips from the shari’ah here (will find) his foot slipping there according to the measure of what he had slipped here (in the world)." He uses yet another diagram (see below) to explain how all those madhāhib which a muqallid followed and in accordance with whose teaching he acted with sincerity will definitely enable him reach the Door of the Heaven (bāb al-jannah).
He gives a further diagram (see below)\textsuperscript{32} to illustrate the proximity of the domes of the \textit{a'immah} on the River of Life (\textit{nahr al-hayat})\textsuperscript{33} in Heaven which is the place of the manifestation of the sea of pure \textit{shari'ah} in this world, to the dome of the Messenger of God.\textsuperscript{34}
By this al-Sha'rānī tries to show that 'they attain this status by adhering to the shari'ah of the Prophet.' And from this position they will witness...
"the essence of the Prophet." One might wonder why none of the Prophetic companions were included in this arrangement. To this the author says:

We have limited ourselves to the domes of the four a’immah because they were the ones, whose madhāhib have continued to this period of ours. They were the representatives of the Messenger of God in respect of guiding his ummah towards his shari’ah, as though he (the Prophet) does not die till the Day of judgement. Therefore, because of this we made their domes by his side. As such they will not leave him (the Prophet) neither in the world nor in the Hereafter. I have not drawn these domes according to my intellect (‘aqīlî), instead I have drawn it in the form of what I saw in Heaven in some occasions.

This is followed by five sections concerning the opinions of the a’immah of the mujtahids, in which he defends them from the accusation of making statements about religious matters on the basis of personal opinions (ra’y). These include the stand of the shārī’ (i.e.: the Prophet), his sahābah, tabi’in, tabi’ al-tabi’in, Abū Ḥanīfah, Mālik, al-Shāfi’ī and Aḥmad b Ḥanbal. It seems that al-Sha’rānī by including these sections, is trying to show how the a’immah of the mujtahids have exercised caution in issuing statements pertaining to religion, more particularly Abū Ḥanīfah, for he had been accused by some people of preferring qiyās to hadith. Thus, in an attempt to clear what he views as a misconception about Abū Ḥanīfah and his madhhab, al-Sha’rānī has devoted several sections exclusively to Abū Ḥanīfah, in order to explain his status among the scholarly circles, the position of his madhhab and the respect he merited from the ‘ulamā’. Thus, al-Sha’rānī attempts to show the lofty position of Abū Ḥanīfah. In this regard he states:

Know, O, my brother, I am not answering about the Imām, in these sections, from my heart and good intention alone as do some of them, whereas, I answer about him only after searching and examining in the books of evidences.
He goes on to list the books he had read, commented on and committed to memory before presenting his balance and he urges others to read these works before "hurrying to criticize any of the a'immah." The section that follows this is on his attempt to reconcile seemingly contradictory ahādīth. Here he follows the chapterization of the ahādīth according to the chapters of fiqh. Thus he begins by reconciling the contradictory ahādīth in the section on Ritual Purity, and follows by:

- section in respect of the example of the two sides of the balance from the akhbār and āthār from the Chapter of ṣalāt to zakāt.

- section in respect of the example of the two sides of the balance from the akhbār and āthār from zakāt to sawm.

- section in respect of the example of the two sides of the balance, from the akhbār and āthār from siyām to hāji.

- section in respect of the example of the two sides of the balance from the akhbār and āthār from the Chapter of hājj to the Chapter of buyū'.

- section in respect of the example of the two sides of the balance from the akhbār and āthār from the Chapter of buyū' to jarāh.

- section in respect of the example of the two sides of the balance from the akhbār and āthār from the Chapter of jarāh to the last Chapter of the fiqh, that is ummahāt al-awlād.

Al-Sha‘rānī deals with ahādīth, irrespective of their being sound (sahīh) or weak (da‘īf) in terms of his theory of takhfīf and tashdīd. He
has not followed the technique of *tarjih*\textsuperscript{78} of one *ḥadīth* over the other. Instead he categorizes all *ahādīth* into the gradations ranging from *mukhaffaf* to *mushaddad*, based on the division of the *mukallafs*. As such his view in this respect seems to be that of accepting all *ahādīth* reported to have been narrated from the Holy Prophet. For al-Sha'ráñī says that he has recourse to al-Bayhaḍi\textsuperscript{79} in taking *ahādīth*, because al-Bayhaḍi, as Ibn al-Ṣalāḥ\textsuperscript{80} has said, "has not left out any *ḥadīth* from all the corners of the earth without incorporating it into his book."\textsuperscript{81} This statement requires explanation, which will be discussed later in the section on his opinion regarding *ahādīth*.\textsuperscript{82}

Thus, al-Sha'ráñī covers the whole range of *ahādīth* which are said to be contradictory to one another, and arranges them in these sections as follows:

1. a *ḥadīth* with that which is opposed to it.

2. a main *ḥadīth* along with those *ahādīth* which corroborate the main one in the form of *riwayah*,\textsuperscript{83} followed by those *ahādīth* opposed to the above one. The contrast is shown by the term *maʿa*.

3. occasionally the opinions of individual scholars are given to support the *ḥadīth*.

4. classification of the *ahādīth* under the categories of *takhfīf* and *tashdid*.

5. referring them to the two sides of the balance.

Interestingly, al-Sha'ráñī does not give reasons for the contradiction, instead, he refers the readers to the respective sections in the chapters of
fiqh, where he says that he has mentioned the reasons. However, occasionally, he applies the *takhfîf* and *tashdîd* on the two categories of people: those who are able and those who are unable to perform the obligations. In some places, the author states the opinions of others as explanations.

In the listing of the contradictory *ahâdîth*, the author seems to arrange the *ahâdîth* according to a systematic order of precedence, though, quite often this order is broken. Thus:

- A *marfu* hadîth is given precedence over other *ahâdîth*.

- A hadîth from the compilations of Bukhârî and Muslim is given precedence over others like al-Bayhaqî.

- A hadîth wherein there is clear command is given precedence over that which has permission or approval.

- A hadîth wherein the Prophet is quoted is given precedence over a report without his words.

- A hadîth narrated by a *sahâbi* is given precedence over that of a *tabi‘î*.

- Where both the contradictory *ahâdîth* are narrated by *sahâbâh*, precedence is given to those who are of a higher status (*ajâlî*) and closer to the Prophet over other *sahâbâh*.87

- A hadîth of Bukhârî is given precedence over that of Muslim.

- A hadîth narrated by the *shaykhayn* is given precedence over a hadîth narrated by either of them or by others.
- A hadith narrated by more than one sahābī is given precedence over a hadith narrated by an individual sahābī.

- A hadith narrated by more than one compiler is given precedence over a hadith narrated by one or two compilers.

- A hadith narrated by Ḥākim and Abū Dāwūd is given precedence over that of al-Bayhaqi.

- A hadith narrated by the a’immah is given precedence over others.

- A hadith of a narrator is given precedence over the opinion of the a’immah.

- An opinion of a sahābī as quoted by a narrator is given precedence over an opinion of anyone else.

Thus, al-Sha’rānī takes these elements into consideration in the arrangement of these contradictory ahādīth. But, in one of the hadith both the contradictory opinions are present. Thus, he classifies one opinion as takhfīf and the other as tashdīd.

Thereafter al-Sha’rānī begins to apply the principle of takhfīf and tashdīd in the chapters of fiqh. He begins to analyse and categorise the opinions of the a’immah according to the aforementioned two sides of the balance. In this he discusses the issues in an ordered pattern:

(1) the issues on which scholars have agreed are listed concisely;

(2) the issues on which scholars have disagreed are itemised;
(3) attention is given to the views of specific jurists who have caused a controversy;

(4) in the classification of the views into categories takhfif and tashdid, he uses variations in terminology. Thus, a requirement which he considers to involve tashdid he frequently terms mushaddad or that in which (fihi) there is tashdid. Similarly in the case of takhfif, he uses the term mukhaffaf or that in which (fihi) there is takhfif. Where a third view exists which could be interpreted to support either of the contrasting views depending on the circumstances, he uses the term mufaṣṣal to describe it or that in which (fihi) there is tafsil.

For instance, in the issue of selling wheat flour, al-Sha‘rānī quotes Malik and al-Shāfi‘ī, saying that "it is not permitted to exchange the wheat flour for its like." However, Ahmad opines that "such sale is permitted," while Abū Ḥanīfah opines that "it is permitted to exchange one for the other if they are equal in respect of fineness and coarseness." Thus, "the first opinion is mushaddad, the second one is mukhaffaf, while the third opinion is mufaṣṣal." The mufaṣṣal which distinguishes and separates one opinion from the other, will become one of the two sides if it fulfils the condition of any one of them. Thus, in the above example, the exchange of wheat flour for the like of that will be affected, if they are not equal in respect of the specified qualities. In that case, in the opinion of Abū Ḥanīfah, such a sale would not be permitted, and this involves tashdid. However, at times tashdid and takhfif of an opinion depends on the opinion of an imām. His usage of the phrase ‘ahad shiqqay al-tafsil" (one of the two parts of al-tafsil) indicates the divisibility of mufaṣṣal. In one place he uses the term "mutaraddad" (indecision) to mean "mufaṣṣal." That is in the case of theft committed by a
musta'min\textsuperscript{100} or a mu'āhid,\textsuperscript{101} according to Mālik the hands of both of them should be amputated,\textsuperscript{102} whereas, Abū Ḥanifah does not permit the amputation of their hands,\textsuperscript{103} while al-Shāfī‘ī has one opinion in favour of it and another against it.\textsuperscript{104} Thus the first opinion is mushaddad, the second opinion is mukhaffaf while the third is mutaraddad, since there is an indecisiveness on the part of al-Shāfī‘ī.\textsuperscript{105}

At times he uses the terms like ashadd (more severe),\textsuperscript{106} akhaff (more lenient),\textsuperscript{107} rā‘iḥat al-tashdīd (flavour of severity),\textsuperscript{108} or rā‘iḥat al-takhfīf (flavour of leniency)\textsuperscript{109} to mean tashdīd and takhfīf respectively. Likewise his usage of the term mutawassīṭ (the mean) could be taken to mean mufassal.\textsuperscript{110} However, the phrase ashadd takhfīf (extreme leniency)\textsuperscript{111} should be taken in its literal meaning. In some places he gives only the mukhaffaf without the mushaddad. Instead he classifies it under khāṣṣ (particular).\textsuperscript{112}

(5) referring them to the two sides of the balance. That is the sides of takhfīf and tashdīd respectively.

(6) these views are examined to ascertain the reasons (wajh, sabab) for their differences.

However, occasionally he departs from this procedure and lists together several issues on which there is controversy so that he does not deal with the explanations for these issues individually but deals with them after the group has been listed. For instance, on page 144 vol. 1 of al-Mīzān, the issues pertaining to the adhān\textsuperscript{113} of the junub,\textsuperscript{114} the taking of fee for adhān and lahn\textsuperscript{115} of the muʿadhdhin,\textsuperscript{116} al-Shaʿrānī lists together without giving the reasons immediately after mentioning the issues, as he
had done with the rest of the *fiqh* issues. In some places he does not even bother to explain the reasons, but instead presumes that the readers understand the issues and refers them to the *fiqh* books, the *sunnah* or even to *Qur‘ān*. An example is, in the Chapter of *buyū‘* concerning the condition of choice (*khiyār*) to refuse or to accept a commodity. Here, after mentioning the various opinions of the *a‘immah*, he classifies their opinions into the two categories without mentioning their reasons for this.

Where all opinions fall on one side, for example mushaddad, al-Sha‘rāni says that, too, can be categorised into the two sides of the balance. For instance, in the case of felony (*jināyah*) Abu Ḥanīfah and al-Shāfī‘i opined that if a man detains another man and enables him to be killed by some other person, the retaliation is against the killer and not against the detainer, and the detainer is given taʿzīr (discretionary punishment). In other words, Mālik’s opinion is that both the detainer and the killer are partners in the killing. Retaliation is against both of them, since it was not possible for the killer to kill the victim without his detention. Moreover, the victim was unable to flee after being detained. Ahmad b Ḥanbal, in one of his two riwāyah opines that the killer should be killed, whereas the detainer should be imprisoned till he dies. In the other riwāyah he opined that both of them should be killed without exception. Therefore, the first opinion is mushaddad on the killer but not the detainer, while the second opinion is mushaddad on both of them according to the condition mentioned for it. The third opinion is also mushaddad. Thus the matter is referred to the two sides of the balance.
Al-Sha'rānī uses expressions *wa-min dhālika* (of that is) to introduce new issues and *wa-ka-dhālika* (likewise) to group together issues of a similar nature. In this, he, occasionally treats the issues of a similar nature by: either classifying the opinions together into the two categories of *takhfīf* and *tashdid* and then giving reasons for this. At other times he mentions the similar issues along with the original issue which he then classifies and gives the reasons for. He also sometimes mentions a similar issue after the classification of the original issue, and follows it with the classifications of the former issue and the reasons for both the original and similar issues.

In elucidating the reasons, al-Sha'rānī mostly follows the principles which he had enunciated in his introduction, that the *mukallafs* are categorised into: (1) those who are strong in faith and have the physical ability to carry out the obligations, and (2) those who are weak in respect of both faith and physical ability to perform the obligatory acts. Thus, he uses terms like: *khāṣṣun li al-akābir* (particular to men of great religious merit) and *khāṣṣun li al-asāghir* (particular to men of little religious standing), thereby depicting the qualities expected of them in their treatment and application of the *shara'i* issues. For example, the author says on the issue of returning a defective commodity that Abū Ḥanīfah and Aḥmad b Ḥanbal had allowed a delay in the return of the defective commodity, whereas Mālik and al-Shāfi‘ī insisted that it had to be done immediately (*al-fawr*). The first opinion is *mukhaffaf* and specifically concerns the *akābir* who do not have any fear against anyone whom they deal with and give themselves no preference over their fellow men. On the other hand, the second opinion is *mushaddad* and is specially for the *asāghir* who consider that any good fortune (*al-hazz al-
awfar) should be for themselves and are unlikely to have any regard for the possibility of good fortune being in favour of their fellow men.\textsuperscript{139} However, sometimes such a man may be willing to recognise the good fortune of his fellow men.\textsuperscript{140} In that case his situation has changed.\textsuperscript{141} Nonetheless immediacy is more prudent in respect of their religious standing.\textsuperscript{142} In the issue of price-fixing (tas'\textsuperscript{ir}), al-Sha'r\textsuperscript{ā}n\textsuperscript{i} states that both Abū Ḥanifah and al-Shâfi‘i considered price-fixing to be haram.\textsuperscript{143} In other words, Mālik considered that if anyone among the members of the market opposed an increase or a decrease in pricing, it should be said to him, "Either you sell according to the pricing of the market or isolate yourself from it."\textsuperscript{144} Then the first opinion is mushaddad while in the second opinion there is takh\textsuperscript{f}t.\textsuperscript{145} Thus the matter will be referred to the two sides of the balance.\textsuperscript{146} The reason for the first opinion is that it aims to prevent the people from being treated in an arbitrary manner so that competitive dealings might be allowed to take place, even if a great deal of wealth might be acquired by some.\textsuperscript{147} This is for the aşāghir in whose hearts the love for the world is predominant, and they are the majority of the people in every period.\textsuperscript{148} The reason for the second opinion is so that people might be protected from fear and injustice.\textsuperscript{149} Presumably al-Sha'r\textsuperscript{ā}n\textsuperscript{i} means that prices might be kept artificially low in order that poorer people might be able to buy goods which are necessary for life. He illustrates this by quoting the hadīth which says:

None of your belief will be complete till one loves for his brother what he loves for himself.\textsuperscript{150}

This is specially for the akābir in whom the love for the mundane is not predominant and they have been purified by God from its blameworthy love in totality.\textsuperscript{151} Thus, the rules of the shari‘ah are
applied on the mukallafs according to their status in society and before God and according to the qualities expected from these two categories. That is why, the author emphasises that for every position there is people (*li kulli maqāmün riğāłun*), implying thereby that to act according to the rules befitting their status is an obligation. Thus the *shari'ah* is equally applied on these people according to their position in respect of *îmān*, *islām* and *iḥsān*.

However, the theoretical nature of this illustration is clearly at odds with its practical application. One should expect the market to employ the rules of competition or to be governed by price-fixing. Only with difficulty can the two occur side-by-side in a single market. Perhaps what al-Sha'rāni implies is that in the case of necessities there should be price-fixing. However, in that particular case he would have had to apply the rule to the *aṣāghir* as well as the *akābir*.

A careful study of the text will reveal that al-Sha'rāni uses many terms to indicate the difference between the two groups of the mukallafs. For instance, he uses the term *al-akābir* rather loosely to accommodate even the wealthy people (*ahl al-tharwah*), leaders (*umarā’*) and other people of means (*ahl al-rifāhīyyah*) and power (*ahl al-qudrāh*). He even states that there is a stage higher than the *akābir*. Thus, the author's classification of the mukallafs can be arranged in the following hierarchical order:
In this way, he relates the positions of these groups to the degree of their obedience to the *shari'ah*. This depends on the relative strength and weakness in terms of physique, belief, circumstances and degree of holiness (*iḥsān*). Therefore, a study of these distinctions between the *mukallafs* is pertinent, as they form the basis of al-Sha'rānī's theory of *takhfīf* and *tashdid*, which according to the author is much wider than the definitions given by the jurists. This will be discussed later.

In issues where the opinions are not categorised into *takhfīf* and *tashdid*, one might infer from their contexts. For instance, in the issue of taking *ghusl* for one who attends the Friday congregation (*jumu'ah*), al-Sha'rānī says that the four *a'immah* have specified the requirement of *ghusl* for one who attends the *jumu'ah*. However, in the opinion of Abū Thawr, it is *mustaḥabb* for everyone who either attends the *jumu'ah* or does not attend it. The reason for the first opinion is the saying of the Messenger:

> Whoever attends the *jumu'ah* let him take *ghusl*.168

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157 *akābir al-akābir*

158 like the 'ulamā' *al-ṣāliḥin*

159 like the 'ulamā' and others

159 (he gives no example)

160 *al-mutawassitīn*  

161 the common people

162 *al-aṣāghir*  

163 like the peasants

163 *al-arādhill*
Thus there is a specification of *ghusl* for one who attends the *salāt al-jumu‘ah*. The reason for the second opinion is evident from the saying of the Messenger:

> It is the right of every Muslim to take *ghusl* of his body every seven days.\(^\text{169}\)

Thus the *wujūb* is predicated for the body of one who causes inconvenience to people through the odour of his body and clothes, like the butcher and the oil-merchant. On the other hand, the *istihbāb*\(^\text{170}\) is predicated on the body of perfume merchant and others.\(^\text{171}\) Therefore, it can be seen from the above example, even though the author did not categorise the opinions into *takhfīf* and *tashdid*, the *wujūb* is taken as *tashdid* on the butcher and the oil-merchant, while the *istihbāb* is a *takhfīf* on the perfume merchant. Likewise, if the butcher and the oil-merchant were not required to take *ghusl* for *jumu‘ah*, then they were given *takhfīf*, while by necessitating *ghusl* on the perfume merchant, it would be considered as *tashdid* on him. However, this is against the spirit of the *shari‘ah*.

In the course of elucidating the reasons for the differences in the hierarchical order, al-Sha‘rānī brings in the opinions and quotations from his master ʿAlī al-Khawwāṣ and others including Ibn Taymiyyah,\(^\text{172}\) al-Shiblī\(^\text{173}\) and ʿAbd al-Qādir al-Jīlī.\(^\text{174}\) Occasionally, al-Sha‘rānī gives further explanations (*īdāh*) of his own or of others or he raises hypothetical questions and then gives his answers to them. He even quotes the opinion of his wife Umm ʿAbd al-Rahmān.\(^\text{175}\)

The author concludes this work with the explanation from his master ʿAlī al-Khawwāṣ concerning the causes for the legislation of the
rules of the *shari'ah* that the Five Religious Rules, *wājib*, *mustaḥabb*, *mubah*, *makruh* and *ḥarām* have been revealed from the Heavenly Domains. All these *takālīf* resemble the *kaffārah* for what Adam had eaten from the forbidden tree just as the *Mīzān* refers all the *madhāhib* of the *mujtahids* and their *muqallids* to the two sides of the *shari'ah* so as to complete the repentance of the descendants of Adam.

Even this conclusion consists of many hypothetical questions and their answers which are mostly quoted from his master 'Ali al-Khawwāṣ. He reports the latter as saying, "If there was a difference (*mukhālafah*) then it is a *kaffārah*, and if not, it is the elevation of the status to the level of the prophets." To this al-Shā'raṇī questions his master, "If it is an elevation of the status of the prophets, then what is the meaning of the saying of the Lofty:

> And Adam disobeyed his Lord, thus he strayed away from the right way."

'Ali al-Khawwāṣ replies, "What God narrates by way of a story about what is described as the disobedience and mistake of the prophets, is in fact a metaphorical usage, for none of them left the precinct of perfection (*ihsān*) for a single moment of the night or day." That precinct is the direct vision (*mushāhadah*) of the Truth. Therefore, it is not valid for anyone in that state to be disobedient. Disobedience is found in those who have been veiled from witnessing God. Thus, what is called the disobedience and mistake of the prophets is in fact only in outward form (*sūriyyah*), not in reality, it is so that some of them teach his people the difficulty of vindicating themselves with God through *tawbah* and *istighfār*, whenever they fall into (wrongful) dispute. To illustrate this al-Shā'raṇī quotes an interesting tale from 'Ali al-Khawwāṣ in which
the latter compares God to a king who is obeyed. One day the king said to the chosen people of his land, "I wish to bring a thing into existence (meaning the Creation) while revealing a book and sending down messengers with injunctions and prohibitions. I have made for those who obeyed them an abode called al-jannah (heaven), and for those who disobeyed them an abode called al-nar (hell). I brought forth from my servant Adam a progeny who will populate (yu'ammir) the earth. I addressed them with takalif after having made him able to eat from the tree and apparently prohibiting him from approaching it. Thereafter, I established against him and against his progeny a proof; for him the proof is metaphorical in form, whereas for his progeny the proof is real and not metaphorical. Then I made him leave that jannah in which he ate from the (forbidden) tree to another abode lower than it called dunyā where I perfected his status. So that whoever was present in the gathering of this agreement will not pass judgement on Adam for absolute disobedience. Instead he will pass on him the judgement of obedience to his Lord, as opposed to one who was absent from the gathering who will pass the judgement of disobedience on him. It is inevitable since there were the veiled ones among the progeny of Adam. Therefore, that was of great advantage to them so that according to God's determination they would appear sometimes with disobedience, thereby manifesting His clemency and forgiveness, and at other times with obedience, thereby manifesting His nobleness and majesty. Therefore, it was as though Adam provided the veiled ones among his progeny with the example of that formal crying and excessive sadness, in which those among his progeny who transgressed the law of God will fall. He has, as though, through his
action, opened the door of forgiveness for his progeny."  

Continuing his explanations, 'Ali al-Khawwās says:

All of the disobediences which happened from Adam are like his obedience to God... For, God... was pleased with him when he ate from the tree. (It was) just as He was pleased with him when he was performing his salāt. As such whoever says in respect of his father (i.e.: Adam - being the father of mankind) anything else by comparing his condition with that of his progeny, has departed from his covenant at the Day of Resurrection. For, they (meaning Adam and Eve) both said: O, Lord we wronged ourselves, and if you do not forgive us, we would certainly be among those who are losers - that is all my children who disobeyed your command. Thus he was, through that, seeking forgiveness for them and not for himself. Therefore, he is like one who intercedes on their behalf before God.

This whole episode of Adam committing the sin of eating the forbidden tree is also mentioned in the Christian doctrines, where the emphasis is on his wilful commission of the sin. This explanation of Adam's "sin" by al-Sha'rānī can be contrasted with the Christian view. Thus the Christians believe that Adam was expelled from heaven because of the sin he committed after he had been persuaded by his wife Eve. That too is why Eve has been accused by them for the sin of Adam. As a result of the sin, the whole of humanity was condemned to a fallen nature and the need for redemption. Al-Sha'rānī, using the teaching of his mentor, 'Ali al-Khawwās, has endeavoured to explain away this problem. By arguing that Adam's "sin" was only of an apparent nature, God had determined that the act or "sin" should be performed by Adam so that Adam might provide an example of God's forgiveness to those human beings who gave in to temptation if they repented. However, in reality, Adam's nature was like all prophets perfect and his life provides an example of perfection to those who experience true kashf.

Explaining the relation of Adam's eating from the forbidden tree with the differences of opinion in respect of the shara', al-Sha'rānī says,
for instance, in the case of nikāh, that, whenever the servant eats, his lust activates him to have sexual intercourse. Thus, had not nikāh been legislated, he might perhaps, have committed adultery and as a result he would either be killed as a legal punishment or as a concern for that woman with whom he had committed the adultery. Then the mischief will be great. That is why, the shari' (it could mean both God and the Prophet) commanded the necessity of having the wali, the two witnesses and the dower from the beginning. As far as the supererogatory charities (nawāfil al-ṣadaqāt) are concerned, al-Sha'rānī says they were legislated as means of off-setting any improprieties (khilal) which might have occurred in the obligatory zakāt. The same is the case with the salāt and the sawm. Thus, it is also possible that some people might have decreased their amount of charity or might have decreased their happiness in spending. As a result, their reward will also be decreased. This is explained in the hadith which indicates that God did not promise reward for zakāt except when one gives it away while being happy in his heart and pleased in his eye. Then al-Sha'rānī quotes 'Alī al-Khawwāṣ as saying, "The Messenger of God legislated the voluntary charity as a protection against the tribulation which would befall our bodies. For, the zakāt al-fitr purifies the wealth and the spirit, while the voluntary charity purifies the body from physical (ḥissī) and mental (ma'na) sins."

Al-Sha'rānī quotes his master 'Alī al-Khawwāṣ and other sūfi scholars (ahl al-kashf) in justifying the fact that all the differences are a kaffārah for Adam’s eating from the forbidden tree. Thus, in the conclusion, the different opinions in all matters of fiqh have been attributed to a kaffārah for Adam. He earnestly requests the readers to
show respect to the a’immah of the mujtahids and to acknowledge all the madhāhib of the mujtahids so that the reader himself may become an expert in it and may be rightfully called "the shaykh of ahl al-sunnah wa al-jamā’ah" of his time. He adds, "Whosoever is not called by that honorific title (laqab) has indeed done injustice to himself."8

With regard to the style and approach of al-Sha’rānī in his al-Mizān, it is noticeable that he tends to repeat himself. He frequently states, "The matter will be discussed in the coming sections if God, the Lofty, wills", or "as we have established in the preceding section." He uses the technique of addressing the reader as if he was engaged in debate with him by saying, "if you say." This is the style of dialectical argument in both theology and fiqh. He challenges the readers to provide something better than this balance to prove the concord between the madhāhib. However, he is very candid in asserting that no one could make the shari’ah on "more than the two sides of takhfif and tashdīd at all." Further he says:

By God, I am a sincere advisor to this ummah. I am neither obstinate (muta’annitun) nor a demonstrator of (any) knowledge for my own pleasure in respect of what I know... Had it not for been for my love to guide the brethren towards what had been mentioned, I would have concealed from them the knowledge of this noble balance.210

Al-Sha’rānī persuades the reader not to let anyone among the bygone scholars, who did not compose a balance like this, dissuade him from that. For, he says:

The gift (jud) of the Truth, the Lofty, continues to overflow on the hearts of the scholars in every period. Detach yourself from your natural knowledge of understanding to the real knowledge of unveiling, even if your natural disposition did not like it. For, of the signs of the other worldly science is your rejection of the intellect because of its rejecting the former, and do not accept it except by (way of blind)
acceptance only due to the strangeness of its paths. This is because the paths of unveiling are different to the paths of thinking.211

While quoting Muhammad b Malik,212 al-Sha’rānī says that if knowledge had been a divine gift and a domain of the world, then there would have been no innovation which God preserved for some of the later generation of scholars when none of the earlier generation of scholars had not looked at it.213

He says in the course of quoting other men of learning and spiritual stations that these quotations are narrated orally (mushāfahah),214 as such these are not found in any books and none has preceded him in stating these quotations.215 Further, al-Sha’rānī states that these are "secrets" (asrār),216 therefore, "precious" (na/ts).217 By this, the author tries to establish the originality of this book in the sense that he is recording the sayings of these men for the first time. Thereby he implies the importance of his book al-Mizān.

His respect for the prophets, the saḥābah, the tābi’īn, the a’immah and other great personalities of Islam is evident from his usage of appropriate phraseology of respect like ṣallā Allāhu ‘alayhi wa-sallam [on whom be the regard and salutation of God] after mentioning the Prophet, ṭaḏ Allāhu ta’ālā ‘anhu(m) [may God be pleased with him (or them)] for the saḥābah, the tābi’īn and at times for the a’immah, and raḥimahu Allāhu ta’ālā ‘alayhi [may God be merciful to him] for other great personalities of Islam. But, al-Sha’rānī is not consistent in this respect. In some place he addresses Abū Bakr,218 ‘Umar b al-Khaṭṭāb219 and ‘Alī b Abū Ṭalib220 as imāms.221 Is he suddenly referring to imām as an equivalent term for khalīfah or does he regard them as the equivalent
to those people for whom he usually uses the term *imām*? He does not use this term for them on other occasions. However, the explanation may lie in his statement that the *imāms* are like the *sahābah*. He uses persuasive words to appeal to the reader to read extensively with sincerity in order to remove misunderstanding and contempt for one another in the form of *madhhabi* chauvinism.

The usage of the terms *mujtahids*, *a'imma* and 'ulama' is, at times, confusing. He tends to use them interchangeably. In this way the emphasis of his doctrine is weakened. For instance, al-Sha'rānī states that the *a'imma* have the status as the *sahābah*, whereas he quotes the *ḥadīth* that the 'ulama' are the inheritors of the prophets. What is not clear in this "confusion" is whether only the *a'imma* are in the status of the *sahābah* or not. If so, what is the status of the rest of the 'ulama', are they not on par with the *sahābah*? However, the reader should presume that irrespective of the usage of these terms, the author means the *mujtahids* in general. This confusion is accentuated by his usage of hyperbolic words such as "great" or "greater *shari'ah*" and the "first spring of the pure *shari'ah*". The reading of the text could have been much more lucid, if he had adopted a rule of consistency in his usage of words.

Even al-Sha'rānī's usage of the term *shāri'* is misleading. For the term could be applied to both God - being the lawgiver in reality - and the Prophet - being the lawgiver metaphorically. It could have been much better if the author had used phrases like *salla Allāh 'alayhi wa sallam* or 'azza wa jall after mentioning the term *shāri'* in order to identify whom he is referring to.
Even though the edition used in our present study had been edited by a scholar, some typographical mistakes are found in the text, which, though not serious, do change the emphasis of the author.

In the following chapters an attempt has been made to expound his stand on some key jurisprudential issues which he has mentioned in al-Mizān.
1 Al-Mizan, 1:12.
2 Ibid, 1:9.
3 Ibid.
4 Ibid, 1:48
5 Ibid.
6 Ibid.
7 Ibid.

8 Etymologically it refers to what is apparent to the eye. Technically it means, "text." However, when used with the Qur’an and sunnah, it means "the precepts (ahkām) contained in the plain words (zahir) of these sources. see Tahanawi. p. 1405; FBE. 6:881; Dozy, op. cit., 2:674-5.

9 Surprisingly al-Sha’rani does not mention this hadith at all. Instead he quotes the Qur’anic verse fa la wāt naqar min kulli sirqah minhum fi yatafakqahu fi al-din. see Al-Mizan. 1:2.

10 Ibid.
11 Ibid. 1:49
12 Ibid.
13 Ibid.
14 Ibid, 1:50. This is the only diagram used in Al-Mizan al-Khudriyyah, ff. 30.
15 Al-Mizan. 1:50.
16 Ibid.
17 Ibid.
18 Ibid.
19 Ibid.
20 Ibid.
21 Ibid.
22 Ibid.
23 Ibid.
24 Ibid.
25 Ibid.
26 Ibid.


28 He is Abū Muhammad ‘Atā’ b Abū Rabah Aslām b Safwān, born in Janad (Yeman) of Nubian parentage but was brought up in Makkah. He was a client of the family of Abū Maysarah b Abū Khuthaym al-Fihri. Died in Makkah in 114 h at the age of 88. see EIN. 1:730; EI, 1:504; Ibn Sa’d, 2:386; al-Shirāzi. p. 17; al-Waraqah, p. 17; Ma‘ārif, p. 444; Ḥityāt. 3:310; Tadhhib, 7:199; Shadharāt, 1:47; Ḥbar. 1:141; Tadhkirāt, p. 98; Wafayāt, 3:261-3. see also text on p. 362 no. 19.

29 He is the cousin of the Prophet, born three years before the hijrah. He became a Muslim when his mother accepted Iṣlām. He was called as al-hibr (the doctor) or as al-bahr (the sea), because he was the greatest of the first generation of Muslims. He died in Tā’if in 68 h. see EIN. 1:40-1; EI, 1:19-20; Tadhkirāt, p. 40; Wafayāt, 3:62-4; al-Shirāzi, pp. 22-3. see also text on p. 361 no. 3.

30 See note 200 on p. 41.


32 He is ‘Abd Allāh b ‘Umar b al-Khaṭṭāb, a son of the second Caliph of Iṣlām. Born before the hijrah and emigrated to Madinah before the emigration of his father. see EIN, 1:53-4; EI, 1:28-9. see also text on p. 361 no. 4.
33 This is also known in the usage of the muhaddiths as al-silsilah al-dhahabiyyah (the Golden Chain). see Salāmah, Muḥammad, Fiqh Ibn ‘Umar fi al-Mu‘amalāt, (Fez, 1980), p. 30; Wafayāt, 5:367.

34 Al-Mizān, 1:51.

35 Ibid. The word intercession is called in Arabic as shafā‘ah, which is defined as al-su‘al fi al-tajawuz ‘an du‘uqāb man aladhi waza‘a al-jinayah fi haqqihi [the asking about overlooking the sins of one who merits punishment for them]. In describing the term shafā‘ah, al-Ghazzālī says, “It is an expression about a light which radiates from the Precinct of God from which it spreads to every substance whose relationship is strengthened with the substance of the prophethood through intense love, persistence in observing the sunnah and increased remembrance through saluting the Prophet. Its example is the sunlight if it fails on the water, then it reflects from it to a specific place on the wall and not to all the places. That place of the wall was specified due to its relationship with the water in respect of the place. This relationship is denied to all other parts of the wall.” see al-Ghazzālī, Ābū Hāmid Muḥammad b Muḥammad, Kitāb al-Madānī bihi ‘alā ghayr aḥlīhi, (Cairo, n.d.), pp. 78-9. Further he says that the reality of shafā‘ah in the world is like the status of a wazīr who has special connection with the king. The king forgives the friends and admirers of the wazīr due to the special relationship he shares with the king. Moreover, the king does not know the specialities of those who came for assistance except through the introduction of the wazīr. Ibid. The same is the case with the Prophet and the a‘immah. For details on the shafā‘ah of the Prophet and the a‘immah see al-Biṣāqilānī, al-Qādi Ābū Bakr Muḥammad b al-Tayyib. Kitāb tanzih al-Awā‘il wa talkhis al-Dalā‘il, ed. by ‘Īmād al-Dīn Aḥmad Ḥaydār (Beirut. 1987), pp. 415-31; al-Bayjūrī, Ibrāhīm b Muḥammad. Tuḥfat al-Murid ‘alā jawharat al-Tawahdī, (Cairo, 1939), p. 117. Hereafter cited as Talkhis and Tuhfah respectively.

36 Al-Mizān, 1:51.

37 Ibid. 1:52.

38 It is the bridge which cuts across the infernal fire. It is finer than a hair and sharper than a sword, and is beseet on each side with briars and hooked thorns. The righteous will pass over it with the swiftness of the lightning, but the wicked will soon miss their footing and will fall into the fire of hell. Hughes, p. 595.

39 Al-Mizān, 1:52.

40 Ibid.

41 Ibid.

42 Ibid.

43 Ibid.

44 Ibid.

45 Ibid.

46 Ibid.

47 Ibid. 1:53.

48 Ibid.

49 He is Ābū al-Hārīth al-Layth b Sa‘d b ‘Ābd al-Rahmān, born in Qalqashandā [see note 53 on p. 34] in 94 h. and died in 175 h. see Wafayāt, 4:127-32; Ibn Sa‘d, 7:157; Fihrist, p. 199; Khaḥālah, 8:162; Sargūn, op. cit., 1:445-50. see also text on p. 362 no. 25.

50 He is Ābū Ya‘qūb Ishaq b Ibrāhīm b Makhlūd b al-Rahawayh al-Hanzālī al-Marwāzī, born in Nishāpūr in 161 h. and died in 238 h. see Fihrist, p. 286; Shadharāt, 2:89; Khaḥālah, 2:228; Sargūn, op. cit., 1:109-10. see also text on p. 364 no. 48.


52 Al-Mizān, 1:54.

53 It seems that this is al-Sha‘rānī’s expression of his own imagination. His purpose in using such a term is to show the essential link between the Prophet and the mujāhidīn. This idea might have been borrowed from the Qur’ānic verse jannātun tajri min tahtīhi al-anhar. In this diagram there is no indication of the flow of the river. This could be interpreted in both ways. That is, if the flow begins from the Prophet and runs upward to the other a‘immah, then it indicates that the jurisprudential thoughts and proofs emanate from Prophet and pass through the various a‘immah. However, if the river flows from the other side (meaning from the side of the a‘immah towards the
consequently free to barter and the pillars of Islam. It is obligatory on every adult Muslim, of either sex, who possesses the minimum taxable amount (nisab) which remains in his possession for a complete year. see Hughes, p. 699; FEL, 8:120-5.

72 Ibid., 1:93-5. The word sawm means fasting which in the legal sense means, "the abstinence (istsak) from things which break the fast (mutirūrū) with the special niyasa (intention)... The sa'īm must be a Muslim in full possession of his senses and if a woman, free from menstruation and the bleeding of child bed." For details see FI, 4:192-3.

73 The word siyam is another form of the masdar from the root s-w-m. see Ibid., p. 192.

74 Al-Mizān, 1:95-6. The word hajj refers to the pilgrimage to Makkah, which is the last of the five pillars of Islām. It is obligatory on every adult Muslim, of either sex, who has the means to perform it. see Ibid., 2:196-201.

75 Ibid., 1:96-7. The word bayy'a is the plural of the term bay', meaning sale. It is applied to barter and all other types of sales and loan. For details see Hughes, pp. 30-4.

76 Al-Mizān, 1:97-102. The word farz means injury.

77 Al-Mizān, 1:102-5. The word ummahāt al-awlād is the plural of the term umm al-walad, a term used to denote a female slave who has borne a child to her master, and who is consequently free at his death. see Hughes, p. 655.

78 i.e.: giving preference of one hadith over another.
79 He is Abu Bakr Ahmad b al-Husayn b ‘Ali b ‘Abd Allâh b Mûsâ, born in 384 h and died in 458 h in Nishâpûr. He was an eminent disciple of al-Hâkim [see note 89 below]. See Ibn al-Subki, 3:3; Tadhkira, p. 1132; Wafâyât, 1:75-6; EIN, 1:1130; Siddiqi, op. cit., p. 71. See also text on p. 368 no. 95.

81 Al-Mizân, 1:78.
82 See text pp. 147-51.
83 It means narration. The one who relates such a riwâyah is called as a ráwî and the one from whom that riwâyah is related is called as al-marwi ‘anhu.
84 It is a hadith, the origin of which is traced back to the Prophet through a sahâbi. See al-Tarîfât, p. 224.
85 He is Abu ‘Abd Allâh Muḥammad b Abu al-Hasan Ismâ’il b Ibrahim b al-Mughairah b al-Ahnaf Bardizbah al-Ju’fî. Born in Buhârîn in 194 h. and died in Khartank in 256 h. See Tārikh, 2:4:36; Ibn al-Subki, 2:2; TH, 1:271; Tadhkira, p. 555; Tâhâthîh, 9:47; Shadharat, 2:134; Wafâyât, 4:188-91; EIN, 1:1296-7; Siddiqi, pp. 53-8. See also text on p. 365 no. 59.
86 He is Abu al-Husayn ‘Asâkir al-Dîn Muslim b al-Hajjaj b Ward b Khushâdh al-Qushayri, born in the year 206 h and died in 261 h in Nishâpûr at the age of 55. See Tadhkira, p. 588; Tārikh, 13:100; TH, 1:337; al-Fihrist, p. 231; Tâhâthîh, 10:126; ‘Ibar, 2:23; Shadharat, 2:144; Wafâyât, 5:194-6; EIN, 7:691-2; Siddiqi, op. cit., pp. 58-60. See also text on p. 366 no. 66.
87 According to Abu al-Qâhir al-Baghâdâdi, the sahâbah were categorised under the following grades: (1st grade) those who were earliest in accepting İslâm, (2nd grade) those who accepted İslâm during its early stage, (3rd grade) those who made the first hijrah to Abyssinia, (4th grade) the Ansârs of the first ‘Aqabah, (5th grade) the sahâbah of the second ‘Aqabah, (6th grade) the Muhâjîrs who migrated along with the Prophet, (7th grade) the mohâjîrs who migrated between the entrance of the Prophet at Madinah and the battle of Badr, (8th grade) those who participated in the battle of Badr, (9th grade) those who participated in the battle of Uhud, (10th grade) those who participated in the battle of Khandaq, (11th grade) those who migrated to Madinah between Uhud and Hudaybiyyah, (12th grade) those who took allegiance in the covenant of Ridwân at Hudaybiyyah, (13th grade) those who migrated between Hudaybiyyah and Conquest of Makkah, (14th grade) those who embraced İslâm on the day of the Conquest of Makkah, (15th grade) those who entered the religion in waves, (16th grade) children who knew the Prophet and who narrated few traditions from him, and (17th grade) children who were carried to the Prophet at the time of Hijjat al-Wîdâ. For details see al-Baghâdâdi, Abu Mansûr ‘Abd al-Qâhir, Uṣûl al-Dîn. (Istanbul, 1928), 1:298-303.
88 Refers to both Bukhârî and Muslim. However, in other fields this term is used to denote others. For instance, when referring to the sahâbah this term is used for both Abu Bakr [see note 218 below] and ‘Umar [see note 219 below].
89 He is Abu ‘Abd Allâh Muḥammad b ‘Abd Allâh b Muḥammad b Hamdawîh b Na‘îm b al-Hâkim, known as al-Hâkim al-Nishâpûrî. Born in Nishâpûr in 321 h and died there in 405 h. See Wafâyât, 4:280-1; Târikh, 5:473; Tabyîn, p. 227; Ibn al-Subki, 3:64; Tadhkira, p. 1039; ‘Ibar, 3:91; Shadharat, 3:176; EIN, 3:82. See also text on p. 367 no. 80.
90 He is Abu Dawûd Sulîmân b al-As‘îth b Ishaq b Bashîr b Shaddîd b ‘Amr b ‘Imrân al-Azâdi, known as Abu Dawûd al-Sijastânî. Born in 202 h and died in Basrah in 275 h. See Târikh, 9:55; TH, 118; Tadhkira, p. 591; al-Shirzâ’i, p. 50; al-Waraqâh, p. 50; Wafâyât, 2:404-5; EIN, 1:114; Siddiqi, op. cit., pp. 61-3. See also text on p. 365 no. 60.

91 Al-Mizân, 1:105.
92 Ibid., 1:107.
93 Ibid., 2:69.
94 Ibid., 2:69.
95 Ibid., 2:69.
96 Ibid., 2:69.
97 Ibid., 2:168.
98 Ibid., 2:124.
99 Ibid., 2:167.
100 He is one who sought assurance of protection over his self, wealth, honour and religion for a stipulated period. see *Lughah*, op. cit., p. 426; *EIN*, 1:429-30, s.v. *aman*.

101 He is one who is under treaty with the Muslims.


113 It is the call to perform *ṣalāt*.

114 He is one who is in his major ritual impurity.

115 It is the act of reciting the Qur‘ān with melody.

116 He is one who calls people to perform *ṣalāt*.

117 *Al-Mizān*, 2:142.


121 It is defined as *ta’dhib dūna al-hadd* (a disciplinary punishment other than the mandatory punishment mentioned in the Qur‘ān (hadd)). see *al-Ta’rifat*, p. 65. It is left to the discretion of the judge. Thus it is called as Discretionary Punishment. *Lughah*, op. cit., p. 136.

122 *Al-Mizān*, 2:142.


129 For instance, on page of Vol. 1, where he mentions the impurity of the stagnant water which is less than the two *qullah* along with the running water. For he says the latter is like the former.

130 *Al-Mizān*, 1:144. see the issue of taking fee for *adhan*.

131 *Ibid.*, 1:153. see the issue on reciting the *sūrah fātihah* (the opening chapter of the Qur‘ān).


143 *Ibid.*; It is also the opinion of Ahmad b Hanbal. see al-Sharbini, Muḥammad al-Khatīb, *Mughni al-Muhāj bi sharh al-Mināhāj*, (Cairo, 1955), 2:38; Ibn Qudāmah, Muwaffaq al-Dīn ‘Abd Allāh b Ahmad, *al-Mughnī*, (Cairo, n.d.), 4:217. Hereafter cited as *Muhāj* and *Mughnī* respectively. However, according to the Hanafites price-fixing in essential commodities is permitted as protecting the people from harm. see Ibn Juzay, Abū al-Qāsim Muḥammad b Ahmad, *al-Qawānīn al-Fiqhīyyah*, (Beirut, n.d.), p. 255; Here after cited as *Juzay*.

144 *Al-Mizān*, 2:70.
It is the religious act of bathing the whole body after a legal impurity. Scholars are unanimous in prescribing the washing of the whole body after the following acts which render the body impure: (1) *hayz* (menses); (2) *nifas* (childbirth); (3) *jum'ah* (coitus); and (4) *iltifam* (wet dream). It is absolutely necessary that every part of the body should be washed, for 'Ali relates that the Prophet said, "He who leaves but one hair unwashed on his body, will be punished in hell accordingly." see Hughes, 139-40.

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165 *Al-Mizān*, 1:208.


168 That is *al-muḥābēh*.

169 Dealing with the event of 704/1305 with the name of Malikite madhhab. see *Wafâyāt*, 2:273-6; *Tārīkh*, 14:389; *Hilya*, 10:366; *Tāj al-Bird*, 3:289.

170 *Al-Mizān*, 1:208.


172 He is Abū Sāliḥ Abū al-Qādir b Mūsā b Abū Allāh b Yahya al-Zāhid. He is the descendant of 'Ali b Abū Talib through his sons al-Hasan and al-Husain. Born in 470 h. and died in 561 h., and is buried in Baghdad. see *El*, 1:41-2.

173 *Al-Mizān*, 2:159. She is Fatimah al-Qasabiyyah. Unfortunately there is nothing much written about her or about the other three wives of al-Sha'ra'ī. However, al-Sha'ra'ī had high regards for Umm Abū al-Rahmān. He acknowledges that she was both more considerate and strong-willed than he. To illustrate her modesty al-Sha'ra'ī relates that when he took her with him to Makkah for hajj, she was the only woman in the group who did not go out for a walk in the town of 'Aqabah, on the way. see al-Sha'ra'ī, 'Abd al-Wahhāb, *Lawāqī al-Anwār al-Qudsiyyah fi bayān al-'Ubūd al-Muhammadīyyah*, (Cairo, 1961), p. 606; also see his *Tābih al-Mughaffalāt min al-Fuqāhā' wa al-Fuqārā' ilā shurūt suhbat al-Umrāh*, (MS 5624, Berlin), fol. 37b.
It is a term used to denote "the atonement for sins" which results from neglecting duties of commissions and omissions. This is mostly used for negligence in observing the normative duties. It is said that ziyarat al-qubur kaffarat al-Dhunub [visiting the graves of the saints is an atonement for sins].


The term literally means al-damm wa al-jam‘ [sexual intercourse]. Technically it refers to the marriage contract. see *Hughes*, pp. 313-27; *EI*, 3:912-4.

Zakat al-Fitr or sadaqah al-Fitirs a charity which is paid on the day of ‘Id al-Fitr. It is made obligatory on every free Muslim who possesses the required nisab which is in excess of his food, shelter, cloth, weapons and slaves. The reason for its legislation is that the Prophet made it obligatory on one who fasts to give away some amount in charity in order to purify himself by feeding the needy ones. If someone performs before the festival salath, then it is considered as an accepted zakat. However, if it is performed after the salath then it is considered as one of the charities. see al-Mirghinani, Buhārān al-Dīn ʿAlī b Ḥabīb Bakr. *al-Hidayah: Sharh bidāyat al-Mubtadi*, (Cairo, 1970), 2:281.

The term ahl al-sunnah wa al-jama‘ah means "the People of the sunnah and the community". They are those who refrain from deviating from the dogma and practice. The expression is particularly used in this sense in opposition to Shi‘ah. *EI*, 4:555.

He is Abū ʿAbd Allāh Jamāl al-Dīn Muḥammad b. ʿAbd Allāh b Mālik al-Tāʾi al-Hiyānī, known as Ibn ʿAbd al-Malik al-Nahwī. Born in Hayyān in Andalus in 600 h. and died in Damascus, in 672 h.. He is the writer of the famous work on grammar *Alfiyah*. see *Khalilī*ah, p. 151.
He is Abū Bakr 'Abd Allāh, surnamed ‘Ātiq. He was three years younger than the Prophet and became the first Caliph. He died in 13 h. at the age of 63. see *FEI*, 1:80-2; *al-Shirāzī*, pp. 18-9.

He is 'Umar b al-Khattāb known as Abū al-Hafs, was the second Caliph and was first to be called as *amīr al-mu'minin* (leader of the faithfuls). Born 13 years after Abrahā'ī’s invasion of ka'bah and was assassinated in 23 h. at the age of 55. see *al-Shirāzī*, pp. 19-21; *al-Isābah*, 4:518-9. see text on p. 361, no. 2.

Al-Mizān, 1:106.

Ibid., 1:101-2 and 209.

Ibid., 1:30.

Ibid., 1:32.

His name is given as Ahmad Sa'd 'Ali, a scholar from al-Azhar. see *al-Mizān*, 2:222.

In the latest edited version of *al-Mizān al-Kubrā*, the editor Dr. 'Umayrah has attempted to correct some of these mistakes. However these corrections are unnecessary.
CHAPTER THREE

Al-Sha'rānī's attitudes towards Sunnah and Hadīth

The second source of Islamic Law is usually termed either Sunnah or Hadīth. In fact a Hadīth is a report which forms the basis of a practice (Sunnah); as such the terms are often regarded as synonyms.

Sunnah:

Al-Sha'rānī, following general Islamic understanding, maintains that the Sunnah occupies a position second to that of the Qur'ān as it explains that which is stated generally in the latter. In this way, it comments on the Book and not vice-versa.¹ As a proof for this statement al-Sha'rānī quotes the Qur'ān in which it was said to the Prophet that his role was, "To explain to the people what was sent down to them."² This is because the explanation would be given in language which was different from the revelation.³ Thus, al-Sha'rānī argues, "Had the 'ulamā’ of the ummah been confined to the explanation of the general concepts and the deduction of rules from the Qur'ān, the Truth, the Lofty, would, certainly have deemed it sufficient for the revelation to be promulgated without commanding the Messenger to elucidate it."⁴ On the contrary, God clearly states that:

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We have not left out anything in the Book, meaning that the Qur'ān is self-sufficient and comprehensive. As such there is no need for any explanation. However, the ambiguities in the Qur'ān are explicable only by the sunnah. In this respect, al-Sha‘rānī states:

Had not the Messenger of God explained to us the manner of ritual purification, salāt, ḥajj and others, none of the 'a'immaḥ would have been guided towards understanding the extraction of that from the Qur'ān, nor would we have known the number of the raka‘āt of the ṣalāt of the fard (ṣalāt) nor the nawāfīl, nor other matters.

Adding to what he has said above, al-Sha‘rānī quotes his master ‘Alī al-Khawwās as saying that none would have "known that the (ṣalāt al-) šubḥ was two raka‘āt, while the ḥufr, ‘aṣr and ‘ishā‘ were four (raka‘āt), nor that the maghrib was three raka‘āt." Further, none would have known "what is to be said in the opening supplication, nor would he have known the manner of takbīr, nor of the dhikr of the rukū‘, the sujūd and the i‘tīdāl." He would not even know "what had to be said while sitting during the tashahhud." Likewise he would not understand the manner of performing the ṣalāt of the two festivals, the two eclipses nor the other salawāt like the ṣalāt al-janāzah and istisqā‘. Moreover, he would be ignorant about the naṣīb of the zakāt, the rules of ḥajj, ḥajj, buyū‘, munākahah, jārāh, qādā‘ and all the chapters of fiqh.

In the same vein Zakariyyā al-Anṣārī, according to al-Sha‘rānī, has said that all the rules came as general concepts in the Qur'ān. If there had not been a sunnah to explain to us the meaning of the general rule, we would not have known it.
Continuing the argument, 'Ali al-Khawwās says that the sunnah defines what we understand about the rules of the Book and not otherwise.25 The Prophet was the one who "explained to us the rules of the Book through the utterance of his shāri‘ah,"26 which he did "not pronounce out of his own desire, but only as the revelation revealed to him."27 Further, the saying of God:

Thereafter if you dispute in respect of a(ny) thing, then refer it to God and the Messenger,28 clearly indicates the importance of the Qur'ān and the Sunnah. Therefore, it is required of the mukallafs as mukallafs to "act according to what both the Qur'ān and the sunnah agreed upon or, in the absence of one of them, what the other says is acceptable."29

Al-Sha'rānī, then quotes the Sunnan of al-Bayhaqī wherein the latter is quoting 'Umar b al-Khattāb as saying that he (i.e. 'Umar) was asked about shortening the salāt on a journey.30 The questioner asked him: "We certainly see in the Great Book salāt of fear and we do not find salāt of journey."31 To this 'Umar replied, "O, son of my brother, verily God sent to us Muḥammad when we did not know any thing."32 However, "we acted according to what we saw the Messenger of God performing."33 As such, the "shortening of the salāt on journeys is a sunnah (which) the Messenger of God made a sunnah."34 In this regard, al-Sha'rānī narrates an incident where a man said to 'Imrān b Husayn,35 "Do not speak to us except with the Qur'ān."36 Then 'Imrān replied: "You are indeed stupid."37 He asked the questioner, "Is there in the Qur'ān an explanation of the number of obligatory raka'āt, or (commands as to recite) loudly in that (salāt) and not in that (other salāt)?"38 The man replied, "No."39 Thus, it becomes clear to the reader
that the *sunnah* essentially serves as explanation to those verses which cannot be understood without any explanation. The denial of the *sunnah* would mean the denial of understanding the divine rules.\(^{40}\) Therefore, the *mukallafs* should adhere to both these sources. Perhaps this is what the messenger meant when he said:

> It is obligatory for you all to hold fast to my *sunnah* and to the *sunnah* of the *khulafā'* after me (and) you all grip them with the canine teeth. I warn you from innovated thing. For every innovated thing is an innovation and every innovation will lead you astray.\(^{41}\)

Regarding the classification of the *sunnah* into *takhfif* and *tashdid*, al-Sha‘rānī maintains that the two sides are also involved in the *sunnah*.\(^{42}\) For, he says that the meritorious (*fadl*) one takes precedence over the less meritorious (*mafdūl*) one as a recommended act, while the *mukallaf* has the ability to do it.\(^{43}\) Likewise, the legally most appropriate (*awlā shara‘*) takes precedence over that which falls short of the best, even though it is permissible to leave the *afdal* when the *mafdūl* is the original.\(^{44}\) Therefore, whoever wants to avoid blame should not descend to the *mafdūl*, except if he is incapable of performing the most meritorious (*afdal*).\(^{45}\)

Explaining the reason for the contradiction in the *sunnah*, al-Sha‘rānī states that it is due to the fact that the messenger of God "used to address the people according to their level of understanding and their status in respect of *islām*, *īmān* and *iḥsān*."\(^{46}\) To illustrate these contradictions al-Sha‘rānī quotes the *Qur‘ān* where it is stated that the desert Arabs (*al-a‘rāb*) say "we believe", say (O, Muhammad) "you have not believed but (only) say "we have submitted (our wills to God)."\(^{47}\) Commenting on this *Qu‘ānic* verse, al-Sha‘rānī says that this verse seeks to "set down the knowledge of what we have mentioned, if not, what
difference is there in his (i.e.: the Messenger's) address to the notables (akābir) among the saḥābah from his address to the boorish (ajlāf) of the Arabs?; and where is the status of those from whom the Messenger...took allegiance to hear and obey (the commands of the Messenger) in respect of actions which are encouraged (munṣhit) and actions which are discouraged (munkirah); and the difficult and the easier (actions), from those who seek to give allegiance to the Messenger...only in the matter of (performing the) ṣalāt al-ṣubh and ʿāṣr without the rest of the (obligatory) ṣalāt, and without zakāt, ḥajj, siyām, jihād and any thing else?"48

**Hadīth:**

In respect of ḥadīth, al-Sha'rānī opines that contradictory aḥādīth follow the classification of takhfīf and tashdīd.49 This is only in respect of aḥādīth with alternatives. As for those aḥādīth which have been reported without alternatives, meaning those aḥādīth which do not have any muqābil (opposite), instead it is a "shara' on which ijmā' has been reached."50 Al-Sha'rānī maintains that in these cases "there shall be no two sides of the balance."51 That will be like "the abrogated ḥadīth or like the doctrine which the mujtahids had withdrawn from or the scholar's unanimous agreement on its contrary."52 Thus there will be only one side for all the mukallafs.53 This is because "the lack of any difficulty for anyone to perform it outweighs the difficulty of its being neglected."54

Therefore, according to al-Sha'rānī, it is appropriate for "every believer to aspire to (iqbāl 'alā) act according to every ḥadīth which has been handed down,"55 as it will "never be outside the two sides of the balance."56 In this respect, the author quotes 'Alī al-Khawwāṣ as saying
that whenever one sees in the speech of the shāri' or in the speech of anyone of the a'immah anything which contradicts the other in its literal form, it should be interpreted according to two states. For, "the speech of the shāri' is free from contradiction."58

Regarding the rule when a student found two ahādīth or two opinions or more without knowing the abrogated one of the two ahādīth nor the later of the two opinions, al-Sha'rānī suggests that the student should "act by this hadith or this opinion at one time and by the other opinion at another time and the most prudent one of the two should be preferred over the other, in respect of the injunction and prohibition according to its condition," meaning that he does not act according to the other one (i.e.: the less prudent opinion) at all, even if one of them is mansūkh or the mujtahid had withdrawn from it.60

On the issue of interpreting hadith, al-Sha'rānī observes that if the hadith had been interpreted, "it would have gone away from the intent of the shāri'. It is because of this the pious predecessors did not interpret the sayings of the Prophet." Instead he considered that it is "most befitting (awlā) to follow (ittibā') the shāri', even though the shara'i principles also testify to that interpretation." He quotes Sufyan al-Thawrī as saying, "It is good manners (adāb) to carry out the ahādīth which lead to restraint and deterrence according to the literal meaning without any interpretation."63

Al-Sha'rānī holds that a mukallaf must act according to the ahādīth which have been validated after the demise of the imām of the mukallaf even though the imām did not adopt them. For, had the imām managed to obtain it and he considered it as valid, then he would have commanded
the *mukallaf* to act according to it.\(^65\) This is because, "all the *a'immah* are prisoners in the hands of the *shari'ah.*"\(^66\) Thus, whoever upholds this view "will gather the good with both his hands."\(^67\) On the contrary, one who asserts that he will act only according to the *hadith* which his *imām* has adopted, will find that "many a good (reward) will slip away from him."\(^68\) Therefore, it is best for the *mukallafs* to act according to all the *ahadith* which have been validated after their *a'immah*, so that the *wasiyyah* (directive) of the *a'immah* will be implemented.\(^69\) Al-Sha'rānī believes, "Had they lived and managed to obtain those *ahādith* which had been validated after them, they would have accepted them and acted according to them."\(^70\) Then they would have abandoned *qiyaṣ* and personal opinion (*raʿy*).\(^71\) It has been stated that even al-Shāfiʿī used to send for Ahmad b Hanbal asking him:

> If there is a valid *hadith* with you, do inform us of it so that we could accept it and we could abandon every opinion which we used to hold before that or which has been held by others. For, verily you are more learned (*ahfaz*) in respect of *hadith* and we know about that.\(^72\)

Regarding the classification of *ahādith* and opinions into the categories ranging from valid to invalid, al-Sha'rānī says that whoever holds such a view is ignorant of the two sides of the balance.\(^73\) He quotes al-Bayhaqi and al-Ḥafiz al-Zaylaʿi\(^74\) as saying that "our *hadith* is more valid and has more narrators."\(^75\) This, they might have said due to their inability to weaken the proof of their opponents and to refute them as a whole. However, al-Sha'rānī says, "Had al-Bayhaqi or those who held this opinion studied what he claims to have studied that the pure *shari'ah* came on two sides of *takhfīf* and *tashdīd*, it would be unnecessary for him to say that 'our *hadith* is more valid and has more (narrators)."\(^76\) Instead,
he would refer every hadith or opinion with that which opposes it to one of the two sides of the shari‘ah.77

Al-Sha‘rānī argues against the accusation levelled against the madhhab of Abū Ḥanifah that its proof is usually weak, by saying that he studied the books of the Ḥanafi madhhab, particularly the book, "Takahrij al-Aḥādith"78 of "Kitāb al-Hidāyah"79 by al-Ḥāfiz al-Zayla‘ī and found the proof of the imām and his disciples was between, what he calls "the valid,80 good81 or weak,82 but that which has more than three chains, thus it (i.e.: the weak hadith) is annexed to the category of hasan or ṣaḥīḥ in respect of validity."83 Further, al-Sha‘rānī maintains that the majority of the muḥaddiths took evidence from weak ahādith, if their chains increase and they annexed it under the category of ṣaḥīḥ or hasan.84 This kind of weakness is more present in Kitāb Sunan al-Kubra of al-Bayhaqī, which was compiled with the intention of seeking evidences for the opinions of the a‘immah and their disciples.85 The author believes that if al-Bayhaqī did not find a hadith which is ṣaḥīḥ or hasan, which can be taken as evidence for the opinion of an imām or the opinion of anyone among his followers, he (i.e.: al-Bayhaqī) would begin to report the hadith from such and such chains by saying "these chains strengthen one another."86 Thus, according to al-Sha‘rānī, "to assume that some of the proofs of the opinions of imām Abū Ḥanifah or of his disciples are weak"87 is not particular to him alone, for, in fact, "all the a‘immah partook with him in that, and there was nothing to blame except on one who took evidence through a weak hadith which has only one chain."88 Further, al-Sha‘rānī asserts that none of the mujtahids took evidence from a weak hadith, except when it fulfilled the above-mentioned condition of coming from many chains.89 He continues, by saying that in his study of the Masānīd90
of Abū Ḥanifah, he saw that the latter did not narrate a hadith "except from the best of the honest and reliable tābiʾīn who were the best of the century about whom the Messenger of God had borne witness." They include personalities like al-Aswad, ‘Alqamah, ‘Aṭā’, Ikrimah, Mujāhid, Makhūl, Ḥasan al-BAṣrī and their like. None among them were considered to have been accused of lying. Al-Shaʿrānī quotes Abū Ḥanifah on the status of the tābiʾīn in these words:

By God, we are not people (worthy of) mentioning them, then how (is it possible) for us to compare between them. There is no narrator among the muhaddiths and the mujtahids who did not accept criticism (jarḥ) like his accepting the justification (taʿḍīl) if it is related to him, except the saḥābah. Likewise, (one should not compare between) the tābiʾīn due to the lack of impeccability or sound memory (ḥifẓ) in some of them. (Even) when the ‘ulamāʾ are considered as) the trusted ones over the shariʿah, they put forward the jarḥ or taʿḍīl to act according to it together with accepting all the narrators while others describe it as probable. On the contrary, the majority of them gave precedence to taʿḍīl over the jarḥ. They said that the origin is ‘adālah (honesty) while the jarḥ is extraneous (tāriʿ), so that the majority of the sharaʾi ahādīth will be valid.

This needs explanation.

It is generally believed by the Sunnites (as opposed to the Shiʿites) that the authentic source of Islamic guidance after the Qurʾān is the six compendia of ḥadīth collections, popularly known as al-Ṣaḥḥā al-Sittah (the six authentic ones), which consists of the collections of al-Bukhārī, Muslim, al-Tirmidhī, al-Nisāʾi, Abū Dawūd, and Ibn Mājah. The collections by others are not included in these six works. However, this does not mean that the ḥadīth collected by those other than the above six are unauthentic. For, even in these six works there are ḥadīth whose authenticity is considered weak. However, the occurrence of weak ḥadīth in them is far less as compared to the other collections. It is because of this, that these six works are given the status of being the
most authentic collections. As far as the collections of al-Bayhaqi are concerned, it has been claimed that he took very little evidence from fabricated traditions (al-mawdū'). However, his collections, too, include weak (da'if) ahādīth. Nonetheless, even though the number of fabricated ḥadīth in his collections is small, he has been criticised by others for using ahādīth known to be mawdū. It should be noted that al-Bayhaqi did not mention a ḥadīth after having learnt that that particular ḥadīth was a mawdū or da'if. His aim in collating the ahādīth was to make available to the Muslim ummah the ahādīth, whose authenticity had been overlooked by the earlier collectors due to their meticulous carefulness in accepting the ahādīth and which have been authenticated after the demise of al-Bukhari and others, fearing that by not so doing a significant aspect of the Prophetic traditions would have been lost forever.

Commenting on acting according to the weak ahādīth, scholars and muḥaddiths are divided as to the permissibility of such. Some opine that it is absolutely permitted to act according to the weak ḥadīth, while some others hold that it is absolutely not permitted to act as such. However, the majority are unanimous in their opinion that it is best to accept such ḥadīth in respect of taghrīb and tarhīb, al-manāqib and fadā'il al-a'māl and not in matters of aḥkām al-shari'ah. What they meant by aḥkām al-shari'ah is that in which there are clear rules. This is because, if it (i.e., the weak ḥadīth) is valid in actual fact, he will be given his due for acting according to it. However, if it is not his action will not be classified as a wicked act of making lawful what was not or making prohibited what was not. Nor will he lose his due for his other actions.
And in this regard *imām* al-Nawawī says in his book "*al-Adhkār*: 117

The ‘ulamā’ among the *muḥaddiths* and the *fuqahā*’ and others said that it is permissible and desirable in respect of the *fadā’il*, *targhib* and *tarhib* to act according to the weak *hadith* as long as it is not *mawdū‘*. But as far the rules like the *ḥalāl*, *ḥaram*, *al-bay‘*, *al-nikāh*, *al-talāq* and others (are concerned) one should not act in respect of these except through the *hadith* which is *sahīh* (valid) or *ḥasan* (good). If not there should be (reason to act) prudently in respect of (any) thing from these. 118

It is also stated that the validity and the weakness of a *ḥadith* is according to the opinion of the individual scholar. For neither the Prophet nor any of the *sahābah* said that such and such a *ḥadith* is valid or weak. It is narrated by al-Ḥākim and al-Bayhaqī from al-Shāfī‘ī that he used to say, "If the *ḥadith* is valid, then it is my *madhhab*." 119 To this Ibn Ḥazm commented, "That is, valid according to him or according to others." 120 Again al-Sha‘rānī quotes al-Suyūtī as saying, "I am a man from the servants of the *ḥadith* of the Messenger of God…as such I am in need of him (i.e.: the Prophet) in validating the *ahādīth* which the *muḥaddiths* had weakened through their path." 121

Thus, it can be seen that the classification of *ḥadith* as such is according to the consideration of each individual scholar. 122 To some the age of the narrator is an important factor in validating the *ahādīth*. For instance, the Ḥanafites consider the narrations from ‘Abd Allāh b ‘Abbās as weak in comparison to that of ‘Abd Allāh b Mas‘ūd. 123 For Ibn ‘Abbās was a lad as compared to Ibn Mas‘ūd who was of advanced age at the time of the Prophet. Their argument is that Ibn Mas‘ūd was mature enough to understand what the Prophet did and said, whereas Ibn ‘Abbās was too young to understand that. But, the Shāfī‘ites argued in favour of Ibn ‘Abbās saying that though he was young he was praised by the Prophet for
his soundness of intellect. Moreover, being related to the Prophet, he had seen how the Prophet conducted himself in privacy. To the Shāfi‘īites his narration is more valid than Ibn Mas‘ūd’s.

Regarding the use of weak *ahādīth*, al-Sha‘rānī states the reason why he had mentioned weak *ahādīth* in these words:

I have mentioned the weak *ahādīth* according to the (opinion) of some of the *mugallādīs*, for their care, so that they could act according to them, for they might be valid. Therefore, I have compared the valid *hadith* in some places with the weak ones which other *mujtahids* had acted upon. All these are (done as) a mark of respect to the *a’immah* of the madhāhib so that whoever sees with a fair eye will know through the context that that weak *hadith*, according to which the *mujtahid* had acted, would not have been taken as evidence by him, had it not been valid according to him.¹²⁴

The *shaykhayn*, according to al-Sha‘rānī, had included *ahādīth* narrated by people about whom others have criticised so as to establish the evidences of the *shari’ah* against their denial, in order that people will attain the merit of acting according to them.¹²⁵ It is better than finding fault with them, since there was great merit for the *ummah*.¹²⁶ Even acting according to the weak *ahādīth* by performing the *takhfīf* is considered as a mercy to the *ummah*, because, al-Sha‘rānī maintains, “Had the *shaykhayn* or other *muhaddiths* not made anything weak from the *ahādīth* by validating all of them, then to act according to them would be an obligation, whereas, most of the people will be unable to act according to them.”¹²⁷ Al-Sha‘rānī quotes both al-Muzānī and al-Zayla‘ī on the names of those who were criticised by others as mentioned by the *shaykhayn*.¹²⁸ They include personalities like Ja‘far b Sulaymān al-Ḍabī‘ī,¹²⁹ al-Ḥārīth b ‘Ubayd,¹³⁰ Ayman b Thābit al-Ḥabashi,¹³¹ al-Khālid b Mukhlad al-Qaswāṭīnī,¹³² Suwayd b Sa‘īd al-Ḥadthānī,¹³³ Yunus b Abū Ishāq al-Sabā‘ī¹³⁴ and Abū Uways.¹³⁵ However, the *shaykhayn* laid down
conditions about a narration from someone whom the people mentioned: They narrated only from a man who had been (generally) accepted, whose evidence was reliable and whom they knew to be a direct source (aṣl). (2) they did not narrate from a narrator a ḥadīth which was isolated or one that the other reliable narrators rejected. It is like the marfū' ḥadīth of Abū Uways which has been quoted by Muslim in his Ṣahīh, the text of which is:

God, the Almighty, says I have divided the ṣalāt between Me and My servant into two (equal) halves.¹³⁷

This ḥadīth, even though narrated by Abū Uways, has also been narrated by other reliable narrators like imām Mālik, Shu‘bah¹³⁸ and Ibn ‘Uyaynah.¹³⁹ So this ḥadīth has parallels.¹⁴⁰ This effective cause (ʾiqlāḥ - i.e. the fact that it has been related by many sound narrators), according to al-Zaylā‘ī and al-Dimyāṭī,¹⁴¹ has circulated among many ḥuffāẓ,¹⁴² particularly those who collected the aḥādīth missing (istadraka) in the two Ṣahīh, like the collections of Abū ‘Abd Allāh al-Ḥākim, collecting and validating the aḥādīth.¹⁴³ Thus al-Ḥākim used to say mostly that this ḥadīth is valid according to the conditions of the shaykhayn or one of them, together with the fact that in the ḥadīth there is this effective cause (i.e.: it is narrated by other reliable narrators), since not every ḥadīth whose narrator has been claimed as a valid support in the (two) Ṣahīh is valid. Because it is not necessarily the case as a result of its narrator being claimed as valid support in the (two) Ṣahīh that every ḥadīth which we find in his work is valid according to the condition of the author of that Ṣahīh because of the possibility of losing one of the conditions of that scholar (ḥāfiẓ),¹⁴⁴ just as we mentioned earlier. Indeed, another scholar,
apart from the *āshāb* of that *Sahīh*, has not required (these) same conditions in his *Sahīh*.

Therefore, al-Sha'rānī suggests that it is not befitting for any one to abstain from acting according to a *ḥadīth* just because the narrator of it has been criticised by others, because, al-Sha'rānī says, "most often such things might be agreed upon and its evidences are reliable and is known to be a direct source." ¹⁴⁵ However, in his opinion, one should abstain from a *ḥadīth* which is isolated and one to which reliable persons have expressed opposition and that for which there appears no evidence.¹⁴⁶ Further, al-Sha'rānī cautions the readers that by permitting abstinence from acting according to the *ahādīth* the narrators of which have been criticised by others, "most of the rules of *shari'ah* would have gone."¹⁴⁷ To avoid such catastrophic consequences al-Sha'rānī stresses that all the followers of the *mujtahids* should have "good intention towards the narrators of all the evidences of the opposing *madhāhib*."¹⁴⁸ This is because all that they have narrated will not depart from the two sides of the *shari'ah*, namely the *takhfīf* and the *tashdīd*.¹⁴⁹ Further, the author believes that every proof which comes as contradictory to another proof is not contradictory in reality.¹⁵⁰ On the contrary, it must be applied to two states, either *wujūb* and *nadib* or *tahrīm* and *karāhah* or one of the two *ḥadīth* is abrogated.¹⁵¹ For contradiction in respect of the speech of the *shāri‘* is prohibited.¹⁵² To illustrate this al-Sha'rānī gives the following *ahādīth*:

1. Whoever touches his private parts let him make ablution.¹⁵³
2. Is it not but a piece of flesh from you?¹⁵⁴

Even though both these *ahādīth* seem to contradict one another, they are, in fact, not contradictory. This is because, the *ḥadīth* of the
nullification of ablution by touching the private parts (i.e.: the first \textit{hadith}) is specifically for the great personalities among the believers, while the second \textit{hadith} is applied specifically to the commoners.\textsuperscript{155} Therefore, in the first \textit{hadith} there is \textit{tashdid} while in the second \textit{hadith} there is \textit{takhfif}.\textsuperscript{156}

The knowledge of these "contradictions" is essential for the learned. Al-Sha'rānī believes that no one, including a saint (\textit{wali}), shall attain the station of perfection except if he becomes knowledgeable of all the contradictory \textit{ahadith} which have come from the Prophet and knows from where the \textit{shāri'} took them from the Qur'ān.\textsuperscript{157} This is because, as quoted earlier, God says:

\begin{quote}
We have not left out anything in the Book.\textsuperscript{158}
\end{quote}

Al-Sha'rānī quotes from ‘Alī al-Khawwās that all the laws which the \textit{shari'ah} elucidates are clearly adopted by the perfect \textit{wali} from the Qur'ān just as they were adopted by the \textit{a'imma} of the mujtahids.\textsuperscript{159} If it was not for their knowledge of that, they would not have been able to deduce the laws which have not been clearly stated in the \textit{sunnah}.\textsuperscript{160} According to ‘Alī al-Khawwās, the above status is considered a great position (\textit{manqabah}) for a perfect scholar, insofar as he comes to participate with the \textit{shāri'} in the knowledge of the contradictory sayings in their forms from the Qur'ān through the right of their inheritance from him.\textsuperscript{161} He is an inheritor of the \textit{shāri'} as has been indicated in the \textit{hadith}:

\begin{quote}
The ‘\textit{ulamā’} are the inheritors of the prophets.\textsuperscript{162}
\end{quote}
In replying to the question of some of the ḥuffaz who opined that the evidences of Abū Ḥanīfah are weak, even though there is no jarḥ in the chains connecting Abū Ḥanīfah with the Prophet, al-Shaʿrānī says:

It is obligatory on us to apply that to the narrators (coming in the) descending (order) from the imām in the chain after his...demise if they report that hadīth from the path other than the path of the imām. For every hadīth we found in the three Masāniḍ of the imām is valid, because had it not been valid with him, he would not have used it as evidence. There the presence of a liar or one who is accused of lying, for example, could impair the chain descending from the imām. It is sufficient for us for the validity of a hadīth that it is used as evidence by the mujtahids who used it. Then it is obligatory on us to act according to it even though it has not been narrated by others.163

As far as the chain connecting Abū Ḥanīfah with a tābiʿī or a saḥābī is concerned, al-Shaʿrānī defends the imām by saying that it is inconceivable that in his chain of authority there is a person who is ever accused of lying, even though it has been considered as weak.164 This is because Abū Ḥanīfah took it from the best of the tābiʿīn.165 The weakness of his evidence could be attributed only to those who came after him in the chain.166 This, therefore, will not impair what the imām adopted.167 The same is the case with the madhāhib of his disciples, since none has taken evidence from them through an isolated weak hadīth (hadīthun ḍaʿīfun fardun) which had come from one path alone.168 On the contrary what has been taken as evidence from them was through a hadīth which is valid, or good or weak, but has many chains until at the end it raises itself to the status of ḥasan.169 However, this is not limited to the madhhab of Abū Ḥanīfah or his disciples alone. In fact, as al-Shaʿrānī maintains, “all the madhāhib shared in this.”170

Thus, we could conclude that such a classification of aḥādith is a matter in which scholars differed according to their own understanding of the hadīth and its chains. As such one should act according to the aḥādith
which befit one’s position in respect of both faith and physical ability, without attempting to weaken any ahādīth in order to justify one’s action. This is because, as al-Sha’rānī has said, the Prophet has spoken according to the level of the understanding of the people. Therefore, one who is incapable of performing the ‘azīmah should carry out his obligation by performing the rukhsah and thereby earning the reward from God.
ENDNOTES TO CHAPTER THREE

1 Al-Mizân. 1:37.
2 Ibid.: al-Ovr’an. 16:44.
3 Al-Mizân. 1:37.
4 Ibid.
5 Ibid. 1:18 and 22; al-Ovr’an. 6:38.
6 Al-Mizân. 1:46.
7 It is the plural of the word raka’ah, which means, "to bow". Technically it refers to a complete unit of a salah. For instance, the salah al-subh has two raka’at. Each raka’ah consists of:

<table>
<thead>
<tr>
<th>No.</th>
<th>Postures in one unit of raka‘ah</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>qiyām - standing</td>
</tr>
<tr>
<td>2</td>
<td>rukū’ - bowing</td>
</tr>
<tr>
<td>3</td>
<td>i’tidāl - straightness</td>
</tr>
<tr>
<td>4</td>
<td>sujūd - prostrating</td>
</tr>
<tr>
<td>5</td>
<td>julūs - sitting</td>
</tr>
<tr>
<td>6</td>
<td>sujūd - prostrating</td>
</tr>
<tr>
<td>7</td>
<td>julūs - sitting</td>
</tr>
</tbody>
</table>

One may question why the whole unit of actions is called a raka‘ah, which is derived from the word rukū’ and not as sajadah or qiyām, for instance, since sajadah is the best apparent form of submission. It is called as such, because in performing a salah as a masbūq (late comer), one is considered to have completed a unit of the salah, if he or she joins the congregation before or in the rukū’ and not after it. For if he were to join the congregation after the rukū’ (i.e.: standing up from the rukū’), he should have to offer another raka‘ah after the imām (prayer leader) concluded the salah.

8 Al-Mizân. 1:55.
9 i.e. saying Allah Akbar [God is Great].
10 Dhikr means to the remembrance of God, through reciting appropriate phraseology of Divine praise. For details of the various phraseology recited during the salah, see Hughes, pp. 464-9.
11 see note 7 above.
12 Ibid.
13 Ibid.
14 i.e.: the reciting of the testimony that there is no God except Allāh and Muhammad is a Messenger of God, while raising the first finger of the right hand. see Hughes, p. 468.
15 That is the salah al-‘idayn. The first ʿīd (festival) is the festival celebrated on the first of Shawwāl [name of the tenth month of Muslim calendar] after fasting for a full lunar month. This festival is called as ʿīd al-fitr [the feast for breaking the Ramadan fast]. While the second festival is called as ʿīd al-adhā [the feast of immolation], celebrated on the tenth of Dhū al-hijjah [name of the twelfth month of the Muslim calendar]. This is celebrated to mark Abraham’s sacrifice of his son.
Ishmael and to note the end of pilgrimage at Ka'bah at Makkah. During these two festival days special
two raka'āt of salāt are performed after the sun rises.

16 They are called as ṣalāt al-Kushūfayn. The two eclipses are: (1) Lunar, and (2) Solar.
17 The term ṣalāwāt is the plural form of ṣalāt.
18 It is salāt performed during funeral. For this salāt there is no bowing and prostration.
19 salāt performed for seeking rain.
20 It is one of the plural form of the term nisāb [the minimum taxable amount].
21 That is rules pertaining to marriage. Even though the title bears the name of marriage, under this heading rules pertaining to divorce and other rules pertaining to marital life are also
discussed.

22 That is rules pertaining to maintaining and enforcing justice.
23 Al-Mizān. 1:55.
24 Ibid. 1:37.
25 Ibid.
26 Ibid.
27 Ibid.
29 Al-Mizān. 1:37.
30 Ibid. 1:56.
31 Ibid.
32 Ibid.
33 Ibid.
34 Ibid.
35 He is 'Imrān b Ḥusayn b ʻAbd Allāh b Khalaf al-Khuzā‘ī. He was sent to teach fiqh in Iraq by ʻUmar b al-Khaṭṭāb. He accepted Islam in the year of Khaybar and died in Basrah in 52 h.

Shadharāt. 1:58.
36 Al-Mizān. 1:56.
37 Ibid.
38 Ibid.
39 Ibid.
40 Ibid.
41 Ibid. 1:56.
42 Ibid. 1:5.
43 Ibid.
44 Ibid.
45 Ibid.
46 Ibid.
48 Al-Mizān. 1:5.
49 Ibid. 1:16.
50 Ibid. 1:17.
51 Ibid.
52 Ibid.
53 Ibid.
54 Ibid.
55 Ibid. 1:19.
56 Ibid.
57 Ibid.
He is Jamāl ‘Abd Allāh b Yūsuf b Muḥammad, originally from Zayla’ in Somalia and died in Cairo in 762 h. see Badr, op.cit., 1:402; Husn, op.cit., 1:203; Khalifah, p. 1481; Durar, op.cit., 2:310; Aʿlam, p. 1481; Alī, Alī, op.cit., 1:27. He is Jamal al-Din ‘Abd Allah b Yusuf b Muhammad, originally from Zayla’ in Somalia and died in Cairo in 762 h. see Badr. op.cit., 1:402; Husn. op.cit., 1:203; Khalifah. p. 1481; Durar. op.cit., 2:310; Aʿlam. 4:147; Kahihlah. 6:165-6. al-Miẓān. 1:35. It is defined as al-hadīth alladhi ittasala sanaduhu bi naql al-ʿadīl al-dabīṭ ittā muntahāh wa lā yakūnu shādhīn wa lā muʿallān [it is a ḥadīth the chain of which is connected to a reliable narrator whose accuracy is less without being strange and defective]. see al-Naqd, op.cit., p. 244. While al-Tirmidhi defines a ḥasan hadīth as “One that has been related by narrators who are not accused of falsehood, provided it is handed down by more than one chain of authorities, and is not contrary to what has been related by other reliable narrators.” He classifies it into: (1) sahib ḥasan, (2) ḥasan and (3) ḥasan gharīb. For detail see Siddiqi. op.cit., pp. 66-7. see also Robson, James, “Varieties of the Ḥasan Tradition.” in JSS, 6 (1961), pp. 47-61. A daʿīf ḥadīth is that which loses any one of the conditions of the acceptable ḥadīth. These conditions are mentioned in the books of ḥadīth.
reliable work of hadith literature, so that works like the Sunan of al-Darimi and the Sahih of al-Bukhari are regularly called as musnads. More technically, however, it is reserved for those collections of hadiths whose material is arranged according to the names of their original narrating authorities, irrespective of the subject-matter". Siddiqi, op. cit., p. 11. It is mentioned that the musnad attributed to Abū Ḥanīfah was compiled by Abū al-Muʿayyad Muhammad b Mahmūd al-Kawārtuzmi. Ibid., p. 44.

91 Al-Mizān. 1:68.
92 He is al-Aswad b Shaybān al-Siddūsi al-Basri. died in 65 h. see Tadhhib. 1:339.
93 He is 'Alqamah b Qays b 'Abd Allāh b Mālik b 'Alqamah b Salāmān b Kuhl b Bakr b Ḍaw al-Kūfī. died in 62 h. Ibid., 7:276-8.
94 He is 'Atā'ī b Abū Rabīḥ Aslam al-Qurashi, born in 27 h. and died in 114 h. see Ibid., pp. 199-203.
95 He is 'Ikrimah b Khalīd b al-'Ās b Hishām b al-Mughirah b 'Abd Allāh b 'Umar b Makhzūm al-Qurashi, died in Madina or Qayrawān in 107 h at the age of eighty. He narrated from Ibn 'Abbās, Ibn 'Umar, Sa'īd b Jubayr and others. see Ibid., 7:258-9.
96 He is Abū 'Abd Allāh Makhūl b 'Abd Allāh al-Shāmi, born in Kabul and died in 114 h. see Al-Ṭāmī, 7:284; Tadhikrāt, 1:101; Husn, op. cit., 1:119; Tadhhib. 10:289; Ḥiyāt, 5:177.
97 He is Abū Sa'īd al-Hasan b Yāsār al-Basri. a tābī‘ī born in Madina and died in Bayrāh in 110 h. see Tadhhib. 1:254; Ḥiyāt, 2:131; al-Shirī‘āt. 91-2.
98 Al-Mizān. 1:68.
99 Ibid.
100 It is defined as huwa ta‘a fi rāwī al-hadith bi mâ yusub aw yakhill bi ‘adalatihi aw dabbthi [it is the criticising of the narrator of the hadith with that which negates or offends his probity or his meticulousness. see Al-Naqd, op. cit., p. 92.
101 It is the opposite of jārīh. That is, it is tazkiyah al-rāwī wa l-hukm ‘ataythi bi anāatu ‘adl or dābit [the pronouncement about a narrator or passing judgement on him that he is a man of probity or meticulous].
102 In the terminology of hadith the term hīfz or ḥāfiz refers to a muhaddith (scholar of hadith) who has memorised a great number of ahādith. It is said that the term ḥāfiz is synonymous to the term muhaddith. While some others opined that it is a stage higher than muhaddith. For details see al-Ṭahānī, Dr. Mahmūd, Taysir mustalah al-Hadith, 2nd ed. (Beirut, 1979), p. 16.
103 Al-Mizān. 1:68.
104 For they also have other collections of Sahih ahādith. For details see Auliyā‘i, Muṣṭafā, "Outlines of the Development of the Science of Hadith," in Al-Tawhīd, 1(1983-4):26-37.
105 He is Abū 'Isā Muhammad b Surāh b Mūsā b al-Dāhhīk al-Sulami, born around 210 h. and died in Tirmidh in 279 h. see Kāḥbāh, op. cit., 11:104-5; Shadharāt, op. cit., 2:174-5; Tadhhib, op. cit., 9:387-9; Fīhrīṣt, op. cit., p. 233; Tadhikrāt, op. cit., 2:187-8.
109 It has been mentioned of al-Bukhārī that he, after having travelled a long distance to collect a hadith from a man, saw the man flagging an empty sack to persuade his run away horse to return. Then he decided that since he has deceived an animal, he should not be trusted in respect of any hadith, for he might not hesitate to deceive any person in order to achieve his objective. Thus he did not take any hadith from that man. see Baqā'ī, S.S. Abdul Qādir, Tajrīd Sahih al-Bukhārī [Tamil], (Madras, n.d.), p. 3. This incident proves that al-Bukhārī was meticulously careful in collecting the ahādith. But, by so doing he might have left out a great number of ahādith. Just because the man deceived a horse with an empty sack, that does not mean that he is a bad man. For that was the only way he could get his horse back. Moreover it is rather unbecoming on the part of that man to apply
human standard of behaviour in dealing with animals. Likewise there are many instances in the lives of many collectors that they set such measures to check the authenticity of ahadith they collected. As such there are possibilities that they might have overlooked those from some people and might have narrated weak or fabricated ahadith from those whom they thought to be of dependable character. It is because of this al-Bayhaqi did not name his collections as a Jami’ al-Sahih or as al-Sahih.

Al-Akadawi, op. cit., p. 54.

Ibid., p. 50.

Ibid., pp. 50-3.

Ibid., p. 42.

Mu'jam, op. cit., p. 1878. It is given as al-Adhkar min kalām sayyid al-Abhrār.


Al-Mizān, 1:60.

Ibid., 1:44.

Ibid., 1:50.

Ibid., p. 43.

Ibid., p. 42.

Ibid., p. 53.

For instance, in recent years Nasir al-Din al-Albani is considered an authority in hadith. For he has written extensively on hadith. Some of the ahadith which he considered as valid has been found to be weak by other scholars.

He is 'Abd Allah b Mas'ūd b Ghāfīl, died in Madīnah in 32 H. see al-Isābah, op. cit., 2:368-70.

Al-Mizān, 1:106.

Ibid., 1:68.

Ibid., 1:68.

Ibid., 1:44.

Ibid., 1:68.

Ibid., 1:44.

Ibid., 1:68.

Ibid., 1:68.

Ibid., 1:68.

Ibid., 1:68.

Ibid., 1:68.

It is suggested that he was a Shi'ite who died in 178 H. see 'Umavrah, op. cit., 1:232n2.

It is suggested that he is Abū Qudāmah al-Ḥārith b 'Ubayd al-Ayādī. see Ibid., n3.

It is suggested that he is 'Abd al-Rahmān b 'Ubayd b Naṣṣās al-Sulaimān. see Ibid., n4.

It is suggested that he is Khālid b Mukhliṣ at-Tawānī. see Ibid., p. 233n1.

It is suggested that he is Suwayd b Sa'ūd b Abū Muḥammad al-Ḥarawi, died in 240 H. see Ibid., n2.

It is said that he died in 159 H. see Ibid., n3.

It is suggested that he is 'Abd Allāh b 'Abd Allāh b Uways al-Asbahī, died in 167 H. see Ibid., n4.

It is suggested that he is Abū Bīstām Shu'bāh b al-Ḥajjāj al-'Utqi, born in Wāṣīt and died in 160 H. see 'Umavrah, op. cit., 1:233n6.


Al-Mizān, 1:69.


It is the plural of the word hāfiz. see note 102 above.

Al-Mizān, 1:69.

Ibid.
Al-Sha'rānī's attitude towards the Madhāhib and the relationship of the Muslims with them

The differences in the deductions of substantive laws from the main sources of Islamic Law resulted in the emergence of various madhāhib. These madhāhib represent the differences in the perception of the a'immah on a rule of law. Thus whoever clings to a particular madhhab or a particular imām is said to be a muqallid of that madhhab or that imām.

Madhāhib:

In al-Mīzān al-Sha'rānī discusses madhāhib at some length. He defines the madhhab of an imām as, "what he said and that from which he did not withdraw till he died but not that which has been understood by his disciples from his speech."¹ This is because, al-Sha'rānī maintains that, at times, "the imām might not have been pleased with that matter which they (i.e.: his disciples) understood from his speech and he would not have accepted it had they shown the same to him."² Even though the a'immah have expressed different opinions on the same matter, all these opinions were in fact due to their witnessing the spring of the shari'ah. Al-
Sha‘rānī reiterates that when God gave him the ability to study the spring of the shari‘ah, he saw all the madhāhib connected with it and saw the madhāhib of the four a‘immah running as streams from the spring. In that he saw all the madhāhib which are extinct had their stones changed (meaning that their streams had dried) and the longest stream of the a‘immah is that of Abū Ḥanīfah followed by Mālik which is followed by that of al-Shāfi‘ī and Aḥmad b Ḥanbal. The shortest stream among them is the madhhab of Dāwūd which had dried out in the fifth century. Therefore, al-Sha‘rānī interpreted the length of the stream as the length of the period of the madhhab. Moreover, as the madhhab of Abū Ḥanīfah was the first of the codified madhāhib, it will be the last to dry out. This is the same opinion as that expressed by ahl al-kashf. Thereafter, when he saw the madhāhib of the mujtahids and that which branches out from the spring throughout the ages till the period he was in, al-Sha‘rānī asserts that he was unable to bring forth even a single opinion of theirs from the shari‘ah in order to testify their connections with the first spring of the shari‘ah. This resembles the net of the fishermen as illustrated earlier. For, its first mesh is like the spring of the pure shari‘ah and the remaining meshes emanating from it to the last circle (adwār) are like the opinions of the mujtahids and their muqallids till the Day of Resurrection. This encompasses the knowledge by the form of the connection of their opinions with the spring of the shari‘ah. Here one will be able to see that every mesh is connected to that which is above it till it ends at the first mesh. When one looks at the status of the mujtahids, he will stand at the first spring which his imām had looked down upon. He will be taking part with his imām in scooping from it, as he was his follower when he was treading on the path despite being veiled from the spring, from where
he took support. Likewise, he will be a follower of his imām in scooping from the spring from where he (i.e.: the imām) had scooped. At that time, the muqallid attains the status and thus becomes a companion in witnessing the first spring and whatever has branched out from it at all periods. Thus, he will begin to focus on all the opinions of the ‘ulamā’ and will not refute any opinion, either due to: (1) the validity of the proofs of every one of them with him through a tahlīf or a tashdid, or (2) his witnessing the validity of their deductions and their connections with the spring of the shari‘ah.

Al-Sha‘rānī praises God for making him among those who studied the speeches of all the ‘ulamā’ of the shari‘ah and did not refute anything from them due to his witnessing the connection of all their opinions with the spring of the shari‘ah. In support of this al-Sha‘rānī quotes the hadith:

My companions are like stars, (so) whoever among them you follow, you are (rightly) guided.

Even though the mujtahids are not the subject of this hadith, it is nevertheless "considered by the ahl al-kashf as valid with regard to them." Further, al-Sha‘rānī maintains that the mujtahids are of the status of the sahābah, since "a mujtahid, through his chain of narration, is connected with a sahābi." However, according to al-Sha‘rānī, some ‘ulamā’ gave precedence to the speech of the mujtahids who were not among the sahābah over the speech of any one of the sahābah, despite the fact that the mujtahids developed from the sahābah. This is because, since the mujtahids came later in time than the sahābah it is therefore, possible for them to encompass the knowledge of all the opinions of the sahābah or the majority of them. It is on this basis that al-Sha‘rānī
argues against the accusations levelled against Abū Ḥanīfah, that the latter gave preference to *qiyaṣ* over the *ḥadīth*. Al-Shaʿrānī denies this accusation by saying that the *ahādīth* were collated and compiled after the demise of Abū Ḥanīfah. He had to rely on his power of deduction in arriving at religious solution. However, during the time of al-Shāfiʿī and Aḥmad b Ḥanbal, there were many compilations of *ahādīth* which had caused a considerable difference in their deductions, as they relied mostly on *ahādīth* to corroborate their opinions. Thus, according to al-Shaʿrānī, the later mujtahids are more informed than the earlier ones. This however should not lead one to think that the saḥābah are lower in status then the later mujtahids. For there can be no comparison in this respect. The status of the saḥābah is unique in the sense that they were the contemporaries of the Prophet as such they were able to witness the events surrounding every revelation. This position has not been attained by any of the aʿimmah nor by the mujtahids.

Al-Shaʿrānī does not consider one who made it obligatory on the mukallāfs to confine themselves to only one madhhab as having oppressed them and caused inconvenience for them. This is because, he says, "there is no difficulty in reality, for the master of the madhhab did not opine the forceful thrusting (ilzām) on the weak to perform the ‘azīmah, nay he would have permitted him to go out from his own madhhab to the rukhsah which was opined by those other than him." Thus, the madhhab of this imām returns to the two sides of the shariʿah. There is, "no oppression nor difficulty on one who clings to a particular madhhab." Therefore, al-Shaʿrānī maintains that, if the mukallaf did not understand the shariʿah in this way, "he has not understood it." Similarly, if he did not establish the madhāhib of the mujtahids like this,
then "he has not established it at all." It was not valid for the muqallid to believe that all the a'immah of the Muslims are guided by their Lord, while his opinion was opposed to what was in his heart. That will be counted as "an attribute of hypocrisy."

Al-Sha'ra'ni was accused by some jealous people that, in his balance, there is an attribution of falsity to all the mujtahids in the sense that every mujtahid will not opine according to the opinions of others, since there may be mistakes in their deductions. This would lead to accusing all the mujtahids of committing mistakes. In reply to the above accusation, al-Sha'ra'ni says that the people had reached consensus (ijmā') that a mujtahid will never blame another mujtahid. This is because every one of them considers it a necessity to act according to what appears to him as truth. Layth b Sa'd, according to al-Sha'ra'ni, sent a question to Malik, questioning him about a particular religious issue, so Malik wrote to him:

You, O, my brother are indeed a guided imām and the rule of God in respect of this issue is what is found in you.

meaning that the deduction of Layth is also true, since he too studied the first spring of the shari'ah. Further, al-Sha'ra'ni argues that if Layth had not studied the spring of the shari'ah, it would become "wājib on Malik to criticise Layth." However, it is probable that whoever accuses or criticises others for committing mistakes among the a'immah, would have done that "before he attained the position of kashf." It is in this situation many people fall, due to their inexperience in witnessing the spring of the shari'ah. Such a person will not differentiate between what an 'ālim said during his earlier, middle and last days. For instance, al-Shafi'i first studied in the Hijāz under Malik, later moved to Baghdād and came under the influence of the Hanafites and then changed his opinions when he went
to Egypt. It is due to this that al-Shafi‘i has sometimes differed greatly from his earlier opinions. Therefore, according to al-Sha‘rānī’s suggestion, a clear understanding of these facts is essential for the validity of this balance and the madhāhib of the mujtahids in order for the shari‘ to establish the rules of these madhāhib. Thus the perfect ones among the awliyā’ need not necessarily limit to acting according to one particular opinion while undermining the validity of other opinions. The probable reason for his not acting according to another opinion might be his incompetence to comply with it, irrespective of that other opinion being ‘azimah or rukhsah. This is because, as mentioned earlier, the kāmil "sees the replenishment of both the extinct and the existent madhāhib from the spring of the shari‘ah." Thus, all those opinions which are not acted upon due to the incompetence of the mukallafs will be like "an abrogated hadith, while the other is like the muhkam hadith." Quoting his master ‘Ali al-Khawwās, al-Sha‘rānī says:

Act according to all the opinions of the a‘immah (on the external form of which there may be disagreement with one another) when the conditions of performing it are in agreement, so that you will attain the complete reward. So where is the status of one who acts according to the totality of the shari‘ah from one who rejects most of it and does not act according to it, when one madhhab (alone) will never embrace all the proofs even if the adherent of it said in totality: “if the hadith authenticates (the truth of the opinions) then it is my madhhab”, but perhaps his followers abstain from acting according to many ahādith which had been validated after their imām, however that was against the intent of their imām.

On the basis of the fact that the mukallafs had followed the shari‘ah of the Prophet Jesus, which was later abrogated by the shari‘ah of the Prophet Muḥammad, the ‘ulamā’ and the kāmil among the muqallids too act according to an opinion for a period in time, thereafter there appears to them another opinion which is more valid as a proof than the first one. They act according to the second one while abstaining from the first one.
They consider the first opinion as an abrogated *hadīth*, even though their predecessors had worshipped according to that first opinion for a period and had issued *fatāwā* to people according to it till they passed away.49 According to al-Sha'īrānī, none should be asked to "worship according to that old opinion."50 This is because, if God had intended that His servants worship Him through another law, He would have made preference for it appear to their ‘ulamā’.51 From what has been established above, it becomes clear that it is not essential for the kāmil to abstain from acting according to an opinion just because he considers it as outside the shari‘ah since the abandoned opinion will be a rukhsah or an ‘azīmah.52

As for the *muqallids* who have studied the spring of the shari‘ah, they are, likewise, "not commanded to confine to one particular madhhab, as they are able to see the connection of all the valid and weak opinions of the a‘immah with the greater shari‘ah."53 However, when any one of the *muqallids* shows that he is confined to one particular madhhab, then that is because, he, "is among those who fall in either of the two categories of takhfīf and tashdīd."54 That is, he might perhaps be among those, "who act voluntarily according to the most prudent madhhab in respect of the religion, thereby attaining higher degree of obedience to God."55 In this respect, al-Sha’īrānī quotes Abū Ḥanīfah as saying that whatever is narrated from the Prophet, he holds it "dear,"56 while that which is narrated from the *sahābah* he is selective about. On the other hand, whatever is narrated from those other than the *sahābah*, Abū Ḥanīfah says, "they too are men and we are also men,"57 meaning that the *muqallid* could exercise his choice in respect of the *madhāhib* without there being any obligation.
Ibn 'Abd al-Barr, according to al-Sha'rānī, used to say that none of the a'immah had commanded his disciples to cling to a particular madhhab, the validity of the opposite of which he did not opine. In fact they encouraged the people to practise according to the fatwā issued by one another, since all of them are guided by their Lord.

Regarding the mukallafs moving from one madhhab to another, al-Sha'rānī says that it is permitted by the mere fact that the 'ulamā' in every age were "not critical of one who did such a move." This is because, all the madhāhib are "paths to heaven." As such all those who followed a path among them will be led to sa'ādah and heaven. However, some 'ulamā' allowed it in exceptional cases only. For instance, al-Sha'rānī quotes imām al-Zanātī as saying that a mukallaf is allowed to follow any a'immah of the madhāhib "during epidemics," meaning that in normal circumstances the mukallaf is not allowed to move from one madhhab to another. Al-Sha'rānī does not seem to answer whether such a move is an instance of darūrah or not. For, if it is a darūrah, then there is no need for the mukallaf to move to another madhhab. Instead he could act according to the prohibition, basing his argument on the maxim al-darūrat tubīh al-mahṣūrat [necessity renders the unlawful lawful]. In the above case of an epidemic, if the mukallaf was to drink alcohol as medicine, it is counted as an incident of darūrah. However, if he was to act according to the opinions of another madhhab, where the drinking of alcohol is not considered as ḥaram, then he is considered to have limited his departure to darūrah, since there is a "permission" in the other madhhab. Discussing the issue of alcohol, al-Sha'rānī quotes the opinions of the a'immah both in favour of and against its consumption. For Abū Ḥanīfah is of the opinion that when one is
compelled by thirst or cure, one can consume it.67 This is also an opinion of al-Shāfi‘ī.68 However, the valid opinion of al-Shāfi‘ī is the absolute prohibition.69 Whereas, in another opinion attributed to him, al-Shāfi‘ī is of the opinion that alcohol is allowed to be drunk when without drinking it the person would die of thirst, but not as a medicine.70 The first opinion, according to al-Sha‘rānī, is mukhaffaf, while the second is mushaddad.71 The third opinion, on the other hand, is mufassal.72 Thus all these three opinions return to the two sides of the balance. The reason for the first opinion is the maxim al-darūrāt tubih al-mahzūrāt, as quoted above. The reason for the second opinion is that God had prohibited the consumption of alcohol by not clearly stating the permissibility of consuming it for quenching one’s thirst or as medicine.73 Therefore, the mukallafs should abstain from drinking it or drink it without considering as permitted (mubah) while repenting and seeking forgiveness from God.74 It is valid to predicate al-ibāhah on the state of the asaghir while predicating al-mana’ on the state of the akābir.75 The reason for prohibiting its use as a medicine without prohibiting it for quenching the thirst is the saying of the Prophet:

Verily God did not make the cure of my ummah in something which He had prohibited for them.76

Continuing the discussion on the madhāhib, al-Zanātī says that, in moving from one madhhab to another, the mukallaf should adhere to the following conditions:77

(1) he should not combine the madhāhib in such a way that it would conflict with ijma’. For instance, he should not get married without the sadaq, wali78 and witnesses.79 This form of marriage has not been opined by any one of the a’immah. However, al-Sha’rānī quotes the three
a'immah as having opined that when a man said "so and so is my wife" and she testified it as truth, then marriage is established between them by their mutual agreement.\textsuperscript{80} Whereas, Mālik is of the opinion that it will not be established till he is seen going in and out from her (presence), except if he is on a journey.\textsuperscript{81} This, however, should not be taken to mean that there is a licence to make such a public display. Perhaps, the couples might be strangers, therefore others should not investigate into the nature of their relationship.

(2) he should believe that the other madhhab which he follows has preference according to the information available to him.

(3) he should not follow another madhhab while he is ignorant of his religion, just like his following the rukhsah without its conditions. This means that only people falling under this category can act according to the rukhsah.

Further, al-Sha'rānī does not explain when a muqallid should move to another madhhab. That is, is a muqallid allowed to move to another madhhab when in his own madhhab there is a rukhsah by which he could act? This rukhsah could be in the form of opinions of those other than his imām. Perhaps, the author might have considered this prior to his approval of a muqallid's moving from one madhhab to another. However, al-Sha'rānī mentions that in the opinion of al-Qarāfī, it is permissible to move from all the madhāhib, from one to another, in respect of everything in which the judgement of a judge will not be invalidated\textsuperscript{82}. This invalidation occurs in one of the following four occasions:\textsuperscript{83}
(1) in opposing the *ijmā'*
(2) in opposing the *naṣṣ*
(3) in opposing the clear-cut *qiyyās*, or
(4) in opposing the *qawā'id*

There were people who had moved from one *madhhab* to another. They include great men of *Islām* like ‘Abd al-‘Azīz b ‘Imrān al-Khuza‘ī,84 Sayf al-Dīn al-Āmīdī,85 Ibn Fāris,86 Khaṭīb al-Baghdādī,87 Abu Ja‘far al-Tahāwī,88 Najm al-Dīn b Halaf al-Maqdisī,89 and others. These names were included in the list of ‘ulamā’ whom al-Suyūṭī mentions among those who have moved from one *madhhab* to another.90 This moving between *madhāhib* may be for religious or worldly needs. Further, it can be done by both the ‘ulamā’ and the ordinary people (*'awwām*). According to al-Sha‘rānī, he has seen a manuscript by al-Suyūṭī permitting such according to the following conditions:91

(1) the moving might have been motivated by worldly considerations such as the acquisition of a job or emolument or nearness to the king or the dignitaries of the world. The rule is like the rule of Muhājir Umm al-Qays,92 because it was the most preferred of his goals.

(2) an ordinary person (*'ammī*) may move for worldly considerations. He is not a *faqīh* and has nothing of the *madhāhib*, except in name, just like most of the practitioners, government officials, their servants and the attendants in the *madāris*.93 In such cases moving is not blameworthy, because at this time he is an *'ammī* who does not have a *madhhab*. He is like one who has newly accepted *Islām*. Therefore, it is up to him to adhere to any of the *madhāhib* he wishes.
(3) A *faqih* may move for worldly considerations. This is blameworthy. Such moving is forbidden, as it is tantamount to playing with the rules of the *shari‘ah* for worldly aims. Further, his moving from his *madhhab* to another depicts his disbelief in his *imām* being guided by God. For, if he had believed that, he would not have moved from his *madhhab*. Al-Suyūṭī describes a scholar switching from one *madhhab* to another in order to achieve worldly position. He says about a certain Muḥammad b al-Dāhān al-Naḥwī⁹⁴ that he was a Ḥanbalī who became a Shāfi‘ī. When the *khalifah* sought a grammarian to teach his son the grammar, he became a Ḥanafī. Then, when a position to teach grammar at Niẓāmiyyah⁹⁵ became vacant and the owner insisted on the teacher being a Shāfi‘ī, Ibn al-Dāhān returned to the *madhhab* of al-Shāfi‘ī, since there was no one who was more knowledgeable than him in *fiqh* and *nahw*. However, al-Suyūṭī argues that though the aim of Ibn al-Dāhān might seem worldly, it was in fact a religious obligation on him to teach the subjects since he was the sole authority on them. It was a *fard ‘ayn* for him.

(4) A *faqih* may move for religious considerations. This is due to his conviction that the *madhhab* to which he has moved is preferable. In such cases the moving of the *faqih* is either obligatory or permissible, just like the moving of the people to the Shāfi‘ī *madhhab* from Mālikī *madhhab* when al-Shāfi‘ī arrived in Egypt.

(5) A *mukallaf* may move for religious considerations. This could happen from one who is ignorant of *fiqh* and may wish to change his *madhhab* in the hope that by adhering to the new *madhhab* he might understand more. In this case it becomes obligatory for him to move to
the other madhhab. For, to abandon one's original madhhab is better than to stay in ignorance, as nothing remains in him except the name. Further, to stand firm on ignorance is a great defect in the believer, so that the validity of his 'ibādah will be little. To this category belongs al-Ṭaḥāwī. For, according to al-Suyūṭī's statement, al-Ṭaḥāwī was a Shāfi'i studying under his maternal uncle al-Muzani. One day he found the lesson difficult to understand, therefore he moved to the madhhab of Abū Ḥanifah. Then he composed a great work on al-ma'ānī and athār.96

(6) A mukallaf may move to another madhhab without either worldly or religious considerations. This is permitted for the 'āmmī, but forbidden for the faqīh, since the latter will be wasting his time in studying the other madhhab.

Thus, it can be seen that there is flexibility in moving from one madhhab to another according to the status of the mukallaf. However, there are differences in the manner of changing from one to another. To what extent can one change madhhab? Is it in its entirety or on particular issues only? Al-Sha'rānī again fails to answer this, except that he cites the writer of Jāmi' al-Fatāwā al-Ḥanafiyyah97 as having said that it is permissible for a Ḥanafī to become a Shāfi'i and vice-versa, but this must be done completely.98 As for only a single matter, it is not possible.99 For, he maintains that, it will be like permitting a Ḥanafī, from whose body blood is flowing, to perform salāt without cleansing himself, following the madhhab of al-Shafi'i.100 If he performs the salāt his salāt will be invalid.101
Further, al-Sha‘rānī says that according to some ‘ulamā’, it is not permitted for an ordinary person to move from one madhhāb to another even if he is a Ḥanafī or a Shāfī‘ī. However, this is not the popular opinion. There are some, according to al-Sha‘rānī, who maintain that it is permissible for a Shāfī‘ī to move to the madhhāb of Abu Ḥanīfah but not vice-versa. This opinion is rejected by al-Suyūṭī. Al-Sha‘rānī adds, "Our ‘ulamā’ have made us understand that they were not vehement in disapproving one who was a Mālikī, then practising as a Ḥanafī or a Shāfī‘ī, then changing to be a Hanbalī, and afterwards returning to the madhhāb of Mālik." However, they displayed their disapproval only of one who moves from one madhhāb to another under the "misguided delusion of playing with the madhāhib." On the other hand, al-Rāfī‘ī and al-Nawawī permitted it. In his al-Rawdah, al-Nawawī says, "It is necessary for a muqallid to exercise ijithād in seeking the most knowledgeable madhhāb while if in his thought the other madhhāb is more knowledgeable, then it becomes wājib for him to follow the other madhhāb." It is just like "following, in respect of the qiblah, this direction for some days and this other direction for some other days."

Al-Sha‘rānī argues that if the ‘ulamā’ of the salaf did not have the knowledge that the shari‘ah encompasses all the madhāhib, they would have disapproved of a mukallaf moving between the madhāhib. This knowledge of the salaf is derived from their studying the spring of the shari‘ah and their witnessing the connection of all the madhāhib with it. Even their silence on the above matter is an indication of their belief in the validity of the speech of the a‘immah.
Concerning a *mukallaf* moving between the *madhāhib* at the present time, al-Sha‘rānī says that since the later *imāms* of the *madhāhib* have permitted it, then to consider such moving as bad is "pure stubbornness."\(^{115}\) This is because, al-Sha‘rānī maintains that "the *a‘immah* are the same in respect of the truth."\(^{116}\) Therefore, "no *madhhab* is better in the *shari‘ah* than the other."\(^{117}\) When al-Suyūtī was asked by a Ḥanafite about the permissibility of a *mukallaf* moving to the Ḥanafī *madhhab*, when it is not permitted for a Ḥanafī to move to any other *madhhab*, he said, "It is a judgement from one who speaks without evidence from the Book or the *sunnah*, and we have received neither a valid tradition nor a weak judgement in its favour."\(^{118}\)

Continuing the above argument, al-Suyūtī says that it is forbidden for a *mukallaf* to move from a *madhhab* which is earlier in time to a *madhhab* which is later than it.\(^{119}\) For instance, a Shāfi‘ite moving to the Ṣāliḥī *madhhab* and a Ḥanbalite moving to the Shāfi‘ī *madhhab* is permitted but not the other way round.\(^{120}\)

**Taqlīd and the Muqallīd**

Even though the aim of al-Sha‘rānī in his *al-Mizān* is to discourage blind following (*taqlīd*) of an *imām* or a *madhhab*, he nevertheless makes it obligatory for the ordinary people to adhere to a particular *madhhab*. He explains Ahmad b Hanbal’s statement, "Do not follow me nor follow Ṣāliḥ, nor al-Awzā‘ī nor al-Nakha‘ī nor anyone else, instead take the rules from where they took them,"\(^{121}\) by saying, "This is predicated on one who has the ability to deduce the rules from the Book and the *sunnah*."\(^{122}\) The author cautions the *mukallaf* not to be satisfied with
taqlid, for he says, "That is blindness in respect of sight."\textsuperscript{124} As far as the ordinary person is concerned, it is "wājib on him to follow (taqlid), for if not he might go astray in respect of his religion."\textsuperscript{125} The extent of taqlid of an imām or his madhhab is that whenever his imām is praised by others, it is obligatory on him to exalt those who praise his imām.\textsuperscript{126} Likewise, "If the imām of a madhhab praised an 'ālim, it becomes obligatory on all his followers to praise him, following their imām."\textsuperscript{127} This is because, "Every muqallid has made it obligatory on himself to follow him in respect of all that he opined, irrespective of whether he understands his proof or not, without seeking any proof."\textsuperscript{128} However, in following a man, one should not be blind to such an extent that if the former believes the latter also believes, and if he disbelieves the latter too disbelieves.\textsuperscript{129} Because this would mean that one followed the other who is not a believer.\textsuperscript{130} This is against the spirit of Islam.

Scholars have expressed their disapproval of taqlid. For instance, al-Sha'rānī states that Dāwūd al-Zāhirī used to say that one should reflect on a matter of din. This is because, "Taqlid of those other than the ma'sūm (impeccable)\textsuperscript{131} is blameworthy and in that there is blindness."\textsuperscript{132} Al-Zāhirī exemplifies this point by saying, "It is a shame on one who was given a candle by which he could seek light, to extinguish it and walk by depending on something else for direction, whereas God knows best that it is needless for one who is capable of (exercising) ijtihād to follow others despite having the ability to ponder over the proofs and to deduce that rule from it."\textsuperscript{133}

Al-Sha'rānī warns the muqallids not to cling fanatically to their own imām "with the fervour of the jahiliyyah without any proof."\textsuperscript{134} For
that would be "to transgress the path of righteousness." The first one to free himself from the muqallids on the day of resurrection will be their imām. Scholars like imām al-Ḥaramayn, al-Samʿānī, al-Ghazzālī, al-Kiyā al-Hiraṣī and others, according to al-Shaʿrānī, used to say to their students, "It is obligatory for you to confine yourself to the madhhab of your imām al-Shafiʿī." There is "no excuse for you with God in abandoning it."

Further in reply to a muqallid who argues that the shariʿah has come on one side only and that is what his imām holds, while attributing probability to the rightness of the opinion of others, saying that when the muqallid acts according to the opinions of others, in the absence of his imām's opinion, it will be said to him, "has the madhhab of your imām become invalid when you were acting according to the opinion of those other than him?" In other words, "is the madhhab of others valid or does your madhhab remain valid when you were acting according to the opinions of others?" Al-Shaʿrānī says that perhaps the muqallid will never find any correct answers for these questions. In this respect he quotes ʿAlī al-Khawwāṣ as saying:

"It will never be complete for a believer to act according to the shariʿah as a whole while being a follower of one madhhab (alone), even if the master (of that madhhab) said: "if the hadith is valid then it is my madhhab." (This is because), the muqallid would certainly have abstained from acting regarding to many of the ahadith which are valid with those other than his imām. This (attitude) of that muqallid is (an indication of) blindness in his insight in respect of (following the) path of this balance, and that he did not understand the speech of his imām...if his imām...had said about himself that he knew the status of the textual evidence (nass) of the Messenger...from everyone, he...certainly would have said: "if the hadith is valid, that is after me, then it is my madhhab.""

He also quotes his master ʿAlī al-Khawwāṣ as saying that it is obligatory on the muqallid to confine to a madhhab as long as he has not
attained the ability to witness the first spring of the *shari'ah*, fearing that he might fall into error. Likewise, it is obligatory on him at that time to act according to the practice of the people. However, if he attains the ability to witness the spring of the *shari'ah*, then there is no obligation on him to confine himself to a *madhhab* since he will see the connection of all the *madhâhib* of the *mujtahids* with it.

Moreover, he will also participate with the *mujtahids* in scooping from the spring of the *shari'ah*, thereby gaining his freedom from *taqlid*. Even though he will be freed from the *taqlid* of all the 'ulamâ’, he nevertheless will not be free from following (*taqlid* of) the Prophet. By this al-Sha’râni says that there are two kinds of *taqlid*: (1) the greater *taqlid*, which is the following of the Prophet by all the *mukallaf*s irrespective of their status in respect of *imân*, *islâm* and *ihsân*. In this both the learned and the masses are included. Thus to claim that there is no need to follow the Prophet, since God is able to guide His servants through *kashf* and other means, would result in departure from the religion. (2) the lesser *taqlid*, which is the following of the *a’immah*. This is meant for the common people who did not attain the status of *ijtihâd* to deduce laws directly from the sources.

Replying to a question on the *taqlid* of the *a’immah* by some *awliyâ’,* al-Sha’râni says that even though a perfect *wali* will not be a *muqallid*, since he takes his knowledge from the spring from where the *mujtahids* took their *madhâhib*, it is possible that "a *wali* did not attain the status of perfection" or perhaps he might have attained it but "his limitation in respect of a particular issue makes him adopt the *madhhab* of some of the *a’immah*, as a mark of respect to the *imâm* of the
madhhab. " At times it might seem as though the action of the wali is in conformity with the opinion of a mujtahid. This is not due to what the wali had studied of the mujtahid’s proofs instead he had agreed to the mujtahid’s opinion according to "what his kashf had indicated." Therefore, the taqlid of the wali is to the shari’ and not to anyone else; that is, there is no wali who takes his knowledge except from the shari’. It is considered harām for him to take a step on a thing on which he does not see that his Prophet has preceded his imām. Al-Sha’rānī then asked his master ‘Ali al-Khawwās about the validity of ‘Abd al-Qādir al-Jīlī and Muhammad al-Ḥanafī al-Shadhili following Ahmad b Ḥanbal and Abū Ḥanīfah respectively. In reply ‘Ali al-Khawwās said:

That might have been before they attained the status of perfection thereafter, when they had attained it, the people attached that nickname in respect of them, whereas they had (already) gone away from taqlid.  

On the obligation of one who has been veiled from examining the first spring of the shari‘ah to be restricted to one specific madhhab, al-Sha’rānī states, "It is wājib on him to do that, so that he himself does not go astray and cause others to go astray." Therefore, al-Sha’rānī urges the reader to excuse those who practise taqlid and who have been veiled from witnessing the first spring. Such people maintain that the correct view is the one which their imām has opined and the rest are mistaken in interpreting the correctness of the problem in which there is dispute. As such the view of all those who maintain that, "every mujtahid is correct" should be accepted on the basis that he (i.e., the mujtahid) is "one who has finished his journey, and left behind taqlid and has witnessed all the ‘ulamā‘ scooping their knowledge from the spring of the shari‘ah." Regarding the one who opined that the correct is only one, irrespective of
the personality of the mujtahid, while the remaining are wrong, al-
Sha' rānī suggests that such an opinion should be accepted on the basis of
the fact that he is someone "who has not finished his journey."161 One
"should not prefer one to the other."162

Al-Sha' rānī deals with the problem raised by the position of a wali
who disengaged from taqīd and saw all the madhāhib as equal in respect
of validity, for all of them are scooped from the same ocean of shari'ah
by way of kashf and yaqīn, yet still commands his murid to cling on to a
particular madhhab which he has not opposed. He says that "he will only
do it to the student out of mercy so as to make the path easier for him to
continue the journey in one madhhab."163 He will reach the spring of the
shari'ah at which his imām stood and from where he took his madhhab in
the shortest possible time.164 This is because it is of the nature of the
mujtahid not to build his own opinion based on another mujtahid's
opinion, even though his madhhab's validity is accepted as preserving the
hearts of its followers from disruption.165 Al-Sha' rānī exemplifies the
rule pertaining to one who confines himself to a madhhab for some time
and thereafter to another madhhab for some time and so on with the rule
of one who travels intending thereby to reach a particular distant place.166
When the latter reaches one-third of the path his ijtihād directs (addā)
him to (the fact) that if he had followed the path to his destination through
such and such a route he would have been closer than the present route. So
he returns from his journey with the intention of beginning his journey
anew by another path. Then when he reached one-third of it, his ijtihād
again directs him to yet another path which would also take him closer to
his destination. So he did as he had done previously and so on. Thus, this
behaviour would perhaps exhaust his entire life in journeying. He would
not reach his particular destination which is the spring of the shari‘ah which his imām or their disciples have reached, on the basis of the fact that, in the student’s changing from one madhhbab to another, there is a calumny against the right of that imām from whose madhhhab he has changed. If the student believed in the validity of this belief that all the imāms of the Muslims are guided by their Lord, he should not have sought to move from one madhhbab to another.167 Rather, he should have borne witness to the fact that every madhhbab, by which he acted and confined himself to, would have brought him to the Door of Heaven.168 In this respect, al-Sha‘rānī quotes his master ‘Alī al-Khawwāṣ, as saying that the ‘ulama‘ of the shari‘ah command the student to cling on to a particular madhhhab just as the ‘ulama‘ of yaqīn command their murid to cling on to one shaykh (mentor) to bring him closer to the path.169 The example of the spring of the shari‘ah or the Presence of the Knowledge of God, is compared (mithāl) to the palm of a hand while the example of the madhāhib of the mujtahids and the paths of the spiritual mentors are like those of the fingers of a hand and the example of the period of involvement with any madhhhab or a path of any shaykh is like the knuckles of the fingers. Whoever wishes to reach the palm should go down the finger until he reaches the knuckles of the fingers.170 Thus according to ‘Alī al-Khawwāṣ, “every three knuckles of the fingers are in the position of the student reaching the one-third of the path towards the spring of the shari‘ah or the spring of ma‘rifah”171 which had been exemplified as the palm of the hand. Then, if the period of journey of the murid or the student in the ‘ibādah is three years, he should reach the spring of the shari‘ah or the Presence of the Knowledge of God.172 On the other hand, if he confines himself to one madhhbab or a shaykh for a
year or so, and then goes to another for a further year and then to another for yet another year, he will deny himself the possibility of reaching his goal. However, if he had spent the three years under one shaykh, he would certainly have made him reach the spring of the shari‘ah or the Presence of the ma‘rifah of God. At that time he becomes on a par with the leader (ṣāhib) of his madhhab in respect of knowledge or with his shaykh in respect of ma‘rifah. Therefore, it is not valid for a mujtahid or a shaykh to build on the madhhab of another or on the path of another. This, according to al-Sha‘rānī, is like staying for the period of his journey of three years in the first knuckle of the fingers which stands for a third of his spiritual path. If he had continued with one shaykh he would have certainly attained his goal and would have stood before the greatest spring of the shari‘ah and would have truthfully acknowledged all the madhāhib which are connected to it.

Al-Sha‘rānī quotes an interesting passage from al-Qarāfī in which the latter has cited the consensus of the saḥābah on one who sought fatwā from Abū Bakr and ‘Umar and followed them: that it was allowed for such a person to seek fatwā from someone else among the saḥābah and act according to the new fatwā without any disapproval. Further, al-Sha‘rānī states that the ‘ulamā‘ have reached consensus that one who newly embraced Islām may follow whoever he wishes from the ‘ulamā‘ without any proof.

Thus, it can be seen from what al-Sha‘rānī has explained above, that there is no need for the muqallid to follow any of the a‘immah, if he participates with them in witnessing the spring of the shari‘ah. However, if the muqallid has not attained the status of witnessing the shari‘ah, it is
obligatory on him to follow an imām so that he may be rightly guided. On the other hand, if the muqallid followed the sulūk, his spiritual mentor would make him reach the spring of the shari'ah, without having to read the works of all the a'immah, since he becomes capable of witnessing the reality of their scooping their opinions from it, through his kashf.

Therefore, according to al-Sha'rāni, none has criticised any opinions of the a'immah, except due to his own ignorance concerning the proof or the subtlety of the a'immah's understanding of it. Further, al-Sha'rāni says that all the madhāhib of the a'immah are "inscribed on the Book and the sunnah like the inscription of gold and pearl". Their opinions and their madhāhib are like the cloth woven from the Book and the sunnah, both its (i.e.: the cloth's) warp (sudah) and weft (lahmah) are from them. As such, there should be no inconvenience for the muqallid to follow any of the madhāhib, since all of them are paths to heaven and all the a'immah are guided by their Lord.

A'immah:

The position of the a'immah in al-Sha'rāni's thought is unique. For he describes the a'immah as the "pegs of the earth," the "pillars of the religion," the "trusted men of the shāri' for his ummah" and as the "inheritors of the Messenger of God." As such their role is to act as expounders of the shari'ah in the absence of the shāri'. Thus, their aim was to explain the speech of the shāri' to the common people, in the language they understand, the allusions (kināyah) of the Book, since they were veiled and thus had no success (tawfiq) in understanding the speech of the shāri'. However, had their veils been removed they would
certainly have understood the speech of the *shāri‘* as the *mujtahids* understood it.\textsuperscript{190} Then, they would not stand in need of anyone to explain it to them. Moreover, the author believes that, every thing which they see as infringing the signs of religion,\textsuperscript{191} whether by commission or omission, they make (the rule against) *tashdīd*.\textsuperscript{192} Likewise, all that which they regard as perfecting the signs of religion and not causing any defect in it, they keep at the level of *takhfīf* (if it is *takhfīf*).\textsuperscript{193} This is due to their status as the trustees of the *shāri‘* after him.\textsuperscript{194} In explanation of al-Sha‘rānī’s statement, it might be suggested that the reason why the *a‘immah* were silent over many innovative issues may have been that they, in their opinion, might have contributed positively towards strengthening their *muqallids*’ *īmān*, *islām* and *iḥsān*.\textsuperscript{195}

Explaining the reason why the *a‘immah*, being men of perfection due to their ability to see the spring of the *shari‘ah*, held discussions among themselves when it would seem to be in conflict with the status of one who witnesses the connection of the *madhāhib* with the spring of the *shari‘ah*, al-Sha‘rānī says that such discussions were held before "their reaching the status of *kashf* and their study of the connection of all the *madhāhib* with the spring of the *shari‘ah,*"\textsuperscript{196} for it is necessary in a debate to refute the proof of the opposition, if not, "the debate would be a mockery."\textsuperscript{197} Perhaps, the discussion was held between a *mujtahid* and a non-*mujtahid*, and the *mujtahid* through the debate sought to elevate the imperfect *mujtahid* to the status of perfection and not just to refute his proof as a whole.\textsuperscript{198} Likewise, it is also possible that the debate was a place for the explanation of the most perfect and the best so that one of them could act according to it and guide his companion to act according to it, by virtue of its being superior in status of *islām* or *īmān*, or *iḥsān*, or
Al-Sha'rānī is very candid in his assertion that there never took place debates between two perfect persons of similar intellectual status. "Nay", he says, "it is a must for it (i.e.: the debate) to have obligation and that which is closer to their aim is sharpening the minds of their followers and their benefits, just like the Prophet who used to do something to explain the permissibility and benefit to the community" through the hadīth which describes īslām, ʿimān and ʿiḥṣān.

Further, al-Sha'rānī says that every mujtahid testifies to the validity of the opinion of his companion. It is on this basis that the mujtahids said that a mujtahid does not reject the opinion of another mujtahid, since he sees the opinion of his opponent as being within the two sides of the shari'ah and that his opponent, too, is guided in his opinion by God.

A muqallid should believe that all the a'immah are guided by their Lord in whatever they opined, and there is nothing except being either near or nearer or far or farther from the spring of the shari'ah according to the length and shortness of the chain of transmitters, just as it is obligatory to believe in the validity of all the sharā'i' of the prophets before they were abrogated, despite the differences and inconsistency in them with regard to the exoteric aspect of the shari'ah. For they, being the trustees of the Messenger, act as šārī' in the absence of the latter. As such, their explanations become rules by virtue of their having attained the above status. Thus, what al-Sha'rānī tries to convey through such quotations and elucidations is that the rules which the a'immah or the mujtahids deduce become an integral part of the shari'ah. To act according to their deductions is binding on the muqallads according to
their status in respect of *shari'ah*. Thus, even the deductions of the *a'immah* could be categorised under *takhfif* and *tashdid*. For, they also speak to the *mukallaafs* according to their level of understanding just like the Prophet who said to one of the *sahābah*, when he was asked by the latter how he saw his Lord, "*206* that he saw "*Him as light."*207 On the other hand, he said to the great personalities among the *sahābah* that he saw his Lord as "*a single word."*208 This he said due to his knowledge of their understanding and the "*fear that they might imagine in respect of God that which does not befit Him (i.e. His status)."*209 To illustrate this approach of the Prophet, al-Sha'rānī narrates yet another incident where the Prophet commanded Abū Bakr to spend all his wealth, whereas he said to Ka'b b Mālik,210 when the latter wanted to renounce his wealth in seeking God's forgiveness, that he should hold on to some of his money for himself.211 For, the Prophet said to him "*this would be better for you."*212 It is on this basis, al-Sha'rānī argues that it is obligatory on the *muqallids* to believe in the validity of all the valid *madhāhib* of the *mujtahids*, even though their speeches contradict the apparent speech of their *imām*.213 This is because whenever a man is distant from the rays of the light of the *shari'ah*, his understanding and its light are hidden.214 So others will think that his speech is outside the *shari'ah*.215 Whereas, it is not like that. Perhaps, that is the reason for the *'ulama*'s attribution of weakness to the speech of one another at every period.216 A study of these periods will show that the people of every period criticized the validity of the opinion of some periods which had passed before them.217 Al-Sha'rānī counts his time as the fifteenth stage after the first period of the *sahābah*.218 In describing a perfect scholar, al-Sha'rānī quotes 'Āli al-Khawwās as saying:

The position of a scholar will not become perfect, with us, in respect of knowledge, until he refers all the opinions of the *mujtahids* and their
followers in various periods to the Book and the sunnah. He should not be ignorant of even a single opinion, if it was shown to him. When he does that he will no longer be from the 'awwām (commoner) and will become eligible to be called an 'ālim. It is the rank of those scholars who know God. Thereafter he will keep on ascending degree after degree until he becomes able to deduce all the laws of the Qur'ān and its manners from the surat al-fātiha. Thus, if he recites it in his salāt, perhaps his reward will be like the reward of one who recited the whole Qur'ān, by virtue of his encompassing the whole of its meaning. Thereafter, he will ascend from that rank till he begins to deduce all the Qur'ānic laws and the shari' laws and the opinions of the mujtahids and their followers till the Last Day, from any letters of the alphabet he chooses. He will continue to ascend to a degree which is far beyond that.219

"Arguments," says 'Alī al-Khawwāṣ, "about the shari'ah are all that is left of hypocrisy."220 This is because the aim of such arguments is just to refute the proofs of others, whereas God has said:

By Your Lord they will not be believers until they make you judge in whatever they dispute between them, whereafter they will not have disengagement in their hearts.221

Therefore, al-Sha'rānī cautions the readers not to quarrel with the 'ulama' of the shari'ah or to try to disprove their proofs because they are true.222 This is because, it will be like arguing with the Prophet, despite the 'ulama' s different status in respect of knowledge.223 For, the 'ulama' are following the steps of the Messenger when they ascend.224 Therefore, it is obligatory for the mukallafs to believe in them and to attribute truthfulness to whatever the Messenger brought with him even if the mukallafs do not understand their wisdom.225 Likewise, it is obligatory on the mukallafs to believe and to attribute truthfulness to the speech of the a'immah even though they do not understand their cause, until there comes from the shari' what contradicts it.226 Further, the mukallafs should believe in the madhāhib since God had favoured them (i.e.: the mukallafs) by letting them patronise the spring of the shari'ah and the connection of all the opinions of the 'ulamā' with it.227
Therefore, if any of the *mukallafs* or the *muqallids* falsify any of the 'ulamā' in respect of their opinions, then the mistake is not in the opinions of the 'ulamā', instead, it should be taken as "his mistake only due to the weakness of his intellect concerning it and nothing else."228

Regarding the saying of the Prophet, "the leaders are from the Quraysh,"229 al-Sha'rānī says that it is probable that the intent of the Prophet is the Caliphate.230 It is also possible, in the opinion of the author, that it may refer to religious leadership.231 However, on examination, al-Sha'rānī finds this to be invalid, because when the 'ulamā' investigated the matter, they saw that most of the *a'imma* of the mujtahids were from the clients (mawāli) of the Quraysh and not from the Quraysh themselves.232 They include *a'imma* like Abū Ḥanīfah, Mālik, al-Nakha'i, Muḥammad b al-Ḥasan, Ahmad b Ḥanbal, Sufyān al-Thawrī, Makhūl, al-Awzā'i and many others like them.233 In the case of Mālik, he is a *mawla* from Banū Ašbah,234 while al-Nakha'ī is a *mawla* of the Yemeni tribe called Nakha'.235 Both Muḥammad b al-Ḥasan and Ibn Ḥanbal are from the tribe called Rabī'ah.236 As for al-Thawrī, he is from the Banū Thawrī b Ḍā'ir b Ḍā'ir.237

The status of the *a'imma* is that they were men of ḥaqiqah and shari'ah together.238 That is why their views and opinions always come in full agreement with shari'ah and ḥaqiqah. In this respect al-Sha'rānī quotes 'Alī al-Khawwās as saying:

The *a'imma* of the madhāhib supported their madhāhib by treading on the foundations of ḥaqiqah and shari'ah together, so as to inform their followers that they were 'ulamā' according to the two paths.239

It is on this basis that the author argues that the *a'imma* were also awliyā'.240 For he says that, if they were not awliyā', "there would never
be on the face of earth a wali." Basing himself on the idea that a wali meets the Prophet either in sleep or awake, al-Sha'rānī argues that the a'immah, who were so much closer to the Prophet than an ordinary wali, must also have had that experience and could therefore also be considered as awliyā'. Therefore, quoting his master 'Alī al-Khawwās, the author says:

It is not a necessity for a muqallid to hesitate in practising according to any opinions of the a'immah of the madhāhib and to seek from them the proof of that. This is because it would be bad manners towards them... (since their) opinion... had been built on a foundation of valid ahādīth or on a valid kashf which will never oppose the shari'ah. If the kashf is known to be information about a matter as it is in reality... (then the mukallaf will) not find it opposing the shari'ah in anything, nay it is the shari'ah itself. This is because, the Messenger of God... only speaks the truth (al-waqi') due to his protection from error and supposition.

Al-Sha'rānī quotes the opinion of 'Alī al-Marṣafī that the a'immah of the madhāhib were the inheritors of the Messenger of God in the science of spiritual states ('ilm al-ahwāl) and the science of exoteric explanations ('ilm al-aqwāl) together. However, according to the author, this was contested by some of the sufis who imagined that the mujtahids only inherited the science of exoteric explanations from the Messenger and that the totality of what all the mujtahids had known is a fourth of the knowledge of a perfect man in the path. They maintained that a man becomes perfect only when he ascertains, in the position of his wilāyah, the sciences of the four precincts in respect of the following saying of God:

He is the First, the Last, the Apparent and the Hidden.

They try to belittle the a'immah by saying, "These mujtahids do not ascertain anything except of the science of principles (hadrah) of God's
apparent names only, they do not have knowledge of the principles of the *azal* nor of the *abad*, nor of the knowledge of the reality.249

As a reply to the above stand of these *ṣūfīs*, al-Sha’rānī argues that these men are ignorant of the status of the *a’immah*.250 In support of this, he quotes ‘Ali al-Khawwāṣ as saying:

Everyone whose heart God...has illumined will find that the *madhāhib* of the *mujtahids* and their followers, all of them, are connected with the Messenger of God...by way of the apparent chain of “from so and so (*‘an’anah*)” and by way of the heart of the Messenger...assisting all the hearts of the ‘*ulamā*’ of his ummah. Therefore, the lamp of an ‘*ālim* is not lit except from the niche of the light of the heart of the Messenger.251

Explaining further, ‘Ali al-Khawwāṣ says that the chain does not end at the Messenger, it in fact continues to ascend to the precinct of God, through Gabriel, which is beyond the apparent and hidden chains.252 It is the knowledge of the reality which is supported by the quality of protection from error (*‘ishmah*).253 That means that the occurrence of any mistake or fault is ruled out. Whoever quotes its knowledge as it is in reality, cannot commit any mistake in that. However, a fault or a mistake might occur only through the manner of deducing it.254 Therefore, in ‘Ali al-Khawwāṣ’ opinion, "What the *muhaddiths* narrated through valid chains of authority which ended at the precinct of Truth is the same as the utterances or opinions of the people of valid *kāshf*, who quote from knowledge of reality."255 This is because, "All the lamps of the exoteric and esoteric ‘*ulamā*’ are lit from the light of the *shari‘ah*."256 All the opinions of the *mujtahids* and their followers are supported by the opinions of the people of reality.257 This was the reason why al-Sha’rānī tried to support the speech of the *a’immah* of the *shari‘ah* by equating their speech with the speech of *ahl al-kāshf*. This is done so as to
"strengthen the hearts of the students among the followers of the madhâhib so that they will act according to the speech of their a’immah with certitude and explanation, when they see that reality supports the deduced shari’ah and vice-versa."\(^{258}\)

The concern of the a’immah for their followers is significant in that, they, according to al-Sha’râni, will intercede\(^{259}\) in respect of their followers to such an extent that some of them "will keep an eye on the rising spirits of their followers when they are questioned by the angels of the grave, Munkar and Nakîr,\(^{260}\) in the grave and at the time of resurrection, the gathering, the accountability, the balance, and the bridge."\(^{261}\) That is, they will not be careless about them at any of these places.\(^{262}\) To illustrate this issue of the intercession of the a’immah, al-Sha’râni puts forward the case of Naṣîr al-Dîn al-Laqqâni, who is reported to have appeared in the dream of someone, after his death. So the pious man asked al-Laqqâni what God had done with him. To this the dead shaykh replied that when he was made to sit by the two angels in the grave and they began to question him, imâm Malik came to them and said, ‘(Does a person) like this need to be questioned about his belief in God and His Messenger?’, and they withdrew from Malik and withdrew from him.\(^{263}\)

Al-Sha’râni then asks, "If the mashâ’ikh\(^{264}\) of the süfiyâh were to keep an eye on their followers and their disciples in respect of all alarm and calamity in the world and the hereafter, then how will it be with the a’immah of the madhâhib?"\(^{265}\) - meaning that their concern for their followers is very great indeed. Al-Sha’râni maintains that it is not permitted for anyone to make comparisons of the different a’immah with
each other by trying to point out their defects in the same way that it is not permitted to do this with regard to the prophets.\textsuperscript{266} Al-Sha'râni justifies this attitude to the \textit{a'imma'h} by arguing that even though the \textit{sahâbah} differed on some of the substantive laws (\textit{furû' }), none of them criticised each other for that.\textsuperscript{267} The meaning of the term \textit{rahmah} in the \textit{hadith}:

The difference of my ummah is a mercy (\textit{rahmah}), whereas the difference was a torment for those who preceded us.\textsuperscript{268}

brings about a wider scope for differences in the ummah.\textsuperscript{269} Therefore, had any one of the \textit{a'imma'h} been at fault in respect of the same issue, their differences would certainly have not been a mercy.\textsuperscript{270} Regarding the \textit{hadith}:

My sahabah are like stars, so whoever among them you follow, you are (certainly) guided.\textsuperscript{271}

al-Sha'râni says that this could be taken as an analogy for the validity of following any of the \textit{a'imma'h}.\textsuperscript{272} For, the author says, "Had we followed anyone of the \textit{a'imma'h} we would certainly have been guided,"\textsuperscript{273} since the Messenger of God had "given us the choice of acting according to the opinions of whoever of them we wish."\textsuperscript{274} "That", al-Sha'ra'ni says, "would have been possible only if they were all guided by their Lord. However, if one of them had been right, there would not have been any guidance to those who followed the rest of them."\textsuperscript{275} Therefore, as a \textit{mukallaf} and as a \textit{muqallid} one should abstain from criticizing and finding fault with any one of the \textit{a'imma'h}. In this regard he quotes the opinion of Taj al-Din al-Subki,\textsuperscript{276} who says in his \textit{Tabaqat al-Kubra}:\textsuperscript{277}

It is necessary for you, O, you who seek guidance, to tread the path of \textit{adâb} (manners) with all the earlier \textit{a'imma'h} and to look at the criticism of them by some people only in order (to investigate) clear proof. Then if you are capable of interpreting and have good intention, act according to your ability. If not, turn away from what you see among them. For,
you, O, my brother, were not created for the like of this. You were created to act (istighāl) according to what concerns you in your religious matters.278

Continuing his advice to students, al-Subkī says that the student will always be noble before his eyes as long as he refrains from (criticising) what has taken place between the a'immah.279 Therefore, al-Subkī warns the student against paying attention to what had occurred between Abū Ḥanīfah and Sufyān al-Thawrī, or between Mālik and Ibn Abū Dhi‘b280, or between Ahmad b Šāliḥ281 and al-Sha‘bī,282 or between Ahmad b Ḥanbal and al-Ḥārīth al-Muḥāṣibī, and so on till the time of ‘Izz al-Dīn b ‘Abd al-Salām283 and Taqī al-Dīn b al-Salāḥ. This is because, by engaging oneself in these debates and discussions between the ‘ulamā‘, one will go astray.284 For, al-Sha‘rānī believes that there are interpretations of their opinions which others, perhaps, might not understand.285 Therefore, he suggests that we should only be satisfied with them and keep silent over any disputes which took place between them, just as we are silent about any disputes among the saḥābah.286

Commenting on the tension between the a’immah, ‘Izz al-Dīn b ‘Abd al-Salām, as recorded by al-Subkī says:

If it has reached you that one of the a’immah had a severe dislike for anyone among his contemporaries, then that is because he was afraid that (some) one (might) understand from his speech the opposite of what he intended, especially (in respect of) ilm al-‘aqīdah (dogmatics), for, the speech (i.e.: the criticism) in respect of that is very severe.287

Al-Sha‘rānī portrays how the a’immah showed respect for one another. He reports al-Shāfi‘ī issuing a fatwā to one who took a vow to walk to the Ka‘bah and broke it, on the basis of the fatwā of compensation for breaking the vow.288 Then al-Shāfi‘ī said, “This (opinion) has been put forward by one who is better than me, ‘Atā‘ b Abū Rabāḥ.”289
Likewise, al-Shāfi‘ī left the recitation of qunūt\(^{290}\) when he paid a visit to Abū Ḥanīfah’s grave and realised the time of ṣalāt al-ṣubhān had come. He said, "How shall I (recite the) qunūt in the presence of the imām when he did not accept it?\(^{291}\) Al-Sha’rānī says that al-Shāfi‘ī did that only to show respect to the a‘immah of the mujtahids and to show that their opinions were sound.\(^{292}\) The a‘immah put forward an opinion only after they had studied its proof from the speech of the shāri‘.\(^{293}\) However, this did not negate the opinion of al-Shāfi‘ī which has been quoted from him earlier, that the opinion of anyone will not be accepted as a proof from the Prophet, even though some have said that al-Shāfi‘ī did not accept Abū Ḥanīfah’s opinions based on ijtihād.\(^{294}\) Rather he took notice of his ijtihād out of the necessity for good manners towards the a‘immah of the mujtahids.\(^{295}\) However, al-Sha’rānī states that al-Shāfi‘ī did not leave out the recitation of qunūt only out of good manners towards Abū Ḥanīfah despite the opinion of al-Shāfi‘ī about qunūt being a sunnah act at that time.\(^{296}\) Rather he did it because he was following the Prophet who had desisted from doing something which he had earlier suggested out of good manners towards others who had suggested something else.\(^{297}\) There is also the possibility that al-Shāfi‘ī did this because at that time his ijtihād coincided with Abū Ḥanīfah’s.\(^{298}\) That might be one of the great kārāmāt (miracles) ascribed to Abū Ḥanīfah and it in no way degraded the status of al-Shāfi‘ī before Abū Ḥanīfah.\(^{299}\) Another possibility is that it brought about the correctness of both their positions in terms of what has been quoted from al-Shāfi‘ī about respecting Abū Ḥanīfah.\(^{300}\)

Some people said there is no innovation in the non-recitation of qunūt purely to observe good manners.\(^{301}\) For, good manners is that which the Prophet has commanded.\(^{302}\) Therefore one who is observing
good manners towards his brother is as though he is observing manners towards the Prophet and a follower of his shara'. When Mālik was asked about Abū Ḥanīfah, he said, "What do you say about a man, who if he argues with me that this (particular) pillar is half of stone while the other half is of silver and stands by his argument?" This suggest that Mālik is claiming that Abū Ḥanīfah was very good at argument. While al-Shāfi‘ī says, "People, all of them, in respect of fiqh, are entirely dependent on imām Abū Ḥanīfah." Al-Sha‘rānī heard ‘Alī al-Khawwās as saying, "It is obligatory for every muqallid to (observe) manners with all the a‘immah of the madhāhib." He once heard some of the Shafi‘ites saying, "And in this hadith (there is) a rebuttal of Abū Ḥanīfah." He retorted saying, "May God cutoff the tongue of (people) like you (for) saying this word, however the manners (should have been) to say (perhaps) the imām had not seen this hadith." On another occasion al-Sha‘rānī heard his master saying, "The understanding of Abū Ḥanīfah is subtle which one would hardly see except from the people of kashf among the greater personalities of the awliyā'. He said about Abū Ḥanīfah that whenever he sees the water which has been used for ablution, he usually knew all the kabā‘ir (grave sins), the ṣaghā‘ir (lesser sins) and the makrūḥāt (detestable) which have sunk in it. It is because of this that he defined pure water, when the mukallaf purifies himself with it, into three states:

- the najāsah al-mughallazah (very impure) due to the possibility of the mukallaf committing a grave sin.

- the najāsah al-mutawassitah (moderately impure) due to the possibility of the mukallaf committing a lesser sin.
that which is pure in itself but does not purify other things due to the possibility of the mukallaf committing makrūḥāt (the detestable) or leaving the best (khilāf al-awlā). Then in that case there is no real sin, due to the permissibility of the makrūḥāt being committed. Whereas, a group from his followers understood that these three opinions are in respect of one state (alone). But the state, on the contrary, is in respect of (three different) states. And most of the mukallaf̩s will only rarely be free from committing any of these. Al-Sha'ranī says that every mukallaf should thank God for creating people like Abū Ḥanīfah who broadened the rules which were not clear in terms of prohibition and permission.312

Therefore, al-Sha'ranī urges the mukallaf̩s to observe good manners towards the a'īmmah just as they observed good manners towards one another and to follow them in that.313 He warns the mukallaf not to abstain from acting according to their opinions because they did not understand their disputes.314 For the mukallaf̩s, being ordinary people as compared to the a'īmmah, are not of the status to criticise the 'ulamā' since they are ignorant.315 Therefore, al-Sha'ranī suggests that the mukallaf̩s should act according to all the opinions of the 'ulamā', even if they are less preferred ones.316 One way of preventing mukallaf̩s from criticising the a'īmmah, according to al-Sha'ranī, is by knowing the definitions employed by the a'īmmah, since they were those who observed good manners with God.317

Al-Sha'ranī quotes those who have exaggerated in their praise of Abū Ḥanīfah.318 The purpose in including this section in his al-Mīzān is to show the respect Abū Ḥanīfah, and by extension, all the a'īmmah have merited from others. In this respect al-Sha'ranī repeatedly quotes the
opinions of Abū Ja'far al-Shayzāmāri and Shaqīq al-Balkhī. For instance, it is said that Abū Ḥanifah never sat under the shadow of the wall of his debtors, for he is reported to have said:

I have with him (i.e.: the debtor) a loan and every loan that brings (jarra) benefit (i.e.: interest) is a ribā (usury), my sitting under the shadow of his wall is a benefit for me from the shadow of his wall.

One might wonder why al-Sha'rani has singled out Abū Ḥanifah. His anxiety about the imām seems a matter of great concern to him. Is it because Abū Ḥanifah and his madhhab were not treated favourably in Egypt at the time of al-Sha'rani? Or does he use Abū Ḥanifah as the symbol of the a'immah, the latter being the greatest and the oldest of the a'immah in compiling the madhāhib and being nearer than them in his chain of authority reaching the Prophet and his witnessing the greatest personalities among the tābi'in? Or is it simply a device to win the hearts of the Ottomans who were themselves the followers of Abū Ḥanifah? He does not seem to give any answer to these questions. Perhaps the author is desperate and sincere to find ways and means of solving the ever-recurring dilemma.

From what has been elucidated in the previous pages, we could definitely see the intent of the author. That is, he has attempted to elevate the status of the a'immah to that of the awliyā', while at the same time emphasising the need for an 'ālim to be versed in sulūk. By this, al-Sha'rānī brings about a delicate balance between otherwise hostile factions.
1 *Al-Mizān*. 1:67 and 70.
5 *Al-Mizān*. 1:29. The expression "dried out in the fifth century" means that his madhhab did not survive after that period. This is because, it did not "enjoy common appeal and patronage." see Qādiri, Anwar A., *Islamic Jurisprudence in the Modern World*, (Lahore, 1975), p. 148.
6 *Al-Mizān*. 1:29.
10 Cf. text p. 102.
13 *Ibid.*. It seems this idea has been taken from Shams al-Dīn Abū 'Abd Allāh Muḥammad al-Munṣīyir al-Balbisi, a disciple of Ibrāhīm al-Matbūlī, died in 931 h. see his biography in *al-Kawākīb*. op. cit., 1:95-7; *TKS*. op. cit., 2:130-1. The same fact is ascribed by al-Sha'rānī to al-Balbisi in his *Akhlaq al-Matbuliyah*. see *Ibid.*. 1:272.
14 *Al-Mizān*. 1:30.
A muhkam hadith is that which precludes the possibility of abrogation. For instance, the ruling concerning jihād which provides that jihād remains valid till the day of resurrection. see Kamālī, op. cit., p. 97.

This term is the intent of the phrase bi abi huwa wa ummi fa 'alayka al-ra's wa al-'ayn [I (sacrifice) my father and my mother and I (shall) hold it over my head and my eyes (out of respect)].

He is Abū 'Umar Yusuf b 'Abd Allah b Muhammad al-Namari al-Qurtubi, born in Cordova in 363 h. It is stated that he was an adherent of Zāhiri madhhab and became a Mālikī with a strong inclination towards Shāfī'i fiqh. He died at the age of ninety-five in 456 h. see Raisuddin, A. N. M., "Ibn 'Abd al-Barr and his contribution to the study of hadith literature in Spain," in Islamic Culture.
Therefore, we permitted the "Umm Qays." She refused to marry him till he migrated. Then he migrated and married her. Therefore, we used to call him Muhâjir Umm Qays."  

79 Al-Mûzan, 1:39. In his Tamhid, Al-Asnawi says that...if one marries without the witnesses nor the guardian, by patching together both schools then the intercourse that follows it is a capital adultery. [See Reinhart, A. Kevin, "Transcendence and Social practice: Multi's and Qadis as Religious Interpreters", in Annales Islamologiques, Tome xxviii. (Cairo, 1993), p. 23; Jackson, Sherman A., "The second education of the Multi: Notes on Shihib Al-Din Al-Qarâfî's Tips to the Jurisconsult", in M.W., Vol. 82 (July-October, 1992) 3-4:214. Hereafter cited as Jackson.

80 Al-Mûzan, 2:111.

81 Ibid.

82 Ibid., 1:39. Al-Qarâfî states that some Malikites along with the majority of the Shâfîtes permitted the practice of inter-madhâbeh conversion. See Jackson, op.cit., p.214.

83 Al-Mûzan, 1:39. See also Al-Qarâfî, Shihâb Al-Din Abu al-'Abbâs Ahmad b Idrîs b 'Abd al-Rahmân al-Šâhâji, Kitâb anwâr al-Burûq fi anwâr al-Furûq, (Makkah, 1345 h.), 2:101; Jackson, op.cit., p. 216.

84 He is Abu 'Ali 'Abd al-'Azîz b 'Imrân b Ayyûb al-Khuzâ'î, studied from al-Shâfî. He died in 234 h. Ibn al-Sukhûtî, 2:143.

85 He is Abu al-Hasan 'Ali b Abu 'Ali b Muhammad b Sâlim al-Thâla'î, known as Sayf al-Din al-Âmidî, born in Âmid in 550 h. and migrated to Egypt in 592 h. where he died in 631 h. Ibid., 8:306-7.

86 He is Abu al-Husayn Ahmad b Farîs b Zakariyyâ b Muhammad b Habîb al-Râzî, died in Ray in 390 h. He was a famous linguist. Dibaj, p. 37; Warâqah, p. 134; Wafayât, 1:118-20. See also Yâqût, 4:80.

87 He is Abu Bakr Ahmad b 'Ali b Thâbit b Ahmad b Mahdi b Thâbit al-Baghdâdî, known as al-Khatîb al-Baghdadî, born in Baghdad in 392 h. where he died in 463 h. Ibn al-Sukhûtî, 3:12; Tâdhkirat, p. 1135; Shadharat, 3:311; Ibar, 3:253; Wafayât, 1:92:3; Yâqût, 4:13.

88 He is Abu Ja'far Ahmad b Muhammad b Salâmah al-Âzâdi al-Tahâwî, born in Tahâ in 239 h. He is the nephew of al-Muzañî. He died in 321 h. Fihrist, p. 207; Ibar, 2:186; Shadharat, 2:288; Taghibîrût, 3:239; Wafayât, 1:71-2. See text on p. 365 no. 61.

89 unable to locate.

90 Al-Mûzan, 1:39.

91 Ibid., 1:41-2.

92 It is reported that Ibn Mas'ûd said, "There was a man with us who proposed to a woman called Umm Qays. She refused to marry him till he migrated. Then he migrated and married her. Therefore, we used to call him Muhâjir Umm Qays." See Isâbah, op.cit., 4:486.
It is the plural form of the term *madrasah* (Islamic Religious Seminary).


It is famous religious seminary in Baghdād established by the wazir Nizām al-Mulk.


It is famous religious seminary in Baghdād established by the wazir Nizām al-Mulk.

It is called *Sharh* Kitāb ma'ānī al-Āhār. *GAL*, 1:181.

Al-Mīzan, 1:40.

Al-Mīzan, 1:40.

It is entitled Rawdah al-Talibīn wa umdat al-Muṭīfīn. see *GAL*, 1:499; *GALS*, 1:753 and 2:286.

Al-Mīzan, 1:40.

Ibn al-Subkī, 8:281-93; *Taghribirdi*, 6:266; Taḥṣīprīzāda, Ahmad b Muṣṭafā, Miṣṭāh al-Sa'ādah wa miṣbāḥ al-Siyādah, (Hyderabad, 1356 h.), 2:114-5. see text p. 370 no. 117.

Al-Mīzan, 1:40.

Ibn al-Subkī, 8:281-93; *Taghribirdi*, 6:266; Taḥṣīprīzāda, Ahmad b Muṣṭafā, Miṣṭāh al-Sa'ādah wa miṣbāḥ al-Siyādah, (Hyderabad, 1356 h.), 2:114-5. see text p. 370 no. 117.

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Al-Mīzan, 1:40.

Ibn Mas'ūd has expressed similar view, see *al-Shawkānī*, op.cit., p. 31].

Al-Mīzan, 1:56.

That is one who is protected (from committing sin). It is a derivation of the word 'ismah. Al-Jurjānī defines it as malkat ijtīnāb al-ma'āsi ma'a al-tamakkun minnah [the power of abstaining from sins despite having the ability to do them], see *al-Ta'rifat*, p. 156. In the issue of 'ismah of the prophets, the differences amongst the scholars fall within the following four areas: (1) that which is
connected with belief. The \textit{umma} as a whole has reached a consensus on that the prophets are protected (\textit{ma'.sūm}) from infidelity and innovation, except some sects within the Khawārij, for they believe that it is permitted for the prophets to fall into infidelity. This is because they permitted (\textit{yasīb}) for the prophets to commit sin and every sin is infidelity. As far as the Rawafīd are concerned, they permitted for the prophets to display the expression of infidelity by way of taqiyyah. (2) that which is connected with the \textit{shara'ī} and \textit{ahkām} from God. They reached a consensus that it is not permitted for them (i.e.: the prophets) to interpolate and be treacherous in this matter, neither wilfully not forgetfully, otherwise people will not depend on anything from the \textit{shara'ī}.' (3) that which is connected with \textit{fatwā}. They all reached a consensus, that it is not permitted for them to wilfully commit a mistake, but regarding a mistake committed forgetfully, they all differed. (4) that which is connected with their (i.e.: the prophets') actions and states. In this issue the scholars differed as follows: (a) the stand of the Hashwīyyah is that it is permitted the prophets to engage in committing both the grave and minor sins. (b) Most of the Mu'tazilites believe that it is not at all permitted for the prophets to wilfully commit grave sins. As far as the minor sin is concerned, it is permitted on the condition that it is not repulsive (\textit{mustufīr}). However if the wilful commission of the minor sin is repulsive then it is not permitted for them. (c) Al-Jubbā'ī believes that it is not permitted for the prophets to wilfully commit grave and minor sins, however, it is permitted for them to commit (\textit{sūdūr}) these sins mistakenly ('\textit{āla sabīl al-khata}') during interpretation. (d) it is not permitted for the prophets to commit the minor nor the grave sins neither wilfully, nor through interpretation. As for the commission of the sin absentmindedly or forgetfully, the scholars permitted them to do them. Then they considered it blameworthy for the prophets to have such absentmindedness and forgetfulness, since their (i.e.: the prophets') knowledge is more perfect (\textit{akmal}), therefore it is obligatory for them to aspire to attain a high degree in respect of truthfulness (\textit{al-ṣidq}), protection (\textit{al-tahfīd}), and vigilance (\textit{al-tayyqoz}). (e) The Rawafīd hold that it is not permitted for the prophets to commit the minor nor the grave sins neither wilfully, nor through interpretation, nor absentmindedly, nor forgetfully. They also differed in respect of the time of the obligation of this '\textit{ismah}'. To the Rawafīd, the prophets should be protected from their birth till their death. However the majority of the scholars including Abū 'Alī al-Jubbā'ī and Abū Hudhayl al-Allāf, hold that it is obligatory during the period of prophethood. As for it being before the prophethood, it is not obligatory. [For further details see al-Rāzī, Muhammad b 'Umar, \textit{Kitāb al-Arba`in fī usūl al-Din}, (Hyderabad, 1353 h.), pp. 329-68; see also al-Farrā', al-Qādī Abū Ya`lā, \textit{Kitāb al-Mu`tamad fī usūl al-Din}, ed. by Wādī Z. Haddad, (Beirut, 1974), pp. 246-7; al-Baghdādī, Abū Mansūr 'Abd al-Qāhir, \textit{Uṣūl al-Din}, (Istanbul, 1928), 1:167-9; Hillī, Jamāl al-Dīn Abū Mansūr Ḥasan b Yūsuf b al-Muthahir, \textit{Awwār al-Mutahārī fī sharh al-Ya`qūt}, ed. by Muhammad Najmi al-Zanjānī, (Tehrān, 1338 h.), pp. 195-7 and 204-6; \textit{Tahfīs}, op. cit., pp. 116-8; Hasan, Ahmad, "The Concept of Infallibility in Islam," in \textit{Islamic Studies}, 11 (March - 1972), No. 1, pp. 1-11; Faruki, Kemal, "Tawhīd and the Doctrine of 'Ismah,'" in \textit{Islamic Studies}, 4 (March - 1965), No. 1, pp. 31-43. Al-Baghdādī says that the \textit{ithbāt} of \textit{shafā`ah} is for the prophets and the believers among themselves according to their status." see \textit{Talhibīs}, op. cit., p. 416n].

132 \textit{Al-Mizān}, 1:62.
133 \textit{Ibid.}.
134 \textit{Ibid.}, 1:61.
135 \textit{Ibid.}.
136 \textit{Ibid.}.


138 He is Abū Sa`d `Abd al-Karım b Abū Bakr Muhammad b Muhammad b `Abd al-Jabbār b Ahmad b Muhammad b Ja`far b Abū al-Muzaffār Mansūr b Ahmad b `Abd al-Jabbār, known as Ibn al-Sam`ānī, born in Marw in 506 h. and died in 562 h. see \textit{Ibn al-Sūbki}, 4:259; \textit{Tadhkira`īs}, p. 1316; \textit{Ibar}, 4:178; \textit{Wafā`yīs}, 3:209-12.
He is ʿĪmād al-Dīn Abū al-Ḥasan ʿAlī b Muḥammad b ʿAlī al-Ṭabarī, born in Baghdād in 450 h. and died in 504 h. A disciple of Imām al-Haramayn [see note 18 above]. see Ṭabvīn, p. 288; Ibn al-Subkī, 4:281; Ibn Ibar, 4:8; Shādharāt, 4:8; Wafayāt, 3:286-90. see text on p. 368 no. 97.

It is not clear whether he is Muḥammad al-Ḥanafī or Mahmūd al-Ḥanafī. If he is the latter one then he is the son of al-Badr al-Dīn al-ʿAynī who died in 855 h. see al-Fāṣi, al-Ḥasan b al-Ḥājj Mahmūd al-Kohān, Kitāb tābaqāt al-Shādhamīyyah al-Kubrā al-Musammā jāmiʿ al-Karāmāt al-ʿUlyah fi tābaqāt al-Sādāt al-Shādhamīyyah, (Cairo, 1347 h.), p. 129.

Closely related to this term the sha‘a’ir Allah (the signs of God). It is the sign of obedience. Everything which has been made as a sign of obedience to God is a sha‘īrah (the plural of which is sha‘īr) of God. For details see al-Isahah. 3:302.

For instance, with regard to the issue of celebrating the birthday of the Holy Prophet, many scholars consider that as an innovation, because the Prophet did not celebrate his birth day, therefore whoever celebrates his birthday has indeed introduced something foreign to Prophetic teaching. This objection, though it may seem sound, may not be accepted by all the mukallafs. In support of this it could be argued that since there are grades of mukallafs, this celebration might strengthen the faith of weaker mukallafs. By increasing the occasions of such events, the ‘ulamā‘ have introduced into religion various celebrations in the hope of keeping the mukallafs within the ambit of the shari‘ah.

He is Ka‘b b Malik b Abū Ka‘b, who was called by the Prophet as Abū ‘Abd Allāh. It is said that he died on the day when ‘Ali b Abū Ṭalib was killed. See al-Isahah, 3:302.
This is also the opinion of the predominant 'ulamā'. The Kharijites and some of the Mu'tazilites opposed it. However, their objection has not been taken into consideration. see al-Bayhaqi, Sunan al-Kubra, (Hyderabad, n.d.), 8:141-5; Nawawī, op.cit., 12:199-201; al-Mawardi, Akhām al-Sultāniyyah, ed. by Muhammad 'Abd al-Qādir, (Cairo, 1880), p. 5; TH, p. 4; al-'Asqalānī, Ahmad b 'Ali b Ḥājur, Fath al-Bārī bi sharh saḥīḥ al-Bukhārī, ed. by Muhammad Fu'ād 'Abd al-Baqī and Muḥibb al-Dīn al-Khaṭīb, 2nd ed., (Cairo, 1988), 13:97. While the word khiyārūkum in the hadith quoted by Darqūṭnī that the Prophet said: ij'alu a'unmaiakum khiyarukum wa innahum wafdukum fi ma baynakum wa bayna cabbikum [make the best among you as your leaders, for they will be your delegates between you and your Lord], does not denote in any way that the term khiyār refers to the Quraysh. see Ibn al-Salīḥ, pp. 414-6.

It was a big tribe in Yemen. For details see Waḫyūt, 4:138.

This tribe was the biggest tribe in the Madhḥaj area of Yemen. see ibid., 1:25-6.

Unable to locate.

It is the plural of the term waṭī. see note 78 above.

see also TS, where al-Shā'rānī attributes a similar statement to al-Shāfī‘ī.

He is Nūr al-Dīn Abū al-Ḥasan 'Ali b Khalīl al-Maṣṣāfī, died in 930 h. He abridged the Risālah of al-Qushayrī. see TKS, 2:127-9.

It is the position of Sainthood. see note 78 above.

He is Nūr al-Dīn Abū al-Ḥasan 'Ali b Khalīl al-Maṣṣāfī, died in 930 h. He abridged the Risālah of al-Qushayrī. see TKS, 2:127-9.

Cf. text pp. 104-5 also note 35 on p. 130.

They are the two angels who will visit the dead in their graves and to interrogate them as to their belief in the Prophet and his religion. They are described as two black angels with blue eyes. Hughes, op.cit., p. 420.
Dream plays an important role even in the legitimization of the madhāhib and establishing the supremacy of the a'immah. See Kinbergh, Leah, "The Legitimization of the Madhāhib through Dreams," in Arctica, Tome 32 (1985), pp. 47-79.

It is another plural form of the word shaykh. Its other forms of plural are, shuyukh, mashyakhah, and mashayikh. See Wehr, op. cit., p. 496 s.v. shākha. However, this term is particularly used to refer to the spiritual luminaries.

He is Abū Naṣr Tāj al-Dīn 'Abd al-Wahhāb b 'Alī b 'Abd al-Kāfi b Tamām b Yūsuf b Mūsā b Tamām al-Ansārī al-Subkī, born in Cairo in 727 h. and died in Damascus in 771 h. See Mu'jam, pp. 1002-4; Durūr, op. cit., 2:425-7; Taghribirdī, 11:108-9; Shadharāt, 6:221-2; Badr, op. cit., 1:410-1; Kaḥḥālah, 6:225-6. See text on p. 371 no. 139.

He is Abū al-Ḥārij Muhammad b 'Abd al-Rahmān b Abū Dhi'b al-'Āmīri al-Qurashi. He was a disciple of Mālik. Died in Kūfah in 159 h.

He is Abū Ja'far Ahmad b Ṣāliḥ, born in Mīṣr in 170 h. and died there in 248 h. See Tārīkh, 4:195; ʿĀlīm, 1:137.

He is Abū Ṭāhir Ahmad b Shurūhīl al-Sha'bi, a šāhī born in Kūfah during the Caliphate of ʿUthmān and died in 105 h. Tabīḥīḥ, 5:65; Ḥilīyah, 4:310; Tārīkh, 12:227; Wafayāt, 1:244.

He is 'Abd al-'Azīz b 'Abd al-Salām b Abū al-Qāsim b Ḥasan b Muḥammad b Muḥadhdhab al-Sulāmī, called as sultan al-ʿulamāʾ in his time. Born in 576 h. and died in 660 h. Taghribirdī, 7:208; Shadharāt, 5:301-2; Kaḥḥālah, 5:249.

It is a supplication made when one raises from the ruku' of the second raka'ah of salāt al-ṣubh, by raising his hands by holding the palms in front of his face.
299 Ibid.
300 Ibid.
301 Ibid.
302 Ibid.
303 Ibid.
304 Ibid.
305 Ibid.
306 Ibid., 1:62.
307 Ibid., 1:63.
308 Ibid.
309 Ibid.
310 Ibid.
311 Ibid.
312 Ibid., 1:73.
313 Ibid., 1:74.
314 Ibid.
315 Ibid.
316 Ibid., 1:74-5.
317 Ibid., 1:124.
318 Ibid., 1:71-5.
319 Unable to locate.
320 He is Abu 'Ali Shaqiq b Ibrāhīm al-Balkhī, originally from Khurāsān and was a disciple of Ibrāhīm b Adham [see chapter 1 note 275] and died in 153 h. Hilyah, 8:85; Wafāyat, 2:475-6.
321 Al-Mizān, 1:72.
322 Ibid.
CHAPTER FIVE

Al-Sha' rānī's attitudes towards Reasoning in Islāmic Law

The role of reason in Islāmic Law is important. Scholars have exerted their intellectual abilities in deducing particular appropriate substantive laws from the general principles laid down in the two primary sources of Islāmic Law. There are many ways of deducing a particular law from the general principles. The process by which such a law is deduced is known as ijtihād, which is based on the principles of qiyās. The results of such endeavours are called fatāwā. Even though these deductions are personal discretionary opinions, they are also considered as binding and thus constitute the secondary source of Islāmic Law.

_Ijtihād and Mujtahid_

The process by which a mujtahid deduces his opinion is called _ijtihād_. That is, it is the exertion of one's intellectual ability and command of the instrumental sciences in arriving at a decision on a religious matter. According to al-Sha' rānī, _ijtihād_, in the legislation of God, is "a form of endearment (ta'nis) to the Prophet,"¹ who in turn, gave "the 'ulamā' the subject by which they detailed what was general in respect of his speech."²

He says the word "_ijtihād_ is derived from _juhd_ (exertion)"³ and "doing one's utmost in exercising one's mind and thinking deeply in
respect of (religious) evidences." The mujtahids did their "utmost in deducing the hidden rules in the Book and the sunnah." Therefore, God rewards the mujtahids of this ummah "with good." This is because, according to al-Sha'rānī, "had they not deduced, for the ummah, the rules from the Book and the sunnah, no one else would have been able to do that."  

Describing the origin of ijtihād, al-Sha'rānī draws the attentions of the readers to the night ascension (mi'raj) of the Prophet to the precinct of God. In explaining this, the author quotes Ibn 'Arabī with whom he concurs that the incident which took place during the Prophet's audience with God was "an ijtihād from him (i.e. the Prophet)." That is, when God made obligatory on the ummah of Muḥammad fifty raka'āt of salāt, the Prophet descended with it to Moses, without saying anything nor raising any objection to that. However, Moses said to him: "Verily your ummah will not endure that," thereby urging the Prophet to make the petition before God to reconsider it. The Prophet, on the other hand, remained uncertain owing to his abundant affection for his ummah and his inability to oppose the command of God. Then he started to make judgement about which of the two conditions would be better for his ummah. This very act of the Prophet, as al-Sha'rānī maintains, is the origin and the reality of ijtihād. Thus, when it appeared to the Prophet that he should return to his Lord, he returned according to the ijtihād which agreed with the opinion of Moses. He executed that in respect of his ummah by divine permission. This was given as an example of the ijtihād of the Prophet. On the contrary, had God retained the fifty raka'āt, even after the petition of the Prophet, He would have given the
mukalla cará the strength to perform it, as He had done so with the ummah of
the earlier prophets.20

Al-Sha‘rání does not seem to answer the question of why God did
not give the ummah of Muḥammad the strength of the umam of the
previous prophets to carry out the fifty raka‘āt. Instead he, as mentioned
earlier, states that whatever God had given to the ummah of Muḥammad is
a "special favour." This "special favour" is the creation of the mukalla cará
into two categories of shaqī and sa‘īd.21

Even this concession which the Prophet got from God during the
mi‘rāj is considered a special favour. For, by giving such a concession,
God has showered "mercy on His servants"22 and "grace on the messenger
of God as a mark of honour to him."23

Al-Sha‘rání quotes Jalāl al-Dīn al-Suyūṭī as having transmitted that
the absolute ījtihād is of two types:24

(1) Unrelated absolute ījtihād (ījtihād mūţlaq ghayr muntasib)
(2) Related absolute ījtihād (ījtihād mūţlaq muntasib)

The unrelated absolute ījtihād is claimed by one who is not
affiliated to any madhhab, like the four a‘immah.25 However, the related
absolute ījtihād is that which is claimed by those who are closely related to
a madhhab.26 To this category belonged the great disciples of the four
a‘immah.27 Al-Sha‘rání states that Jalāl al-Dīn al-Suyūṭī has claimed that
no one has claimed the unrelated absolute ījtihād after the demise of the
four a‘immah except Muḥammad b Jarīr al-Ṭabarī.28 However, that was
not accepted by others for him.29
All those who claimed absolute *ijtihād* meant by that related absolute *ijtihād* which does not depart from the principles of their *imām*, like Ibn al-Qāsim30 and Asbāgh31 with Mālik, Muḥammad32 and Abū Yūsuf33 with Abū Ḥanīfah, and like al-Muzanī34 and al-Rabī‘35 with al-Shāfi‘ī.36 According to al-Sha‘rānī, he has not known of anyone after the four *a‘immah* having the power to originate the rules and deduce them from the Book and the *sunnah*.37

Regarding the validity of the *ijtihād* of the mujtahids, al-Sha‘rānī puts forward a strong case. He argues that the mujtahids are those who are the inheritors of the prophets in reality in respect of the *ʿulūm al-*wahy.38 Further, the Prophet is *maʿṣūm*, as such his inheritors are protected from committing a mistake in respect of the same matter.39 For, if anyone finds fault with a mujtahid, then that was only a relative mistake owing to the fact that he has not studied the proof.40 Since the station of the prophets and messengers are elevated, it can only be inherited by the *ʿulamā‘* of the mujtahids.41 As such their *ijtihād* "stands in the place of the text of the *shāri‘* in respect of the obligation of acting according to it."42 For, the Prophet had permitted them to exercise *ijtihād* in respect of the rules, following the saying of God:

> If they had referred it to the Messenger and to those who have been vested with power over them, those who are knowledgeable among them could deduce it for them.43

Thus, it becomes clear that whatever the mujtahids had deduced is "a legislation from the command of the *shāri‘*."44 As such, every mujtahid is right in view of his *ijtihād* which the *shāri‘* had established on him in the same way that of all the prophets are impeccable.45
Regarding the decision of the *mujtahids* being part of the *shari‘ah*, al-Sha‘rānī says that even though the *shāri‘* did not permit what they deduced, "it is obligatory to assume that they knew that (a particular) obligation or the prohibition from the contexts (*qarā‘in*) of the proofs or they knew that it is the intent of the *shāri‘* by way of their *kashf*."\(^{46}\) Thus, the knowledge of the *mujtahids* is derived from either the study of the *qarā‘in* or from the *kashf*. However, al-Sha‘rānī maintains that in some *mujtahids* "both these paths unite."\(^{47}\) Further, he says that, according to some people the prohibitions and the permissions of the *mujtahids* will be for the best, whereas its opposite falls short of the best (*khilāf al-awlā*), since it is not allowed for anyone other than the *shāri‘* to forbid a thing or to make it obligatory.\(^{48}\) Moreover, al-Sha‘rānī believes that the opposite of the prohibition is not a permission, instead it is a non-prohibition which contains a *mandūb* (recommended practice).\(^{49}\) Thus, the best of the *mujtahid*’s opinion is mostly in the side of *tashdīd* so as to prevent it from being made a requirement for everybody, whether performed or not performed, while that which falls short of the best is mostly on the side of *takhfīf*.\(^{50}\)

According to what al-Sha‘rānī quotes from some of the *ahl al-kashf*, God made the *mujtahids* as servants through *ijtihād* in order that they make a contribution to the legislation, on which He establishes a firm footing for them.\(^{51}\) Therefore, none will precede them except their Prophet.\(^{52}\) Thus, the ‘*ulamā‘* of this *ummah* will be resurrected as protectors of the proofs of the pure *shari‘ah*.\(^{53}\) They, being the knowers of its (i.e., the *shari‘ah*’s) meanings, will be raised in the "ranks of the prophets and the messengers and not in the ranks of *umam*."\(^{54}\) Thus, there is neither a prophet nor a messenger except by his side one or two or more
‘ulamā’ amongst the ‘ulamā’ of this ummah. Every ‘ālim amongst them has a position of teachership in respect of the science of rules, states, positions, stations till the end of the earth with the appearance of al-Mahdi.

From what has been mentioned above, it becomes clear that all the mujtahids are followers of the shāri‘ in respect of takhfīf and tashdīd. That is, being the inheritors of the Prophet, the mujtahids, too, made takhfīf and tashdīd in their ījtihād. Explaining this point elsewhere in the text, al-Sha‘rani says that "all the opinions of the mujtahids follow the proofs of the shari‘ah of the takhfīf and tashdīd in terms of appropriateness (ḥukm al-mutābiqah)." Whenever the shari‘ah has given a fuller explanation of a law it will never be possible for anyone to depart from it. However, whenever the shari‘ah gives a general (ījmāl) explanation of a rule mentioned without specifying its status, then the mujtahids refer to the two categories: a category being takhfīf while the other category is tashdīd according to what appears to them from the sense of understanding (madārik) of the language of the Arabs. That is why, al-Sha‘rani says that the rule of God in respect of every mujtahid is that the mujtahid is rewarded according to "whatever appears to him in the shara‘ī issues and he will never be questioned on anything other than what appears to him (as truth)." Therefore, al-Sha‘rani quoting al-Anṣārī says that one should not rush towards rejecting the opinions of a mujtahid or to find fault with him, except after he has encompassed all the proofs of the shari‘ah to such an extent that his knowledge should cover all the aspects of the language of the Arabs including the knowledge of its meanings and paths. This is evident when one examines the madhāhib of the a‘immah.
Thus, there is no mistake or error in their deduction. What is said as a mistake in the *hadith*:

If a *ḥākim* made *ijtihād* and committed a mistake then for him one reward and if he was correct then for him two rewards.62

The mistake in the above *ḥadīth* is the non-encountering of the proof and not the mistake which makes the *mujtahid* depart from the *shari‘ah*.63 This is because, if he departs from the *shari‘ah*, then there is no reward for him, as has been stated in the *ḥadīth*:

Every action on which there is no command of ours, then it is (to be) rejected.64

While in the words of Ibn Ḥazm, the *mujtahid* will not acquire any reward for an *ijtihād* which makes him depart from the *shari‘ah*.65

Explaining the above *ḥadīth*, al-Sha‘rānī says that the *shāra‘* has established a reward for the *mujtahid* such that there remains nothing except the meaning of the *ḥadīth* that if the *ḥākim* or the *mujtahid* had made *ijtihād* and had encountered the said proof itself in respect of that from the *shāra‘*, then he will have two rewards: a reward for the search (*tatabbu‘*) and a reward for encountering the proof (*muṣādafaḥ*).66 Even if he did not encounter the proof itself, instead he encountered its rule only, then he will have one reward, and that is the reward for the search.67 Therefore, what is meant by a mistake here is a mistake by attribution and not an absolute mistake.68

Continuing the argument about the *mujtahid* being right or wrong, al-Sha‘rānī speaks about the opinions of the *murīd* who follows a spiritual path and a *murīd* who has completed his *sulūk* in this respect. Referring to the former, al-Sha‘rānī observes that since he will not be standing on the
first spring of the *shari‘ah*, he will not have the ability to grasp that every *mujtahid* is right. On the contrary the one who has completed his *sulūk*, will certainly witness that every *mujtahid* is right. This stand of this *murid* will be criticised by the common *muqallids* because of their lack of understanding and their inability to witness what this *murid* had witnessed. As such, they are excused.

Commenting on the "mistake of the *mujtahid*", al-Sha‘rānī quotes the opinion of Ibn ‘Arabi, who says:

> It is not right for anyone to find fault with a *mujtahid* or to criticise him in respect of his speech. For, the *shara‘* which is the rule of God...establishes the rule of the *mujtahid*. Therefore, it has become as a *shara‘* of God...by the fact that He established it. This is an issue, in the prohibition of which many disciples of the *madhāhib* fall, due to not bringing into their presence what we had warned them, despite their being knowledgeable about it. Therefore, whoever finds fault with a *mujtahid* himself, he has as though found fault with the *shāri‘* in respect of what he had established as a rule.

That is, the opinions of the *mujtahid* are taken as texts of the *shāri‘* in respect of the permissibility of acting according to them through their conditions.

Therefore, if anyone demands proof for gaining reward from what the *mujtahids* have laid down, then he should be told, according to al-Sha‘rānī, to believe in the divine guidance of all the *a‘immah*. Upon his acceptance of this truth it should be said to him, "Whenever you believed that the *a‘immah* were guided by their Lord, and that their *madhāhib* are right, it is necessary for you to believe in the reward of every one who acts according to it sincerely and attainment in heaven of the rank of those who act according to it, even if their status differs." This is because, what the *shāri‘* has laid down is higher than what the *mujtahids* have laid
down. However there are rewards for what the mujtahid has laid down, as has been stated in the hadith:

Whoever lays down a good sunnah, then there is a reward for it and a reward for one who acts according to it.  

However, on the contrary, if the mujtahid were to lay down a bad sunnah, then he will earn two sins, as mentioned in the hadith:

Whoever laid down a bad sunnah, then against him is a sin for it and a sin for one who acts according to it.

Commenting on the role of the mujtahid in permitting or prohibiting a rule which the shari' has not stated clearly, al-Sha'rani says, "Had they not understood from the context of the proofs of their prohibition or permission, they would not have opined according to it. Whereas, the contexts are the most trustworthy proofs. They might also have even understood that by way of kashf, which in turn will strengthen the contexts."  

Owing to these reasons, al-Sha'rani says that the muhaqqiqs said that it is permitted for the 'ulamā' to lay down rules as they wished through the ijtiḥād based upon the rule of inheritance to the Messenger of God, just as the Prophet himself permitted what he wished to a particular people and prohibited the same to another category of people. Therefore, likewise, it is permitted for the 'ulamā' to do the same. Al-Sha'rani gives an example. That is the 'ulamā' made ghusl on the women in childbed (nufasā') an obligation, the child being a congealed sperm. However, if another woman were to bring out a hand or a leg only, despite the fact that the hand or the leg is without doubt a congealed sperm, she does not have to abide by the obligation. As such there should be no criticism of the 'ulamā''s exercise of such independence, for they are the
followers of the shari'. Al-Sha'ranī says of the speciality of the Prophet is that he made it obligatory on himself what he permitted for his ummah and he prohibited for them what he permitted for himself by the permission from God. Therefore, no one should criticise the 'ulamā' if their opinions contradict the chapters of the fiqh.

Qiyās:

Al-Sha'ranī observes that, even in qiyās the categories of takhfīf and tashdīd apply. In other words, there are different forms of qiyās which are considered takhfīf and tashdīd. For, "of the scholars there are those who regard qiyās as makrūh in respect of religion, and there are those who prohibit it." As such, the mukallafs are not sure as to "whether God has intended whether the cause (īllah) should be investigated or not." An example of this ambiguity which al-Sha'ranī puts forward is the case of those jurists who make an analogy between rice and wheat in the matter of ribā. According to al-Sha'ranī, the shari' "did not explain to us the rule pertaining to rice, as such the best policy, with the people of God, is to allow it to remain as it is without bringing it within the aspect of ribā as a hadith has indicated, for God has been silent about such things as a mercy towards the mukallafs." Therefore, al-Sha'ranī argues that, "those who draw conclusions by way of analogy from rice to wheat have made it mushaddad, while those who do not draw such conclusions have made it mukhaffaf." The pious predecessors among the saḥābah and their followers "were capable of drawing analogy, but they left that as good practice (adab) following the Messenger of God." In this respect, al-Sha'ranī quotes the opinion of Sufyān al-Thawri that:
(It is of) good practice (adab) to carry out the ahadith which lead to restraint and deterrence according to their literal meaning without any interpretation.\textsuperscript{96} for, by interpreting them, they would go beyond the intention of the shari',\textsuperscript{97} To illustrate this need for adhering to the literal meaning of the ahadith, al-Sha'rani quotes some examples. For instance, if the hadith:

Whoever deceived us is not from us,\textsuperscript{98} is interpreted to mean, only "people with that quality of deceit are not from us"\textsuperscript{99} then "anyone who did some other wrong could use that statement to claim that they come within those terms, thereby making others accept them as good members of the community."\textsuperscript{100} It is due to this that pious predecessors refrained from interpreting the sayings of the shari', instead they considered it "meritorious to follow the shari'."\textsuperscript{101}

Then, al-Sha'rani narrates that Ja'far al-Sadiq,\textsuperscript{102} Muqatil b Ḥabbān\textsuperscript{103} and others went to see Abū Ḥanifah and said to him:

It has reached us that you employ qiya\̱s excessively in the religion of God, the Lofty, the first one to employ qiya\̱s was Iblis. Therefore, do not use qiya\̱s.\textsuperscript{104}

To this the learned imām Abū Hanifah replied that what he had said was not qiya\̱s, in fact, "it is from the Qur'an."\textsuperscript{105} For God, says:

We have not left out anything in the Book.\textsuperscript{106}

Therefore, according to al-Sha'rani, what the jurists, and he includes himself among them, maintain is that it is not qiya\̱s in the same sense,\textsuperscript{107} but it is only a qiya\̱s for those to whom God has not given the understanding of the Qur'an.\textsuperscript{108}
The same could be the case for those who have not followed the ṣūfī path (sulūk).109 For, "people of kashf do not stand in need of qiyās, due to what they gain from their kashf."110 In elucidating their non-dependance on qiyās, al-Sha'rānī raises the question of beating parents as an example.111 He says in this regard that if anyone were to bring to the attention of the ahl al-kashf, the prohibition of beating parents saying that the Qur'ān has not mentioned clearly about beating of parents, then from where did they (meaning the ahl al-kashf) find the prohibition?112 To this, al-Sha'rānī quotes the relevant Qur'ānic verses from where both the 'ulama and the ahl al-kashf took their evidences.113 To the 'ulama, al-Sha'rānī says, the Qur'ānic verse:

Do not say to them "Uff"114

is taken as prohibition. But, this is not acceptable with the ahl al-kashf.115 For, according to the author, they argue that it is not from the above verse, instead it is taken from the saying of God:

And be kind to the parents.116

Thus, one can know that "beating them is not kind."117 As such there is no need for qiyās.118 It seems that, al-Sha'rānī approves the use of qiyās for those who need it. In this regard, he quotes the saying of his mentor 'Alī al-Khawwas:

It is valid to introduce qiyās for those who need it and for those do not need it according to the two sides of the balance. Thus, one who burdens the people to scrutinize the proofs and to deduce parallels (nazā'ir) from the Qur'ān has (indeed) made it tashdid, whereas, one who did not burden them with that had indeed made it takhfīf. And there are always among the people those who are capable of deducing (laws) and those who are incapable.119

Concerning the status of the laws deduced by the mujtahids by way of qiyās, al-Sha'rānī quotes the opinion of Ibn Ḥazm120 that "the totality
of what the mujtahids had deduced is considered as an integral part of the shari'ah even though its proof is hidden to the general public."\textsuperscript{121} As such, whoever denies that, has "indeed accused the a'immah of having committed a mistake by having legalised what God had not permitted."\textsuperscript{122} And for those who maintain this, al-Sha'ranī suggests that it would be considered as "straying away from the path,"\textsuperscript{123} whereas the truth is that "it is obligatory to believe that had they not seen any evidence for that, they would not have made it part of the law."\textsuperscript{124}

So, according to al-Sha'ranī, in the case of deduction, the matter is referred to the two sides of the balance.\textsuperscript{125} For, he says that "whoever commands the people to follow all that has been legalised by the mujtahids has indeed made it tashdīd, while those who only command them to do what had been made clear by the shari'ah or that on which the 'ulama' have reached their collective consensus has made it takhfīf."\textsuperscript{126}

Regarding the accusation levelled against Abū Ḥanīfah of giving precedence to qiyās over the nāṣṣ, al-Sha'ranī says, "had he lived until the shara'i aḥādīth\textsuperscript{127} were compiled...he would certainly have taken it (meaning the hadīth) and (would have) abstained from all qiyās (which) he used to exercise."\textsuperscript{128} Further, al-Sha'ranī stresses that the accusation could, however, be true in respect of Abū Ḥanīfah's followers "who cling on to the practice of qiyās which they found from their imām and leave out the hadīth which has been validated after the demise of the imām."\textsuperscript{129} As such, the author maintains that the imām is excused, whereas his followers are not.\textsuperscript{130} Thus, their refusal to act according to a hadīth validated after their imām's demise by saying that Abū Ḥanīfah did not act according to this particular hadīth will not stand as a proof.\textsuperscript{131} For, it is
possible that he might not have succeeded in procuring the hadith or he might have succeeded but that particular hadith might not have been valid according to him, since the obligation to act according to a hadith will arise only when that hadith is valid in his understanding.\textsuperscript{132}

As for the saying of the a‘immah, "if the hadith is valid, then it is our madhhab,"\textsuperscript{133} al-Sha‘rānī says that for one who has with the hadith a qiyās or a hujjah,\textsuperscript{134} it is not allowed to exercise choice between them, except "by submission to God and His Messenger."\textsuperscript{135} In elaborating Abū Ḥanīfah’s qiyās, al-Sha‘rānī says that the majority of his qiyās are from the qiyās jalī\textsuperscript{136} by which "the agreement of the branch to the root is known, and by which their separation is denied or broken."\textsuperscript{137} For instance, Abū Ḥanīfah’s qiyās of a dead thing other than rat, if it falls on butter, is based on the issue of a rat falling on things other than butter.\textsuperscript{138} Thus, according to al-Sha‘rānī, having claimed to have examined the religious issues in which the disciples of Abū Ḥanīfah had given precedence to qiyās over the nass, such occurrences are very few indeed. While in the remainder of the madhhab, nass has been given precedence over the qiyās.\textsuperscript{139}

However, in the opinion of a Mālikite scholar, who has been, according to al-Sha‘rānī, quoted by Ibn ‘Arabī, qiyās should be given precedence over the khabar al-āhād.\textsuperscript{140} This is because, the scholar maintains none will act according to that hadith "except by (having) a good opinion of its narrators."\textsuperscript{141}

Al-Sha‘rānī says how he has exercised qiyās on a religious issue on which there is no clear textual proofs. That is on the issue of the nullification of the ablution by touching a young girl for whom he has no
desire. He says, according to Dāwūd al-Ẓāhirī, the touching of a young girl without any desire will nullify one’s ablution, even though there is no clear textual evidence. However, al-Sha’rānī argues that God has applied the noun *al-nisā’* (women) to *al-ṭafāl* (children) in His saying:

They (i.e.: the Pharaohs) slaughtered their sons (*abnā’ahum*) and kept alive their women (*nisā’ahum*).

As such the word *al-nisā’* in the saying of God:

Or (if) you had come in contact with women,

indicates, by way of *qiyaṣ*, also the female children. Thus, the touching of a female child also nullifies one’s ablution.

**Ra’y**

The position of *ra’y* in Islamic jurisprudence has been an issue which has attracted much debate in scholarly circles. Scholars have expressed their views variously, nevertheless, they were unanimous in their rejection of *ra’y* in respect of religion. Al-Sha’rānī is no exception. He has attempted to put forward his stand on this issue through devoting five sections in his *al-Mīzān*, in which he puts forward evidence through quotations from scholars preceding him. He has attempted to address this issue in the following way:

- The nature of *ra’y*
- The stand of the Prophet, *ṣaḥābah*, *ṭābi’īn*, and the *tab’ al-ṭābi’īn*
- The stand of the four *a’immah*
Defining ra'y, al-Sha'ra'ni quotes al-Bayhaqi as saying in his *Sunan al-Kubra*\(^{149}\) that the blameworthy ra'y is all that which is not comparable to a basic principle (asl).\(^{150}\) According to him, "Whatever blame can be made against ra'y only applies to this meaning."\(^{151}\) By a basic principle he means a Qur'\'anic verse, a hadith, ijm\'a' or an accepted qiy\'as. This definition is self-explanatory in stating that it is only the blameworthy ra'y which is condemned in Islam, and not ra'y per se, since there is also a praiseworthy side to it. Al-Sha'ra'ni seems to consider ra'y in respect of din as blameworthy. This is evident from the quotations he has cited. He quotes the Prophet as saying:

- It is obligatory for you all to hold fast to my sunnah and the sunnah of the khulafa' after me and you all grip them with the canine teeth. I Warn you from innovated thing. For every innovated thing is an innovation and every innovation will lead you astray.\(^{152}\)

- All action in which there is no command by us, is rejected.\(^{153}\)

- If you intend not to be made to wait on the bridge (even) for a wink of an eye, then do not innovate, in respect of the din of God, anything according to your ra'y.\(^{154}\)

He goes on to say that even the sahabah and the successive waves of the t\'abi'in and the tab' al-tabi'in were opposed to the use of blameworthy ra'y in respect of din. For instance, 'Abd Allah b Mas'\'ud is reported to have said, "Learn the 'ilm before the arrival of those who speculate (al-zann\'in)."\(^{155}\) 'Umar b al-Khaṭṭāb used to state clearly when issuing a fatwā, "It is a ra'y of 'Umar, therefore, if it is correct then it is from God, and if it is wrong then it is from 'Umar."\(^{156}\) He is also quoted as saying,

By One in Whose Hand is the soul of 'Umar, God, the Lofty, did not take away the soul of the Prophet...and did not stop the revelation from him until He made his ummah as a whole needless of ra'y.\(^{157}\)
Further he warns the Muslims that there will come a people who will argue with them (i.e.: with the believers) in respect of the ambiguous Qur’ānic āyāt. In such a situation, according to 'Umar, the Muslims should admonish them with the sunnah. For the masters of the sunan are more learned in the Book of God. Elaborating this, Abū Sulaymān al-Khaṭṭābī says that the masters of the sunan being ḥuffāz of the hadīth, are comparable to the a’immah of the mujtahids and the most perfect among their followers, since they are the only ones who could understand the rules contained in the sunan.

Al-Sha’rānī maintains that, Mujāhid, ‘Āṭā’ and Mālik b Anas used to say that there is none whose word is taken or refuted, except the Messenger of God, meaning that the opinions of those other than the Prophet are not held sacred. While al-Sabī‘i condemned a person who criticised a hadīth which encourages the believers to strive after knowledge. Al-Sha’rānī narrates an incident where it was said to a singer at the court of the khalīfah that Mālik b Anas prohibited singing. So, the singer asked ‘Has Mālik and his like any right to make prohibitions about the din of Ibn al-Muttaqīb (i.e.: the Prophet)? And by God, O, amīr al-mu’minin, it was not (the right of) the Messenger of God...to prohibit (a thing) except through a revelation from his Lord...whereas the Exalted has said, ‘to judge between the people according to what God has made you see,’ and He did not say ‘according to what you opined, O, Muhammad.’ Therefore, had the din been according to ra’y, then the ra’y of the Messenger of God...would certainly not have stood in need of a revelation. Whereas God ordered him to act according to it. Nay, God reprimanded him when he prohibited what had been prohibited in the story of Mary, through saying, ‘O, you Prophet, why did you prohibit that
which God has permitted for you.167 From this it becomes clear that even the Prophet was not permitted to exercise ra’y in respect of the din. Then al-Sha’rānī asks, if this was the speech of the said singer, then how would the speech of those ‘ulamā’ who adhere to the Qur’ān and the sunnah have been?168

Hamdān b Sahl169 used to say, “Had I been a judge I would certainly have imprisoned both these men: the one who seeks after the hadith but not the fiqh; and the one who seeks after the fiqh but not the hadith.”170 While referring to the a’immah he said that they sought after the hadith together with fiqh and they did not stop at one of them. Al-Sha’rānī quotes Ja’far al-Ṣādiq as saying, “One of the great calamities for the a’immah is when a group of people judge an issue according to their ra’y, and thus prohibit what God has permitted and permit what He has prohibited.”171 In the opinion of al-Sha’bi, “There will come a group of people who will judge the issues according their ra’y, by that Islam will be demolished and discredited.”172 “It is obligatory for you all,” says Wāki’,173 “to follow the a’immah of the mujtahids and muhaddiths, for they write what belongs to them and what is against them, as opposed to the people of ra’y, because they never write that which is against them.”174

Aḥmad b Surayj considers the people of hadith higher then the fuqahā’, owing to their carefulness in ascertaining the principles.175 And Ibn Mas‘ūd says that whoever has been asked about something which he does not know, should say, ‘God knows best.’176 For the Lofty, said to the Prophet:

Say (O, Muḥammad) I do not ask you for any reward and I am not of the mutakallifīn.177
Al-A’mash\textsuperscript{178} used to say, "It is obligatory for you to preserve the sunnah and teach it to the children. For they will keep watch over the people (in respect of) their din, when their time comes."\textsuperscript{179} Abū Bakr b ‘Ayyāsh\textsuperscript{180} used to say that people of ḥadīth in every period are like the people of İslām amidst (ma’a) the people of other religions.\textsuperscript{181} And the meaning of the term "people of ḥadīth" comprises the people of sunnah among the fuqaha’ even though they are not ʿuffāz.\textsuperscript{182} ʿUmar b ‘Abd al-‘Aziz\textsuperscript{183} is reported to have said, "If you see a group of people whispering secretly among themselves about a religious matter, then bear witness that that is a misguidance and an innovation."\textsuperscript{184} While quoting the Qur’ān, al-Khaṭṭābī says, "It is obligatory for you to abstain from arguments (al-jidal) in respect of ḥadīth and the opinions of the a’immah, for God has said, 'None shall argue in respect of the Signs of God, except those who are infidels'. There will be no atheism or innovation or unbelief or the courage to stand against God (jarā’ah), except by way of argument and dialectics."\textsuperscript{185}

Al-Sha’rānī says that even the four a’immah were against the use of ra’y.\textsuperscript{186} He says that the first one to free himself from the accusation was Abū Ḥanifah himself, since he has been criticised by others for employing ra’y.\textsuperscript{187} However, al-Sha’rānī maintains that anyone, in whose heart there is light, will not have the courage to mention anything bad about any one of the a’immah.\textsuperscript{188} He asks what is the position of the one who questions the a’immah with regard to the position of the a’immah?\textsuperscript{189} For the a’immah are like the stars in the sky and those other than them are like the people of the earth who do not know about the stars except their images on the surface of the water.\textsuperscript{190} Ibn al-‘Arabi has narrated in his al-Futuḥat al-Makkiyyah that Abū Ḥanifah used to say, "I warn you not to opine in
respect of the *din* of God with *ra'y*, it is obligatory for you all to follow the *sunnah*. Thus, whoever goes out from it has indeed gone astray."\(^{191}\) Abu Ḥanīfah also used to say, "It is prohibited for anyone who does not understand my proofs to issue a *fatwā* based on my speech."\(^{192}\) And he, when issuing a *fatwā* says, "This is the *ra'y* of Abu Ḥanīfah; this is the best of what we were able to do. Therefore, whosoever brings forth a better one than it, is most eligible to be rewarded."\(^{193}\)

A man from Kūfah called on him while *ḥadīth* was recited before him, then the man said: "Spare us from these *ahādīth*.\(^{194}\) Abu Ḥanīfah rebuked him severely and said to him: "Was it not for the *sunnah*, none of us would have understood the Qur'ān."\(^{195}\) Then he asked the man, "What do you say about (eating) the flesh of monkeys and where is the evidence for it in the Qur'ān?" Then the man asked Abu Ḥanīfah, "What do you say about it?" Then he said, "it is not included among the category of grazing cattle (*an'ām*)?"\(^{196}\) Therefore, this is sufficient proof to indicate the stand of Abu Ḥanīfah in respect of exercising *ra'y* in matters of *din* to which neither the apparent meanings of the Book nor the *sunnah* will bear witness. Further, al-Sha'rānī quotes him as saying, "It is obligatory for you to take hold of the *āthār* of the predecessors and I warn you all from (acting according to) *ra'y* of men when they have decorated it with (convincing) arguments, for the matter will become clear when it becomes clear, while you are all on the straight path."\(^{197}\) Abu Ḥanīfah warns the Muslims against innovations and urges them to hold fast to "the original matter (*al-amr al-awwal al-'atīq*)."\(^{198}\)

Once a man entered Kūfah with a Book by the Prophet Daniel, and Abu Ḥanīfah almost fought him saying, "A book other than the Qur'ān

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and the hadith!" And it was said to him once: "What do you say about the theological discussions (kalām) which people have introduced concerning (matter like) accidents (‘ard), atom (jawhar) and substance (jism)?" Then he said, "These are philosophical discussions. But it is obligatory for you all to (act according to) the āthār and the path of the salaf. And I warn you from every novelty for, it is an innovation." And it was said to him once, "The people have abstained from acting according to the hadith whereas they are interested in hearing it." Then he said that their listening to the hadith itself is considered as acting according to it. Abū Ḥanīfah firmly believes that people will continue to adhere to the path of righteousness as long as there is with them one who seeks after the hadith, for if they seek knowledge without the hadith then they will be misguided. He even cursed 'Amr b 'Ubayd for introducing the people to dialectics which does not concern them. He used to say that it is needless for anyone to give an opinion until he knows that the sharī'ah of the Messenger will accept it. Moreover, he used to gather the 'ulamā' in respect of every issue in which he did not find any clear textual evidences in the Book and the sunnah, and he acted according to what they agreed upon. It is said that whenever Abū Ḥanīfah deduced a legal rule, he would not write it down until the 'ulamā' of his time reached a consensus on it. Then if they were pleased with it, he would say to Abū Yusuf, "Write it down." Therefore, al-Sha'rānī questions the reader as to how it was possible for a person of this stature to have been accused of employing ra'y in respect of the din. Defending Abū Ḥanīfah, he quotes the author of al-Fatāwah al-Sirājīyyah:

There used to take place between Abū Ḥanīfah and his disciples what did not take place with others. He based his madhhab on consultation (shūrā). He did not monopolise (yastabīda) the settling of problems. Rather he would put problem after problem to his disciples so that he
would know their attitude. He would then give his attitude and debate with them until one of the two views was decided upon (yastaqirra). Abū Yūsuf bears witness to this just as he bears witness to all the principles (of the Hanafi madhhab). Through his understanding, Abū Hanifah attained what was impossible for (many) men of great talent (al-qarā’ih).  

Al-Sha’rānī then mentions Mālik’s stand on this issue. He is quoted as saying, “I warn you about the ra’y of men, except if they reached a consensus on it. Whereas, you all follow what has been revealed to you from your Lord and that which came from your Prophet. And if you do not understand the meaning, then turn to your ‘ulamā’ and do not argue with them, for, verily argument in respect of the din is a remnant of hypocrisy.”213 While his disciple, Ibn al-Qāsim, says, "Nay, it is hypocrisy as a whole because arguing with falsehood in respect of the truth with the ‘ulamā’ is like arguing with the Messenger of God, by virtue of the fact that the truth is his shara’, irrespective of the position of the one who argues in respect of the din."214 He also used to say, "Submit to the a’immah and do not argue with them. If we were (to do that) everytime a man came along who disputed with the teacher (rajul) whom we followed, we would fear that we might fall into (the error of) rejecting what Gabriel had brought."215 Whenever Mālik deduced a rule, he used to say to his disciples, "Think it over, for it is din. And the sayings of all people are refuted except the Master of this garden,"216 meaning the Messenger of God.

Ibn Hazm quotes Mālik as saying on his death bed, "I have certainly wished now that I beat myself with a lash over all the religious issues in which I have exercised ra’y, and I do not want to meet the Messenger of God with a thing I have added in respect of his shari’ah or I have opposed him in its apparent (meaning)."217 It is owing to this that Mālik prevented
the narration of hadith in terms of meaning only to a man who understands out of fear that the narrator might add something to or take away something from it.218

Al-Sha’rānī says that he saw the Prophet saying to him in a dream of glad tiding (jumlatan mubshiratan),219 "It is obligatory for you to study the opinion of the imām of my Dār al-Hijrah220 and to stick to that, for he has indeed witnessed my signs (āthār)."221 Thereafter, al-Sha’rānī began to study al-Muwatta’222 and al-Mudawwanah al-Kubra.222 In the course of his study, he summarised them and selected issues in which Mālik had differed from the rest of the a’immah. He saw that Mālik was stopping at the boundaries of the shari’ah and was hardly crossing it. There al-Sha’rānī came to know that to remain at the limits of what has been narrated is better than innovation, even if the innovation is to seek good, for the shari’ may perchance not be pleased with those additions in prohibitions or obligations.224

In respect of what has been quoted from al-Shāfi’i of the blameworthiness of ra’y and his renunciation of it, al-Sha’rānī quotes Al-Harawi225 as having narrated from al-Shāfi’i that the latter used to say that the hadith of the Messenger of God is sufficient by itself if it is valid.226 That is it does not stand in need of a ra’y which will support it if its proof is valid, for, as mentioned earlier, the sunnah judges the Qur’ān and not vice-versa.227

When Ahmad b Ḥanbal asked al-Shāfi’i about qiyyās, he said that it should be exercised only when absolutely required (al-darūrāt).228 He is also reported to have said, "Was it not for the people of inkwell, atheism would have been preached from the manābir (pulpits),"229 meaning that
the compilers of the *ahadith* have saved *mukallafs* from falling into unbelief. In al-Shafi‘i’s opinion, if a *hadith* is directly connected (in its chain) to the Prophet, then it is the *sunnah*. However, the consensus is considered greater than the *hadith*, if it is a *tawātur*. Al-Shafi‘i maintains that a *hadith* should be conveyed according to its literal meaning, but if it carries more than one meaning, then it should be interpreted according to that which agrees with the literal meaning. Moreover, al-Shafi‘i considers the people of *hadith* in every period to be like the *saḥabah* in their time. He says, “If I see a man of *hadith*, (I feel) as though I have seen one of the *saḥabah* of the Messenger of God.” And he warns the *mukallafs* from acting according to the *hadith* which was brought from the country of those who exercised *ra‘y*, except after investigating it.

**Regarding the indulgence of a *mukallaf* in dialectics, al-Shafi‘i** says, "He is as though he has entered the sea in a state of turbulence." Then it was said to him "O, Abū ‘Abd Allāh, it is concerning *’ilm al-tawḥīd* (Doctrine of Divine Unity)." Then he said, "I have indeed asked Mālik about *tawḥīd*, and he said, it is that by which a man enters *Islām* and by which his blood and wealth are protected. And it is the saying by a man that he bears witness that there is no god except God and he bears witness that Muḥammad is a Messenger of God. However, if any one were to say, 'the name is other than the named' or '(the name is the named one) in essence,' then testify that he is an atheist."

Whenever al-Shafi‘i stopped at a *hadith*, he used to say, “If that is valid, (then) we would certainly opine according to it.” And al-Bayhaqi narrates from him saying in respect of the *mustahādah* who
has washed away the trace of blood from her self and performed salāt, that she should take ablution for every salāt performed thereafter.²⁴⁰ He says that if this hadīth is valid, then he would certainly have adopted it, for "the sunnah of Muḥammad in respect of ablution for what came out from the qubl (forepart) and dubur (hindpart) is more loved by us than the qiyās."²⁴¹ Moreover, al-Shāfi‘i says, "If a thing is established from the Prophet... (let) my father and my mother be sacrificed (for him), it is not permitted for us to abstain from it,"²⁴² for "the Messenger of God is too great in our eyes that we should love something other than what he judged."²⁴³

And al-Shāfi‘i says in the chapter on hunting from al-Umm²⁴⁴ that everything that opposed the command of the Prophet will become null and void and neither the ra‘y nor the qiyās will be of any support to it.²⁴⁵ For God has asserted the responsibility (‘udhur) through the Prophet, thus, it is not for anyone to command or to prohibit a thing other than what the Prophet has commanded.²⁴⁶ In the chapter of mu‘allam (an animal hunted by tracking) which is eaten as a result of hunting, if a khabar²⁴⁷ is established as being from the Prophet, no one is permitted to abandon anything of it.²⁴⁸ And in the chapter of the manumission of a slave al-Shāfi‘i says, "There is not a proof in the opinion of anyone, even though they were (great in) numbers, in relation to the Messenger of God."²⁴⁹ All these references indicate that al-Shāfi‘i was free from exercising ra‘y and that he showed respect before the Prophet. Not only that, he also showed respect with the opinions of the sahābah.

Ibn al-Salāh quotes al-Shāfi‘i, in his Ulūm al-Hadīth,²⁵⁰ as saying in his earlier Risālah,²⁵¹ after praising the sahābah with that which befits
their status, "The ṣaḥābah are above us in respect of all knowledges, *ijtihād*, piety, intellect and in every matter in which their knowledge and opinions have corrected us and is more praiseworthy and better than our *raʿy*."\(^{252}\)

In support of the renunciation of Aḥmad b Ḥanbal from exercising *raʿy*, al-Shaʿrānī quotes al-Bayḥaqī that Ibn Ḥanbal used to say:

> Has any one got the right to put forward a view in the presence of the Messenger of God?\(^{253}\)

It is for this reason that he did not produce a legal manual like the other *mujtahids*, fearing that such action would induce one to go against the *shariʿah*.\(^{254}\) The fact that his entire *madhhab* has been patched together from the hearts of men is sufficient to stress that he disapproved of the use of *raʿy*.\(^{255}\) According to what Shihāb al-Dīn al-Ḥanbali al-Futūhī informed al-Shaʿrānī, Ibn Ḥanbal had laid down only about twenty issues on *ṣalāt*.\(^{256}\) It has been noted that he did not eat melon until he died, and when he was asked he said, "It has not reached me how the Messenger of God ate it."\(^{257}\) And when he was hiding at the time of the *mīnah*,\(^{258}\) he came out from his hideout after the third day. When he was told of the danger of getting caught, he said, "Verily the Messenger of God did not stay in the cave when he was hiding from the *kuffār* for more than three days."\(^{259}\) He used to say, "We do not usually see anyone looking into the books of *raʿy*, except when there is a doubt in his heart."\(^{260}\) According to his son Ṭabd Allāh,\(^{261}\) when he asked Ibn Ḥanbal about a man who was in a place where he could not find a man of *ḥadīth* who knew a valid *ḥadīth* from an invalid one, and a man of *raʿy*, which of them should be asked about the *din*. Then he said, "The man of *ḥadīth* should be asked", for "a weak *ḥadīth* is more desirable to us than a *raʿy* of men."\(^{262}\)
The text discusses the issuance of fatwas by scholars. It states that Al-Sha'rani maintains that even in issuing a fatwa to the mukallafs, the 'ulama' acted according to the two categories of takhffif and tashdid. They did not issue a fatwa with a general application. Thus, they "did not command an able person to perform a rukhsah nor a weak person an 'azīmah." In other words, none of the a'immah used to issue a fatwa to anyone to perform a rukhsah except if he saw that he was incapable of performing the 'azīmah and he would only issue a fatwa for someone to perform something when he saw that they were capable of performing it. In this respect, al-Sha'rani mentions those 'ulama' of both the earlier and the later generations, who issued a fatwa according to the four madhahib. Among the 'ulama' whom he describes as coming from the earlier generation, al-Sha'rani mentions particularly Abū Muḥammad al-Juwaynī and Ibn 'Abd al-Barr al-Mālikī, who used to issue a fatwa according to the four madhahib. Al-Sha'rani repeatedly states in his al-Mīzān that al-Juwayni wrote his book al-Muhīt "in which he did not confine himself to any one madhhab." Even Ibn 'Abd al-Barr used to say that "every mujtahid is in the right." This is because, they were "either acting by saying what has been mentioned owing to their studying from the spring of the shari'ah and from the diversity of the opinions of all the 'ulamā' whom al-Sha'rānī had studied, or they were "saying that in so far as the shari' approved the rule of the mujtahid who deduced it from the Book of God, or from the tradition of His messenger." 'Izz al-Dīn b Jamā'ah, as al-Sha'rānī maintains, used to issue a fatwa to an 'āmmī according to the madhhab of anyone of the imāms, and would command that person to follow all the
conditions laid down by that imām in the fatwā that he had given. He is also reported to have said to such a person that if he were to "leave any one of his (i.e. the imām's) conditions his 'ibādah would not be valid either according to his own madhhab or according to the (madhāhib) of others." For, according to 'Izz al-Dīn, "The 'ibādah (performed by way of) piecing together (the actions) from any madhāhib is not valid, even if it integrates the conditions of all those madhāhib." That is owing to the precaution in respect of matters concerning the religion and the fear that such a practice would cause a defect in the act of worship ('ibādah) of any Muslim.

Among the later generation of 'ulamā' who used to issue fatwā according to the four madhāhib, al-Sha‘rānī mentions the names of 'Abd al-'Azīz al-Dirīnī, Shihāb al-Dīn al-Burullusī popularly known as Ibn Uqayta', and 'Alī al-Nabtiyatai al-Ḍarīr. Al-Sha‘rānī specifically mentions al-Dirīnī, quoting the latter's book al-Durār al-Multaqītah fī al-Masā’il al-Mukhtalifah, in which the author issued a fatwā according to the four madhāhib. He also mentions that Jalāl al-Dīn al-Suyūṭī reported that a great number of 'ulamā' from whom he transmitted "used to issue fatwā to people according to the four madhāhib, especially to the general public who neither tied themselves to any one madhhab nor understood its principles or its texts." In this way when the action of the mukallaf "was in conformity with the opinion of an 'alim, it was acceptable." Al-Sha‘rānī then seeks to explain how it is that when the 'ulamā' themselves were followers of madhāhib, they were allowed to issue fatwā to others according to another madhhhab when it would have been expected that it was important for the follower not to depart from the opinion of his imām. In response to this problem, al-
Sha'ranī states that it may be possible that "one of the 'ulamā' had reached the status of absolute *ijtihād.*"286 This absolute *ijtihād* is related to the *imām* and the one who "possesses it would not be departing from the principles of his *imām* when he issued a *fatwā.*"287 Al-Sha'ranī mentions that people like Abū Yūsuf, Muḥammad b al-Ḥasan, Ibn al-Qāsim, Ashhab,288 al-Muzani, al-Ṭahāwī, Ibn Mundhir289 and Ibn Surayj belong to this category.290 However, it will be noticed that most of these scholars are all very much earlier than those whom al-Sha'ranī mentioned as being in the earlier generation. However, al-Nawawi belongs to the latest. According to al-Sha'ranī, when all of these scholars issue *fatwā* to the people on that which their *imām* did not clearly speak about, then they, by that act, will not be departing from his principles.291

This ability to issue a *fatwā* according to more than one *madhhab* would not have been easy for any one, "if he had not studied the arguments of the four *a'immah.*"292 In this respect al-Sha'ranī quotes his master ʿAlī al-Khawwās as saying:

> Our belief in respect of all the great personalities of the 'ulamā' is that they did not accept one another except due to their knowledge of the validity of their opinions and whatever evidences (*mustanadāt*) they uphold and those opinions connecting with the spring of the *shari'ah* (and) not by having good opinion about them without studying their validity and their connection with the spring of the *shari'ah.*293

Thus, according to al-Sha'ranī, none of the 'ulamā' would accept the opinion of another without studying the connection of that opinion with the spring of the *shari'ah.*294 For he believes that God might have shown to these 'ulamā' the spring of the first *shari'ah* where they witnessed the connection of all the opinions of the leaders of the *mujtahids* with it and that they issued *fatwā* to people on the basis of the two sides of the balance and not on the basis of generality.295
However, al-Sha'rānī then states that it is sometimes possible for scholars like the ones that he has mentioned to choose a course of action which would be different from what the imāms had specified to him in a text.296 Similarly it would be possible for them to follow the opinion of their imām, as a result of their studying the connection of that opinion with the spring of the shari‘ah.297 At that time, that chosen opinion would be on a par with that of his imām, like the opinions of Zufar,298 Abū Yūsuf, Ashhab, Ibn al-Qāsim, al-Nawawī, al-Rāfi‘ī, al-Ṭahāwī and others among the followers of the mujtahids.299 On the other hand it was also possible that someone might not issue a fatwā according to the opinion of his own imām, because he might not have studied the proofs of his imām and instead issued it due to his belief in the validity of the opinion of another imām,300 since all "the a‘immah are guided by their Lord."

Therefore, he stated that, it was obligatory to believe that all the a‘immah used to issue fatwā to every individual according to what befits his conditions of the takhffif and tashdīd, even though they themselves might not act according to it.301 For, it is the recipient of the fatwā who is "addressed by it"302 and thus "qualified for it."303 Thus it is not right to issue a fatwā to a Shafi‘ite on the basis of a Ḥanafī opinion. An example which he gives is the case of allowing a Shafi‘ite who touched his private parts to perform his salāt without renewing his ritual purification. This is something that is allowed according to Abū Ḥanīfah but not allowed by al-Shafi‘ī.304

Al-Sha‘rānī cautions the ‘ulamā‘ not to issue a fatwā in response to a speculative question but only for a matter which has occurred.305 In this respect, al-Sha‘rānī quotes ‘Umar b al-Khaṭṭāb as saying:
Verily God, the Lofty, creates for the people judgements according to their time and conditions.306

Thus, one should avoid issuing fatwā on an issue which has not taken place. For such endeavour is fruitless and irrelevant. He should not also issue fatwā to people except according to the "most preferred (opinion)."307 This is because, the muqallid only asked him (i.e.: the imām) "to issue him with a fatwā according to the most preferred (opinion) from the madhhab of his imām and not according to what he has."308 On the other hand, if the less preferred opinion is "more cautious in respect of the religion of the person who asked, then it is (required) of him to issue a fatwā according to the less preferred (opinion)."309 In that way there is no harm done. Al-Sha'rānī says that when Jalāl al-Dīn al-Suyūṭī claimed the status of the related absolute ijtihād he used to issue fatwā to people "according to the most preferred (opinion) from the madhhab of imām al-Shāfī‘ī."311 Then when he was asked why he did not issue fatwā according to the most preferred (opinion) with him, he said:

They did not ask me that, whereas they only asked me according to what the imām and his disciples have opined.312

Therefore, al-Sha’rānī says, "It is required of one who issues a fatwā to people according to the four madhāhib to know the preferred opinion with the people of every madhhab,"313 so that he could issue an appropriate fatwā. Or else, the former should inform the latter that he should depend on his (i.e.: the issuer of the fatwā) knowledge and religious conviction (din) and be happy with what he had issued according to the less preferred opinion.314 In such cases there is no need to study the most preferred opinion in every madhhab.
Further, al-Sha'rānī maintains that the *fatwā* should be issued only when there is a genuine need for it. He quotes 'Abd Allāh b Mas'ūd as saying that whoever issues *fatwā* to people about every thing they asked him is "a madman."315 This is because, the very nature of a *fatwā* is that it is revocable.316 That is, a *mujtahid* could withdraw his earlier *fatwā* when new evidence emerges against it.317 In this respect, al-Sha'rānī quotes Mujāhid as saying:

Do not write about me all that I issued *fatwā* on...(because), all things which I issued *fatwā* on to you today. I may perhaps turn away from tomorrow.318
ENDNOTES TO CHAPTER FIVE

1 Al-Mizān. 1:47.
2 Ibid. 1:37.
3 Ibid. 1:46.
4 Ibid.
5 Ibid.
6 Ibid.
7 Ibid.
8 Ibid.
9 Al-Mizān. 1:46.
10 Ibid.
11 Ibid.
12 Ibid. 1:46-7.
13 Ibid. 1:47.
14 Ibid.
15 Ibid.
16 Ibid.
17 Ibid.
18 Ibid.
19 Ibid.
20 Ibid.
22 Ibid. 1:28 and 46.
23 Ibid. 1:47.
24 Ibid. 1:16. In his Tabaqāt al-Sughrā, al-Shārānī reports al-Suyūtī as saying that he was accused by people that he had claimed the status of absolute ījtihād like one of the four aʾimmah. He says, 'That is a false accusation about me, for what I intended thereby was the related ījtihād. This is because the ījtihād is of two kinds: (1) al-mujtahid al-muntasib al-mustaqqil (unrelated absolute mujtahid). This kind has been forfeited since the fourth century hijrī. Its presence now is inconceivable. No one had claimed it after imām al-Shāfīʿī, except Ibn Hajar in particular. (2) al-mujtahid al-muntasib al-multaq (related absolute mujtahid). This kind still continues and will be so till the final hour. Among the disciples of imām al-Shāfīʿī, there are many who belonged to this category. They include people like al-Muzānī, Ibn Surayj, al-Qaffāl, Ibn Khuzaymah, Ibn Sābīgh, imām al-Harāmānī, Ibn ʿAbd al-Salām, his disciple Ibn Daqīq al-ʿId, Taqī al-Dīn al-Subkī and his son ʿAbd al-Wahhāb. For once he wrote to the viceroy of Syria: 'I am a mujtahid of the world without exception. No one will be able to refute this word against me. All these mujtahids are al-muntasib (the related). Among the disciples of imām Mālik Ibn Wābah and his associates (adrāb) had attained the status of absolute ījtihād in the madhab of imām Mālik. Likewise Abū Yūsuf and Muhammad among the disciples of Abū Hanīfah had attained the status of absolute ījtihād." [TS, pp. 17-8]. Further, al-Suyūtī says that despite these claims they did not depart from the opinion of their imām. "Thus", he says, "whoever rejects absolute ījtihād is a jiḥātil." [Ibid.]. This absolute ījtihād, according to al-Suyūtī, is not confined to fiqh or its usūl, in fact it is applicable to all fields of knowledge. That is why, al-Suyūtī has claimed the attainment of absolute ījtihād in the fields of hadīth, fiqh and lughab, following his predecessor Taqī al-Dīn al-Subkī. Before him there were people who had claimed absolute ījtihād, but it was only in respect of fiqh. As far as those who had combined the above three fields of knowledge are concerned, they are very few indeed. No one has combined these fields after al-Subkī except himself (i.e.: al-Suyūtī). [Ibid., p. 22]. Ījtihād is a status, which if a man attains it, is called in the usage of the muhaddiths as a hāfiz (doctor of hadīth). There were people,
according to al-Sha’rani, who had been attributed with absolute ijtihad but not the title hafiz. They include people like Abu Ishaq al-Shirazi, Ibn Nasr al-Sabbagh, imam al-Haramayn and al-Ghazzali. All these men, in their works, take evidences by ahadith which are objectionable. [Ibid., p. 23].

25 Al-Mizān, 1:16
26 Ibid.
27 Ibid.
28 Ibid.
29 Ibid.
30 He is Abu ‘Abd Allāh ‘Abd al-Rahmān b al-Qāsim b Khalīd b Junādah al-Utaqi, born in 132 h. and died in Cairo, in 191 h. see Wafāyāt, 3:129-30; al-Shirāzi, p. 44; Tadhkirah, p. 356; Ibar, 1:307; Waraqah, p. 44; Tahdhib, 6:252; Shadhari, 1:329; Husā, 1:121.
31 He is Abu ‘Abd Allāh Asbagh b al-Faraj b Sa’īd b Nāfī’. He entered Madinah on the day of Malik’s death. He studied from the latter’s principal disciples like Ibn al-Qāsim, Ibn Wahb and Ashhab, died in 225 h. see Dībaj, p. 97; Ibar, 1:393; Shadhari, 2:56; Wafāyāt, 1:240.
32 He is Abu ‘Abd Allāh Muhammad b al-Hasan b Farqad al-Shaybānī, born in 132 h. and died in Ray in 189 h. see Wafāyāt, 4:184-5; Fihrist, p. 203; Tārikh, 2:172; al-Shirāzi, p. 135; Shadhari, 1:321. see text on p. 364 no. 42.
33 He is al-Qādī Abu Yusuf Ya’qūb b Ibrahīm b Ḥabīb b Khunays b Sa’d b Ḥabtaḥ al-Ansārī, born in 113 h. and died in 182 h. in Baghdad. see Wafāyāt, 6:378-90; Fihrist, p. 203; al-Shirāzi, p. 134; Tāghribārī, 2:107; Tadhkirah, p. 292; Ibar, 1:284; Shadhari, 1:298. see text on p. 364 no. 39.
34 He is Abu Ibrahīm Ismā’īl b Yahyā b Iṣmā’īl b ‘Amr b Muslim al-Muzānī, born in 175 h. and died in 264 h. see Wafāyāt, 1:217-8; Ibn al-Subki, 1:238. see text on p. 365 no. 58.
35 He is Abu Muhammad al-Rabi’ b Sulaymān b ‘Abd al-Jabbar b Kāmil al-Murādī, died in 270 h. in Cairo. Wafāyāt, 2:291-2; Tahdhib, 3:245; al-Shirāzi, p. 27; Ibn al-Subki, 1:259; Waraqah, p. 27. see text on p. 365 no. 54.
36 Al-Mizān, 1:39.
37 Ibid.
38 Ibid., 1:32.
39 Ibid.
40 Ibid.
41 Ibid.
42 Ibid.
43 Ibid., al-Qur’ān, 4:83.
44 Al-Mizān, 1:32.
45 Ibid.
46 Ibid., 1:17.
47 Ibid.
48 Ibid.
49 Ibid.
50 Ibid.
51 Ibid., 1:32.
52 Ibid.
53 Ibid.
54 Ibid.
55 Ibid.
56 Ibid.
57 Ibid., 1:26.
58 Ibid.
59 Ibid.
60 Ibid.
61 Ibid., 1:30
62 Ibid., 1:28 and 41; Majah, op. cit., p. 776.
63 Al-Mizan, 1:28, 41.

64 Ibid.; also see 1:56, 128, 145, 158, 179, 213, 2:114, and 167; Bukhari, 3:87; Muslim, 3:123; Nawawi, 12:16; While Ibn Majah quotes with slight variation in language, the text of which reads as, man ahdatha si amrinah bahad m la yaya minhu fahuwa raddun [He who innovates something in this matter of ours which is not of it, will have it rejected] Majah, 1:7; also quoted by Muslim, 3:123.

65 Al-Mizan, 1:28.
66 Ibid.,
67 Ibid.,
68 Ibid.,
69 Ibid., 1:31.
70 Ibid.,
71 Ibid.,
72 Ibid.,
73 Ibid., 1:32.
74 Ibid., 1:19.
75 Ibid.,
76 Ibid.,
77 Ibid.,
78 Ibid., 2:166.
79 Ibid., 1:58.

80 i.e.: one who has ascertained the truth, a term used to denote the şûrîs.
81 Al-Mizan, 1:75.
82 Ibid.,
83 Ibid.,
84 Ibid.,
85 Ibid.,
86 Ibid.,
87 Ibid.,
88 Ibid., 1:18.
89 Ibid.,
90 Defining al-'illah, al-Jurjani says, "Literally it is an expression about a meaning which is predicated according to the predication and by which the condition of the predication changes. It is due to this reason sickness is called as 'illah because of its predication the condition of a person changes from strength to weakness. Technically it is an expression about that which confirms the hukm ['ibarah 'an mā yajib al-hukm bihi ma'ahu], see al-Ta'rifat, p. 159. This is at times used interchangeably with the terms hikmah and sabab. In the sense of the rationale behind an injunction, it is synonymous to the term hikmah. While in the sense of cause, it is used synonymously with the term sabab. However, the şûlûs tend to use sabab in reference to devotional matters ('ibādah) but use 'illah in all other contexts. For instance, the sabab of fasting is the arrival of the month of Ramadān. However, the cause (‘illah) for the prohibition of consumption of any intoxicating beverages is the quality of intoxication. Kamāl, op. cit., pp. 34-7.
91 Al-Mizan, 1:18.
92 Ibid., The term ribā literally means "increase" (al-ziyādah) and technically it means 'adl khāl 'an 'i'ad shurita li 'ahad al-'aqidayn [an excess amount which is free from compensation which one of the two contracting parties made as a condition], see al-Ta'rifat, p. 114. This corresponds to the word "interest" as defined by the English Lexicons. This interest is levied on loans. However, it should be noted that not all kinds of ribā are prohibited in Islam. What Islam prohibits of ribā is the usury which is defined by Webster's New World Dictionary as "an excessive or unlawfully high rate or amount of interest". There are two kinds of ribā: (1) ribā nassiya or riba on credit and (2) ribā fadl which relates to barter transactions. The main reason for the prohibition of ribā is that it generates
income without 'labour' (work) on the part of the lender', see Noorzoy, M. Siddiq, "Islamic Laws on Riba (Interest) and their Economic Implications", in *IJMES*, 14 (1982), pp. 3-17. Thus, the definition of Abu Hanifah, *kullu qard jarra naafa' fabuwa riba* [all those loans which generate a benefit are riba - see *Al-Mizân*, 1:72] should be understood as "all those loans on which excessive and unlawful high rate of interest are levied are called as riba". This is because, if the word riba is used to include all transactions where there is *naafa* (benefit) then hardly any business could function. [For valid criticisms of the term riba and its applications see Katouzian, Homa's review on Muhammad Nejatullah Siddiqi's "Issues in Islamic Banking. Selected Papers: Islamic Economic Series 4, (Leicester, 1983)" in *IJMES*, 17 (1985), pp. 387-91.

93 *Al-Mizân*, 1:18.
94 Ibid.
95 Ibid.
96 Ibid.
97 Ibid.
98 Ibid.; *Muslim*, 1:45; *Mâjah*, p. 749.
100 Ibid.
101 Ibid.
102 He is Abu 'Abd Allâh Ja'far al-Sâdıq b Muhammad al-Bâqir b 'Ali Zayn al-Abidîn b al-Husayn b 'Ali b Abû Tâlib, born in 80 h. and died in Madînah in 148 h. see *Wafâyât*, 1:327-8; *Hîyat*, 3: 192.
103 There is no one by the name of Muqâtil b Habbân. Perhaps he might be Abû Bistâm Muqâtil b Hayyân al-Nahtî l-Bâlkhî l-Khazzâz, died before 150 h. see *Tahdhib*, 9:277.
105 *Al-Mizân*, 1:18.
107 *Al-Mizân*, 1:18.
108 Ibid.
109 Ibid.
110 Ibid.
111 Ibid.
112 Ibid.
113 Ibid.
115 *Al-Mizân*, 1:18.
117 *Al-Mizân*, 1:18.
118 Ibid.
119 Ibid.
120 He is 'Ali b Ahmad b Sa'id b Hazm b Ghâlib b Sâlih b Abû Sufyân b Zayd, born in Cordova in 384 h. and died in 456 h. He was the direct disciple of Dâwûd al-Zâhiri [see note 55 below], the founder of the Zâhirite madhhab. Ibn Hazm is considered as the second teacher of his madhhab. see Ajirî, Adam Muhammad, "Ibn Hazm and why he is regarded as the Second Teacher of the Zâhirite Madhhab", in *Islamic Quarterly*, 38(1994)2:113-23; Mas'ûmi, M. S. H., "Ibn Hazm's Allegations Against the Leading Imâms", in *Islamic Studies*, 7 (June 1968), No. 2, pp. 113-28; *Ibar*, 3:239; *shahîrat*, 3:298; *Wafâyât*, 3:325-30. see text on p. 364 no. 51.
121 *Al-Mizân*, 1:18.
123 Ibid., 1:19.
124 Ibid.
125 Ibid.
There are indicated. Baghdād in two. For further have equated khabar hadith persons more. al-istihsan could also be term as mind, p. 29-34]. Nevertheless, by which victory is gained during confrontation, see Hakim, op. cit., p. 25. In the usage of the usūlīs it means al-adillah al-shar ‘iyyah min al-turuq wa al-imāra’t allai taqa’ wasātan li ithbāt muta’aliqātihi bi hads al-ja’l al-shara’i min dōnī an yakūna baynahā wa bayna al-muwa’alqa’t ‘alaqah thubūtiyyah bi wajh min al-wujūh [the sha‘ra’i proof from the paths and constructions which lies in between for establishing that which is connected to it according to the make of the sha‘ra’ without there being a affirmative attachment by any means]. [Ibid., p. 28]. It is of two of types: (1) al-hujjah al-dhātīyyah is that which does not stand in need of a doer [taḥtaj ilā ja’l jā’il] and (2) al-hujjah al-maj’ūlah is that which stands in need of one who relates it from a shara’ or intellect [taḥtaj ilā man yusiniduhihā min shā‘ir aw aql]. [Ibid., pp. 29-34].

126 Ibid.,
127 By this al-Sha‘rānī means those aḥādīth in which the legal rules are stated.
128 Al-Mizān, 1:66.
129 Ibid., 1:67.
130 Ibid.
131 Ibid.
132 Ibid.
133 Ibid.
134 Defining the term al-hujjah, al-Jurjānī says, “It is that by which the validity of the claim is indicated. It is also said that al-hujjah and al-dalīl is one and the same [mā dālā bi hi ‘alā sīḥat al-dawā’ wa qīla al-hujjah wa al-dalīl wāḥid]. see al-Ta‘rifat, p. 86. While al-Zuhri defines it as al-wajh alladhi yakūn bihi al-zafar ‘inda al-khuṣūmah [the course by which victory is gained during confrontation], see Hakim, op. cit., p. 25. In the usage of the usūlīs it means al-adillah al-shar ‘iyyah min al-turuq wa al-imārāt allai taqa’ wasātan li ithbāt muta’aliqātihi bi hasb al-ja’l al-shara’i min dōnī an yakūna baynahā wa bayna al-muwa’alqa’t ‘alaqah thubūtiyyah bi wajh min al-wujūh [the sha‘ra’i proof from the paths and constructions which lies in between for establishing that which is connected to it according to the make of the sha‘ra’ without there being a affirmative attachment by any means]. [Ibid., p. 28]. It is of two of types: (1) al-hujjah al-dhātīyyah is that which does not stand in need of a doer [taḥtaj ilā ja’l jā’il] and (2) al-hujjah al-maj’ūlah is that which stands in need of one who relates it from a shara’ or intellect [taḥtaj ilā man yusiniduhihā min shā‘ir aw aql]. [Ibid., pp. 29-34].
135 Ibid.,
136 It is defined as huwa mā yasbaqu ilayhi al-‘aḥādīn [it is that which appears before the mind], as opposed to al-qiyās al-kaḥfī which is also called as al-istīhsān. However, it is broader then al-qiyās al-kaḥfī. For, every qiyās al-kaḥfī is an istīhsān and not the vice-versa. This is because, the term al-istihsān could also be applied on that which has been established by the nās, ijmā’ and al-‘arārah. Nevertheless, usually the term al-qiyās al-kaḥfī refers to istīhsān, see al-Ta‘rifat, p. 190. There are other kinds of qiyās. However, these are related to Logic. [Ibid., pp. 190-1].
137 Al-Mizān, 1:67.
138 Ibid.
139 Ibid.
140 Ibid. It is a hadith reported by a single person or by odd individuals from the Prophet. lmām al-Sha‘īrī refers it to as khabar al-kiyānah, which applies to every report narrated by one, two or more persons from the Prophet but which fails to fulfil the requirements of either the mutawātīr [i.e. a hadith narrated by an indefinite number of people in such a way that to preclude the possibility of their agreement to perpetuate a lie] or the mashhūr [i.e. a hadith which is originally reported by one, or two or more Companions from the Prophet or from another Companion but has later become well-known and transmitted by an indefinite number of people]. see Kamālit, pp. 68-74. Even though scholars have equated khabar al-‘aḥād with khabar al-wāhid, there are however some differences between the two. For further reading on this issue read Robson, James, “Traditions from Individuals”, in JSS, 12 (1964), pp. 327-40.
141 Al-Mizān, 1:67.
142 Ibid., 1:11.
143 He is Abū Sulaymān Dāwūd b. ‘Alī b Khalaf al-Isfahānī, born in Kūfah in 202 h. and died in Baghdad in 270 h. see Tārīkh, 8:369; al-Shīrāzī, p. 26; Fībrīst, p. 216; al-Waraqāh, p. 26; Ibn al-Subkī, 2:42; Tadhkira, p. 572; Wafayāt, 2:255-7. see text on p. 364 no. 49.
144 Al-Mizān, 1:67.
147 Al-Mizān, 1:11.
148 Ibid., 1:54-63.
149 Khalīfah, p. 1007.

He is Mujahid b Jabayr Abu al-Hajjāj al-Makżumī, died in 103 h. see al-Sblrazi, p. 58. see text on p. 362 no. 17.


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He is Abu 'Uthmān 'Amr b 'Ubayd, a Mu'tazilite propagandist, born in 80 h. and died in 144 h. He was a member of the circle of al-Ḥasan al- Brenda. see Watt, Montgomery, The Formative Period of Islamic Thought, (Edinburgh, 1973), p. 108.

See GAL, 1:471; GALS, 1:651; It is stated that he is Muhammad b Muhammad b 'Abd al-Rashid Abū Tahir Sirāj al-Din al-Sajawandi. see Kahhālah, 11:233; Khalīfah, p. 353.

It is suggested that he is Abu 'Āsim Muḥammad b Aḥmad al-'Abbādī, born in 375 h. and died in 458 h. see 'Umayrah, op. cit., 1:212n1.

She bleeds at other times than her menstrual cycle.
A khabar according to the scholars of hadith is synonymous with the term hadith. While some of them maintain that the term hadith is applied to that which came from the Prophet, whereas khabar is that which came from those other than him. Thus, every hadith is a khabar but not vice-versa. See Al-Asqalani, Shihab al-Din Abu al-Fadl Ahmad b 'Ali b Hajar, *Nuzhat al-Nazr sharb nukbat al-Fikar* fi mustalah ahl al-Athar, (Madinah, 1404 h.), pp. 18-9.
It is said that he died in Dirîn in 697 h. see 'Umayrah. op. cit., 1:103n6.

Details on his biography are scant. However, it is mentioned that he was popularly called as 'Umayrah. see Kawakibi, op. cit., 3:124 and Cf. 2:222; TS, p. 75.

It is said that he died in 917 h. 'Umayrah, op. cit., 1:104n2.

see Garrett, p. 128.

Al-Mizân, 1:34.

Ibid., 1:15-6.

Ibid., 1:16.

Ibid., 1:34.

Ibid., 1:34.

Ibid., 1:34.

Ibid., 1:16.

Ibid., 1:34.

Ibid., 1:34.

Ibid., 1:34.

Ibid., 1:34.

Ibid., 1:34.

Wafayat, 1:461; A'lam, 5:294-5.

Al-Mizân, 1:16.

Ibid., 1:16.

Ibid., 1:16.

Ibid., 1:16.

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Al-Mizân, 1:34.

Ibid., 1:17.

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Ibid., 1:17.
CHAPTER SIX

The Origin of al-Sha'rānī's Theory of Takhfīf and Tashdīd

It will have been noted earlier in this thesis how al-Sha'rānī has constantly resorted to the terms takhfīf and tashdīd, in his attempt to bring about a reconciliation between the different views of the madhāhib. These concepts of takhfīf and tashdīd are not new to Islamic jurisprudence. Scholars who preceded al-Sha'rānī have used terms which give similar meanings to the two terms. It is important, however, to assess what contribution al-Sha'rānī made in this theory, which he claimed to be original, for al-Sha'rānī has repeatedly stated in al-Mīzān that none has preceded him in composing a balance similar to his. How far this statement is valid will become clear as we proceed.

This chapter, however, does not claim to be exhaustive. Instead, being expository in nature, it attempts to study this theory in the works of those scholars who have employed both these terms.

Words connoting and denoting these two terms are many in the Arabic language. For example, there are the combinations of words like:

\[
\begin{array}{lll}
yusur & \text{its opposite is} & \text{'usur} \\
da'if & \text{its opposite is} & \text{qawī} \\
'ajuza & \text{its opposite is} & \text{qadurah}
\end{array}
\]
In addition we will also find the following two terms *kallafa* and *haraj* used for synonyms of the second column. All these combinations and their like convey the meanings of "concession" or "ease" and "determination" or "difficulty" respectively. However, a person could resort to concession, only when he or she is incapable of performing the required task. Furthermore, a person could ascend the ladder of determination, if he or she has the physical, mental and spiritual strength to perform the more difficult task. That is why it is clearly stated in the legal maxims that:

1. *al-mashaqqatu tajlib al-taysir*
   Difficulty brings about facilitation.

2. *al-amru idha daqqa ittas'a'a*
   If the matter is difficult its (application) becomes less decisive.

Thus the criterion for facilitation and concession is that the performance of such a task becomes difficult. However, that which determines whether a task is difficult is the person’s physical inability to perform it. This physical inability could arise out of bodily strength and environmental factors. For example, one who is physically capable of performing ablution, but was prevented by the absence of water in the desert from doing it, has to follow the concession of making the substituted ablution through sand (*tayammum*). If he is determined to
find water to perform the ablution, and if he fails in that process and thus missed the *salāt*, he earns no reward for his endeavours. Though this is a concession, it does not mean that he should not aspire to do the more difficult, for the Qur'ān states:

If you are determined then have trust in God.3

This, however, should not be misconstrued to mean that when one is physically unable to perform an act, one should aspire to do the more difficult lest it might be injurious to health and thereby even prevent the performance of the minimum requirements. Instead, he should observe patience over his predicament. That, itself, is considered as more difficult, as has been said in the Qur'ān:

\[ \text{wa isbir 'alā mā asābaka inna dhālika min 'azm al-umūr} \]

Be patient over what has befallen you, for that (itself) is the most determined course of the matter.4

Thus we are required to act according to our own physical ability and not to ascend to a higher and more difficult thing nor to descend to an easier one when we have the ability to perform the more difficult. In this regard Muhyī al-Dīn Ibn al-'Arabī says:

The path is the obligatory rituals prescribed by the Real, about the strict application ('azimah) of which there can be no relaxation (rukhsah), such relaxations in the application of the law (rukhas) are valid only at the prescribed places.5

These places have been indicated by al-Sha'rānī in his *al-Mīzān*.

**Definition of takhffīf and tashdīd**

Both these terms are the *taf'īl* form (i.e.: in the transitive form) of the root verb *sh. d. d.* and *kh. f. f.* respectively. Thus *takhffīf*
literally means to "make easy, facilitate, relieve, reduce, or decrease in intensity," while *tashdīd* literally means, "to cause stress, emphasise, or intensify" and other such words which are similar in meaning. It might here be appropriate to give the technical definition of these terms as they are used in respect to the *shari‘ah*. Thus, the term *takhfīf* could technically be defined as "all those *shara‘i* rules wherein there is facilitation and ease for the *mukallafs*" and therefore, "all those rules wherein there is determination and strict application of the rules" are called *tashdīd*. This brings us close to the meanings of the terms *rukhsah* and ‘*azīmah*, which have been used synonymously with *takhfīf* and *tashdīd*. However the usage of these terms, in the opinion of al-Sha‘rānī, is wider than their usage according to other jurists. Therefore a study of what constitutes *tashdīd* and *takhfīf* (or rather ‘*azīmah* and *rukhsah*) will become clear when one examines those factors which determine whether the performance of a rule is considered as ‘*azīmah* or *rukhsah*. Some of these factors are:

(1) *mashaqqah*:

This word is derived from *sh. q. q.* as in *shaqqa ‘alayya al-shay*’ (the matter became difficult for me), which denotes something "tiresome" and "hard". The *Qur‘ān* says:

\[lam takūnū bālīghīhi ʾillā bi shiqq al-anfus\]
You will not attain it except with great trouble to yourselves.

According to linguists this is synonymous with *ša‘b* and *thaqīl*, both implying difficulty or burden, as has been indicated in the saying of the Prophet:
Had I not wished to burden my ummah I would, certainly, have commanded them to brush their teeth (al-siwāk) before every ṣalāt.\textsuperscript{10}

From the above definition of the term \textit{al-mashaqqah}, it becomes clear that it is the burdensome act which is considered as difficult. The \textit{shara‘}, in its origin has not come down in respect of causing difficulty to the \textit{mukallafs}, instead it has come down with \textit{rukhsah} which befits the conditions of the \textit{mukallafs}. One may question here why then all the legal obligations have been described as \textit{taklif} (Sing. \textit{taklīf}), whose root \textit{kulfa} is a synonym of \textit{mashaqqah}, implying thereby difficulty? In other words, why is a legal obligation described as "that in which there is difficulty?"

To this Ibn al-Shāt\textsuperscript{11} says in his \textit{Iḍrār al-Shurūq ‘alā anwā’ al-Furūq},\textsuperscript{12}

\textit{Taklīf} by itself is a \textit{mashaqqah}. For it prevents man from taking things lightly (\textit{istirsāl}) despite his inclination. It is a relative matter. It is by this consideration it is called \textit{takhfīf}. This meaning is found in all its rules, even in the \textit{ibāhah}. Thereafter additional matters specified it on the basis of physical difficulties (\textit{mashaqq badaniyah}). Some of those \textit{mashaqq} are greater difficulties such as \textit{jihād}, in which there is the exertion of the self. Therefore, on the basis of this the \textit{mashaqq} in relation to \textit{taklīf} is classified into two categories: (1) a category in which the \textit{taklīf} necessarily takes place usually or mostly or at times, (2) a category in which the \textit{taklīf} does not necessarily take place. The first category will not affect the \textit{ibāhah} either by an omission or by a \textit{takhfīf}, because in that there is no breach of the \textit{taklīf}. Whereas the second category affects the \textit{ibāhah} because it will breach the \textit{taklīf}.\textsuperscript{13}

However, not all the \textit{mashaqqah} result in \textit{takhfīf} or \textit{taysīr}, as intended in the legal maxim.

\textit{al-mashaqqah tajlib al-taysīr}

Difficulty begets facilitation.\textsuperscript{14}

Thus the \textit{mashaqqah} can be classified into: a \textit{mashaqqah} which results in \textit{takhfīf} and a \textit{mashaqqah} which does not. The former is called \textit{al-mashaqqat al-mu’tādah} (habitual difficulty), while the latter
is called *al-mashaqqah ghayr mu’tādah* (non-habitual difficulty). As far as the former is concerned, it is "the hardship which has become part of daily life and is no more called a *mashaqqah*, but is rather expressed by terms such as *kulfah, ta’b*, etc." While the second type is concerned with the type of hardship which is not habitual to such an extent that "the perpetuation of a certain act leads to discontinuation, wholly or partly, or results in a defect (*khulal*) in the doer of the act (*sāhibuhū*) in his person, property or in his states." Though it may not be impossible to bear it becomes an impediment to performing other acts. For instance, to observe fasting during sickness or a journey is not easy according to *‘ādah*, and thus it incurs *mashaqqah*. It is here that the *shari‘ah* makes certain allowances which are called *rukhsah* by the *fuqaha*.

There is also a third category of *mashaqqah*. It is a mean between the two above categories. This kind of *mashaqqah* is usually either an inevitable result of a certain act, in that case called *haraj*, or it comes about neither from the *mukallaf*’s own choice nor as a result of his action.

(2) *haraj*:

Originally this term refers to "the narrow place which is dense with trees and where no herd could reach." Thereafter, its usage widened to accommodate the meanings of difficulty, inconvenience, doubt, sin, prohibition, etc. Ibn ‘Abbās defines it as "that from which there is no exit." But no technical definition of this term has been given. However, one could infer the technical sense of this term from the opinions expressed by scholars on *haraj* in some of their legal
texts. These explanations give only a part of the definition. Nevertheless, the collective meanings from these opinions indicate the intent of the term *al-haraj*. Further, one could also define this term through the definition of its antonyms like *yusur* and *wasi*'. Let us therefore, define them as follows:

The Qur'ān and *ahādīth* indicate that the *shari‘ah* is built on *yusur* and *takhfīf*, as such it does not involve *shiddah* and *‘usur*. The word *yusur* literally means "ease, facility, easiness," etc. It has been defined technically as "an act which does not exert the soul nor burden the body." Its opposite is *‘usr* which has been defined as "that which exerts the soul and causes damage to the body." Ibn Ḥazm refers to *‘usr* and *haraj* in his *Usūl al-Ahkām* as "that which one cannot perform, whereas that which one could perform is *yusur*." Regarding *wasi*’ al-Zamakhsharī says: "*Wasi*’ is that which facilitates (*yasa*) the man and which neither restrains nor impedes him. For God will not compel a soul except with what its ability could bear and He makes it easy for it regardless of the extent of its ability and endeavour. Perhaps it is within the ability of the man to perform *ṣalāt* more than the five (obligatory *ṣalāt*) and to fast more than a month, and to perform more than a *hajj*. From these one could define the term *haraj* technically as "all that which causes excessive inconvenience in respect of one’s body, or soul or wealth." In the definition of al-Shāṭībī, he refers to "an act which causes an impediment in fulfilling more convenient acts (*huzūz*)," or when inconvenience in performing a certain act amounts to abhorrence of it or creates a dislike for one’s obligation, that inconvenience is called *haraj*.35
(3) hājah:

It is the situation which follows an event in which there is additional difficulty without it reaching the degree of desperation or that which is closer to that. The ‘ulamā’ have classified hājah into two categories:

1. hājah ‘āmmah (general hājah)
2. hājah khāṣṣah (particular hājah)

In the first category the entire ummah is included irrespective of their divisions and levels. Hājah is connected with their common and general well-being through business, industry, agriculture, politics and so on. Even if they are among the agriculturalists, or industrialists or businessmen, they are still considered as those who are needy (muḥtāj) for these takhfīf. There are many examples of this.

As far as the second category is concerned, hājah is applied to a particular individual or a specified group of people, like doctors, industrialists or agriculturalists. For instance, it is prohibited for men to wear gold or silk. It is narrated by ‘Ali b. Abū Ṭalib that he saw the Messenger of God taking a silk (cloth) and putting it to his right, and a (piece of) gold and putting it to his left and said: ‘These two (things) are harām for the males of my ummah.’ However, it is permitted to wear silk if some bodily defect like itchiness makes it necessary. The Prophet gave a rukhsah to al-Zubayr and ‘Abd al-Rahmān b. ‘Awf to wear silk owing to the itchiness which they suffered. Likewise the attire of the astronauts, for instance, contains a significant percentage of gold. As such, if it is prohibited for them to wear that attire just because it contains gold, then it would be difficult for them to undertake
any space research. Therefore, wearing such an attire is necessary for them.

(4) darūrah:

In defining al-darūrah, al-Jurjānī says in his al-Ta’rifāt, "the word al-darūrah is derived from al-darar (harm), it is something which occurs without there being any protection against it."44 While Abū Bakr al-Jassās45 says: "Al-darūrah is the fear of al-darar or bringing destruction to oneself or to some parts of the body by abstaining from eating."46 Likewise is the definition given by al-Bazdawi.47 Whereas al-Zarkashi48 defines it as:

It is the reaching of the limit, (such that) if (a man) does not eat the prohibited (thing) he would perish, or near (to that), just as a man who is compelled to eat and wear such that if he remains hungry or naked he would certainly have died or his limb would be destroyed.49

While the Mālikītes define it as "the fear for the self against death (either) by (way of) certitude or supposition."50 In the opinion of Shafi’ites, al-darūrah is defined as, "A situation when one fears that without eating, death would result or a prolonged and more severe sickness or removal from one’s group (rifqah), or inability to walk or ride; or when one did not find any halāl food but only unlawful food, then it is obligatory to eat it."51 A study of all these definitions shows that, being restricted in application, these definitions do not convey the extent of the application of the term al-darūrah. For al-darūrah is not applicable in extreme cases of hunger only. It is exercised in a wide area. An example is the making use of others’ wealth in extreme situations. Thus al-darūrah could be defined as:
A man falling into an unexpectedly hazardous situation or a severe difficulty, to such an extent that he fears the occurrence of loss or damage to himself, or an organ, or honour or intellect or wealth. At that time it is permitted for him to act according to the *ḥarām*, or abstain from performing the *wājib* or delay it.\(^5\)

Thus, all such instances of *darūrah* necessitate *rukhṣah* and *takhfīf*.

There are many situations of *darūrah*, but the most important of them are:\(^5\)

1. Hunger and thirst
2. Medication (*al-dawāʾ*)
3. Compulsion (*al-ikrāh*)
4. Forgetfulness (*al-nisyān*)
5. Ignorance (*al-jāhl*)
6. Inconvenience (*al-ḥaraj*)
7. Difficulty (*al-ʿusr*)
8. Journey (*al-safar*)
9. Sickness (*al-maṛad*)
10. Natural defects (*al-nuqs al-Ṭabīʿi*)

The above are the factors which influence and result in *rukhṣah* and *takhfīf* of a rule of law. However, before proceeding to *tashdīd*, let us analyse what constitutes *rukhṣah* and *takhfīf*:

(5) *rukhṣah*:

Literally *rukhṣah* is "intending ease."\(^5\)\(^4\) It is the antonym of *ʿazīmah* (which is discussed below). While *takhfīf* is to "make easy."\(^5\)\(^5\) According to al-Shāṭibi, the *rukhṣah* in the speech of the *shaʾraʾ* is applied to:\(^5\)\(^6\)
(1) that which is an exception from the original universal (proposition) which necessitates prohibition (*al-mana‘*) absolutely without consideration for any difficult inconvenience.

(2) the *takālif* and difficult tasks which have been removed from this *ummah*.

(3) that of the legislated rules which is broadened for the servants.

Technically it is defined as, "the established proof against the opposing proof for an excuse."\(^{57}\) This excuse might be in the form of *mashaqqah*, *hājah* or *darūrah*. However, al-Shāṭibi, while defining *al-rukhsah* made a condition that only those excuses in which there is *mashaqqah* are to be considered as *al-rukhsah*.\(^{58}\) For, according to him, excuses can be applied only to *hājah* when there is no *mashaqqah* in matters like the rule pertaining to *al-qirāḍ* (sleeping partner), *almusāqah*, *al-qard*, and *al-salam*. All these and their like can be considered for *rukhsah*, even though there is no *mashaqqah* in them.\(^{59}\) Thus scholars differed in the doctrine of *al-rukhsah* into two main divisions:

(1) the Ḥanafite view

(2) the Shāfi‘ite view.
Those who held the Ḥanafite view classified *al-rukḥṣah* as follows:60

(1) *al-rukḥṣah al-majāziyyah* - This metaphorical *rukḥṣah* is also called as *rukḥṣat al-īṣqāt*. It is of two types: (a) that which is closer to the ḥaqqīqah, eg. like the contract of advance sale (‘aqd al-ṣalām), (b) that which is more complete in respect of the majāziyyah. It is that which has removed from us the difficulty (al-īṣr) and shackles (al-āghlāl), like offering a quarter of the wealth in zakāt. This is a kind of *rukḥṣah*, because there is no ‘ażimah against it. In fact it takes the place of ‘ażimah.

(2) *al-rukḥṣah al-ḥaqiqiyyah* - This real *rukḥṣah* is also called *rukḥṣ al-ṭarfīḥ*. It is also of two types: (a) that which the shari‘ah permitted together with the existence of the proof of prohibition; for example, uttering a statement of unbelief under compulsion; (b) that which is permitted to be performed together with the existence of the proof of prohibition but without its rule. For example, breaking the fast by a traveller during Ramaḍān.

While those who held the Shāfi‘ite view categorized *al-rukḥṣah* into:61

(1) *rukḥṣah wājibah* - Obligatory *rukḥṣah*, like eating the carcass when forced. For it will be wājib for the protection of one’s life.

(2) *rukḥṣah mandūbah* - Recommended *rukḥṣah*, like shortening the ṣalāt for the traveller.
(3) *rukhsah mubahah* - *rukhsah* that is permitted, like *al-ijarah* (rent), *al-musaqah* (share-cropping), etc.

(4) *rukhsah ‘ala khilaf al-awla* - *rukhsah* that falls short of the best, like the breaking the fast by a traveller who does not feel any hardship in fasting. This is a *rukhsah* which falls short of the best, as has been stated in the *Qu’ān*:

> Fasting is better for you.62

Here fasting is commended but not commanded. This discourages abandoning it. What has been discouraged without a clear prohibition is termed as *khilaf al-awla*.

According to some other scholars, like al-Suyūṭī and al-Ba‘lī63 there is yet another category of *rukhsah* called *rukhsah al-karahah* (detested *rukhsah*). For instance, al-Suyūṭī says that it is a *rukhsah* for a traveller to perform the *salāt al-qasr* for a period of less than three (consecutive) days.64 If anyone were to continue to perform his *salāt al-qasr* after the expiration of the above three day limit, then he is said to have acted according to the *rukhsah al-karahah*. The same opinion is expressed by al-Ba‘lī in his *Qawā‘id*.65 Some scholars maintain that *rukhsah* comes in all the five rules of law.66 While al-Shāṭibī opines that the rule of *rukhsah* is the absolute *ibāhah*, since it is the *rukhsah*.67

Thus, on the basis of what has been established above, the jurists have classified *al-takhfīf* into the following categories:68

(1) *takhfīf isqāt* - *takhfīf* of omission, like omitting the *jumu‘ah*, ḥajj, ‘umrah, jihād by those who are incapable of performing them.
(2) **takhfif tanqis** - **takhfif** of reduction, like shortening the four raka‘at ṣalāt into two raka‘at.

(3) **takhfif iḥdāl** - **takhfif** of substitution, like replacing ṣuḏū’ with tayammum.

(4) **takhfif taqdim** - **takhfif** of precedence, like combining ṣalāt al-ẓuhr and ṣalāt al-‘āṣr, by performing the latter at the time of the former by shortening the number of their raka‘at.

(5) **takhfif ta’khīr** - **takhfif** of postponement, like delaying the performance of ṣalāt al-ẓuhr to the time of ṣalāt al-‘āṣr by shortening the number of their raka‘at.

(6) **takhfif tarkhīs** - **takhfif** of permission, like eating what is ritually impure (najasah) for medicine.

(7) **takhfif taghyīr** - **takhfif** of change, like changing the manner of ṣalāt in the ṣalāt al-khawf.

The factor which contributes towards **tashdīd** is **al-iḥtiyāṭ** (carefulness or prudence). This carefulness comes as a result of knowledge. That is why God says in the Qur‘ān:

> Verily the learned among the servants fear God most.⁶⁹

This verse emphasises that the more a mukallaf is learned in his din, the more he will fear God. It is due to this, that scholars like Ahmad b Ḥanbal and even Ibn Taymiyyah took to the ‘azīmah by withstanding the hardships of the mīhnah.⁷⁰ In the case of Ahmad b Ḥanbal, he was persecuted for his stand on the uncreatedness of the
Qur'ān, while Ibn Taymiyyah was imprisoned for his disputes with the Ashʿarites. Both these scholars and their like due to their abundance of knowledge and conviction felt the need to undertake the 'azīmah. Otherwise, they would have done injustice to their knowledge.

(6) ihtiyāt:

Al-ihtiyāt, literally means, "acting according to the more judicious (thing)," or as "seeking the most fortunate (i.e.: in terms of the next world) and acting according to the most authentic aspects." Technically it is defined in many ways. Some of the definitions are:

(1) performing that more likely to encompass the principles of law and which is farther from defects of interpretation;

(2) protection and caution in (every) respect so that one will not fall into distasteful acts (al-makrūh).

While al-Jurjānī defines it as, "protecting the self from falling into sins." The first definition does not give the exact meaning of the term al-ihtiyāt if applied to the substantive laws. On the other hand, the second definition does not say anything about the harām. A combination of the above definitions will give us the technical meaning of the above term. Thus, it can be defined as, "the caution of the mukallaf from falling into that in which there is doubt in respect of harām or makrūh." This caution might be in the form of performing an act or abstaining from it or undecidedness. Thus, it can be classified into the following categories:

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(1) al-ihtiyāt bi al-fi’l (Prudence in Action)
(2) al-ihtiyāt bi al-tark (Prudence in Abstinence)
(3) al-ihtiyāt bi al-tawaqquf (Prudence in Indecision).

At times ihtiyāt becomes a wājib if it was a caution against ḥarām and it will be a mandūb if it was a caution against makrūh. Thus, falling into ḥarām might be either through the perpetration of the thing prohibited or abstaining from performing the wājib, just as the falling into makrūh might be through the perpetration of the makrūh or abstaining from performing the mandūb.79

(7) ‘azīmah:

Owing to this ihtiyāt a mukallaf acts according to the ‘azīmah of the shara’. Defining the term al-‘azīmah, al-Jurjānī says:

Literally it is an expression about an affirmative intention (al-irādah al-mu’akkadah). God says, wa lam najid luḥu ‘azmā - We did not find in him the determination,80 that is he did not have an affirmative aim (qasd mu’akkad) in acting according to what he has been commanded. In the shari‘ah (it refers to) that which is the original legislation without any connection with contradiction.81

In other words, it refers to a hukm which is in its primary and unabated rigour without reference to any extenuating circumstances which may soften its original force or even entirely suspend it.82 That means it is a law as it had been intended in the first place. Most of the jurists, including al-Ghazzālī and al-Āmidī83 opined that ‘azīmah is concerned specifically with the wājibāt, for they define it as, "an expression about that which enjoins the servants to the imposition of God, the Exalted."84 It is also said that, ‘azīmah is concerned with the ibāhah to such an extent that the proof of prohibition does not oppose it.85 Therefore, it will neither follow the literal application nor the
technical definitions of the *fuqahā*. For literally as mentioned above, 'azīmah indicates an emphasis and determination, as in the saying, 'azamtu 'alayka bi kadhā wa kadhā - I have decided for you such and such. Owing to this the *fuqahā* compared it with that in which there is rukhsah, whereas in *ibāhah* as such this meaning is not there. However, this view is not shared by al-Sarakhsi. For he defines it as, "an expression about a sound rule which does not cause contradiction," for instance, like the five obligatory *salāt* and other binding obligations (*takālīf*). It is, according to al-Zarkashi, applied to all the five rules of the law. Thus he maintains that 'azīmah is found in all the rules of law. The correlation between 'azīmah (i.e.: the *hukm* in its unabated rigour) and rukhsah, as suggested by al-Zarkashi can be seen from the following diagram:

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+-----------------+-----------------+-----------------+-----------------+-----------------+
|                 | 'azīmah         |                 |                 |                 |
| rukhsah         | wājib           | mustahabī       | mubāh           | makhir          | harām           |
| wājib           | *               | *               | *               | *               | *               |
| mustahabī       |               | *               | *               | *               | *               |
| mubāh           |               | *               | *               | *               | *               |
| makhir          |               | *               | *               | *               | *               |
| harām           |               | *               | *               | *               | *               |
```

Thus there are fourteen types of rukhsah which correspond to the five 'azīmah. They are as follows:

- 'azīmah *wājibah* results in rukhsah makhir, rukhsah harām
- 'azīmah *mustahabah* results in rukhsah wājibah, rukhsah makhir, rukhsah harām
Discussing the term al-'azīmah, al-Sarakhshī says in his Usūl, that to act according to the 'azīmah is afdal (more meritorious). He says that in acting according to the 'azīmah if the mukallaf gets killed he will be rewarded, because he simply obeyed his Lord in whatever he did. As an illustration, al-Sarakhshī states that in the utterance of disbelief under compulsion, if the mukallaf gets killed owing to his refusal to utter that word, then he has indeed waged jihād and that is afdal. However, this should not be the case in acting according to any of the wājībat. For instance, if a mukallaf fears that if he observes ṣawm he will die, then he must break it, because if he continues his ṣawm and dies as a result, then he will be considered to have been the cause of his own death, whereas it is required of a man to shun killing himself. This is contrary to that situation in which he had been ordered by a tyrant to break his ṣawm, but refuses to break it, so that as a result he was killed, because killing here is connected to the act of the tyrant, while his refusal is considered as an act of a mujāhid. However, if one is forced to eat carrion or drink alcohol because of fear of death from hunger or
thirst or compulsion, he should not hesitate from consuming it, for if he had abstained from it till he died he would be a sinner.99

Even though most jurists consider the situation when the woman in childbirth (nufasāʾ) and menstruating (ḥāʾid) does not have to perform salāt as rukhsah, al-Zarkashi says that it is an ‘azīmah on these women to abstain from performing the salāt.100 Explaining this point, al-Nawawi says that it is an ‘azīmah in respect of her because she was obliged (mukallafah) to abstain from it.101 The proof necessitates that whoever is obliged to abstain from a thing is not obliged to perform it in the state of his being obliged to abstain from it.102

(8) khāṣṣ and ʿāmm:

Before concluding this section, it is pertinent to explain that even khāṣṣ (Particular) and ʿāmm (Universal) could be considered as determinants of takhfīf and tashdid. However, unlike the combinations of words listed earlier, this pair can be used interchangeably to denote takhfīf and tashdid. For instance, God says in the Qur’ān:

Whoever among you witnesses the month (of Ramadan) let him fast. (1st part of the verse), however, whoever was sick or on a journey let him then count (the missed fasts) at another day (2nd part).103

The 1st part is ʿāmm, since it does not specify anyone, while the 2nd part is khāṣṣ since it specifies or particularises those who did not fast owing to their sickness or journey. In the 1st part there is tashdid, since it is applied to all mukallafs either of sound or weak health. As such fasting is made generally obligatory. However, in the 2nd part of the verse there is takhfīf on those mukallafs who are unable to fast. The takhfīf is that they can fast at a later date. However, this order will
change if it is applied to the case of those selected sahābah who were commanded to perform the 'azīmah while the others were commanded to follow the rukhsah. Thus, even though the former are khāṣṣ, they were commanded to do the 'azīmah, while the latter being the 'āmm were commanded to do the rukhsah. So in the case of the selected sahābah to fast during a journey is prescribed.

**Usage of takhfīf and tashdid in the Qur'ān**

As we have seen earlier, there are many terms denoting the meanings of the terms takhfīf and tashdid in the Arabic language. In the Qur'ān, too, these two terms are expressed through various words. Thus, in this section, a study will be made of how these two terms are employed in the Qur'ān under the following classifications:

(1) words denoting takhfīf and tashdid per se.
(2) usage of words alluding to the meanings of these terms.
(3) deciphering the sense of these terms from the qarīnah (context).

**Words denoting takhfīf and tashdid per se.**

A careful study of the Qur'ān will reveal to us that there is only one place wherein the form takhfīf has been used, and that is in surah al-Baqarah verse 178 which reads, thus:

And that is a concession from your Lord and a mercy.

However, in its verbal form the Qur'ān says in two other places:

(1) Now God has made a concession for you because He knew that there are weak ones among you.¹⁰⁴
The above two verses epitomize the takhfif from God, that is, takhfif is only for the weak ones who are incapable of performing the required task. And this is a mercy from God to those who are weak.

(2) He wishes to make a concession for you, for mankind is created weak.105

This verse stresses that man by creation is weak. Therefore to act according to the takhfif, in essence, is acting according to the creative spirit of God. As such, takhfif is essentially a provision which God has instituted in His shari'ah as a mercy to the weak ones among the mukalla's, in order to facilitate the performance of His injunctions and prohibitions in any circumstances. Thus God stresses the goals of the shari'ah rather than the means by which such goals are attained.106 It is said in the Qur'an:

Does he think that none is able to overcome it?107

While in another place it says, "We have indeed created people in respect of (their ability to) endure hardships."108 These verses confirm that even though man was created weak, God has given him the ability to withstand hardship and severity. As such it is never impossible for man to overcome it. Therefore, despite his weakness, man could aspire to do a thing for which God has given him the strength.

As for tashdid, it is nowhere mentioned in the Qur'an as such. However, its derived forms are used as verbs, adverbs, adjectives and nouns. The Qur'an says in reference to bygone people that they were annihilated despite their possessing the strength over others. Verses 30:9; 35:44; 40:21 and 82; 41:15; 43:8; 50:36 and their like repeat the same theme. Thus it could be seen from the above Qur'anic verses that
the word *shiddah* or *tashdid* is associated with or attributed to *quwwah*. This means that when there is no *quwwah* there is no *tashdid*. However, the term *quwwah* is wider in application; that is, a *mukallaf* could be strong either physically, or materially, or spiritually. Therefore, when a man is strong in respect of any of these aspects, he is expected to act according to the *'aza'im* of the *shari'ah*. For instance, a *mukallaf* who is financially strong is recommended to give more in charity than one who is poor. It is the reason why when a man is unable to feed sixty poor people, as expiation for wilfully breaking a fast, he is required to keep a fast for three days. These recommendations and prescriptions are left to the discretion of the *mujtahids* who as heirs to the *shari'* recommend or prescribe laws to the *mukallafs* according to their physical, moral, material and spiritual stations in respect of *imān*, *islām* and *ihśān*, just as a physician prescribes medicines according to the need of the patients.

**Words alluding to the meanings of these terms**

As mentioned earlier, there are many words which denote the meanings of both *takhfīf* and *tashdid*. In the *Qur'ān*, too, there are many verses in which such words have been used. To quote a few by way of example:

1. **dayyiq** : *wa lā tūdārūhunna li yudayyiqū alayhinnā.*  
   Do not annoy them by imposing restriction on them.¹¹⁰

2. **'usr** : *wa in kānā dhū 'usratin fa naziratun ilā maysarah.*  
   If he is among those who are in difficulty, then (let him) look towards leniency.¹¹¹

It is God who raised (khalqa) you all from (the state of) weakness, then gave (you) strength after weakness, then after strength He gave you weakness and oldness. He creates as He wishes. He is most knowledgeable and most powerful.112

(4) qudrah: darab Allah mathalan ‘abdan mamlukan la yaqdiru ‘ala shay.

God gives an example of a slave, under the control of another person, who is unable to do anything.113


Then when the matter becomes decisive, it would have been better if they were true to God.114

(6) shaqqah: wa mā uridu an ashuqa ‘alayk.

And I do not intend to impose difficulty on you.115

(7) kulfah: la nukallifu nafsan illa wus‘ahā.

We do not burden a soul except according to what it could bear.116

In all these verses there is an indication of determination and an encouragement to do the best. In the verses quoted above, verse number (2) clearly states that one can descend to the stage of rukhsah or concession only when one feels that one is unable to continue in difficulty. However, in verse (3), the alternative usage of the words quwwah and da‘f indicates that takhfif and tashdid are not static. That is, a rule might be made tashdid at a particular time while at another time the same rule may be given as takhfif. On this basis the legal maxim al-amr idhā daqqat ittasa‘ wa idhā ittasa‘ daqqat [if the matter is rigid, it is broadened, and when it is broad it is restricted]117 should be understood. Explaining the above maxim al-Shaṭibi says in his al-Muwāfaqāt,
The reason for rukhsah is the mashaqqah. The mashaqq differs (or varies) according to the strength and weakness (of the mukallal) and according to the conditions and the strength of the ‘azā‘īm and their weaknesses, and according to the times and actions. The shara‘ has omitted all that which one finds difficult... as a recommendation to ijtihad. In the example of sickness, many people gain strength during their sickness while others do not. The rukhsah is intended for the latter of the two. There is no dispute about this. Thus the reasons for rukhsah are not contained under the original law nor is there any principle (dabit) which can be adopted (ma’khudh), instead it is attributable to every addressee in respect of himself. Thus, whoever is among those who are habitually compelled to observe patience over hunger, will not be subject to the same conditions just as the Arabs were not... Thus it is not permitted for him to (eat) the carrion on the basis of the exemption for one who was used to those conditions. This is one aspect. While the other aspect is: that the mukallal might interpret it as impetus against action to such an extent that he might (feel) that what was heavy on others is light on him. This state has been narrated through the akhbār of the ahl al-‘ibādat who endured. It is these people who are reported to have been capable of fasting continuously for twenty-four hours (wisāl). For the shari‘ commanded leniency as a mercy towards the servants. Even then there were people who performed it after the Prophet. That is because the reason for the prohibition is the haraj, whereas the mashaqqah is non-existent in their respect. For they knew that their wisāl of the siyam did not restrain them from (fulfilling) their needs. Thus there is no haraj in respect of them. Whereas there is haraj in respect of one who is affected by haraj to such an extent that it restrains him from (fulfilling even) his ḍarūrat and hājat.\textsuperscript{118}

The words denoting the meaning of takhfif are also mentioned in the Qur‘ān. For instance:

(1) \textit{yusur}: fa iqra‘ū mā tayassara min al-qur‘ān ‘alima an sayakūnu min kum mardā wa ākharūna yadribūna fi al-ard yabtaghūna min faḍl Allah wa ākharūna yuqatilūna fi sabil Allah fa iqra‘ū mā tayassara min al-qur‘ān.... Therefore, recite of the Qur‘ān that which is easy for you. He knew that there may be some who are ill among you while others travel through the land, in search of God’s bounty, and some others fighting in the path of God. Therefore, recite of it that which is easy for you.\textsuperscript{119}

(2) \textit{ajūza}: qāla yā waylata a‘jaztu an akūna mithla hadha al-ghurāb. He said, "Woe is me, I am even unable to be like this crow.\textsuperscript{120}

(3) \textit{wasi‘a}: lā takallafu nafsun illā wus‘ahā. No soul will be burdened except according to what it can bear.\textsuperscript{121}
At times the use of the words like lā (or laysa) junāha, lā ithma ʿalayh and the like indicates takhfīf. For instance the Qurʿān says:

(1) wa idhkuru ʿAllāh fī ayyām maʿdūdāt fī yawmayn fa lā ithma ʿalayh wa man taʿakkhara fa lā ithma ʿalayh li man ittaqā.

And remember God during the appointed days. However, if anyone hastens to leave in two days, then there is no blame on him, and (likewise) if anyone stays on then (also) there is no blame on him.

(2) wa al-qawā'id min al-nisaʿ allati la yarjuna nikāhan fa laysa ʿalayhinna junāḥ an yadaʿna thiyābahunna ghayra mutabarrijatin bi zinah.

The elderly women who cannot regain the prospect of marriage, there is no blame on them if they lay aside their outer garments, provided they do not make wanton display of their beauty.

Whereas the particles of exception (istithnā) like illā, ḥattā and their like can be used to indicate takhfīf or tashdīd depending on the context. It is like the Qurʿānic āyah,

fa in tallaqahu falā tahillu lahū min baʿd (1st part)
If he has divorced her, then she is not lawful for him after that
hattā tankihā zawjān ghayrah (2nd part).
till she marries another person.

In this āyah there is takhfīf in the 1st part, while in the 2nd part there is tashdīd, since the divorcer has to wait till his divorced wife marries another husband and he too has to divorce her in return before the former could take her again as his wife. However, the word istīṭāʿah can be applied to both takhfīf and tashdīd equally. That is why scholars have differed in respect of the saying of God:

fa ittaqū ʿAllāh mā istaṭaʿum
So fear God according to your ability.

To the mufassirs this verse indicates takhfīf. However, to the sufis this verse indicates tashdīd. For instance, in the opinion of al-Sarraj al-
Tusi,\textsuperscript{127} "There is tashdid in this \textit{ayah}, because, if you performed one thousand \textit{raka'at} of \textit{salat} and you have the ability to perform another \textit{raka'ah}, but you delayed that till another time, then you have indeed abandoned your ability. Likewise, if you recite the remembrance of God (\textit{dhikr Allah}) one thousand times, and you have the ability to recite it once more, but you postponed it to another time, then you have not employed your ability. So is the case, if you spent your wealth on one who begs for a \textit{dirham}, and you are able to give him another \textit{dirham} or another grain, but you did not do that, then you have indeed abandoned your ability. It is because of this we said there is tashdid in His saying 'according to your ability.'\textsuperscript{128}

**Through the Context (\textit{qarinah})**

Apart from the above classifications, one may decipher the sense of these two terms through the context (\textit{qarinah}) of the Qur'anic verse. They fall under the following category:

(a) both \textit{takhfif} and \textit{tashdid} are present in one \textit{ayah}

Verily the carcass, the blood, the flesh of the pig and that which has been slaughtered without uttering the name of God, are prohibited for you all (1st part)

However, whoever is compelled without wilful disobedience nor transgressing the limits, there is no guilt in him (2nd part).\textsuperscript{129}

In the 1st part of this verse there is tashdid, since consuming such items is prohibited. However, in the 2nd part there is \textit{takhfif} since they are permitted.

(b) \textit{takhfif} in one \textit{ayah} and \textit{tashdid} in another \textit{ayah}
Regarding the *nafaqah* (i.e.: the maintenance of a widow after her husband’s death, the *Qur‘ān* says:

A

Those of you who die and leave widows should bequeath for their widows a year’s maintenance and residence without making them leave.\(^{130}\)

B

Those of you who die and leave widows, they (i.e.: the widows) shall wait concerning themselves four months and ten days.\(^{131}\)

In this in the verse B there is *tashdid* for the widow and *takhfif* for the deceased. That is, in her case she has a limited period of maintenance, which is financially less burdening for the heirs of the deceased. While in the verse A there is *tashdid* for deceased and *takhfif* for the widow, since she has a longer period of financial comfort.

(c) *takhfif* in one *sūrah* and *tashdid* in another *sūrah*

A

From the fruits of the date-palm and vine, you get out a wholesome drink (*sakar*) and a good sustenance (*rizq*).\(^{132}\)

B

O, You who believe! Do not approach the *salāt* when you are intoxicated until you will know what you say.\(^{133}\)

C

They asked you concerning intoxicants and gambling. Say (O, Muhammad that) there are great sins in both of them and there is no benefit for the people. Their sin is greater than their benefit.\(^{134}\)

D

O, You who believe! Intoxicants, gambling, worshipping of stones and casting of arrows are an abomination of Satan’s handiwork. Therefore, shun him so that you may prosper. Verily Satan wants to incite animosity and hatred between you through intoxicants and
gambling so as to derail you from the remembrance of God and from the *salāt.* 135

In the above verses, in verse A there is permission for the consumption of drinks extracted from vine and date-palm. However, in verse B, a slight restriction is introduced. That is not to approach *salāt* in the state of intoxication, otherwise it is permitted to consume the drink. In verse C this restriction is further stressed by a prohibition in which the emphasis is placed on its comparative disadvantage and in verse D even that comparison is removed by a clear prohibition. Thus it could be seen that verse A is *takhfīf* when compared to verse B and verse C is *tashdid* when compared to Verse B. While verse C is *takhfīf* when compared to Verse D. And verse A is *mukhaaffaf* when compared to verses C and D. Likewise Verse D is *mushaddad* when compared to verses A and B.

One may wonder why al-Sha’rānī did not make such a synthesis in respect of the Qur’ānic *āyah.* Explaining the reason for that, he says,

> Know brother, I did not leave the synthesis between the Qur’ānic *āyah* by which the a’immah took (their evidences) and differed in respect of its meaning by way of ignorance of it. This is due to the concealment of the understanding of the mujtahids in respect of it, as opposed to the *ahadīth* of the *shari’ah* which came as an explanation to that which is more general (*ajmal*) in the Qur’ān. Moreover, the category of *tashdid* in the Qur’ān by which the ‘arifs let themselves act are not comprehensible to anyone among the ‘ulamā’ of the time let alone by others. I have composed in that a book entitled: *al-Jawhar al-Masūn fl ‘ulum kitab Allah al-Maknūn* [the well-guarded jewels in the science of that which is hidden in the Book of God]. 136 in that I have mentioned about three thousand sciences. 137

Al-Sha’rānī says that scholars like Nāṣir al-Dīn al-Laqqānī al-Mālikī and Shīhāb al-Dīn b ‘Abd al-Ḥaqq138 appreciated his book. Further he says that he was not alone in deducing such a great number of sciences from the Qur’ān. He says Afdal al-Dīn deduced about two
hundred and forty seven thousand nine hundred and ninety nine (247999) sciences from the surah al-fātiḥah and said:

These sciences are the quintessence of the sciences of the Great Qur'ān.¹³⁹

Then he referred all these to the basmalah, then to the letter bā', then to the dot which is below the letter bā'.¹⁴⁰ He also used to say that we would not consider a man to have attained perfection in respect of the station pertaining to the understanding of the Qur'ān, till he begins to deduce all its rules and the madhāhib of the mujtahids from whichever alphabetical letter he wishes.¹⁴¹ 'Ali b Abū Ṭalib is reported to have said that if he had wished he would have certainly established for the believers eighty camel loads of sciences from the dot which is below the letter bā'.¹⁴² Al-Sha'rānī says that, owing to that, he did not reconcile the Qur'ānic āyāt, whose meaning the mujtahids differed as to whether they were mukhaffaf or mushaddad.¹⁴³ He says, "I concealed from mentioning the side of tashdīd which is in the Qur'ān so as not to open the door of criticizing the 'ulamā' and their rules. And I did not lay down this balance, by the praise of God, the Lofty, except to close the door of criticizing the a'imamah".¹⁴⁴

**Usage of Takhfīf and Tashdīd in the Hadith**

As in the Qur'ān, the usage of takhfi f and tashdīd in the hadith can be studied as follows:

- words denoting tashdīd and takhfi f per se.
- usage of terms alluding to the meanings of these two terms.
- deciphering the sense of these two terms from the qarīnāh.
When one studies the compilations of the *ahādīth* in various compendia, one will easily come across the usage of these two terms or their derivatives. For instance, in the concordance of *ahādīth* by Wensinck, he has listed all those *ahādīth* in which these two terms have occurred *per se*, their various derivatives and other words which denote the meanings of these two words. As such, the researcher feels that it is unnecessary to list those *ahādīth*, in which these have occurred. However, to quote a few by way of example:

- When a man from the People of the Book committed adultery during the period of the Prophet, some of them said to others, "Come with us to this Prophet, for he is a Prophet who has been sent with the *takhfīf*".\(^{145}\)

- *mā kānū yushaddidūna tashdidakum* they were not used to (apply) your (standard of) *tashdid*.\(^{146}\)

As for the *ahādīth* in which the connotations of these terms are known through the context, it suffices to give the following examples from *al-Mīzān*:

**A**

(1) During the Conquest of Makkah the Messenger of God performed the five *ṣalawāt* with one *wudu*'.\(^{147}\)

(2) The Messenger of God performed the five *ṣalawāt* with one *wudu*'.\(^{148}\)

(3) The Messenger of God used to make *wudu*' for every *ṣalāt*.\(^{149}\)

**B**

(1) The Messenger of God buried the *shuhādā* (martyrs) of Uhud in their blood and neither performed *ṣalāt* over them nor washed them.\(^{150}\)

(2) The Messenger of God performed *ṣalāt* over the *shuhādā* of Uhud.\(^{151}\)

**C**

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In the above examples, A:(1) and (2) contradicts A:(3) while B:(1) contradicts B:(2). In the previous two hadith there is takhfif since there is permission for the mukallafs to perform their five daily salah with one wudu', whereas there is tashdid in A:(3) since making fresh wudu' is made obligatory. Similarly, in the case of B:(1) there is takhfif, since there is no need to perform the salat al-janazah for the shuhada', whereas in B:(2) there is tashdid in that respect. In the first part of C, there was tashdid, since the believers were not allowed to visit the graves. While in its second part there is takhfif, since they are permitted to do so.

Moreover, when a rule is one of takhfif in the Qur'an, it will have its opposite tashdid in the sunnah and vice-versa. For example, it was a sunnah to face the al-Aqsa mosque in Jerusalem in salah, but this rule was given tashdid when God said, "so turn your face towards the inviolable masjid." Here the permission to face the direction other than the masjid al-haram is a takhfif, whereas to make everyone face the masjid al-haram is tashdid. Similarly it is said in the Qur'an:

It is prescribed, when death approaches any of you, if he leave any goods, that he make bequest to parents and next of kin.154

This verse is given a tashdid by the saying of the Prophet, "There shall be no bequest to an inheritor." In the verse there is takhfif for the kin, but in the sunnah there is tashdid against their inheriting the bequest.
A study of the Prophet’s life will show that on many occasions he was considered to enable the believers to perform what was takhfif. He did this through: (1) explaining the concessions provided in Islām, (2) fearing the imposition of difficulty on his ummah and (3) commanding his sahābah to act according to the concession and discouraging ordinary people from over-exertion (ta’ammuq) and tashdid in their religious observations.

**Later Developments**

Following the teachings of the Prophet, his successors both the sahābah and their tabi‘īn also likewise encouraged the performance of takhfif and taysir. For instance, al-Sha‘bī used to say, "If you are faced with two contradictory situations, then the easier (aysar) of the two is more appropriate."156 While Sufyān al-Thawrī says, "It is wiser to listen to the rukhshah from a reliable person. As far as the tashdid is concerned, everyone can perform it [innamā al-‘ilm ‘an tasma’ bi al-rukhshah min thiqqah fa ammā al-tashdid fa yuḥsinhu kull aḥad]."157

Scholars using both these terms are few indeed. Most of them use either one of them or other terms which denote the same connotation as these two terms. Thus their usage can be studied under:

1. takhfif or its derivatives with any other words of severity.
2. tashdid or its derivatives with any other words of leniency.
3. words other than takhfif and tashdid are used.
4. Both tashdid and takhfif are used per se.
As for the former three categories there are many scholars who have resorted to such usage. Most of the usūlis, muḥaffīrs and muḥaddiths have either used one of them with their opposites. For instance, in al-Iṣhārāt al-Ilāhiyyah, al-Ṭūfī uses the term khafif with thaqīl. While ʿIzz al-Dīn ʿAbd al-Salām uses shadīd with takhffīf.

As for those who have used both these terms to signify determination and concession, they are few indeed. They include people like al-Khāzin, al-Rāzī, al-Qurtubi and al-Shatibi. In the study of the works of these men the researcher found that it is al-Shatibi who has made the most significant use of both these terms, even though al-Shārānī does not mention his work on usūl, al-Muwāfaqāt, among the works he has studied before laying down this balance. In explaining these two terms al-Shatibi says:

> Every universal legal principle (al-kulliyah al-sharʿiyyah) essentially takes the middle position. But if it leans towards one of the extremes, it will do so because of actual or possible inclination towards the other end. The tendency of tashdīd (severity) is brought forward to balance the laxity in a mukallāf’s regard for din. The tendency to takhffīf (laxity) is brought forward to balance hardship and severity. The departures from the middle position, as reported in the traditions, must be understood in the light of the above explanation. This departure is meant to balance the severity or laxity, whichever the case may be, inherent in the act which is the object of obligation. Similarly the stress on piety (wara’) and asceticism and the like, when they appear to be departures from the middle position, should also be taken as an attempt to balance the laxity in obligation.

Further he is quoted as saying, “Obedience to law comes within the capacity of man without necessitating any mashaqqah or any leniency.” To al-Shatibi, takhffīf and tashdīd are applied to two kinds of people. They are: (1) arbab al-ḥuzūz and (2) arbab al-ahwāl or ahl isqāt al-ḥuzūz. As far as the arbab al-ḥuzūz are concerned,
they are "those for whom carrying out a particular act causes extraordinary hardship, or those for whom not availing of the shar'i allowance, means inviting harm. Such people must not carry out an act of this kind and should avail themselves of the shar'i rukhsah". He warns the mukallafs from following one's huzūz to such an extent that "one departs from the bondage of 'ubūdiyyah." "The true position according to shari'ah" says al-Shāṭībī, "is a combination of both aspects with a view to balance (adl); to pursue one's huzūz as long as the pursuit does not interfere with an obligatory duty, and to abstain from huzūz as long as the abstinence does not lead to prohibition." On the contrary, the arbāb al-ahwāl are "those for whom such acts do not bring about fatigue and hardship because of their acts being governed by fear, hope or love. The fear makes the hardship feel less; the hope relaxes the hardness of the act, while the love renders the act rather enjoyable. This group is so engrossed in fulfilling their duty to God on the basis of fear, hope and love that they even forget their own huzūz. They give up personal considerations."  

Al-Sha'rānī's theory

In elucidating the difference between takhfīf and tashdīd, al-Sha'rānī has elaborated the differences between the two categories of the mukallafs whom he calls al-akābir and al-aṣāghir. He states that the akābir are those who are pious (ahl al-wara') who count ghaflah (inadvertence) as hadath (offence) and seek forgiveness from God. They are also people of purity (ahl al-tanazzuh) to such an extent that they consider that the mere touching of a woman or any part of her body including the nail, hair and teeth, even without any feeling of lust,
is considered as impure. They act according to certainty (al-yaqīn) without doubt (al-shakk). They are intense in glorifying God. Furthermore they do not commit any sins, such that even their bodies do not stand in need of constant washing with water. They are the people of proximity (ahl al-qurba), who witness the precinct of God. They are intense in purity (al-tanazzuh). They commit few sins as compared to the asaghir. Their bodies have strong spiritual strength and their hearts are always present before God. Neither trade nor sales will distract them from remembering God. They are capable of bearing the intense Divine manifestation (thaqīla tajallī al-ilāhi). They are constant in performing their salat. They perform more acts at one time. They have strong determination in driving Satan away. In bowing and prostration they are able to prolong the act and in standing at ease (qiya’m) they shorten it. Their veils are removed from them. Even though apparently they might look like following an imām, in fact they are with God at all times. They are very scrupulous in observing good manners with God. They keep a constant watch over themselves from falling into sin. They are people of prudence (ahl al-ihtiyāt). They do not fear anyone. They do not worry about losing family or wealth. Moreover, they can control their desires and lusts. They are pious and noble. They give preference to others before them. However this is not always the case, for the Prophet is reported to have said: "Start with yourself; thereafter with one who depends on you [ibda’ bi nafsik thumma biman ta’ul]." This statement, according to al-Sha’rāni, is addressed to the most perfect of the mukallafīs (al-kummal) who act according to the Prophetic saying, "Clearly the near ones are
more appropriate for good action \([\text{al-aqrabûna awlā bi al-ma’rûf}]\)\(^{202}\) and there is no one close to him except himself.\(^{203}\) As far as the statement of the Qur’ān, "They give preference to others over themselves \([\text{wa yu’thurūna ‘alā anfusīhim}]\)\(^{204}\) is concerned, al-Sha’rānī says that it is addressed to those other than the great personalities among the sahābah and it was praising them for that so as to make them depart from the "ditch of stinginess" which their eyes had witnessed in the world.\(^{205}\) Therefore when they depart from that they were ordered to begin with themselves.\(^{206}\) This is because it is a trust which they have been given by God whereas anything else is not a trust given by God and as such it is only something which is adjacent to them.\(^{207}\) Quoting ‘Alī al-Khawwāṣ, al-Sha’rānī says:

If the perfect one does injustice to himself by putting others before him, God would blame him for that, owing to his departure from justice which he was instructed to observe, as opposed to the murid, who does not mind doing injustice to himself in pleasing God and carrying it out beyond his ability in the ‘ibādāt and even aspiring to gain reward for that. Then if he reached the end of the relative path \((\text{al-sulūk al-nisbiyyah})\) which is equal to reaching the merit for the reward which is desired, he would be like one who had reached the domain of the kingdom \((\text{dār al-mulk})\) and had come to know from those who have something to expect from him, he is ordered at that time to be good to himself, for it is his means \((\text{matiyyat})\) of reaching the precinct of his Lord.\(^{208}\)

Further the akābir are people of lofty ambition \((\text{ašhāb al-himam})\)\(^{209}\) and they understand the secrets of the shari’ah.\(^{210}\) They do not need any intercessor \((\text{shāfi’})\).\(^{211}\) They are people of generosity \((\text{ahl al-sakhā’})\).\(^{212}\) On the other hand, the ašāghir are those who do not come within the above criteria. They are those who give importance to worldly things and are less scrupulous in observing religious requirements.\(^{213}\) It is for them that the rukhšash or takhfīf is meant. As far as the akābir are concerned they are expected to act according to ‘azimah or tashdid. However, according to al-Sha’rānī, a mukallaf has
no choice in acting according to the *rukhsah* and *'azima* while he has the strength to act according to the *'azima* which has been specified for him,214 for this would be like playing with the *din*.215 The author reiterates time and again that the *rukhsah* is for those who are definitely (*qat'an*) incapable of performing the *'azima*.216 Because, at that time the *rukhsah* becomes *'azima* in respect of him.217 That is why scholars have opined that the non-performance of the *salāt* for a woman in her period of *hayd* or *nifās* is an *'azima*, though it is a *rukhsah*, if the physical inability is taken into consideration.218 Thus, according to al-Sha'rānī, "It is obligatory for every follower, by way of fairness, not to act according to the *rukhsah*, which the *imām* of his *madhhab* opined, except if he was of that category. Whereas, it is obligatory for him to act according to the *'azima* which is opined by another *imām*, whenever he has the capability of doing it. This is because originally the rule refers to the speech of the *shari'ah* and not to anyone else. As such if anyone were to say that he will not act according to a *hadith* which his *imām* has not found in Bukhārī and Muslim, then he is ignorant of the *shari'ah*. His *imām* will be the first one to dissociate himself from him."219

When, at the repeated requests of some scholars, he studied the *shara'i* proofs and the opinions of the *a'imma* to bring about an agreement between what they believed in their hearts and uttered by the tongue that all the *imāms* of the Muslims are guided by their Lord, al-Sha'rānī did not find any one of the proofs and opinions departing from the two sides of *takhfīf* and *tashdīd*.220 Even though the *tashdīd* is meant for the strong ones and the *takhfīf* for the weak ones, there must be some exception to this general rule. That exception is attained by the
rule of takhyir (choice). For, al-Sha’rānī maintains that if it is allowed for the strong one to descend to the grade of rukhsah and takhff while he has the strength to perform the more difficult, the two sides of the balance shall not be on the basis of the order of obligation. That is like the choice of one who performs his ablution (mutawaddi’), if he was wearing leather boots, between removing them and washing the feet or simply rubbing the boots, despite the fact that the washing of the feet is better than mash. Thus washing the feet is better, except for one who hates to do the mash, in spite of his knowledge of the validity of the ahādīth about it. Therefore, for such a person, mash is better, despite the fact that it was said to him that the two sides in respect of this person are also on the basis of the order of obligation, which means that if he wishes to serve God in the best way then it is obligatory for him to perform the best practice of ‘azimah. That is either the washing in view of the condition of the majority of the people or the mash in view of that strange person who hates to do the sunnah. Likewise it is incumbent on the mukallaf to seek exception from the obligation of performing the required action in order to act according to the two sides of the balance. That is by performing them at two separate times. For instance, wiping the whole head at one time and wiping a part of it at yet another time. Therefore, only if one wishes to attain proximity to God, is it obligatory for him to make preference for wiping the whole head over the wiping of a part of it. In this regard, al-Sha’rānī quotes Muhammad b al-Mundhir as saying:

If the performance of two actions at two (different) times has been ascertained in respect of the shābī’...then the mukallaf has a choice as long as the abrogation has not been established. Therefore, the
mukallaf shall act by this matter once and by the other matter at another time.\textsuperscript{231}

When abrogation is established then there is no choice. For, al-Sha'rānī, quoting 'Abd Allāh b al-‘Abbas, says:

The last of two actions done by the Messenger of God...is the abrogation by the muhkam statement.\textsuperscript{232}

Though it is a majority view, according to al-Sha'rānī, it is not a universal view.\textsuperscript{233} For, if it had been a universal view we would have to adjudge the former of the two actions to have been certainly abrogated with regard to the issues like the one mentioned above.\textsuperscript{234} There would not have arisen any differences since the issue would then have been settled by the Prophet.\textsuperscript{235} Therefore in the absence of any established abrogation, the issues in which disputes are present should be made an obligation in time of summer and wiping the part of it should be made an obligation in the time of winter, especially in the case of one who was bald or who has just shaved his head or one who fears the falling of ḥawādir from his head.\textsuperscript{236}

In the previous chapter, al-Sha'rānī was quoted as saying that his usage of the terms 'azīmah and rukhsah is unlike the usage of the usūlis. To the usūlis the opposite of rukhsah is 'azīmah. Whereas, al-Sha'rānī maintains that the opposite of rukhsah is afdal. He says:

We did not call the stage of takhfīf rukhsah only after looking at its opposite from the tashdīd as afdal.\textsuperscript{237}

Otherwise, al-Sha'rānī says, the one who is incapable shall not be legally obliged to perform that which is beyond his power, since he has not been obliged to do that which is beyond his power.\textsuperscript{238} Thus, there
only remains for him the performance of the *rukhsah* as a necessary duty, just as the *'azīmah* is the duty of those who are strong.\(^{239}\) Therefore, it is not permitted for the one who is incapable to descend from the *rukhsah* to the stage of non-performance of the act completely.\(^{240}\) For instance, if a *mukallaf* who is unable to stand up for the obligatory *ṣalāt* is able to sit, it is not permitted for him to lie down on his belly, or if he is able to lie on his belly either on his right or on his left, it is not permitted for him to lie on his back (*ıstillqâ*), or if he is able to lie on his back it is not permitted for him to be content with performing the *ṣalāt* postures by moving the eyes, or if he is able to make movements by his eyes, it is not permitted for him to be content with running through the actions of the *ṣalāt* in his heart.\(^{241}\) Therefore, for every one of these stages, by comparison, that which is before it is like the *'azīmah* with the *rukhsah*.\(^{242}\) As such, it is not permitted for him to descend to it, except after he becomes incapable of performing that which is before it.\(^{243}\) Thus, according to al-Sha’rānī, all those who perform the *rukhsah* according to its conditions or the *mafdūl* according to its conditions, are guided by their Lord, just as the one who acts according to the *'azīmah* or the *afdāl* with difficulty is also guided by his Lord in respect of that even if the *shārī* did not compel him to do that.\(^{244}\) This is due to the severity of the difficulty in it, unless there comes from the *shārī* that which contradicts that.\(^{245}\) For example, al-Sha’rānī comments on the saying of the Prophet:

\[
{layṣa \, min \, al-birr \, al-ṣiyām \, fī \, al-safar} \\
[\text{it is not good to fast during a journey}].\(^{246}\)
\]

that it is *afdāl* for the *musāfir* to break the fast in such a situation.\(^{247}\) For it might be injurious to the *mukallaf*. The best way of approaching

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the precinct of God is through a delighted nafs which has no hatred. All those who perform their 'ibadah with a hatred for it in their hearts would depart from the legal proximity by which one could reach the Divine Precinct. Moreover, the Prophet did not approve of a sawm which would harm a musafir. So, being followers of the shari', it would be appropriate for him to approach God only through what the shari' has permitted for him and by what the mukallaf's heart would gain delight from acting according to the recommended practices (mandūbāt). It, as has been said, is only in respect of that which the shari' has permitted. As for that for which he has not given permission, al-Sha'rānī suggests, "it is nearer to innovation". For the exoteric meaning of the Book and the sunnah does not give evidence for every innovation so that through them a mukallaf might approach God. To illustrate this, al-Sha'rānī mentions the performance of salāt in the state of drowsiness. If drowsiness overcomes the servant while he was performing the duty of salāt, then he has become like someone who has been compelled to perform it. As a result, he might lose his fixed reward. Therefore, al-Sha'rānī urges the mukallafs to act according to the rukhsah with its conditions. For, he says quoting the hadīth:

God loves you to perform His rukhsah just as He loves you to perform His 'azimah.

That means that to act according to the rukhsah and the 'azimah in their appropriate places is an obligation. However, in the opinion of al-Juwayni, "it is in the interest of the people of godliness and piety (to act according to the) 'ażā'im, whereas acting in (matters of) differences in respect of it is (considered as) rukhsā. On the other hand, if a person
is subject to extreme hardship (darūrah) but it is possible for him to perform the 'azīmah, then he is equally able to perform it or leave it." Al-Sha'rānī, however, urges the mukallafs to perform the 'azīmah even with difficulty, if one chooses that by way of striving with oneself.

Regarding the performance of rukḥṣah while one has the ability to perform the 'azīmah, al-Sha'rānī says that it is required of such a person to perform the rukḥṣah, provided that he belonged to that category and not generally. He says in respect of a person who performs his salāt after touching his private part without renewing his ablution that if such a person has been afflicted with an increase of uneasiness (waswās) in respect of the ablution for the salāt al-ṣubḥ, for instance, till the time is about to expire, such that he has departed from the state of purity and unintentionally touched his private part, then in his case it is permitted for him to follow Abū Ḥanīfah in respect of the salāt with the ablution in which occurred the incident of touching his private part. Since no abrogation is established in respect of the ḥadīth:

Is it not but a flesh from you?

The issue is then referred to the two sides of the balance. Therefore, it is not required of one who is not afflicted with the uneasiness to perform his salāt if he had touched his private part or a strange woman except after renewing the ablution. But, had Abū Ḥanīfah or his disciples been successful in locating the ḥadīth:

Whoever touches his private part, then let him make ablution.
on which the Shafi'ites base their rejection of Abū Ḥanifah's view, then he would certainly have applied both *ahādīth* to the two sides of the balance by applying the former to the common people and the latter to the great personalities among the 'ulamā' and the pious ones.264

As for the non-performance of the *'azīmah* while one has the ability to do so, al-Sha'ra'ni says that it is not permitted.265 For instance, in the case of the recitation of the *fātiha* in the *ṣalāt*, al-Sha'ra'ni says that the non-recitation of *al-fātiha* in *ṣalāt* when one has the ability to recite it is not permitted.266 For, "it is an *'azīmah*".267 Therefore, "if he is able to recite it, then he should not be content without it. However, if he is unable to recite it, then he should recite other verses".268

In these ways al-Sha'ra'ni establishes his stand on *rukhsah* and *'azīmah*. These two terms in the usage of the *usūlīs* are given a restricted application, that is they treat *rukhsah* under the rule of exception. However, in the opinion of al-Sha'ra'ni both are obligations with equal strength, meaning that the performers of *rukhsah* and *'azīmah* are equally rewarded, since the *rukhsah* in respect of the one who is incapable is itself an *'azīmah* for him.

The presumption that *'azīmah* is meant for the akābir, in the opinion of the *usūlīs* is not shared by al-Sha'ra'ni. He has provided instances where acting according to the *rukhsah* is made an obligation for them. For instance, the recitation of *isti'ādhah* (i.e.: the utterance of *a'ūdhu bi Allāh min al-shayṭān al-rajim* - I seek protection from God from Satan the accursed) in every *raka'ah* is obligatory on the aṣāghir, as opposed to the akābir.269 For it is sufficient for them to recite it once in the first *raka'ah*, since they are able to complete their
salāt without the interference of Satan. This is not the case with the aṣāghīr. They are required to utter the istiʿādhah at every rakaʿah. Moreover it is not always required of the akābir to act according to the wājibāt. For instance in taking leave from the salāt, it is not obligatory for the akābir to seek permission (by saying assalāmu ʿalaykum wa rahmat Allāh - with the intention of leaving the salāt), since they are witnessing that the entire creation (wujūd) is the precinct of God. They do not see the possibility of being separate from the precinct of God. This is not the case with the aṣāghīr. Even the akābir can act according to the mukhaffaf. As an example, al-Shaʿrānī says that Mālik and al-Shāfiʿī opined that it is permitted for a man to perform his salāt while a (strange) woman stands by his side. Abū Ḥanīfah opines that it will invalidate his salāt. The first opinion is mukhaffaf, which is meant for the akābir who will not be distracted from God by any distraction (shāghil). While the second opinion is mushaddad, which is meant for the aṣāghīr.

Thus it becomes clear that the classification is based on the ethical and spiritual status of the mukallaḍs. However, it is not the case always. At times, al-Shaʿrānī takes into consideration other worldly matters such as financial and environmental factors which determine the course of action for the mukallaḍs. For instance, regarding the wilful commission of sexual intercourse with a menstruating wife, the four aʿimmah opined that there is no penalty (gharam) against him, except seeking forgiveness from God and sincere repentance. However, Ahmad Ibn Ḥanbal in one of his narrations held that it is befitting for such a person to give some money away in charity. Al-Shāfiʿī in his earlier opinion made a penalty necessary. In respect of the amount to
be given away in charity, there are two opinions. However, the popular one is one dinār as is the opinion of Ahmād b Ḥanbal.\textsuperscript{280} Secondly the manumission of a slave in any condition.\textsuperscript{281} In the other opinion of Ahmād b Ḥanbal, the quantity is set at a dinār or its half, without any difference regarding the manner of intercourse.\textsuperscript{282} The first opinion is mukhaffaf, while in the second opinion there is tashdīd, while the manumission of a slave is the extreme degree of tashdīd.\textsuperscript{283} Thus the matter returns to the two sides of the balance. The first opinion is predicated for the condition of the poor who do not have money, while the second opinion is predicated for the condition of the middle-ranking people (mutawassītīn), whereas the manumission of a slave is predicated for the condition of the people of means.\textsuperscript{284}

In the case of determining the start of female menstruation, al-Sha'rānī says that Malik, al-Shāfī'ī and Ahmād Ibn Ḥanbal opined that a female starts her menstrual cycle at the age of nine, which is also the preferred opinion of Abū Ḥanīfah.\textsuperscript{285} However, in another opinion attributed to the latter, he is said to have opined that there is the possibility of a female not attaining her puberty until she is fifteen.\textsuperscript{286} The first opinion is mushaddad, while the second opinion is mukhaffaf. Thus the matter returns to the two sides of the balance.\textsuperscript{287} The first opinion is particular to one who is from a predominantly hot country (bilād ḥārrah), while the second opinion is particular to one who is from a cold country.\textsuperscript{288} However, suprisingly the use of sand for tayammum is made obligatory for the asāghir, while making tayammum with stones is made obligatory for the akābir, even though the latter, according to al-Sha'rānī, have more spiritual strength.\textsuperscript{289}
Even in the classification of *takhfīf* and *tashdīd* ranging from *mukhaffaf* to *mushaddad*, al-Sha‘rānī has expounded a new theory. That is, he believes that all these sides are themselves divisible into *takhfīf* and *tashdīd*. For instance, in the case of *mushaddad*, it has two sides of *tashdīd* and *takhfīf*, such that the *takhfīf* of *mushaddad* is the *tashdīd* side of *tashdīd*. Further the *mufaṣṣal* is divisible into:

(a) *tafṣil mā‘il ilā al-takhfīf / al-mukhaffaf* - *tafṣil* inclined towards *takhfīf / mukhaffaf*.

(b) *tafṣil mā‘il ilā al-tashdīd / al-mushaddad* - *tafṣil* inclined towards *tashdīd / mushaddad*.

(e) *tashdīd / mushaddad bi al-taṣīl - tashdīd / mushaddad* towards *tafṣil* (i.e.: from *takhfīf / mukhaffaf* to *mufaṣṣal*).

(f) *takhfīf / mukhaffaf bi al-taṣīl - takhfīf / mukhaffaf* towards *tafṣil* (i.e.: from *tashdīd / mushaddad* to *mufaṣṣal*).

This is illustrated in the following diagram:
For instance, in the case of one who has fractured some part of his body and has plastered his injury, it is permitted by al-Shafi‘i to wipe over it and perform *tayammum*.\(^{290}\) However, Abū Hanīfah and Mālik opined that, if some of his parts are healthy (*ṣāḥīh*) while some other parts are injured such that the *ṣāḥīh* part is more then he should wash it and the rule due to injury becomes invalid and it is considered *mustahabb* to wipe it with water.\(^{291}\) However, if the *ṣāḥīh* part is less
then he should make *tayammum* and the need to wash the *sahih* part will become invalid. On the other hand Ahmad opined that the *sahih* part should be washed and for the injured part *tayammum* should be made without wiping the plaster. Thus the first opinion is *mushaddad*, while the second opinion is *mukhaffaf* towards *tafsil*, since it is subject to the extent of the injury.

In the issue of a *qādī*’s deciding a case beforehand, al-Sha’rāni states that Abū Ḥanīfah is of the opinion that it is not permitted for the *qādī* to bring his own personal knowledge into a judgement in which there could be a *hadd* penalty. However, in cases where that penalty is not involved, he may use his own personal knowledge as a supplement to the court proceedings. Mālik and Ahmad opined that he (i.e.: a *qādī*) will not actually judge according to his understanding, irrespective of whether that is the right of God or not. On the other hand, the stronger one of the two opinions of al-Shāfi‘ī is that he (i.e.: the *qādī*) judges according to his understanding except in the *hudūd* of God. Thus in the first and the third opinion there is *tashdid* on the *qādī* towards *tafsil* which they both have mentioned and there is *takhfif* on him according to what he has understood of the rights of people. While the second opinion is *mushaddad*. Thus the matter returns to the two sides of the balance.

The above diagram might remind the reader of the five legal rules, that is the *wājib*, *mandūb*, *mubah*, *makrūh* and *harām*. However, this does not mean that all *wujūb* are always *mushaddad*. For it might also be *mukhaffaf*. This can be shown as follows:
Perhaps, this could have been a basis on which al-Sha'rānī built his balance.

Before concluding this chapter, it is pertinent to stress al-Sha'rānī's stand on abrogation and *ijmāʿ*. Al-Sha'rānī is faced with a dilemma of reconciling the abrogated verses or rules with the abrogating verses or rules. Even though he does not deny abrogation *per se*, he nevertheless does not state clearly his stand on the issue. Perhaps he might have felt that that would defeat his purpose in composing this balance. He has gathered those elements which would bring about unity. Since his prime concern is to balance the different opinions, al-Sha'rānī simply listed those issues where the *a'immah* have reached their consensus, without discussing the issues pertaining to *ijmāʿ*.
ENDNOTES TO CHAPTER SIX


2 Áshbâh, op. cit., p. 83.

3 Al-Qur'ân, 3:159.

4 Ibid., 31:17; see also ibid., 3:186; 42:43.

5 Al-Ghorrab, Mahmoud, "Muhyiddin Ibn âl-'Arâbî Amidst Religions (adyân) and Schools of Thought (madhâhîb)," in MACV, op. cit., p. 224.


7 Ibid., pp. 459-60. s.v. sh. q. q.

8 Al-Nîzân.

9 Al-Qur'ân, 16:7.


11 He is Qâsim b 'Abd Allah b Muhammad b al-Shatt al-Ansârî al-Ishbîlî, born in 643 h. and died in 723 h. see Kahhâlîh, 8:105; Dibâji, p. 226.

12 It is the gloss on al-Qarafi's al-Furûq.

13 al-Qur'ân, 3:159.

14 Wehr, op. cit., pp. 248-9; s.v. kli. f. f.

15 Dr. Salih b 'Abd Allah Raf' al-Harajî fî al-Shari'â fi al-Islâmiyyah: Dawabituhu wa tatbîqatuhu, 2nd. ed., (Riyad?, 1412 h.), p. 30. Hereafter cited as Humayd. However, in the opinion of other scholars mashaqqa is divisible into three kinds: (1) mashaqqa 'âmâh (general difficulty) which results in rukhsah, (2) mashaqqa khassah (special difficulty) and (3) mashaqqa in between the above two mashaq. For details see al-Sulami, Abu Muhammad 'Izz al-Dîn 'Abd al-'Azîz b Abû Salâm, Qawâ'id al-Ahkâm fî masâlih al-Anâm, 3rd ed., (Cairo, 1980), 1:79. Hereafter cited as al-Anâm.


17 Cf. note 1 above.

18 al-Kâmil fî usul al-Ahkâm.


23 Wehr, op. cit., 33:38.


25 Wehr, op. cit., p. 1107.


27 Perhaps this is his work entitled al-Ikhâm fî usûl al-Ahkâm. see GALS, 1:695.

He is Abū al-Qāsim Mahmūd b 'Umar b Muḥammad b 'Umar al-Khawārizmi, an expert in tafsīr, hadīth, nahw, lughah and 'ilm al-bayān, born in 467 h. in Zamakhshar and died in 538 h. see Wafayāt, 5:168-74.


Humayd, op. cit., p. 47.

Masud, op. cit., p. 257.

Hudayd, op. cit., p. 173.

Ibn Thārifī, op. cit., p. 175.


Humavd, op. tit., p. 47.

Masud, op. tit., p. 257.

Hudayd, op. tit., p. 173.

Ibn Thārifī, op. tit., p. 175.


Humayd, op. cit., p. 143.


Humayd, op. cit., p. 143.

Humayd, op. cit., p. 143.


He is

Ashbah, op. cit., p. 91.


67. Humayd. op. cit., p. 149.
68. Ibid., p. 82. It is also mentioned that the first six kinds of takhfif are according to 'Izz al-Din 'Abd al-Salam, while the seventh kind is according to al-'Ali'i. (Ibid.).
70. see Chapter 5 note 258.
71. Ibid.
72. Ibid.
74. Al-Qamüs, op. cit., 1: s.v. h. w. t.
75. Ibid.; al-Kafwi, Ayyub b Mūsā, Kulliyat Abi al-Baqā', (Cairo, 1253 h.), p. 20.
76. Ibid.
77. Al-Ta'rifat, op. cit., p. 10.
78. Humayd. op. cit., p. 332.
79. Ibid.
81. Al-Ta'rifat. op. cit., p. 155.
83. He is Sayf al-Din Abū al-Hasan 'Ali b Abū 'Ali Muhammed b Sālim al-Taghlabi, born in Amud in 551 h. and died in Damascus in 631 h. He was at first a Hanbalite then moved to the madhhab of al-Shafi'i. see Kabbalah. 7:155; Khalifah. p. 17.
84. Al-Bahr. op. cit., 1:325.
85. Ibid.
86. Ibid.
87. Ibid.
88. Ibid., He died around 490 h. see Kabbalah. 8:267-8.
90. He is Badr al-Din Muḥammad b Bahadur b 'Abd Allāh al-Zarkashi, born in Cairo of Turkish stock in 745 h. and died there in 794 h. see Kabbalah. 9:121-2; Durar. 3:397-8; Shadhrah. 6:335; A'lām. 6:286.
92. Ibid.
93. Ibid.
95. Ibid.
96. Ibid., 1:120.
97. Ibid.
98. Ibid., 1:121.
99. Ibid.
100. Al-Bahr. op. cit., 1:325.
101. Ibid.
102. Ibid., 1:325-6
104. Ibid., 8:66.
105. Ibid., 4:28.
106. Cf. text p. 64 note 230.
108. Ibid., 90:4.
It is also said that if a man is unable to feed sixty people he should fast a day. See al-Shawkání, Muhammad b 'Ali b Abū Muhammad, Nayl al-Awtár min ahādīth sayyid al-Akhbār: Sha'rī muntagā al-Akhbār, (Beirut, 1973), 4:293. Hereafter cited as Nayl.


Ibid., 2:280.

Ibid., 30:54.

Ibid., 16:75-6

Ibid., 47:21.

Ibid., 28:27.


Ashbāh, op. cit., p. 92.

Humayd, op. cit., pp. 152-3; Muwāfaqāt, op. cit., 1:213-5.

Al-Qur'ān, 73:20.

Ibid., 5:34.

Ibid., 2:233.

Ibid., 2:203.

Ibid., 24:60.

Ibid., 2:230.

Ibid., 64:16.


Ibid., pp. 122-3.

Al-Qur'ān, 2:173.

Ibid., 2:240.

Ibid., 2:234.

Ibid., 16:67.

Ibid., 4:43.

Ibid., 2:219.

Ibid., 5:90-1.

Al-Mizân, 1:105; al-Manâqib, op. cit., p. 68.

He is Shihâb al-Dîn Ahmad b Muhammad b 'Abd al-Haq al-Sanbâṭi, died in 950 h. al-Kawâkib, op. cit., 2:111-2.

Al-Mizân, 1:106.

Ibid., 1:106.

Ibid., 1:91.
151 Ibid.
152 Ibid.
153 Al-‘Osrān. 2:144.
154 Ibid., 2:180.
155 Nayl. op. cit., 5:151.
158 He is Naṣm al-Din Abū al-Rabī‘ Sulaymān b ‘Abd al-Qawi b ‘Abd al-Karīm b Sa‘īd al-Ṭūfī al-Sāfārī al-Baghdādī, born around 670 h. and died in 726 h. Shadharāt, 6:39-40.
159 Humayd. op. cit., p. 61.
160 Al-Anām. op. cit., 2:15-6. See also Ashbah. op. cit., p. 89; al-Qarafi, Shihāb al-Dīn Abū al-‘Abbās Ahmad b Idrīs, (Cairo, 1346 h.), 1:120.
161 He is ‘Al‘ al-Din Abū al-Hasan ‘Ali b Muḥammad b Ibrāhīm b ‘Umar b Khalīl al-Shayhī, born in Baghdād in 678 h. and died in 741 h. see Kahbālah, 7:177-8; Shadharāt, 6:131; Khaṭṭāf, p. 1540.
162 He is Abū ‘Abd Allāh Fakhr al-Dīn Muḥammad b Diyā‘ al-Din ‘Umar b al-Hasan b al-Husayn b ‘Alī al-Tamīmī, born in Ray in 543 h. and died in Ḩerat in 606 h. see Kahbālāh, 11:79-80; ibn al-Subkī, 5:35; Wafayāt, 1:600; Shadharāt, 5:21-2; Taghrībirdī, 6:197-8. see also text p. 369 note 112.
163 He is Abū ‘Abd Allāh Muḥammad b Ahmad b Abū Bakr b Farḥ al-Anṣārī, died in 671 h. see Kahbālāh, 8:239-40; Diwān. pp. 317-8; Shadharāt, 5:335.
164 The usage of the term laxity does not connote the full meaning of the term takhfīf. For laxity indicates laziness, whereas takhfīf does not indicate laziness. Thus it would be appropriate to use the term leniency instead.
165 Masūd. op. cit., p. 263; Muwafāqāt. op. cit., 2:167-8.
166 Masūd. op. cit., p. 262.
167 Ibid., p. 260.
168 Ibid.
169 Ibid.
170 Ibid.
171 Ibid.
172 Al-Mīzān. 1:116.
173 Ibid., 1:118.
174 Ibid., 1:119.
175 Ibid., 1:121.
176 Ibid., 1:122.
177 Ibid., 1:123.
178 Ibid.
179 Ibid., 1:125.
180 Ibid., 1:130.
181 Ibid., 1:133.
182 Ibid., 1:137.
183 Ibid., 1:144.
184 Ibid., 1:145.
185 Ibid.
186 Ibid., 1:146.
187 Ibid., 1:150.
188 Ibid.
189 Ibid., 1:156.
190 Ibid., 1:157.
191 Ibid., 1:164.
Ibid.
Ibid.
Ibid.
Ibid., 2:190.
Ibid.
Ibid.
Ibid.
CONCLUSION

In the course of our analyses and discussions we have seen that al-Sha'rānī's claim to the originality of the theory of takhfīf and tashdīd is much more limited than he suggests. We have seen that the theory has its roots in the Qur'ān, hadith and in the opinions of scholars preceding him. However, in the classification of the contradictory aḥādīth and opinions, there is no doubt that al-Sha'rānī's claim of originality has some truth. No one, before him, had attempted to classify them under the categories ranging from mukhaffaf to mushaddad. His attempt to apply such a classification to the entire chapters of fiqh is unique. Again the way in which he has tried to bring about a reconciliation between otherwise contradictory opinions of the madhāhib, through putting forward ṣūfī explanations coupled with more ethical suggestions has made his balance, an unusual and a novel one. Even though scholars like al-Ghazzālī, Abū Ṭālib al-Makki and others have attempted to explain the spiritual dimension of the various aspects of the sharī'ah, they did not attempt to classify their opinions into categories ranging from mukhaffaf to mushaddad, on the basis of the divisions within the mukallāfs, which again is based on their strength and weakness in respect of imān, islām and iḥsān. It is here al-Sha'rānī's al-Mizān stands distinct from other works of ikhtilāf.
The main argument of al-Sha’rānī is that if a mukallaf was to follow a mujtahid who is also a şūfī, he will certainly make him reach the spring of the shari‘ah from where the a‘immah have deduced their madhāhib. To achieve this the mukallaf has to undergo strenuous spiritual exercises under the guidance of an experienced shaykh. At that time that mukallaf or muqallid will be on a par with the a‘immah, since there is no difference between the amounts of water which both the mujtahid and the muqallid scoop from the spring. In this argument there is a slight problem. That is, al-Sha’rānī is equating the learned with the unlearned, just because the latter had undergone spiritual training, meaning that he has learnt the secrets of the shari‘ah through kashf. What one does not understand is whether the kashf of a learned scholar who has undergone the spiritual training and that of the unlearned, is the same or not. If it is the same, then what is the point of studying fiqh? Since it is possible to achieve this goal by spiritual training, there would seem to be no need for any one to study fiqh as a field of study. Further, one is not sure about the nature of the kashf which he refers to. That is, does it vary according to the status of the mukallaf or is it the same for every one. If it varies according to their knowledge and understanding, then the amount of water the mujtahid scoops from the spring of shari‘ah will not be the same as the amount scooped by the muqallid, even though the latter scoops the water from the same spring.

Although al-Sha’rānī did not openly denounce the notion of taqlid of the madhāhib or the a‘immah, one can nevertheless feel in the course of reading the book that this was his ultimate intention. However, he encourages a degree of taqlid for those who have not
experienced the balance. This tunes in well with his stand on *ijtihād*. Nowhere has he said that the door of *ijtihād* is closed. To him *ijtihād* continues to be actively employed by the *mujtahids* till the day of resurrection. For none of their *ijtihād* will be considered to have departed from the *shari‘ah*, since the opinions of the *mujtahids* have their origins in the *sharā‘i‘* of the preceding prophets. However, he has set a safety net for himself by emphasising the necessity of the *mujtahids* being men of *kashf*, thereby setting a limit on those who are qualified to engage in *ijtihād* and *fatāwā*. That is why he stresses the teacher-student relationship, since the chain connects the student-*mujtahid* to the Prophet through his teacher. Further he encourages the *intermadhāhib* conversion for those who are faced with difficulty in following a particular *madhhab*. Thus he has allowed a degree of flexibility in Islāmic Law. Here he emphasises the role of the *a‘immah* and by extension the *mujtahids* as experienced physicians who prescribe medicines according to the need of the patients (i.e.: the *mukallafs* or *muqallids*).

His attitude towards *ḥadīth* is an interesting one. For he seems to accept all *ahādīth* irrespective of their strengths and weaknesses. This might not be shared by those who set severe restrictions in the form of conditions for the acceptability of a particular *ḥadīth*. This might be the very reason why he did not include *madhāhib* other than the four *sunnī madhāhib* which are criticised in respect of the *ahādīth* narrated by certain individuals. To al-Sha‘rānī there is no difference between the *ṣahābah*, since they have been compared by the Prophet to the stars, as such whoever among them is followed is rightly guided. However, the existence of any difference will be due to their proximity to the
Messenger and to Islam. This difference, however, does not necessitate that the hadith narrated by a sahâbi closer to the Prophet is more valid than a hadith narrated by a sahâbi who is not, since the Prophet has spoken to his sahâbah according to their level of understanding and their position in respect of imân, iślâm and iḥsân. Thus, the criterion for categorising the aḥādīth should be on the basis of takhfîf and tashdîd which is applied according to the strength and weakness of the mukallafts. The same is the case with all deductions of the mujtahids, which according to al-Shaʿrâni do not depart from the ambit of the sharîʿah. Therefore, he warns that judgement should not be passed on people in the same way (lā taḥkum ʿalā al-nās bi al-ḥukm al-wâhid).

Al-Shaʿrâni has made an interesting and thought provoking attempt to bring about a reconciliation between the four madhâhib. This contribution to the problem has been presented in an original manner. However, despite his clever introduction of the theory of takhfîf and tashdîd as the reason for the differences in the different madhâhib, at heart he is a şûfî and therefore the real reconciliation is brought about by those intangible ideas based on kashf which are very difficult to explain.
APPENDICES

Literature Review

Sources for al-Sha'rani's life:

The works on al-Sha'rani are many. The principal sources for al-Sha'rani's life are of two kinds:

(a) Autobiography

(b) Biography written by others.

(a) Autobiography:

Al-Sha'rani, being a great admirer of Jalāl al-Dīn al-Suyūṭī, has also composed an autobiography like the latter bearing almost the same title. Al-Suyūṭī named his autobiography as: "al-Taḥadduth bi ni'mat Allāh - Extolling the favour of God", while al-Sha'rānī called his autobiography as: "Laṭā'if al-Minan wa al-Akhlaq fi wujūb al-Taḥadduth bi ni'mat Allāh 'alā al-Iṭlāq - literally translated as "the kind graces and fine qualities, concerning the absolute obligation to speak of God's kindness (or favour)". This work was completed around 960 A.H. And in this book al-Sha'rānī "undertakes the task of thanking God for the favour He has bestowed upon him, for the
miracles he has experienced, and for the fine qualities with which he was endowed by God's grace"⁵.

One might argue about the motivation in writing down one's own biography. Some might even say that it is merely an act of self-aggrandisement or an unmitigated self-praise. But this is not the case with al-Sha'rānī. For, he being an adherent of the Shādhili spiritual order which is built on the "tradition of al-shukr bi al-ni'mah, the thanking of God, for His kindness by making public one's own merits and bounties"⁶ thereby extolling the favour which God, the Lofty, has bestowed upon him, al-Sha'rānī followed the paths of his spiritual predecessors in composing his own biography⁷.

His biography is not just an account of his experiences and achievements, it portrays the socio-politico-religious situation of his period along with a detailed analysis of the customs of the people. Thus, it is more than a mere biographical work. It could well be called a "first-hand" account of the events that took place during his life time. Apart from the Laṭā'if al-Minan, there are other works of al-Shārānī in which one can get additional information on his biography. These are:

- al-Ṭabaqāt al-Kubrā
- al-Ṭabaqāt al-Ṣughrā
- al-Bahr al-Mawrūd
- al-Akhlaq al-Matbūliyah
- and Kashf al-Ghummah
(b) Biography written by others

The most important of these is the biographical work written by his direct student, ‘Abd al-Ra’ūf al-Munāwī, entitled: \textit{al-Kawākib al-Durriyyah fi tarājim al-Sādah al-Ṣūfiyyah}. In this, the author draws copious summaries from al-Sha’rānī’s \textit{al-Ṭabaqāt}. He also includes an incomplete list of al-Sha’rānī’s works. In \textit{al-Kawākib}, al-Munāwī also provides additional information on the social and religious atmosphere in which al-Sha’rānī lived and the decade following his death.

The other works which followed later are, in fact, repetitive in their account of al-Sha’rānī and his time by drawing extensively from al-Munāwī. These include the works like:


Of these, in the work of al-Ghazzi, information on al-Sha’rānī is scattered throughout the three volumes. This information is confined to family origin, teachers and al-Sha’rānī’s fields of expertise. He calls al-Sha’rānī Shaykh ‘Abd al-Wahhāb al-Sha’rāwī.

The other significant work on the biography of al-Sha’rānī, was written by al-Malījī, who composed it about 136 years after the death of al-Sha’rānī, at the request of Hasan Pasha, the then Ottoman viceroy
of Egypt. In this work, the author gives a detailed account of al-Sha'rānī and his manifold karāmāt. It consists of:

- Forword by al-Sayyid Šafar al-Sha'rānī, (see the following diagramm) a descendant of ‘Abd al-Wahhāb al-Sha’rānī.
- Author’s Introduction
- Chapter One on the manāqib of al-Sha’rānī’s ancestors
- Chapter Two on the manāqib of ‘Abd al-Wahhāb al-Sha’rānī, which includes:
  - Time and Place of his birth and his place.
  - His early life and upbringing.
  - His migration and movements.
  - His search for knowledge and his aptitude.
  - His study under the teachers and his zeal.
  - His study of many books on shara‘ and its instrumental sciences.
  - His extensive reading in it and his research on them.
  - His teachers in shara‘ and his connection with them and his chain.
  - His teachers in taṣawwuf and his spiritual path.
  - His works and writings.
  - His understanding of the shari‘ah knowledge.
  - His outstanding traits and his miracles.
  - The place of his neighbourhood and his stay therein.
  - The reason for establishing his madrasah.
  - The reason for establishing the training.
  - The time of his illness and its manner.
  - The time of his movement to his place of miracle.
The view and the gathering in his funeral.

- His age and length of his life.

- Chapter Three on the manāqib of his descendants.

The other biographical works on al-Sha'rānī written after al-Manāqib are not that extensive. These include:


2. al-Ṭawīl, Tawfīq, al-Sha’rānī imām al-Taṣawwuf fī ‘aṣrīhī, (Cairo, 1945), and


9. al-Baghdādī, Ḥadiyyat al-‘Ārifīn.


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Sources for al-Sha'rānī's works:

Al-Sha'rānī is said to have written many works. But only a few have survived. Some say that al-Sha'rānī has more than three hundred works to his credit. In Kitāb al-Manāqib al-Kubrā, however, al-Malījī is able to trace the number of works written by al-Sha'rānī to around one hundred and ten works. But Brockelmann attributes sixty-seven works to him, while 'Alī Mubārak mentions that he saw more than seventy works of al-Sha'rānī.

Al-Malījī's account is based on his readings of the works of al-Sha'rānī. After giving a list of works he managed to study or saw, he states:

This is (but) a small number (sharmadhah qalilah) from his compositions. These are the totality of books we have studied in respect of his books or which we saw. And as for the remaining ones, we could not study them, for most of his books have spread far and wide to the countries (in) the Mediterranean (al-Rūm), the countries of the West and the East, Makkah, Madinah, Sind (i.e.: the Present day Pakistan), Hind (i.e.: India), the non-Arabs and (to) all corners of the earth. And these compositions (mu'allafat) are due to the position of honour and leadership to him, may God be pleased with him.

Thus it becomes increasingly difficult to give the exact number of works al-Sha'rānī wrote. Moreover, this difficulty is accentuated by the repetition of one and the same title used for works on more than one field. Further, as K. V. Johnson has remarked:
It is probable that careful examination will reveal that several of the works attributed to him are in fact portions extracted from other books. Such confusion could well result from the mystic’s habit of giving similar titles to several works.\textsuperscript{18}

As mentioned earlier the significant works written on al-Sha'rāni are that of al-Malījī’s \textit{al-Manāqib al-Kubrā} and that of al-Munāwī.

And in the following pages attempt has been made to classify al-Sha’rāni’s works, both the manuscripts and the published editions, according to subjects and their distribution in different countries in which they are catalogued. The section on classification of al-Sha’rāni’s works according to subjects is mainly based on the list of his works as mentioned by al-Malījī in his \textit{al-Manāqib al-Kubrā}, while the section on distribution of his works in various countries is based on the list prepared by Carl Brocklemann.\textsuperscript{19} Where additional material has been discovered, it will be pointed out in the endnotes.
## Classification of al-Sha‘rani’s Works according to Subject

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8. al-Mīzān al-Ṣughrā
9. Lawāqīh al-Anwār al-Qudsiyah fi bayān qawā'id al-Ṣūfiyyah
10. Sawātī' al-Anwār al-Qudsiyah fi mā šadarat bihi al-Futūḥāt al-Makkiyyah
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22 Kāshf al-Ghumma ʿan jamāʿ al-Ummah 112
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36 Rad' al-Fuqara' 'an da'wah al-Wilāyah al-Kubrā 126
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<td>Lawaqih al-Anwar fi Tabaqat al-Sadat al-Akhyar (wa yusamam aylan)</td>
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<td>42</td>
<td>Laftif al-Minan wa al-Akhlag fi bayan wujub al-Tahadduth bi ni'mat Allah 'alai al-I'tlaq</td>
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<td>43</td>
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<td>45</td>
<td>Mukhtasar tadkhurat al-Imam al-Suwaydi fi al-Tibb</td>
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<td>48</td>
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<td>49</td>
<td>Risalah fi bayan jam'atan sammi anfusahum bi al-Sufiyyah wa id'mii al-Wilaya kadhiba</td>
<td></td>
</tr>
</tbody>
</table>
**Articles and Books written on al-Sha’rānî**

- traces al-Sha’rānî’s sources on Ibn al-‘Arabî

- quotes his *al-Ṭabaqāt* extensively.

- refers to al-Sha’rānî’s *al-Yawāqit*.

- quotes *al-Mīzān*

- discusses the context in which al-Sha’rānî was living during the period of decline.

- quotes al-Sha’rānî’s *al-Mīzān* on Abû Ḥanîfah’s method of discussion.

- briefly states his work with the Fellâheen
- quotes his *al-Ṭabaqāt*.

"Four Domes of the Late Mamlūk Period", in *Annales Islāmologiques*, 17(Cairo, 1981), p. 193 n. 2.
- quotes his *al-Ṭabaqāt*.

......................... and Leonor Fernandes, "Sūfī Architecture in Early Ottoman Cairo", in *Annales Islāmologiques*, 20(Cairo, 1984), pp. 103, n. 2; 105, n. 1,4 and 6; 107, n. 1-3.
- quotes his *al-Ṭabaqāt*.

- briefly states al-Sha'rānī's view on the seal of sainthood that, "at every epoch there is a seal, just as there is a Khiḍr for every saint". (cf. p. 135).


- quotes *al-Mīzān* on the differences of the *madhāhib*.

- quotes his *al-Ṭabaqāt*. 

329
- contains an annotated translation of the headings of all chapters covered in al-Sha'ırani's work on dogma ('aqa'id) entitled: al-Yawaqit wa al-Jawahir, and a biographical notice.

Garcin, J.C., "Index des Tabaqat de Sha'rani (Pour la fin du IXe et le Debut du Xe S.H.)" in Annales Islamologiques VI, (Cairo, 1966), pp. 31-94.

- his description of Fellaheen's house.

- describes al-Sha'ırani as, "superstitious and at the same time a man of high ethical principles, humble in social life and arrogant in intellectual affairs". (Ibid.).

- on legal and theological developments
"Linguistisches aus der Literatur der Muhammedanischen Mystik", in *ZDMG*, 26(1872), pp. 76-104.
-on legal and theological questions.

"Zur Literatur des Ichtilāf al-Madhāhib", in *ZDMG*, 38(1884), pp. 669-82.


Muhammedanische Studien, (Halle, 1889-90).

-His affections for the *ahl al-Bayt* that he visits the tombs of the *ahl al-Bayt* buried in Egypt for the sake of obtaining the mercy of the Messenger of God.

- quotes al-Mīzān extensively.


-His opinion on *ḥadīth* quoting his *Kashf al-Ghummah* and al-Mīzān al-Kubrā.

- counts al-Mīzān among the works consulted.

331

- Describes the characteristics of Sufi life by the extensive use of al-Ṭabaqāt as a source of information.


- quotes al-Sha‘rānī’s works extensively.


- An excellent exposition of al-Sha‘rānī’s theory on wilāyah and the narration of ṣūfī tendencies.


- quotes al-Mīzān extensively.


- cites al-Mīzān.


- discusses with quotations from al-Sha'rānī's al-Bahr al-Mawrūd.

- quotes al-Sha'rānī's al-Tabaqāt.

- on al-Sha'rānī's efforts to combine the four legal schools.

- describes his visit to al-Sha'rānī's tomb.

- describes al-Sha'rānī as, "a canon lawyer of originality and keeness; one of the very few creative minds in law after the first three centuries". (Ibid. p. 148).

- Being an abridged Urdu translation of al-Sha'rānī's Tanbih al-Mughtarrīn.


Mughniyyah, Muḥammad Jawwād, "al-Khilāf lā yamna' min al-Insāf", in al-Shīrāzī, 'Abd al-Karīm Bī Azār (ed.), al-Waḥdat al-
- refers to al-Sha‘rānī’s al-Mīzān.

- quotes five works of al-Sha‘rānī.

- discusses al-Sha‘rānī as an author

Padwick, C.E., Muslim Devotions, (London, 1960)
- translates sections of Latā‘if al-Minan, as a source for Muslim devotional beliefs and practices.


- quotes al-Mīzān on the flexibility of the Legal Schools of Islamic Law.
- quotes al-Mizān.

- mentions Fatawā al-Sha'rānī among the Fatawā works.

- quotes al-Sha'rānī's Lātā'if al-Minan.

- being the Malay translation of al-Mizān al-Kubrā.

- a brief description of Lātā'if al-Minan

al-Sabā'i, Dr. Muṣṭafā, "al-Sunnah wa makānatuhā fī al-Tashrī' al-Islāmī, 3rd. edi., (Beirut, 1982).
- mentions his al-Mizān among the works consulted. (Cf. p.475)

- mentions al-Sha'rānī’s abridgement of al-Zarkashi’s Qawā'id.

- quotes al-Mizān on acting to the hadīth which was authenticated after the demise of the ʿaʾimmah.

-two volumed work on the biography of al-Suyūṭī, the first volume being the translation of his autobiography, al-Tahadduth bi ni’mat Allāh. References to al-Sha’rānī’s opinion and works are made.


-a brief and dated article with few references.


-contains a critical edition of al-Durar al-Manthurah along with a biography and biographical essays on al-Sha’rānī’s works.


-references to his Kashf al-Ghummah are made.


-quotes al-Mīzān on the saying of the a’immah that "if the ḥadith is valid then it is our madhhab".

Shoshan, Boaz, Popular culture in Medieval Cairo, (Cambridge, 1993)

-references to al-Sha’rānī’s works are made.

Smith, M., "al-Sha’rānī the Mystic", in The Muslim World, 29(1939), pp. 240-7

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discusses the place of al-Sha'ranî in the development of șūfism.


-refers to al-Sha'ranî's al-Ṭabaqāt al-Ṣughra.


-discusses al-Sha'ranî's leading role in the development of popular Islam in Egypt.


-being the annotated translation of selected passages from al-Sha'ranî’s Kitāb latā'īf al-Mīnān wa al-Akhlāq.


-----------, Vite e Dette di Santi Musulmani, (Turin, 1968).

-an abridged translation of al-Sha’rānî’s al-Ṭabaqāt.


-being the Urdu translation of al-Sha’rānî’s Ṭabaqāt al-Kubrā.

general article on al-Sha‘rānī’s thought, but sadly there are not many references given.

- an expository discussion on the name of the Shaykh being Sha‘rānī or Sha‘rawi.

Von Grunebaum, G.E., Studien zum Kulturbild und Selbstverständnis des Islām, (Zurich, 1969), pp. 77, 323-4
-discusses Ḭaṭā‘īf al-Mīnān as a work reflecting the tradition of al-Shukr bi ni‘mat Allāh.

-reviews al-Sha‘rānī as a source of social history for his time.


-quotes al-Sha‘rānī’s al-Mīzān.
- quotes *al-Mizān*. 
Mizān as a work of Ikhtilāf

It is very difficult to designate some fiqh works as works of ikhtilāf and others as non-ikhtilāf works. In fact nearly all the works of fiqh have incorporated differences of opinion. These differences of opinion could be:

1. The opinion of the imām himself. For example the earlier and the later opinions of al-Shāfi‘ī.
2. The opinions of the imām and his disciples, like that of imām Abū Ḥanīfah and his disciples.¹⁴⁰
3. The opinions of the imāms of other madhāhib.

Thus, there is some difficulty in classifying fiqh works into ikhtilāf and non-ikhtilāf works. In fact in most of the Fiqhī books one could frequently read words like khilāfan li or ma‘a qawl. These clearly indicate that the one about whom these words are used holds or held opinions different from one who has been quoted. But not all the fiqh works give the causes for such differences. Many works merely list down the issues wherein such differences occur without giving the reasons behind such differences. Such differences of opinion in legal issues grew enormously as time passed and separate treatises on the subject came into existence. Thus, it became a separate but related science of fiqh.

Early treatises on Ikhtilāf have been preserved in the works of imām Mālik, imām Abū Yūsuf, imām Muḥammad and imām al-Shāfi‘ī. In Mālik’s al-Muwattā’ the differences of the opinion are concerned with the ta‘āmul ahl al-Madīnah (the customary usage of the people of Madinah). In al-Radd ‘alā siyar al-Awzā‘ī, Abū Yūsuf refers to an
unknown work of a Syrian scholar who records his criticism of an unknown work entitled Kitāb al-Siyar purported to have been written by Abū Ḥanīfah. Abū Yūṣuf had composed his treatises al-Ikhtilāf bayna Abī Ḥanīfah wa Ibn Abī Laylā. This work has been edited by Abū al-Wafā Afghānī.141

And Muḥammad al-Shaybānī has few works on ikhtilāf. His al-Siyar al-Kabīr,142 was written against al-Awzāʾī. He also wrote al-Ḥujaj al-Mubīnah or al-Ḥujjat fi ikhtilāf ahl al-Ḳūf wa ahl al-Madinah.143

In al-Shāfīʾī’s Kitāb al-Umm the following chapters are preserved:

a) Ikhtilāf Abī Ḥanīfah wa Ibn Abī Laylā144
b) Ikhtilāf Abī Ḥanīfah wa al-Awzāʾī145
c) Ikhtilāf al-Shāfīʾī maʿa Muḥammad Ibn al-Ḥasan146
d) Ikhtilāf al-Shāfīʾī maʿa Mālik147

And Ibn Nadīm148 has attributed a number of works entitled Ikhtilāf al-Fuqahā’ to the following authors:

a) al-Dāwūdī, Abū Ishāq Ibrāhīm b Jābir.149 - Kitāb al-Ikhtilāf.150
b) al-Marwazi, Ahmad b Naṣr.151 - Kitāb Ikhtilāf al-Fuqahā’ al-Kabīr and Kitāb Ikhtilāf al-Fuqahā’ al-Ṣaghīr.152
c) al-Shāfīʾī, Abū ‘Abd al-Rahmān.153 - Kitāb al-Ijmāʿ wa al-Ikhtilāf.154
d) al-Ṭabarī, Abū Jaʿfar Muḥammad b Jarir. - Ikhtilāf al-Fuqahā’155 and Taḥṣīr ulī al-Nuḥā fī maʿālim al-Hudā fī ikhtilāf al-Fuqahā’.156
Apart from al-Nadim’s record of books in this field, F. Kern has mentioned more works in this subject in his introduction to al-Tabari’s *Ikhtilaf al-Fuqahā’,* while further addition to his list is from Sayyid Fu’ad’s *Fihris al-Makhtūṭāt al-Musawwarah bi jāmi‘at al-Duwal al-‘Arabiyyah,* where he attributes the following works to the people listed as under:

**al-‘Abdari,**

- Mukṭaṣar al-Kifāyah.

**al-‘Amidi,** Rukn al-Din Abū Ḥamid Muḥammad b Muḥammad,

- al-Ṭariqat al-‘Amidiyyah fi al-Khilāf wa al-Jadl.

**al-Baghawi,** al-Ḥusayn b Mas‘ūd b Muḥammad al-Shāfi‘ī,

- Sharḥ al-Sunnah wa bayān ikhtilāf al-Fuqahā’.

**al-Bayhaqi,** Abū Bakr Ahmad b al-Ḥusayn b ‘Alī,

- al-Khilāfiyyāt bayna al-Shāfi‘ī wa Abū Ḥanīfah

**al-Dabūsī,**

- Ikhtilāf al-Imāmayn: al-Shāfi‘ī wa Abū Ḥanīfah

**al-Dahham,**

- Taqwīm al-Nazr.

**al-Dimishqi,** Abū ‘Abd Allāh Muḥammad b ‘Abd al-Rahmān,

- Kitāb Rahmat al-Ummah.

**al-Hijazi,** Nūr al-Dīn b Nāṣir al-Shāfi‘ī,
- Tajrid al-Masa'il al-Litaf fi ma'rifat al-I'tilaf wa al-Ikh tilaf.

al-Kirmani,
- Sharh al-Fusul li Burhan al-Din al-Nasafi.

al-Maqdisi, 'Ala' al-Din 'Ali b Sulayman b Ahmad b Muhammad al-Mardawi,
- al-Insaaf fi ma'rifat al-Ra'iih min al-Khilaf. ¹⁶¹

al-Marwazi, Abu 'Ali al-'Hasan b Muhammad b Ahmad,
- Tariqat al-Khilaf bayn al-Shafi'iyyah wa al-Hanafiyyah.

al-Mundhir, Abu Bakr Muhammad b Ibrahim,
- al-Ashraf 'alaa madhahib ahl al-'Ilm.
- al-Awsat fi al-Sunan wa al-Ijmah wa al-Ikhilaf. ¹⁶²
- Ikhilaf al-'Ulum.

al-Nasafi, Burhan al-Din,
- Sharh mansha' al-Nazr (fi 'ilm al-Khilaf). ¹⁶³

al-Ouduri,
- al-Tajrid.

al-Samarqandi, 'Ala' al-Din Muhammad b 'Abd al-Hamid,
- Mukhtalaf al-Riwayah.
- Ta'liq 'alaa al-Mutawwal fi al-Khilaf.

al-Sarakhsi, Radi al-Din,
- al-Tariqat al-Ridwiyyah.

al-Sarwi, Muhammad b Abi Bakr b Mahmud,
- Ikhilaf al-SAhabah wa al-A'immah al-Mujtahidin wa al-Tabi'in wa al-'Ulam.

al-Shashi, Abu Bakr Muhammad b Ahmad al-Qaffal,
To this list I add the following works:

(1) Kitāb al-Masa’il al-Muhimmah fi ikhtilaf al-A’immah,168 by Qādī Siraj al-Dīn al-Hudhalī.169

(2) Kitāb ikhtilāf usuli al-Madhāhib wa al-Radd ‘alā man khālaqa al-Ḥaqq fihā by Qādī Nu’mān b Muḥammad. This work was
edited by Dr. S.T. Lokhandwalla and was printed by the Indian Institute of Advanced Study, Simla in 1972.

In the introduction of this work, Dr. Lokhandwalla lists the following works as other polemical works of Qādi Nu‘mān:

- *Kitāb al-Ittifaq wa al-Iftirāq*. In this the author compiled all the legal doctrines showing where the jurists of the Orthodox schools agreed with the Fātimids and where they disagreed. He (i.e. Qādi Nu‘mān) also composed an abridged version of this book.

- *Al-Risālatu al-Miṣriyyah fī al-Radd ‘alā al-Shāfi‘ī*. It is also mentioned that he also wrote his refutation against Abū Ḥanīfah and Mālik.

- *Al-Radd ‘alā Aḥmad b Surayj al-Baghdādī*.

- *Dāmīgh al-Mustakhraj fī al-Radd ‘alā al-‘Utbī*. This is a refutation against the Mālikites.


But unlike the *Kitāb ikhtilāf usūli al-Madhāhib*, which deals with the principles of Islamic law, these works are concerned with the substantive law (*al-furū‘*).170

(3) *Kitāb ikhtilāf al-A‘immah [or al-‘Ulamā‘]* by Abū Muḥaffar al-Wazīr Yahyā b Muḥammad b Hubairah.171

(4) *Kitāb wada‘ al-Inṣāf fī raf‘ al-Khilāf* by Burhān al-Dīn Ibrāhīm b ‘Umar al-Ja‘barī.172

(6) *Kitāb bidayat al-Mujtahid wa nihayat al-Muqtasid*, by Ibn Rushd. This work has been translated into English by Dr. Imran Aḥsan Khan Nyazee and has been published by Garnett publisher, Reading, UK in 1994. And Dr. Abdullah Yate made a study of this work for his Ph.D. in Cambridge in 1991, under the title "Ibn al-Rushd as Jurist".
List of books al-Sha'rānī studied before writing the 

*Mizān*

As mentioned earlier, al-Sha'rānī lists those books which he had studied either by way of committing to memory, or studied from the 'ulamā' or those books which he studied by himself. By giving this long list, the author tries to prove that he has not concocted this balance out of his own imagination, rather the basis of his thought is hidden in the pages of these books, the truth and reality of which he managed to realize through the study of these works and through the spiritual exercises he underwent. Therefore, he encourages and at the same time challenges those who do not believe in what he had established through this balance to read the books as he had read and then discuss them with him. He is very sure that by reading these books one will not rush to criticise the author of this balance. Those books which he had committed to memory and presented them before the 'ulamā' include - the following titles are arranged according to their occurrence in *al-Mizān*:

<table>
<thead>
<tr>
<th>Subject</th>
<th>Title</th>
<th>Author</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Fiqh</em></td>
<td><em>Kitāb minhāj</em></td>
<td>al-Nawawi</td>
</tr>
<tr>
<td></td>
<td><em>Kitāb al-Rawd</em></td>
<td>Ibn al-Muqri</td>
</tr>
<tr>
<td><em>Uṣūl al-Fiqh</em></td>
<td><em>Kitāb jam‘ al-Jawāmi‘</em></td>
<td>[al-Subki]</td>
</tr>
<tr>
<td><em>Naḥw</em></td>
<td><em>Kitāb al-fiyah</em></td>
<td>Ibn Mālik</td>
</tr>
<tr>
<td></td>
<td><em>Kitāb al-Tawdīh</em></td>
<td>Ibn Hishām</td>
</tr>
</tbody>
</table>
Thus he memorized the *Mutūn* (basic texts) of these works which are commented by others. Thereafter, al-Sha’rānī lists those works on which he had read their commentaries (*Shurūh*) before the ‘Ulamā’ through discussion and ascertaining the details according to his level of understanding and ability. These include:

<table>
<thead>
<tr>
<th>Title</th>
<th>Author</th>
</tr>
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<tbody>
<tr>
<td><em>Sharḥ al-Minhāj</em></td>
<td>Jalāl al-Maḥallī</td>
</tr>
<tr>
<td><em>Sharḥ bahjah al-Kubrā</em></td>
<td>Ibn Qādī ‘Ajlūn</td>
</tr>
<tr>
<td><em>Sharḥ al-Rawdah</em></td>
<td>Zakariyah al-Ansārī</td>
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<tr>
<td><em>Sharḥ al-Tahrīr</em></td>
<td></td>
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<tr>
<td><em>Sharḥ al-Tanqīḥ</em></td>
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</tr>
<tr>
<td><em>Sharḥ al-Risālah al-Qushayriyyah</em></td>
<td></td>
</tr>
<tr>
<td><em>Sharḥ adāb al-Baḥth</em></td>
<td></td>
</tr>
<tr>
<td><em>Sharḥ adāb al-Qaḍā’</em></td>
<td></td>
</tr>
</tbody>
</table>
Sharḥ al-Bukhārī

Kitāb al-Qūt

Qīt'ah

al-Takmilah

Qīt'ah 'alā al-Minhāj

Kitāb al-Tawshih

Sharḥ al-Minhāj

Sharḥ al-Tanbih

Sharḥ shubhāt al-Kabīr

Sharḥ shubhāt al-Šaghīr

Sharḥ al-Rawḍ

Sharḥ al-Muhimmāt

Sharḥ al-Khādīm

Sharḥ al-Muhaddhab

Sharḥ al-Qīt'ah

Sharḥ al-Takmilah

Sharḥ shubhāt al-Rāfī' al-Kabīr

Shams al-Dīn al-Jawjārī

al-Adhra‘ī

al-Zarkāshī

al-Subkī

Ibn al-Subkī

Ibn al-Mulaqqīn

Ibn al-Qādī

Ibn al-Qādī

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Sharḥ al-Basīṭ

Sharḥ al-Wasīṭ

Sharḥ al-Wajīz

Fatāwā

al-Qaffāl

Qādī Ḥusayn

Ibn al-Ṣalāḥ

al-Ghazālī

Sharḥ alfiyat Ibn Mālik

Ibn Umm Qāsim

al-Makwādī

al-Asmūnī

Ibn Ḥuwayl

Ibn al-Muṣannīf

Sharḥ al-Tawdīḥ

Shaykh Khalīd

Sharḥ al-Mughnī

Sharḥ alfiyāh

al-Īraqī

al-Sakhāwī

al-Suyūṭī

al-Anṣārī
'Ulûm al-Ḥadîth

Mukhtâsar

Sharh jam' al-Jawâmi'

Hâşhiyâh jam' al-Jawâmi'

al-'Aḍud

al-Muṭawwal

Sharh al-Shâṭîbiyâh

Kashshâf

Hâşhiyat al-Bayḍâwî

al-Durar al-Manthûr

Ibn al-Ṣalâḥ

al-Nawâwî

al-Mâhâlî

Ibn Âbî Sharîf

al-Sakhâwî

Ibn al-Qâsiḥ

[al-Zamakhshâri]

al-Bayḍâwî

al-Suyûṭî

Ibn Zuhrah

Ibn 'Ādîl

al-Khâwâshi

al-Wâhidî

'Abd al-'Azîz al-Dîrinî

al-Tha'labî

al-Suyûṭî

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Then he goes on to mention those books which he read by himself and consulted the 'ulamā’ in respect of the difficult terms therein. These include:

*Sharḥ al-Rawḍ*  
K. al-Umm  
*Mukhtasar*  
*Sharḥ Mukhtasar al-Muzanī*  

Then he goes on to mention those books which he read by himself and consulted the 'ulamā’ in respect of the difficult terms therein. These include:

*Sharḥ al-Rawḍ*  
K. al-Umm  
*Mukhtasar*  
*Sharḥ Mukhtasar al-Muzanī*
Musnad
al-Ḥāwi

K. al-Muḥallā

K. al-Mītal wa al-Nīḥal

K. al-Mu’alla M. al-Muḥallā

al-Ḥāwi

al-...............Aḥkām al-Sulṭāniyah

al-Furū’

K. al-Shāmil

K. al-‘Uddah

K. al-Muḥīṭ

K. al-Furūq

K. al-Rāfī’ al-Kabīr

K. al-Rāfī’ al-Ṣaghīr

Sharḥ al-Muhadhdhab

al-Muḥimmāt

Sharḥ al-Muḥimmāt
K. al-Khādīm

K. al-Tawassit    al-Adhra'ī

K. al-Faṭḥ

K. al-‘Umdah    Ibn al-Mulaqqin

K. al-‘Ujālah

Tafsīr al-Jalālayn [al-Suyūṭī and al-Maḥallī]

Faṭḥ al-Bārī bi sharḥ al-Bukhārī [Ibn Ḥajar al-‘Asqalānī]

al-Tanqīḥ     al-Zarkashi

Sharḥ Muslim     al-Fārisī

Hāshiyat al-Kashshāf     al-Ṭaybī

      al-Taftāzānī

      Ibn al-Munīr

Bahr     Abū Ḥayyān

I'rāb al-Sāmīn

I'rāb     al-Safāqīsī

Hāshiyat al-Bayḍāwī Zakariyya al-Anṣārī

Tafsīr    Ibn al-Naqīb al-Maqqāsī

Muwaṭṭā'     imām Mālik
Musnad

imām ʿAbd Allāh al-Azdāḥā

Masānīd

Abū Ḥanīfah

K. al-Bukhārī

K. Muslim

K. Abī Dāwūd

K. al-Tirmidhī

K. al-Nisāʾī

Sharḥ Ibn Khuzaymah

Sharḥ Ibn Ḥabban

Musnad

Saʿīd b ʿAbd Allāh al-Azdāḥā

ʿAbd Allāh b Ḥamīd

al-Ghaylāniyyāt

Musnad al-Firdaus al-Kabīr

al-Ṭabarānī

K. Ibn Athīr

al-Suyūṭī

K. al-Sunan al-Kubrā

al-Bayhaqī

Ṣīḥāḥ

al-Jawhari

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Sirah

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K. al-Qūt

al-Ri‘āyah

Risālah

Iḥyā'

'Awārif al-Ma‘ārif

Risālat al-Nūr

K. Mināḥ al-Minnah

K. al-Futūḥāt al-Makkīyah

al-Mudawwanah al-Kubrā

al-Ṣughrā

K.

K.

al-Zarkashi

Ibn Hishām

al-Kalā‘ī

Ibn Sayyid al-Nāṣ

Muḥammad al-Shāmī

al-Suyūṭī

Abū Ta‘līb al-Makki

Ḥārith al-Muḥāsabī

al-Qushayrī

al-Ghazālī

al-Shuhrāwarī

Ahmad al-Zāhīd

Muḥammad al-Ghumārī

[‘Ibn ‘Arabī]

Ibn ‘Urfah

Ibn Rushd
Sharḥ Risālah Ibn Abī Zayd

al-Tatāʿī

Jalāl al-Dīn b Qāsim

Sharḥ al-Mukhtasar

al-Tatāʿī

Bahrām

Sharḥ al-Qudūrī

Ibn Ḥājīb

Sharḥ Majmaʿ al-Bahrāyn

Sharḥ Kanz

Fatāwā

Qāḍī Khān

al-Manṣūmah

al-Nasafī

Sharḥ al-Hidāyah

Takhrij aḥādīth al-Hidāyah

Ḥāfīz al-Zaylāʿī

Sharḥ al-Khaqāʾī

Ibn Baṭṭah
Jurisprudential Flow

The following diagram represents the flow of jurisprudential thought from the Divine Precinct to the waves of mujtahids who came after the Prophet. The aim is to show that irrespective of the variations and differences in their legal schools the mujtahids as a whole are integrated within the flow. Therefore, the differences in their jurisprudential thinking should not be construed as a departure from the flow. These differences are, in fact, enshrined in the source of flow, i.e.: the Divine Precinct. As such, had He not enabled such and such a mujtahid to deduce such and such rules, then the mujtahid would not have deduced the rules.

Moreover, the inclusion of the muhaddiths and the süfis is to show that there is a great interdependence between hadith, tasawwuf and fiqh. No süfi can claim to have trod the path of tasawwuf without adhering to fiqh. Thus the expressions like ishtaghala 'alā, sami'a min, tafaqqaha 'alā and darasah 'alā have been treated as synonyms.

The following abbreviations are used in the details that follows the chart:

S. - sahābah, T. - tabi'īn, T.T. - tab al-tabi'īn, H - Ḥanafites,
M - Mālikites, S - Shāfi'ites, A - Ḥanbalites, O - Other madhāhib
Tb - Ṭabarites, T - Thawrites, Z - Zāhirites.
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<td>'Umar b al-Khaṭṭāb</td>
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<td>Madīnah</td>
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<td>562 A.D</td>
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<td>Ibid., 2:75.</td>
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<td>510 h.</td>
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<td>Marwar</td>
<td>Ibid., 2:136-7.</td>
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<td>Ibid., 7:302-3.</td>
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<td>Ibid., 5:367.</td>
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<td>al-Shīrāzī, p. 263.</td>
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<td>al-Shīrāzī, p. 257.</td>
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<td>Sīrīgīn, 1:120.</td>
<td></td>
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<td>139</td>
<td>Taj al-Din al-Subkī</td>
<td>769 h.</td>
<td>Cairo</td>
<td>*</td>
<td></td>
<td>see note 276 on p. 205.</td>
<td></td>
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<tr>
<td>141</td>
<td>Siraj al-Bulqini</td>
<td>789 h.</td>
<td>Cairo</td>
<td>*</td>
<td></td>
<td>Ibid., 1:183.</td>
<td></td>
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<td>142</td>
<td>al-Barmawi</td>
<td>796 h.</td>
<td></td>
<td>*</td>
<td></td>
<td>Ibid., 2:99.</td>
<td></td>
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<td>143</td>
<td>Ahmad b Hajar al-'Asqalani</td>
<td>852 h.</td>
<td></td>
<td>Cairo</td>
<td></td>
<td></td>
<td>see note 51 on p. 34.</td>
<td></td>
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<td>144</td>
<td>Jalal al-Din al-Mahalli</td>
<td>879 h.</td>
<td></td>
<td>Cairo</td>
<td></td>
<td></td>
<td>Durar, op. cit., 2:156.</td>
<td></td>
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<tr>
<td>145</td>
<td>Burhan al-Din al-Qalqashandi</td>
<td>925 h.</td>
<td></td>
<td>Cairo</td>
<td></td>
<td></td>
<td>Kawakib, 2:169.</td>
<td></td>
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<td>146</td>
<td>Zakariyya al-Ansari</td>
<td>910 h.</td>
<td></td>
<td>Cairo</td>
<td></td>
<td></td>
<td>see note 41 on p. 34.</td>
<td></td>
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<td>147</td>
<td>Jalal al-Din al-Suyutti</td>
<td>911 h.</td>
<td></td>
<td>Cairo</td>
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<td></td>
<td>see note 78 on p. 35.</td>
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<td>148</td>
<td>Shihab al-Din al-Ghazzan</td>
<td>931 h.</td>
<td>983 h.</td>
<td>Cairo</td>
<td>Cairo</td>
<td></td>
<td>al-Kawakib, 3:100-9.</td>
<td></td>
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<td>149</td>
<td>Shihab al-Din al-Ramali</td>
<td>957 h.</td>
<td></td>
<td>Ramlah</td>
<td>Cairo</td>
<td></td>
<td>see note 97 on p. 36.</td>
<td></td>
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<tr>
<td>150</td>
<td>Amyn al-Din al-Ghamri</td>
<td>926 h.</td>
<td></td>
<td>Cairo</td>
<td>Cairo</td>
<td></td>
<td>see note 77 on p. 35.</td>
<td></td>
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<tr>
<td>151</td>
<td>Muhammad al-Khafid al-Sharif</td>
<td>977 h.</td>
<td></td>
<td>Cairo</td>
<td>Cairo</td>
<td></td>
<td>al-Kawakib, 3:79-80.</td>
<td></td>
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<tr>
<td>152</td>
<td>Ahmad b Hajar al-Haythami</td>
<td>915 h.</td>
<td>973 h.</td>
<td>Cairo</td>
<td>Makkah</td>
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<td>al-Kawakib, 3:111-2.</td>
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</table>
This work has been edited by Sartain, see p. 336.

2 Al-Manaqib, p. 68; JKV, p. 345; Winter, p. 38.

3 JKV, p. 345; Winter, p. 39.

4 Winter, p. 38.

5 JKV, p. 345; Winter, p. 39.

6 Ibid.

7 Ibn 'Ata’ Allah al-Sikandari, the author of the renowned al-Hikam, has also written a similar work entitled Latâ'if al-Minan. This book has been edited by the then shaykh of al-Azhar, Dr. 'Abd al-Halim Mahmoud, in Cairo. This shows the relationship between al-Sha’rani, al-Suyuti and al-Sikkandari, that they are the adherents to the Shadhiliyyah tradition of al-shukur bi al-ni

8 He is Zain al-'Abidin b Abd al-Ra'uf b Taj al-'Arifin b 'All b Yahya b Muhammad b Ahmad b Makhfuf b 'Abd al-Salâm al-‘Hadi di al-Munawi, born in 952 h. and died in Cairo in 1031 h.. He was the principal student of al-Sha’rani. For details see Kahhala, 4:196; A’lam, 6:204.


10 GAL, 2:441-5.

11 The word manaqib means extolling one’s good virtues or outstanding traits. See Welir, op.cit., p. 989.

12 Kahhala, 6:218.

13 Al-Manaqib, pp. 67-71.

14 GAL, 2:441-5.


16 Al-Manaqib, p. 71.

17 Ibid., pp. 67-71.

18 JKV, p. 354.

19 GAL, 2:441-5.

20 This is al-Sha’rani’s major work on akhlâq (Ethics). See al-Ghawwas, p. 16.

21 Ibid., p. 15; Khalifah, p. 12.

22 Pasha, 2:117. However, the title is given as Law’ih al-Khidhlan ‘alâ man lam ya’mal bi al-Qur'ân, see Ghawwas, p. 13.

23 This book consists of an introduction, three chapters and a conclusion. It was first published in 1277 h. [see Mu’jam, op.cit., p. 1130]. It was printed along with Tabaqat al-Kubra in 1315 h. [Ibid., p. 1132]. In Kashf al-Zunun it is given as [fi ma’ristat idâb]. Khalifah, p. 194. This is the first work he wrote under the guidance of his spiritual mentor ‘Ali al-Khawâs, see al-Manaqib, p. 68.

24 This is a collection of some 2300 ahâdith from the works of al-Suyûtî and al-Sakkâwî. This was first printed in 1277 h. see Mu’jam, p. 1130. However, it is given as al-Siraj al-Munir fi gharib ahâdith al-Bashir al-Nadirî, see Khalifah, p. 984.

25 Ibid., pp. 227, 1181 and 1441.

26 In this work al-Sha’rani mentions about his khalwâh (privacy) with his teacher ‘Ali al-Marsafi. Ibid., p. 240.

27 Winter, p. 8.

28 This book has been edited twice. Once in Russian (see text p. 336) and then in Arabic (see text p. 380). Pasha, op.cit., 1:469.

29 It is given as al-Durar al-Lawami’ fi bayan al-Sidq wa al-Wara’, see al-Ghawwas, p. 15; Pasha, 1:470.

30 It is given as [fi dhikr jumlat] see Khalifah, p. 1234.

31 Ibid., p. 1233.
32 Ibid., pp. 673-4.
33 Ibid., p. 168; CAB, p. 85.
34 Perhaps this might be the other name of the book entitled al-Jawāhir wa al-Durar 'Adad Sitta Mu'alla'Afi khitāf al-Wulā'. see al-Ghawwās, p. 14.
36 This is the abridgement of an earlier abridgement of the book al-Futūḥat al-Makkiyyah of Muḥyī al-Dīn Ibn al-‘Arabī entitled Lawāqib al-Anwār al-Qudsiyyah al-Muntaqāt min al-Futūḥat al-Makkiyyah. see Mu’jam, p. 113; CAB, p. 85; Khalīfāh, pp. 1238 and 1382.
37 Khalīfāh, p. 1883 and compare it with Pāshā, 2:592 wherein it is stated that this work is in Zāınıyiyah, Tunisia.
38 Perhaps this is another name for his book entitled al-Manhaj al-Mubin fi akhlāq al-‘Arifīn. see Pāshā, 2:592.
39 This is written on the margin of the copy of al-Manāqib al-Kubrā preserved in the University of Edinburgh. Perhaps this might have been written by Hasan al-Shārāni who was a student at the university in the year 1935. see al-Manāqib, p. 68. This is the commentary (Sharḥ) of the testament (wasiyyah) of his teacher Ibrāhīm al-Matbū’ī al-Ahmādi, and was first printed in Cairo in 1276 h. see Mu’jam, p. 1133; CAB, p. 86.
40 This book was first printed on the margin of the book Rahmat al-Ummah fi Ikhtilāf al-A’immah of Sadr al-Dīn Abū ‘Abd Allāh Muḥammad b. ‘Abd al-Rahmān al-Dimishqī in the year 1300 h. see Findek, p. 159. The full title of this work is al-Mizān al-Khudriyyah fi al-‘īfiq ‘alā madhhab al-Shāfī‘iyyah, and printed in 1276 h. Ibid., p. 499.
41 It is given as [fi bayān qawā‘id akhābīr.] see al-Ghawwās, p. 16. This has been corrected in the copy of al-Manāqib preserved at the University of Edinburgh. see al-Manāqib, p. 70.
42 This was first printed in Cairo in 1279 h. see Findek, p. 158; Khalīfāh, p. 1918.
43 Khalīfāh, pp. 1567 and 1573.
44 This work has been commented by Shihāb al-Dīn Ahmad al-Ghanīmī (d. 1044 h.). see Khalīfāh, p. 1804.
46 It is given as [Nūr al-Zāhir fi ajwībah ‘inda al-Akābir wa al-Asāghir]. see al-Ghawwās, p. 15.
47 Khalīfāh, p. 1360.
48 Pāshā, 2:242.
49 Though this title is mentioned without the author. Ibid., 2:252.
50 Ibid., 2:251.
51 Ibid., 2:252.
52 Ibid., 2:11.
53 Ibid., 2:81.
54 This book was first printed in Cairo in the year 1277 h. Then in 1305 h. this book was printed in two volumes along with his al-Kibrīt al-Ahmār on its margin. see Findek, pp. 169 and 499; CAB, p. 87; Khalīfāh, p. 2054.
56 CAB, p. 85; Pāshā, 1:467.
57 He had abridged this work. see al-Ghawwās, p. 12; al-Manāqib, p. 67; Pāshā, 1:284.
38 Khalīfāh, p. 1224.
39 Ibid., p. 1236.
40 This book was first printed in 1297 h. in Cairo. see Mu’jam, p. 1131.
41 Perhaps this work has been incorporated in al-Mizān. see al-Mizān, 1:54-63.
42 Pāshā, 2:715.
43 In Kasb al-Zānūn, it is given as [Ilā shurūt subbat]. It is stated that he did the abridgement of the same work in 100 folios and which consists of two divisions: the first
concerns with the *suhbah* of the 'ulamā‘ with the *amīr* while the second section is concerned with the *suhbah* of the *amīr* with them. He completed this work in 979 h., see *Khalīfah*, p. 67.

64 *Al-Ghawwās*, p. 15.

65 This book was first printed in two volumes in 1281 h. in Cairo. see *Findek*, p. 498. The second edition of this book was revised and corrected by Nasr al-Hūrīnī in 1865. *CAB*, p. 85; *Khalīfah*, 1492.

66 *Khalīfah*, p. 1488.

67 i.e.: al-Mizzān. see *Al-Ghawwās*, p. 15; *CAB*, pp. 85-6; *Khalīfah*, p. 1555.

68 This is popularly called al-Mizzān al-Kubrā al-Jāliyyah tī al-Sūrūr wa al-Bushrā and was first printed in 1288 h. see *Mu'īam*, p. 1132.

69 It is given as *Tabaqqāt al-Sādat al-Akhyār*. This work was first printed in 1292 h. in Cairo. see *Findek*, pp. 108 and 498; *CAB*, p. 86. In this book al-Sha‘rānī mentions about 422 personalities which include 24 saḥābah, 95 tābi‘īn, 17 women, 200 savants and 86 pious contemporaries. see *Khalīfah*, p. 1567.


71 *Khalīfah*, p. 1869.


73 *Pāshā*, 2:599.

74 This book was first printed in 1279 h. in Cairo. see *Findek*, p. 170; *CAB*, p. 86.

75 *Al-Ghawwās*, p. 15.

76 Perhaps this be his abridgement of al-Suyūtī’s *al-Khasā‘is al-Nabawiyyah*. see *Khalīfah*, pp. 705-6; *Al-Ghawwās*, p. 13.

77 This is the abridged version of *Kitāb al-Mudawwanah al-Kubrā*, the Mālikite legal text. see *Khalīfah*, p. 1644; *Al-Ghawwās*, p. 13.

78 This is the abridgement of Ibn al-Mundhir’s *Kitāb al-Targhib wa al-Tarhib*. see *al-Manāqib*, p. 69.

79 This is the abridgement of Badr al-Din Muhammad b ‘Abd Allāh al-Zarkashi’s *al-Qawā‘id fi al-Furū‘*. see *Khalīfah*, p. 1359. This book has been edited by Ibrāhīm Shaykh Ishaq for his Master Degree in the Islamic University of Madinah al-Munawwarah. see *Turāsh*, (1986).

80 This is also called *Mukhtasar al-Tadhkirah fi ahwāl al-Akhīrah*. This book was first printed along with the book *Qurrat al-‘Uyun wa mufrarrij al-Qalb al-Maḥzūn* of Abū al-Layth al-Samarqandi, on its margin in the year 1304 h. see *Findek*, p. 170; *CAB*, p. 87.

81 This work was first printed on the margin of *Kitāb kāmil al-Sina‘ali al-Tibbiyyali*, in the year 1294 h. see *Findek*, p. 217. Al-Suwaydī is Ibrāhīm b Muhammad b Turkhan al-Ansārī, a famous medical doctor and philosopher from Ahlād in Damascus. He died in 690 h. In this book the author (i.e.: al-Suwaydī) mentions the opinions of the famous medical doctors on various diseases and their cure. *Ibid.*, pp. 218 and 225; *CAB*, p. 87.

82 *Khalīfah*, p. 1704. Perhaps this is the work referred to in al-Mizzān. see *al-Mizzān*, 1:11.

83 *Khalīfah*, p. 1356.

84 *Pāshā*, 1:557.

85 *Khalīfah*, p. 596; *Kahhabāh*, 6:218.

86 He has also a abridged version of it. see *al-Manāqib*, p. 70.

87 *Pāshā*, 2:89.

88 This has been written on the margin of the copy of *al-Manāqib* preserved in the Library of the University of Edinburgh. see note 41 above.

89 *Pāshā*, 1:323.

90 This work was first printed in Cairo in 1278 h. see *Findek*, p. 170. The title is also given as *Tanbih al-Muṭarrij fi qara al-‘Ashīr‘ ala mā khālīfū fihi salafiyyah al-Ṭahīr*. On its margin was printed the work of al-Ghazzālī entitled al-Kashf wa al-Tabyīn fi ghurūr al-Khalq ajmā‘in in 1310 h. see *Mu‘īam*, p. 1130; *CAB*, p. 87; *Khalīfah*, 1:488.

91 *TB*, p. 36; *Khidwiyyah*, 6:139 and 7:37; *Dār*, 6:184; *Mu‘īam*, 1131.

92 *MA*, p. 102; *DAPT*, 3:391-2; *CAR*, 1:87; *Vatican*, p. 193; *Mosul*, p. 53; *IO*, 2:187; *Khidwiyyah*, 2:144-5; *Dār* 1:376; *Azhar*, 3:352-3; *Vivantes*, p. 372; *VAH*, 175-6:
122 Khidwiyyah. 2:102, 7:36; Där. 1:343; BN. p. 37; Ashir. p. 32; Princeton. pp. 479-80.
124 Khidwiyyah. 7:36-7.
125 Ibid. 7:152-3.
126 Där. 1:301.
127 CAB. 1:86; Azhar. 3:566, 592 and 638; Khidwiyyah. 2:210; Vatican. pp. 190-1; Basmalar. p. 69.
129 Ibid. 7:152-3.
130 CAB. 1:86; Par. 5:320; Vivantes. p. 362; Wakf. pp. 275-6; DAPT. 2:351-2; CAB. 1:86; IO. p. 204; Chester. 5:34-5; Zähiriyyah. 6:288-9; Ahmadiyyah. pp. 463 and 466; Al-andi. p. 136; Sindah. p. 45; Basmalar. p. 45; Osman. pp. 131 and 141-2; Mu'jam. pp. 1131-2.
132 PAPT. 3:398-9; CAB. 1:85-6; Chester. 5:41-2; Khidwiyyah. 2:107-8; Par. 1:351; Azhar. 3:623-4; Codicum. pp. 65-6; Mosul. p. 88; Hammd. p. 36; Basmalar. p. 68; Osman. p. 144; SAP. 104; Mu'jam. p. 1132.
135 SAP. p. 104; Mu'jam. p. 1132.
136 GALS. p. 1619.
137 Ibid. p. 751; Bankirowe. 13: 843.
138 Mu'jam. p. 1131.
139 Ibid.
140 It is said that Naṣr b Muḥammad al-Samarqandi wrote a book entitled al-Mukhtalif fi al-Fiqh bayna Abī Ḥanīfah wa ashabihi, about 70 folios of this work has been edited by Muḥammad al-Sayyid Ḥusayn al-Athārī for his Master Degree at the Islamic University of Madinah al-Munawwarah. see Turāth. (1986):15.
141 See Yusuf, Abū. Ikhtilaf Abī Ḥanīfah wa Ibn Abī Laylāh, ed. by Abū al-Wafā Alghānī. (Cairo, 1357 h.).
142 This is the last book he wrote. See al-Munajjid, Dr. Allah al-Din. (ed.), Sharh Kitāb al-Siyar al-Kabir li Muḥammad b. al-Ḥasan al-Shaybānī (as commented by) Muḥammad b. Ahmad al-Sarakhsi. (Cairo, 1957), p. 11. It is also called as Siyar al-Maghāzī. [Ibid.].
143 This is the first work written on Ikhtilaf al-madhāhib. Ibid. pp. 9-10.
144 Al-Umm. op. cit. 7:96
145 Ibid. 7:333.
146 Ibid. 7:305.
147 Ibid. 7:191.
148 He is Abū al-Farīj Muḥammad b. Ishāq called Ibn al-Nāẓim, died in 380 h. see Minovi. Mojahābā's introduction to Kitāb al-Fihrist of An-Nāẓim. 2nd. ed. (Tehran. n.d.).
149 Unable to locate.
150 Ibn Nāẓim comments that so far no work greater than this has been written. Fihrist. p. 272.
151 He is Ahmad b. Naṣr al-Marażī. Ibid. p. 266.
152 Ibid. The first half of this work has been edited by Muḥammad Tāhir Hakim Ghulām Rasūl for his Master Degree at the Islamic University of Madinah al-Munawwarah. see Turāth. 27(1986):15.
153 Unable to locate.
154 Fihrist. p. 267.
155 Ibid. p. 292. This work has survived only in a few parts (ajza). Prof. J. Schacht published the following parts of the book in 1933 at Leiden: Kitāb al-Ithār and Kitāb al-Jāzīyāh.
Ahkām al-Muhāribin. While F. Kern edited and published in Cairo in 1902, the following parts: Kitāb al-Mudābbar, Kitāb al-Buyū', Kitāb al-Šarīf, Kitāb al-Salam, al-Muzārah wa al-Muṣāqāt, Kitāb al-Ghasab, and Kafālah wa al-Dāmān wa al-Hawālān.  

This work has been traced in the Escorial manuscript No. 1514 and consists of 24 folios.  

He was a disciple of al-Muzani and al-Rabi', a disciple of the former. Fihrist, p. 266.  


Dr. Abu Hammad Saghir Ahmad Hanif of the Islamic University of Madinah edited the following chapters from this work for his Ph.D.: jinayat, diyyāt, qasāmah and al-murtadd, while the chapter on hudud was edited by him for his Master Degree. Ibid., 4(1982):34.  

This work has been published by them both in their Arabic Quarterly and as a book.  

It is mentioned that Ibrahim b Muhammad al-Sarawi wrote a book on al-Khilāf. See Safādī. 6:122, Mu'ājam, 1:108.  

al-Idfawi, Ja'far b Tha'lab Kamāl al-Dīn Abū al-Faḍl al-Tālī' al-Ša'īd al-Jāmī' li asmā' al-Fudālā' wa al-Ruwwāt bi aš-ša'īd, (Cairo, 1914), p. 421.  

He is qadi Sirāj al-Dīn Yūnus b 'Abd al-Majīd b 'Alī b Dāwūd al-Hudhali, born in 644 h. and died in 725 h. Ibid., pp. 421-3.  


Fu'ād, op. cit., 1:27.  

Ibid., 3:200-1.  

Garrett, p. 228.  

He is Abū al-Walīd Muhammad b Ahmad b Rushd, popularly known in the Medieval West as Averoes, born in a Spanish family of Cordova in 520 h.. He died at Marrakush in 595 h. and was buried in Cordova. For details see Nyazee, Prof. Imrān A.K., Ibn Rushd: The Distinguished Jurist’s Primer - a translation of Bidāyāt al-Muṣḥābīd, (Reading, 1994), 1:xxviii-xxix.
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*Arabic Book Journal Quarterly.* No. 41 April 1968.


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