Aamir Shahzada Khan

Multaqā al-Abḥur of Ibrāhīm al-Ḥalabī (d. 1549): A Ḥanafī Legal Text in Its Sixteenth-Century Ottoman Context

MA Thesis in Medieval Studies

Central European University

Budapest

May 2014

Multaqā al-Abḥur of Ibrāhīm al-Ḥalabī (d. 1549): A Ḥanafī Legal Text in Its Sixteenth-Century Ottoman Context

by

Aamir Shahzada Khan

(Pakistan)

Thesis submitted to the Department of Medieval Studies,

Central European University, Budapest, in partial fulfillment of the requirements

of the Master of Arts degree in Medieval Studies.

Accepted in conformance with the standards of the CEU.

_____

Chair, Examination Committee

_____

Thesis Supervisor

_____

Examiner

_____

Examiner

Budapest

May 2014

Multaqā al-Abḥur of Ibrāhīm al-Ḥalabī (d. 1549): A Ḥanafī Legal Text in Its Sixteenth-Century Ottoman Context

by

Aamir Shahzada Khan

(Pakistan)

Thesis submitted to the Department of Medieval Studies,

Central European University, Budapest, in partial fulfillment of the requirements

of the Master of Arts degree in Medieval Studies.

Accepted in conformance with the standards of the CEU.

_____

External Reader

Budapest
May 2014

Multaqā al-Abḥur of Ibrāhīm al-Ḥalabī (d. 1549): A Ḥanafī Legal Text in Its Sixteenth-Century Ottoman Context

by

Aamir Shahzada Khan

(Pakistan)

Thesis submitted to the Department of Medieval Studies,

Central European University, Budapest, in partial fulfillment of the requirements

of the Master of Arts degree in Medieval Studies.

Accepted in conformance with the standards of the CEU.

_____

External Supervisor

Budapest
May 2014

I, the undersigned, **Aamir Shahzada Khan**, candidate for the MA degree in Medieval Studies, declare herewith that the present thesis is exclusively my own work, based on my research and only such external information as properly credited in notes and bibliography. I declare that no unidentified and illegitimate use was made of the work of others, and no part of the thesis infringes on any person's or institution's copyright. I also declare that no part of the thesis has been submitted in this form to any other institution of higher education for an academic degree.

Budapest, 21 May 2014

_____

Signature

ACKNOWLEDGEMENTS

First and foremost, I would like to thank my supervisor Professor Tijana Krstić for her kindness and continued support during the course of my stay at CEU. All the courses that I took with her, helped me a great deal in learning the way to benefit from up-to-date scholarship in my area of research. Due to her useful feedback on my research papers I learnt the art of writing good academic papers. She helped me choose a very good topic for my thesis and provided constant help and support to make it realize. I owe her a lot for this thesis and for all that I learnt during my stay at CEU.

I also want to thank all the faculty members and coordinators of the Medieval Studies and History Departments. They all deserve credit for maintaining an excellent atmosphere in the two departments. I would also thank the Center for Religious Studies and its director Professor Aziz Al-Azmeh for letting me specialize in the field of religious studies. With Professor Al-Azmeh I took very thought-provoking and informative courses which were very beneficial in my research.

I think it necessary to mention a few names who played an important role in making my stay at CEU an experience to remember. From the Medieval Studies Department I would like to mention Professor Judith Rasson, Professor Katalin Szende, Professor Cristian-Nicolae Gaşpar, Professor Niels Gaul, Professor Gerhard Jaritz, Professor József Laszlovszky, Professor István Perczel, Professor Marianne Sághy, Professor Marcell Sebők, Professor Casten Wilke, Professor Balázs Nagy, Annabella Pál, Agnes Bendik and Csilla Dobos. From the History Department I want to mention the names of Professor Nadia Al-Bagdadi, Professor Tolga Esmer, Professor Laszlo Kontler, Professor Matthias Riedl, Esther Holbrook, Aniko Molnar and Judit Gergely. I cannot forget to mention Ferenc Csirkes and Eszter Lenart from the Source Language Teaching

Group. I thank all those who are mentioned here and all those whom I couldn't mention, for their moral and intellectual support which was extremely important for me. Last but not least, I want to thank all my colleagues among the MA and PhD students. It is because of all of them that I will remember my stay at CEU for the whole of my life.

CONTENTS

NOTE ON TRANSLITERATION

Since my study is based on Arabic primary sources, I have mostly used the transliteration style for Arabic which is accepted by the *International Journal of Middle East Studies*. For some names and terms specific to Ottoman contexts, like *Şeyhülislam* Ebussuud, I have used the system used in Modern Turkish.

INTRODUCTION

The Ottoman period holds a special significance for those who are interested in studying the relationship between Islamic law and the state. This period saw a close and continued attachment of a dynasty to a school of Islamic law for a long duration of time. Throughout the Ottoman history, the Ḥanafī school of law in Sunnī Islam remained the basis of the judicial system and Ḥanafī scholars were the most prominent figures in the religious establishment in the empire. There are different perspectives through which the relationship between Ḥanafī law and the Ottoman state can be studied. One obvious avenue to do research is to see how the interest taken by the state in legal matters had an effect on the development of law.

In this study I will use a different perspective. Rather than studying the impact of the state on Ḥanafī law, I will try to conceptualize how the adoption of Ḥanafi law serves the Ottoman state in gaining legitimacy and in building an efficient system of justice. The Ḥanafī school of law is naturally pluralistic in the sense that the three founding figures, Abū Ḥanīfa, Abū Yūsuf and Muḥammad al-Shaybānī, carry almost equal authority. Ibn ʻĀbidīn (d. 1836), an Ottoman jurist who will be discussed later, proposes that the authority of the three jurists is different in different aspects of law. For instance, Abū Ḥanīfa carries more authority in legal matters related to worship, Abū Yusuf carries more authority than the others in matters related to courts and the process of adjudication, etc., and al-Shaybānī's views are the most authoritative in matters related to family relationships.[1] The point to make here is that the Ḥanafī legal school is characteristically pluralistic. Sometimes the differences of opinion allow room for applying a ruling that is more suitable to the social context.[2] This is an important area which needs to be

[1]Muḥammad Amīn Ibn ʻĀbidīn. *Sharḥ ʻUqūd Rasm al-Muftī* (Karachi: Maktabat al-Bushrā. 2009), 55, 56.

[2] Ibid., 67, 68, 85.

investigated further: What significance does the legally pluralistic Ḥanafī rite hold for the Ottomans and to what extent was the Ottoman state able to use the legal pluralism to its benefit?

The topic that I just mentioned is a very broad one. In the present study my focus will be on one legal text on Ḥanafī law titled *Multaqā al-Abḥur* (the confluence of oceans), which was compiled by an Ottoman scholar Ibrāhīm al-Ḥalabī (d. 1549). Since its composition in 1517, the *Multaqā* continued to have significant influence in the Ottoman lands. It became an essential part of madrassa curriculum and was used as the main reference book for the *qaḍīs* (judges of the Islamic courts) and the *muftīs* (jurisconsults). I will discuss the way al-Ḥalabī presents the differences of opinion within the Ḥanafī legal school, and the way such a presentation made the *Multaqā* a useful text for the Ottoman state.

Another important question that this study will try to answer is: how does a text like *Multaqā* gain an authoritative status and how can it serve the purpose of the state in gaining legitimacy and in realizing the goal of building an ideal system of justice? I will propose that such a question can be answered by studying the *Multaqā* in relation to its sources. To fully understand the importance of the *Multaqā*, it is necessary to study the text and its sources in the context of a discussion on the various literary genres of Islamic law. The *Multaqā* belongs to a particular literary genre of law called *mukhtaṣar*, or *matan*, which is essentially a compendium of law. The *Multaqā* is based on six authoritative sources of Ḥanafī substantive law which were produced in earlier periods in different centers of learning in the Islamic world. I will argue that the *Multaqā* gained authority not only because it was based on authoritative sources but also because it represented a new stage in the evolution of the genre of *mukhtaṣar*. Such an argument would help us in conceptualizing the way a text like the *Multaqā* gains an authoritative and canonical status. I will engage with the views of two scholars, Norman Calder and Stephen P.

Chapman. Calder presents a useful study on the evolution of various genres in Islamic legal literature and his study can help us in assigning a place to the *Multaqā* in the process of the evolution of *mukhtasars.* Calder's views will be studied in conjunction with Stephen Chapman's theory of the canonization of the The Bible.

In 1981, a Ph.D. thesis was written by Şükrü Selim Has on the life of al-Ḥalabī. Has's thesis is an important introduction to this significant scholar and his most important book *Multaqā al-Abḥur*. However, there is a need to study al-Ḥalabī and his works in the light of new developments that have since taken place in the scholarship. Recent years have seen a number of scholars taking interest in the development of Islamic law in the Ottoman period and their studies provide a good context with the help of which the importance of the *Multaqā* can be understood better. Has provides an account of al-Halabī's early life in Aleppo and his education in Cairo. He offers a broader context of the intellectual currents and modes of state patronage in Mamluk lands where al-Ḥalabī spent the early part of his life in the late fifteenth century. However, his analysis of the context of al-Ḥalabī's life and career in the Ottoman Empire is somewhat deficient. Al-Ḥalabī spent most of his life in Constantinople and it is here that he composed his most influential work. The Ottoman context of al-Ḥalabī's life and works needs to be analyzed, especially by utilizing recent additions in scholarship on the subject of Islamic law and the learned hierarchy in the Ottoman Empire. Moreover, Has's analysis of the *Multaqā* does not bring into focus the issue of literary genres of law. Such a context is extremely important to understand the true character of the *Multaqā*. The various literary genres serve different purposes in the Islamic legal system and without understanding them any discussion on work like the *Multaqā* cannot arrive at useful conclusions.

For my study I have used an edition of *Multaqā al-Abḥur* which published in 1891 by *al-Maṭba'a al-Uthmāniyya* Istanbul. When compared to a seventeenth century commentary of the *Multaqa, Majma' al-Anhur* of 'Abd al-Raḥman Ibn Shaykh Muḥammad (d. 1667), one can be sure that there is no discrepancy in the two versions. The commentary contains original text with markings followed by comments of the commentator. The original text contained there is the same as in the edition of the *Multaqā* that I have used for my thesis. Therefore we can be sure of the authenticity and reliability of the 1891 edition.

I: THE EVOLUTION OF THE OTTOMAN IMPERIAL IDEOLOGY AND ITS IMPACT ON THE INSTITUTIONAL AND INTELLECTUAL FORMATION OF RELIGIOUS SCHOLARS (1453-1566)

The importance of Ibrāhīm al-Ḥalabī's work *Multaqā al-Abḥur* can be understood better if viewed in the context of the evolution of Ottoman imperial culture and the main source of legitimacy on which it was based. Around the time the *Multaqā* was composed, Sunnī Islam and within it the Ḥanafī School of law had become the dominant religion in the empire. Moreover, the Sunnī-Ḥanafī religion was also the supreme source of legitimacy for the Ottoman sultans. The Ottoman sultans took special interest in maintaining the Sunnī identity of the state and the society and in building an efficient legal system based on Ḥanafī law. The fulfillment of such a project was facilitated by the policy of thorough integration of religious scholars in the state-system. Such a policy defined the relationship of the Ottoman state with the religious scholars and as a result had an impact on the intellectual formation of these scholars.

I.1 Justice as the Supreme Legitimating Principle

After the conquest of Constantinople in 1453, the Ottoman state began to transform into an empire under the leadership of sultan Mehmed II. He saw himself as the heir to the glory of Islamic and Turko-Mongol sultanates as well as the Byzantine empire of the past.[3] In the early sixteenth century, the Ottomans found themselves in political and ideological conflict with the Christian powers towards the West as well as with the rival Muslim powers to the East.[4] The Ottoman sultans competed with their rivals in laying various claims to legitimacy: by presenting

[3]Gülru Necipoğlu, *The Age of Sinan: Architectural Culture in the Ottoman Empire* (Princeton: Princeton University Press, 2005), 27.

[4]For Ottomans' rivalry with the Christian powers, see: Gülrü Necipoğlu, "Süleyman the Magnificent and the Representation of Power in the Context of Ottoman-Hapsburg-Papal Rivalry," *Art Bulletin* 71 (1989): 401-427.

themselves as universal monarchs, as messianic rulers[5] and as universal conquerors who would fulfill millennial and apocalyptic expectations which were widespread in the period.[6] Cornell Fleischer argues that in the absence of genealogical legitimacy, a claim to spiritual authority, in addition to political success, became a necessary prerequisite for a credible Muslim sovereign.[7] The Ottomans were not descendents of the tribe of Quraysh, which was necessary to lay claim to universal caliphate based on genealogical authority, and therefore it was important for them to seek alternative sources of legitimacy. In addition to conquests, establishment of a just order based, either directly or remotely, on Islamic law eventually became a major concern of the Ottoman sultans. From the start of his reign Süleyman I (r. 1520 – 1566) used the rhetoric of the establishment of a just order as the hallmark of his rule.[8] The emphasis on the rule of law in the imperial rhetoric became more prominent by the 1550s when unrealistic ambitions of building a world empire were overshadowed by more realistic concerns of establishing a perfect system of justice within the empire.[9] In the words of Gülru Necipoğlu, by that time, "an international cultural orientation was replaced by a more national one."[10]

The increase in the emphasis on law as the source of legitimacy is evident from the preambles to law codes issued in the time of Süleyman. Snjezana Buzov shows that the successive preambles depict an increasing emphasis on law as the main source of legitimacy and

[5] This refers to the use of the title of Mahdi for Ottoman sultans by some of the Ottoman historians. However this issue needs to be investigated further whether the title was used with apocalyptic implications or it was just used as a generic term for acclaim. Because Mahdi literary means the 'guided one' and it is has been used in other contexts in a generic sense. For instance, the four rightly guided caliphs are called '*khulafā al-rāshidūn al-mahdīyyūn*'.
[6] The nature of expectations was of religious/eschatological as well as astrological. The sixteenth century coincided with the tenth century of Islamic Hijri calendar and it might have given rise to such expectations. Moreover, there were astrological reasons also which had their root in the astrological beliefs in the Persian world in pre-Islamic times. For more detail, see: Azfar Moin, *The Millenial Sovereign: Sacred Kingship and Sainthood in Islam* (New York: Columbia University Press, 2012).
[7] CornellFleischer, "The Lawgiver as Messiah: The Making of the Imperial Image in the Reign of Süleyman," in *Süleyman the Magnificent and His Time*, ed. Gilles Veinstein (Paris: La Documentation Française, 1992), 161.
[8] Ibid., 164.
[9] Ibid., 171.
[10] Necipoğlu, "Süleyman," 425.

as the organizing principle of the empire and its subjects. The preambles offer good insight into changing notions of sovereignty propagated by the Ottoman establishment. Establishment of a just order eventually became the most discernible feature of the idea of sovereignty in the reign of Süleyman. This notion of sovereignty was no longer the one in which the absolute authority of the sovereign would ensure a just order. Rather, it was the just order that would give authority to a sovereign.[11]

Sultan Selim I's (r. 1512-1520) decisive victory over the Mamlūks in 1517 and the capture of the two holy cities of Mecca and Medina had special significance in Ottoman history. The sultan could now adopt a new title, "Protector of the Two Noble Harams."[12] The inclusion of the holy places in the Ottoman rule meant that (Sunnī) Islam was now inextricably linked to imperial ideology. Both Selim and Süleyman are known to have laid claim to the title of caliph. But it was Süleyman who made the first significant claim to the office of caliphate with all its implications of universal authority.[13] The claim to universal caliphate necessitated increased awareness of new responsibilities. Süleyman paid special attention to the process of perfecting the Islamic character of the empire by trying to bring the law of the state in conformity with the Islamic law. Süleyman's title, the Lawgiver (*Qānūnī*), is a testimony to the fact that the sultan and his officials viewed his contribution in perfecting the law of the state as his greatest contribution to the empire. Süleyman's ambition to establish a regime of legal perfection in the empire is epitomized in the unprecedented increase in the prestige of the office of *Şeyhülislam*. The *Şeyhülislam* was essentially a *muftī* or jurisconsult. His main job was to issue *fatwā*s in response to questions put forward by the Ottoman sultan and other state officials. The practice of

[11]Snježana Buzov, "The Lawgiver and His Lawmakers: The Role of Legal Discourse in the Change of Ottoman Imperial Culture," (PhD Diss., The Universityof Chicago, 2005), 111.
[12]Necipoğlu, *The Age*, 27.
[13]Ibid.,27, 28.

appointing a chief *muftī* was quite an old one: the first *muftī* to be appointed was Molla Fenari (d. 1431).[14] This practice was continued by the later sultans. However Süleyman's era saw an immense increase in the importance of this office. In the person of Ebussuud (d. 1574) the office of *Şeyhülislam* reached the culmination of its prestige and power. Ebussuud remained the *Şeyhülislam* from 1545 until his death in 1574. He is said to have helped reconcile *sharī'a*, the Islamic law, and *qanūn*, the dynastic law. He redefined Ottoman laws regarding tax collection and land tenure by stipulating them in the terminology that he borrowed from Ḥanafī sources. Ebussuud was quite influential even prior to his appointment as the *Şeyhülislam*. When he was the *kazasker* (military judge) of Rumelia, Ebussuud submitted petitions (*ma'rūḍāt*) to Süleyman in which he advised the sultan to change certain laws of the state in accordance with Islamic law. Süleyman issued law codes in response to these petitions affectively incorporating Ebussuud's legal opinions into the *qanūn*.[15]So, the establishment of justice based (remotely or directly) on Islamic law remained a major feature of the policy of Süleyman.

I.2 Maintaining the Sunnī Character of the State and the Society

The conflict of the Ottomans with the Safavids needs special attention to understand the Sunnī character of the Ottoman state. Unlike the Mamlūks, who were Sunnīs like the Ottomans, the Shiite Safavids presented the most significant ideological challenge to the Ottomans. The Safavids eventually adopted Twelver (*ithnā 'asharī*) Shiite doctrine as the state religion and hence became the arch-nemesis of the Ottomans on both the ideological and the political fronts. Dismissing the Safavids as heretics, the Ottomans put a renewed emphasis on presenting themselves as protectors of the orthodox Sunnī faith.[16] Markus Dressler has linked the

[14]R. C.Repp, *The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy* (London: Ithaca Press, 1986), 73.
[15]Repp, *The Müfti*, 280.
[16]ColinImber, *Ebu's-su'ud: the Islamic Legal Tradition* (Stanford: Stanford University Press,1997), 5.

development of legalistic Sunnīsm in the Ottoman Empire with Ottoman-Safavid conflict.[17] On the other hand, Derin Terzioğlu argues that Ottoman sunnitization is a longer process which was in place prior to the Ottoman-Safavid conflict.[18] This is, in fact, a case of "continuity versus rupture" debate and given the complexities of the historical process, it is difficult to take sides in this issue. What can be said is that the Sunnī consciousness in the Ottoman state must have existed earlier but the conflict with the Safavids was instrumental in making the Ottomans more aware of their Sunnī identity.

The Ottomans were very serious about maintaining the Sunnī character of the state and the society. In the era of Sultan Süleyman, a new emphasis was laid on the establishment of majestic Friday mosques throughout the empire.[19] This policy was in clear contrast to the Safavid Shiites who remained confused regarding the establishment of Friday prayers in the absence of the hidden imam.[20] By the sanctioning of the Friday prayers, the Ottoman sultans were forcefully asserting their Sunnī identity and at the same time emphasizing the heretical character of the Safavids who remained negligent in following an important tenet of Islam. Steps were taken to ensure the attendance of the subjects in the Friday prayers. Government-appointed functionaries called *namazcis* were appointed with the aim of keeping track of regular absentees and reporting them to the authorities.[21] This practice was also aimed at identifying and punishing Shiite sympathizers in the empire. In addition to that, the Ottoman officials often used spies and

[17] MarcusDressler, "Inventing Orthodoxy: Competing Claims for Authority and Legitimacy in the Ottoman-Safavid Conflict," in *Legitimizing the Order: The Ottoman Rhetoric of State Power* ed.Hakan T. Karateke et al. (Leiden: Brill, 2005).
[18] DerinTerzioğlu, "How to Conceptualize Ottoman Sunnitization: A Historiographical Discussion," *Turcica* 44 (2012-13): 322.
[19]Necipoğlu, *The Age,* 31.
[20]Ibid., 34. For the controversy on Friday prayer in the Safavid Empire, see, Devin Stewart "Polemics and Patronage in Safavid Iran: The Debate on Friday Prayer during the Reign of Shah Tahmasb," *Bulletin of the School of Oriental and African Studies* 72 (2009): 425-457. And, Rula JurdiAbisaab, *Converting Persia: Religion and Power in the Safavid Empire*(London: I.B. Tauris, 2004), 20-22
[21]Terzioğlu, "How to Conceptualize," 313.

local informants who would look out for individuals and groups involved in Shiite-like practices and report them to be punished by the Ottoman officials.[22]

The dismissal of *Şeyhülislam* Çivizade by Suleyman in 1541 is an important issue which is very much related to the attempt of the state to maintain a Sunnī character. Historians have struggled to understand the true significance of the incident in the context of Sunnī-Shiite rivalry. Richard Repp cites a number of reasons which could have influenced the decision. These included: his opposition to the Ottoman practice of donating cash as endowment (*waqf al-nuqūd*), opposition to widely respected Sufi figures like Ibn ʻArabī and Jalāl al-Dīn Rūmī, and the ruling on the impermissibility of wiping over the socks (*masḥ ʻalā al-khuffayn*) as a substitute for washing the feet in ritual purification (*wuḍū*) for daily prayers (*ṣalā*).[23] Repp suggests that the opposition of the Sufi *shaykhs* was the real cause of the dismissal while the ruling about *masḥ ʻalā al-khuffayn* was more of a pretext.[24] Şükrü Selim Has mentions the reason of *masḥ ʻalā al-khuffayn* for Çivizade's dismissal. But he makes a mistake in saying that Çivizade adopted the Shāfiʻī position as opposed to the Ḥanafī view on this issue and therefore was deposed.[25]

The fact that has eluded historians is that all the Sunnī schools of law, including the Shāfiʻīs, agree on the permissibility of the *masḥ ʻalā al-khuffayn*. Only the Shiites and the Kharijites (those who revolted against the early caliphate) held the opposite view. Therefore this issue becomes a matter of Sunnī-Shia and Sunnī-Khārijī distinction. A prominent Shāfiʻī jurist

[22] Imber, *Ebu's-su'ud*, 264.
[23]Repp, *The Müfti*, 250.
[24]Repp, *The Müfti*, 252.
[25]Şükrü Selim Has, "A Study of Ibrāhīm al-Halebi with Special Reference to the *Multaqā*," (PhD Diss., University of Edinburgh, 1981), 104.

and *ḥadīth* scholar Yaḥya Ibn Sharaf al-Nawawī (d. 1277) attests to this fact. In his commentary on Saḥīḥ Muslim, he says:

> "A great majority of the people accept *masḥ ʻalā al-khuffayn* based on the consensus of scholars, during travel or during the stay at home, with or without necessity . . . and only the Shia and the Khawārij reject it.[26]"

This passage shows that the issue is very much a matter of Sunnī identity. It is not surprising that many works on creed (*ʻaqīda*)[27] contain mention of this issue. For instance in his book on *ʻaqīda*, the Ḥanafī scholar Aḥmad Ibn Muḥammad al-Ṭahāwī (d. 933) writes:

> "And we accept *masḥ ʻalā al-khuffayn* during travel and during the stay at home as it comes in the reports."*[28]*

The book of al-Ṭahāwī is a work on matters of faith and one would not expect to find any legal issues being discussed there. However professing a belief in a legal ruling shows the importance this issue has for the Sunnīs. Therefore it is understandable that the Ottoman authorities took Çivizade's ruling seriously. Süleyman asked the leading scholars of his time to respond to Çivizade's ruling.[29] Al-Ḥalabī was one of those scholars who wrote a treatise (*risāla*) arguing for the permissibility of *masḥ ʻalā al-khuffayn*. This *risāla* will be mentioned in the second chapter.

Legal discourse also played a significant role and got affected by the Ottoman project of confession-building which, in Ottoman context, would mean sunnitization. Guy Burak shows

[26]Yaḥyā Ibn Sharaf al-Nawawī, *Al-Minhāj Sharḥ Saḥīḥ Muslim.* (Cairo: Al-Maṭbaʻa al-Miṣriyya, 1929), III: 164.
[27]For more information on the literary genre of *ʻaqīda*, see, A.J. Wensinck, *The Muslim Creed: its Genesis and Historical Development* (Cambridge: Cambridge University Press, 1932).
[28]Abū Jaʻfar Aḥmad Ibn Muḥammad al-Ṭaḥāwī, *Al-ʻAqīda al-Taḥāwiyya.* (Beirut: Dār Ibn Ḥazam, 1995), 25.
[29]Repp, *The Müfti,* 250.

that the complex confessional climate in the empire had an impact on the legal discourse. He focuses on the debate on renewal of faith (*tecdid-i iman*) and shows that the Ottoman jurists redefined the understanding of earlier Ḥanafī scholars on the relationship between faith and practice.[30] The Ottoman jurists laid greater emphasis on outer conduct as a determinant of faith. Those who showed laxity in conduct were required to renew their faith.[31] Such a practice was meant to serve the purpose of guarding the boundaries of orthodoxy and orthopraxy.

It is a matter of debate as to what extent these policies were successful. The presence of the state was unlikely to be felt in the same way in the whole of the empire. The rural areas, especially, are likely to have had syncretic and diffused identities. To add to that, many Shiites practiced dissimulation (*taqiyya*) and presented themselves as Sunnīs. For instance, Zayn al-Dīn al-ʿĀmilī (d. 1558), a Shiite scholar from modern day Lebanon, portrayed himself as a Sunnī scholar and taught as a teacher of Shāfiʿī law at a *madrassa* before being identified and executed by the Ottomans.[32] In such situation it must have been very difficult for the Ottomans to fully enforce a Sunnī character on the Muslims of the empire.

However from the vantage point of the state, it can be said easily that the Ottoman state was very serious in maintaining a Sunnī character. Sunnitization was an important feature of the state-building/state-consolidating process and hence was an important aspect of the imperial ideology in addition to the concern for the establishment of justice.

[30] Burak, Guy. "Faith, Law, and Empire in the Ottoman 'Age of Confessionalization' (fifteenth – seventeenth centuries): The Case of 'Renewal of Faith'," *Mediterranean Historical Review* 28 (2013): 2, 3.
[31] Ibid.,7, 8.
[32] Devin J. Stewart, "The Ottoman Execution of Zayn al-Dīn al-ʿĀmilī," *Die Welt des Islams* 48 (2008): 289-347.

I.3 Ḥanafī Law as the Official *Madhhab*

The adoption of Ḥanafī law as the official *madhhab* (school of law) must have facilitated the Ottoman ideal of building an efficient system of justice. Ḥanafī Law is unique in all the Sunnī schools of law for being pluralistic. The three founding figures of the school, Abu Ḥanīfa (d. 767), Abu Yūsuf (d. 798) and Muḥammad al-Shaybānī (d. 805), hold almost equal authority.[33] Much of the times these jurists had differences of opinion and later scholars made use of these differences by preferring the opinion which was more relevant to their social contexts. We will see later that Ibrāhīm al-Ḥalabī does the same thing in the *Multaqā* – giving his preference to opinions according to the need of the time. The *Multaqā* combines diverging opinions of authoritative jurists from different sources and hence became important for the Ottomans as a comprehensive, as well as concise, statement of Ḥanafī doctrine.

Guy Burak proposes to study the Ottoman adoption of Ḥanafī Law in the context of the general trends in the post-Mongol Islamic world in terms of the relationship between dynasty and law. According to him, the post-Mongol period saw increased and consistent attachment of dynasties to specific schools of law. As indicated by Burak, in the previous times the Sunnī schools of law lacked a stable structure. It was only in the post-Mongol centuries that they developed a proper structure in which a community of jurists was galvanized around a legal discourse.[34] It is plausible that the adoption of a stable and authoritative legal doctrine was deemed as crucial to the process of state-building and state-consolidation. Such practice was visible in the interest taken by the Muslim dynasties in matters of Islamic law.[35] The Ottoman sultans were also active participants in the legal discourse. In fact, it was the Ottoman sultan who

[33]Haim Gerber, *Islamic Law*, 26.
[34]Guy Burak, "The Second Formation of Islamic Law: The Post-Mongol Context of the Ottoman Adoption of a School of Law," *Comparative Studies in Society and History* 55 (2013): 582.
[35]Ibid., 589-594.

was the ultimate source of authority which was vested in the legal hierarchy. For instance, Ebussuud deemed it necessary to ask for the approval of the sultan for his practice of independent judgment (*rā'iy*) in certain cases. Accordingly, the sultan issued a decree validating Ebussuud's opinion.[36] The attachment of the dynasty to the legal discourse is also visible in the appointment of jurisconsults (*muftis*) in the provinces. In the earlier periods in the Islamic world, the judges (*qāḍī*s) could have been appointed by the state but the *muftī*s were mostly independent scholars. The *muftī*s prior to the Ottomans generally wielded juristic authority on the basis of certificates of permission to transmit legal opinions, which they acquired from their teachers.[37]

Although the involvement of the Ottoman state in the religious affairs was the most prominent and the most consistent in all Islamic history, it is not totally unprecedented. Qasim Zaman has shown that the Abbasid caliphs had a strong relationship with the scholarly community. They took special interest in the matters of religion and played an important role in the evolution of the Sunnī doctrine. Some *'ulamā* (religious scholars) also recognized the role of the caliph in the matters of religion. Some scholars even gave the caliph the right to practice *ijtihād*.[38] Caliph Harūn al-Rashīd appointed the prominent Ḥanafī scholar Abu Yūsuf (d. 798) as the *Qāḍī al-Quḍā* (chief judge) with the power to appoint judges in the provinces.[39] Abu Yūsuf's job was not just to solve cases in court-hearings but also to advise the caliph on issues of religion. This is exemplified by his work *Kitāb al-Kharāj*, a treatise which is written with the aim of advising the caliph on regularizing the system of taxation according to the principles of *sharī'a*.[40] Although he is a judge, he is also giving opinions as a *muftī*. In this respect his stature

[36]Ibid.,586.
[37]Ibid.,584, 585.
[38]Muḥammad Qasim Zaman, *Religion and Politics under the Early Abbasids: The Emergence of the Proto-Sunnī Elite* (Leiden: Brill, 1997), 103.
[39]Wael B. Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), 80.

[40]Zaman, *Religion,* 95.

and role is similar to that of Ebussuud. So, the Ottoman practice of the patronage of religious community and seeking legitimacy is not totally unprecedented. Nevertheless, what gives the Ottomans a unique position in the Islamic history is the formation of an elaborate hierarchy of religious scholars who were educated in a uniform state-built education system. The religious hierarchy in the Ottoman Empire came closest to being called an institution that was well-integrated into the bureaucratic structure of the state. The institutionalization of religious scholars and the roles of the *madrassas* need to be especially emphasized because the scholars would be the most important agents of the state in establishing the system of justice and in propagating the Sunnī-Ḥanafī character of the Ottoman Empire. The context of the *madrassa* and the bureaucratization of religious scholars will help us understand the true significance of including the *Multaqā* in the madrassa curriculum and its extensive use in the judicial system.

I.4The Institutional and Intellectual formation of Religious Scholars

The Ottoman project of establishing an efficient system of justice and maintaining a Sunnī-Ḥanafī character was facilitated by the high level of integration of religious scholars in the state system. A uniform state-built system of education was crucial for providing a class of scholars that the state could employ to further the imperial project. In early Islamic history, transmission of knowledge mostly occurred in informal gatherings, mostly called study circles (*ḥalqas*) which mostly took place in the mosques.[41] In the absence of proper institutions there was little room for state intervention in the intellectual formation of scholars. The tradition of establishing an extensive network of specialized institutions of learning under state sponsorship

[41]George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West* (Edinburgh: Edinburgh University Press, 1981), 12-13.

is likely to have been initiated by the Seljuqs.[42] According to Marshall Hodgson, the spread of *madrassa* system and the resulting standardization of education helped foster homogeneity in the religious scholars' views and consequently in the Muslim community.[43] The same policy was adopted by the Ottomans but to a greater extent, and it thus achieved better results in instilling a homogeneity in the opinions of religious scholars.

Ottoman rulers paid special attention to building *madrassas* from the start. The first Ottoman *madrassa* was built by Orhan (r. 1324 – 1362) in Iznik in 1331.[44] This practice was continued by later rulers. In this way, they facilitated the training of a learned body of scholars who would then participate in the project of furthering the imperial agenda. After the conquest of Constantinople, Mehmed II (r. 1451 – 1481) accelerated the process of building *madrassas*. He encouraged scholars from traditional centers of learning in the empire and beyond to establish and run *madrassas* in the Ottoman domains.[45] Top-ranked officials and royal family members were also encouraged to come forward to establish *madrassas*. Mehmed II built the famous eight *madrassas* called the *semaniye* or *sehn-i-seman* in the mosque complex named after him.[46] The *Semaniye madrassas* were recognized as the highest-ranking institutions in the educational hierarchy. As part of his policy of centralization of the government structure, Mehmed II abolished the endowment deeds of some of the *madrassas* that had been operated privately and independently by scholars prior to coming under Ottoman rule. He brought them under direct government control. He intended to monopolize the patronage of the *madrassas* and scholars.

[42]Marshall G. S. Hodgson, *The Venture of Islam: Conscience and History in a World Civilization* (Chicago: University of Chicago Press, 1974-7), II: 47.
[43]Ibid., II: 48
[44] Halil Inalcik, *The Ottoman Empire: The Classical Age 1300 to 1600* (London: Phoenix Press, 2000), 166.
[45]Ibid., 167.
[46]Ibid., 167.

However, this policy was retracted by Mehmed II's successor, Bayezid II (r. 1481 – 1512).[47] While Mehmed II concentrated his *madrassa*-building projects in Constantinople, his successors built *madrassas* in other major cities of the empire as well.[48]

The practice of patronizing scholars, institutions of learning, and scholarship reached its zenith in the time of Süleyman I. The sultan and his royal associates ordered the building of more *madrassas* and mosques across the empire. Süleyman built four general *madrassas* in the Süleymaniye mosque between 1550 and 1556 and added two more *madrassas* for specialized studies.[49] These *madrassas* were granted the highest rank in a revised *madrassa* hierarchy. The scheme of hierarchy set by Süleyman was thus standardized for the years to come in the empire.

An unprecedented increase in the number of *madrassas* built by the state or by officials attached to the state was crucial in increasing the role of the state in the intellectual formation of religious scholars. The Ottomans could set the rules and regulations regarding the appointment of teachers and the setting of salaries, and could define the curriculum to be taught to the students. For instance, a law issued by Sultan Süleyman in 1556 presents a list of books that would be taught in the *madrassas*.[50] The books on law shown in this list clearly depict an absolute and exclusive adherence to Ḥanafī law. All the books on law and methodology of law are based on the Ḥanafī rite.

The Ottoman rulers also created opportunities of employment for the scholars trained in the *madrassas*. Since the time of Mehmed II, *madrassa* graduates had prospects for being employed by the state at various levels of the bureaucratic system. Scholars were employed as

[47] Abdurrahman Atcıl, "The Formation of the Ottoman Learned Class and Legal Scholarship (1300-1600)." (Ph.D. Thesis, The University of Chicago, 2010), 7.
[48] Ibid., 105.
[49] Ekmeleddin Ihsanoğlu, "The *Madrasa*s of the Ottoman Empire," (Foundation for Science Technology and Civilization, 2004), 10.
[50] See ShahabAhmed, and Nenad Filipovic. "The Sultan's Syllabus: A Curriculum for the Ottoman Imperial Medreses Prescribed in a Fermān of Qānūnī I Süleymān, Dated 973 (1565)," *Studia Islamica* 99 (2004): 183-218.

madrassa teachers, *qāḍīs*, and *muftis*. They could also aspire to get jobs which were not directly related to matters of religion, like those of scribes, record keepers, and financial service managers. By creating employment opportunities, the Ottoman sultans attempted to monopolize the patronage for scholars. The Ottoman state emerged as the sole source of patronage for scholars throughout the empire. Mehmed II issued a law code in which he defined the hierarchy of state officials and scholars.[51] In this law code Mehmed II defined rules for employment and upward mobility of the scholars. The position of religious scholars in the hierarchy could be determined by a well-defined pay-scale which corresponded with their rank.[52] Scholars could expect to climb up in the hierarchy based on their knowledge, performance, and the relationship with the state. By monopolizing the employment opportunities for scholars and controlling the modes of their upward social mobility, the Ottoman government made the scholars realize the inevitability of their relationship with the government for their own survival and prestige. Scholars increasingly thought of themselves as inextricably linked with the imperial program. They were trained to play the essential role of furthering the interests of the Ottoman state.

In his reign, Süleyman relieved the religious scholars of the obligation to do the jobs of scribes, financial record keepers, and those related to similar roles. Scholars were now given more specialized and exclusive roles, solely related to the study and interpretation of religious sciences.[53] The number of jobs in the fields directly related to religion increased in the time of Süleyman because of an expansion in the judicial and educational system, resulting in an increase in demand for scholars trained in religious sciences. By the time of Süleyman, scholars had emerged as a distinct bureaucratic class called the *ilmiye* or the learned class.[54] The *ilmiye*

[51]Repp, *The Müfti*, 32.
[52] Ibid., 32.
[53]Atcıl, "The Formation," 166.
[54]Atcıl, "The Formation," 5.

together with the *askeriye*, the military class, were seen as the dominant force running the affairs of the state.

The institutionalization of religious scholars had a considerable impact on the scholarship produced by them. According to Atcıl, the Ottoman scholars viewed themselves as part of the imperial project of the Ottoman rulers. They were concerned about fulfilling the practical needs of the empire and this is also reflected in the religious literature produced in the empire. Atcıl gives an overview of the works produced in the Ottoman Empire on the subjects of theoretical and practical jurisprudence (*uṣūl* and *furū'*). He says that in the sixteenth century the Ottoman scholars focused more on producing works related to practical jurisprudence. This was not the case in the previous century. In the fifteenth century the Ottoman scholars were equally interested in both disciplines of Islamic Law. Atcıl links this change in the character of scholarship to the bureaucratization of the scholars and their concern for providing pragmatic legal solutions to the Ottoman state and society.[55] What can be seen, from the overview presented by Atcıl, is that most of the scholars were interested in writing summaries and commentaries on legal texts that were produced in the past. In doing so, they engaged, in some way or another, with almost all of the major works on Ḥanafī law. There was an air of universal appropriation of the Ḥanafī legal heritage. This was important for the Ottomans in order to be able to fully adopt and apply the Ḥanafī legal system in the empire. So the Ottoman state's allegiance to Ḥanafī law is also visible in the literature produced in the empire.

The context given in this chapter will help us understand the importance of *Multaqā al-Abḥur* of al-Ḥalabī. Based on authoritative sources of Ḥanafī law, *Multaqā al-Abḥur* is a text whose adoption into the legal system would bolster the Sunnī-Ḥanafī identity of the Ottomans. In

[55]Ibid., 288.

addition to that, by presenting a diversity of opinions in one source, the *Multaqā* provides a legal text which can serve in the realization of the ideal of a just order in a hugely diversified empire.

II: THE LIFE AND WORKS OF AL-ḤALABĪ IN THE BROADER CONTEXT OF OTTOMAN LEGAL SCHOLARSHIP

The most comprehensive account on the life of Ibrāhīmal-Ḥalabī is given in *al-Shaqā'iq al-Nu'māniyya,* a biographical dictionary by an Ottoman scholar Taşköprizade Ahmed (d. 1561). Şükrü Selim Has also relies mainly on this source for his dissertation. However, even the account given in *al-Shaqā'iq al-Nu'māniyya* is not sufficient to draw a satisfactory portrait of al-Ḥalabī. Another biographical-cum-bibliographical dictionary, *Hadyat al-'Ārifīn* by a late Ottoman historian Ismā'īl Pasha al-Baghdādī (d. 1920), which contains some information on al-Ḥalabī, is not mentioned by Has. *Hadyat al-'Ārifīn* mainly focuses on the works of al-Ḥalabī and does not give a detailed information on his life. Though it does not give us any extra piece of information on the life of al-Ḥalabī, it does help us identify an important book written by al-Ḥalabī that is not mentioned by Has. Given the insufficient information on his life, it is better to focus more on understanding al-Ḥalabī through his writings and the views that he expresses. Al-Ḥalabī's writings need to be contextualized in the dominant trends in the scholarship of his time. Has has given an extensive survey of his writings and views but contextualized them mostly against the Mamluk background of al-Halabī's early career. In contrast, in what follows I will focus on how his legal works fit in the general trends in legal scholarship in the Ottoman Empire in the sixteenth century.

II.1. The Life of al-Ḥalabī

As the name indicates, al-Ḥalabī was born in Aleppo in Syria somewhere around 1460.[56] He got his early education from the scholars of his time in Aleppo and thereafter departed to Egypt. At that time Syria and Egypt were under Mamluk rule. Under Mamluk patronage Cairo

[56] Based on Tashkoprizade's information that al-Halabī died when he was over 90 years of age in 1549. See: Taşköprizade Ahmed, *Al-Shaqā'iq al-Nu'māniyya fī 'Ulamā' al-Dawla al-'Uthmāniyya* (Beirut: Dār al-Kutub al-'Arabī, 1975), 295. And, Has, "A Study," 2.

gained a reputation as a major center of learning. Al-Ḥalabī received education in all the major disciplines of Islam including Qur'ānic exegesis, *ḥadīth* and practical and theoretical jurisprudence.Taşköprizade specially praises al-Ḥalabī for his command of Islamic law.[57] After his education, al-Ḥalabī chose to settle permanently and pursue his career in Constantinople. The imperial capital was a major attraction for scholars. Since 1453, the Ottomans had paid special attention to building the reputation of Constantinople as a major center of learning. Constantinople offered attractive opportunities of employment and patronage to the scholars. Al-Ḥalabī arrived in Constantinople sometime around 1500.[58] That means that by his death in 1549, he would see the rule of three Ottoman sultans: Bayezid II (r. 1481-1512), Selim I (r. 1512-1520), and Süleyman I (r. 1520-1566). He served as an *imām* (prayer leader) in a number of mosques before finally getting the post of *imām* and *khaṭīb* (orator) at the imperial mosque built by Sultan Mehmed II. Al-Ḥalabī also taught in a *madrassa* which was dedicated to the teaching of *qirā'a* (the art of Qur'an recitation). This particular *madrassa*, specifically called Dar al-Qurā', was established by Sa'di Çelebi who was a renowned jurist who also served as *Şeyhülislam* in the time of Süleyman, from 1534 to 1539.[59] Sa'di Çelebi had a close relationship with al-Ḥalabī and used to seek his advice on difficult cases of law.[60] Al-Ḥalabī, thus, seems to have had a good reputation in the field of Islamic law during his lifetime. It seems that his reputation was most visible in the time of Süleyman. The nineteenth-century Austrian orientalist Joseph von Hammer-Purgstall includes al-Ḥalabī among the ten jurists of Süleyman. The others included in the list are: Kemalpaşazade, Ebussuud, Taşköprizade, Ṣaliḥ Celalzade, Ḥafiz 'Acem,

[57]Taşköprizade Ahmed, *Al-Shaqā'iq al-Nu'māniyya fī 'Ulamā' al-Dawla al-'Uthmāniyya* (Beirut: Dār al-Kutub al-'Arabī, 1975), 295.
[58] Has, "A Study," 7.
[59] For a list of Chief Jurists in the Ottoman Empire, see Repp, *The Müfti*, XV.
[60] Has, "A Study," 10.

al-Lāri, Birgivī, Khayr al-Dīn, and Surūri.[61] When *Şeyhülislam* Çivizade wrote a treatise on the impermissibility of *masḥ ʻalā al-khuffayn* (wiping over the socks), Süleyman asked the scholars of his time to respond to Çivizade. Al-Ḥalabī was one of those who wrote a *risāla* (short treatise) against the position taken by Çivizade arguing for the permissibility of *masḥ ʻalā al-khuffayn*.[62] This is a further indication of his reputation as an authority on legal issues. Al-Ḥalabī died in 1549 when he was over ninety years of age.

II.2 Al-Ḥalabī's Works on Islamic Law

Ibrāhīm al-Ḥalabī wrote a number of books and short treatises (*rasā'il*) on a range of subjects, including law, *ḥadīth*, and theology. He also wrote against certain Sufi beliefs and practices. He specifically criticized Ibn ʻArabī for his heterodox views which, he deemed, were against the *sharīʻa*. At least two of his works: *Niʻmat al-Dharīʻa fī Nuṣrat al-Sharīʻa* and *Tasfīh al-Ghabī fī Tanzīh Ibn ʻArabī* are directed against Ibn ʻArabī.[63] *Niʻmat al-Dharīʻa fī Nuṣrat al-Sharīʻa* is in refutation of Ibn ʻArabī's book *Fuṣūṣ al-Ḥikam.* He seems to have been more receptive to Sufi ideas which did not contradict the *sharīʻa*. He wrote a short commentary on some verses containing themes related to Sufism. He attempted to reconcile these themes with the principles of *sharīʻa*.[64]

As stated earlier, I will pay particular attention to his legal works and try to analyze how they relate to the overall scholarly climate in the empire. His books related to jurisprudence are:

1. *Ghunyat al-Mutamallī fī Sharḥ Munyat al-Muṣallī*

[61]Has, "A Study," 16.
[62]Ibid., 150.
[63]Ibid., 118, 149.
[64]Ibid., 111.

This work of al-Ḥalabī is also known as *Ḥalabī Kabīr*. It is a commentary on *Munyat al-Muṣallī* of Sadīd al-Dīn al-Kāshgharī (d. 1305).[65] It is a detailed work which contains legal issues related to ritual prayer (*ṣalā*). Al-Ḥalabī wrote this work in the style of a *mabsūṭ*, a particular genre of Islamic law that contains detailed discussions of the differences of opinion and the justification from scripture and logic that is given for such a differentiation. However it may not be termed as a *mabsūṭ* proper, since it does not cover all topics discussed under Islamic legal literature, which is characteristic of a *mabsūṭ*. It restricts itself to mandatory and recommended ritual prayers and issues related to them. According to Şükrü Selim Has, this work became quite popular after its composition and was also included in the curriculum of Ottoman *madrassas*.[66]

2. *Mukhtaṣar Ghunyat al-Mutamallī*

Also known as *Ḥalabī Ṣaghīr,* this book is an abridgement of al-Ḥalabī's afore-mentioned work. According to Katib Çelebi, the commentary was summarized by al-Ḥalabī for his students.[67] Like *Ḥalabī Kabīr, Ḥalabī Saghīr* also found its way in the *madrassa* curriculum.[68] Therefore, at least three works by al-Ḥalabī were included in the *madrassa* curriculum in the Ottoman Empire: the*Multaqā, Ḥalabī Saghīr,* and *Ḥalabī Kabīr*. This indicates the importance that al-Ḥalabī and his works had in the Ottoman scholarly community.

3. *Mukhtaṣar Fatḥ al-Qadīr*

This work of al-Ḥalabī is not mentioned by Şükrü Selim Has. There seems to be no doubt in the attribution of this work to al-Ḥalabī as it is mentioned in at least two

[65]Katib Çelebi, *Kashf al-Ẓunūn 'an Asāmī al-Kutub wa-l-Funūn* (Beirut: Dar Iḥyā al-Turāth al-'Arabī, 1941), 1886.
[66] Has, "A Study," 109.
[67]Katib Çelebi, *Kashf al-Ẓunūn*, 1886.
[68] Has, "A Study," 110.

bibliographical/biographical dictionaries: *Kashf al-Ẓunūn* and *Hadyat al-'Arifīn*.[69] The book is a summarized version of *Fatḥ al-Qadīr* written by Ibn al-Hummām (d. 1457), a Ḥanafī scholar from Cairo. *Fatḥ al-Qadīr* is an eight-volume commentary on *al-Hidāya* of al-Marghinānī (d. 1197). *Al-Hidāya* was widely popular in the Ottoman Empire and it was also included in the *madrassa* curriculum.[70] It is also one of the sources that al-Ḥalabī relied on while composing his most important work, *Multaqā al-Abḥur*.

4. *Al-Fawā'id al-Muntakhaba min-al-Fatāwā al-Tātārkhāniyya*

This work by Ibrāhīm al-Ḥalabī is a summarized version of the *al-Fatāwa al-Tātārkhāniyya* of 'Ālim Ibn 'Alā'al-Dīn (d. ca. 1398), a Ḥanafī scholar from Central Asia.[71] In this work, al-Ḥalabī included issues which were not mentioned in other collections of legal opinions. It seems that *al-Fatāwa al-Tātārkhāniyya* was one of the major sources of reference for Ottoman *muftī*s when issuing *fatwā*s (legal opinions). Haim Gerber indicates that it was one of the sources most cited by later Ottoman *muftī*s Khayr al-Dīn al-Ramlī (d. 1671) and Ibn 'Ābidīn (d. 1836).[72] The fact that al-Ḥalabī chose to summarize the work is indicative of the fact that this work remained widely popular with successive generations of Ottoman scholars.

5. *Multaqāal-Abḥur*

It combines legal opinions compiled from six legal texts, which are understood as among most authoritative works produced in Ḥanafī legal history. It will be discussed in detail in the next chapter.

[69]Katib Çelebi, *Kashf al-Ẓunūn*, 2034. And, Ismā'īl Pasha Al-Baghdādī, *Hadyat al-'Ārifīn: Asmā' al-Mu'allifīn wa Āthār al-Muṣannifīn* (Beirut: Dar Iḥyā al-Turāth al-'Arabī, 1951), 27.
[70] See the list of books in: Shahab Ahmed and Nenad Filipovic. "The Sultan's Syllabus".
[71]Katib Çelebi, *Kashf al-Ẓunūn*, 268.
[72]Gerber, *Islamic Law*, 26.

It can be seen that in his legal writings Ibrāhīm al-Ḥalabī is actively engaging with the major works of Ḥanafī law. All of his books are either commentaries or abridgements based on some of the most important literature produced earlier in Islamic history. Al-Ḥalabī's books well represent the overall trend in legal scholarship in the sixteenth century. His writings demonstrate the same air of the universal appropriation of theḤanafī legal heritage that is visible in the scholarly endeavors of the Ottoman scholars, about which the preceding chapter speaks in detail.

II.3 Characterizing Ottoman Legal Discourse in terms of *Ijtihād* and *Taqlīd*

Most of the legal writings composed by the Ottoman scholars were based on earlier literature. There were hardly any original projects in legal studies. As discussed in the previous chapter, most of the works were either commentaries or abridgements of earlier writings. However, it does not mean that the Ottoman scholars were just passively transmitting the opinions of earlier scholars without much intellectual engagement. There are cases where scholars were critical of some of the views of past jurists. Kemalpaşazade, for instance, wrote commentaries on Ḥanafī legal texts like *Wiqāyat al-Riwāya*, *Sharḥ al-Wiqāya*, and *al-Hidāya*, and in some places he highlighted the mistakes made by the authors of these books.[73] Sa'di Çelebi also expressed criticism against *al-Hidāya*.[74] Even in the absence of criticism, already existing differences of opinion among the great Ḥanafī jurists offered enough room for active intellectual participation. Ibrāhīmal-Ḥalabī utilized the differences of opinion to good effect and employed rationalistic tools and the argument that one needs to consider specific circumstances of the time to prefer one opinion over the others, as will be discussed below.

The lack of interest in producing original works does not mean that there was no change in the legal thought during the Ottoman period. While framing their legal discourse on the basis

[73]Atcıl, "The Formation," 297.
[74] Ibid., 298.

of earlier scholarship, Ottoman scholars often actively engaged with the legal opinions of earlier jurists and did not hesitate to suggest changes in the views wherever necessary. The change in law is more visible in the collections of legal opinions (*fatāwa*). It is because a *fatwā* is mostly given by a *muftī* in response to a question posed by a member of the society. Therefore a *muftī* is involved in the world of social reality and his *fatwā* is responsive to the needs of his time.[75] Haim Gerber shows that Ottoman *muftī*s Khayr al-Dīnal-Ramlī and Ibn ʿĀbidīn extensively used rationalistic tools like *istiḥsān* in their rulings.[76] *Istiḥsān* is essentially the setting aside of an established opinion in favor of an alternative ruling to serve public interest.[77] The availability of legal tools like *istiḥsān* means that change and development in legal thought is possible within the framework of a legal school. There are always differences of opinion in a school of law and these differences can be manipulated to derive rulings that are suitable to the changing social contexts. This is eventruer for Ḥanafī Law which is characteristically pluralistic, as explained earlier. The change expressed in the legal opinions (*fatwā*s) affects the general progression in the legal thought. Wael Hallaq argues that *fatwā*s were regularly incorporated into works of substantive law (*furūʿ*).[78] Therefore, a change and progression was possible in Islamic law because of the socially-embedded phenomenon of *fatwā.* As will be seen later, this point is manifested in the *Multaqā*, which contains legal opinions of jurists that came later than the founders of Ḥanafī law.

The discussion in the above paragraphs warrants a need to examine more closely how Ottoman legal scholarship utilized the notions of *ijtihād* (exercising personal juristic opinion)

[75]Gerber, *Islamic Law*, 32.
[76] Ibid., 92-97.
[77]*Istiḥsān* is essentially the setting aside of an established opinion in favor of an alternative ruling to serve public interest. See, Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 1991), 218.
[78]Wael B. Hallaq, "From *Fatwās* to *Furūʿ*: Growth and Change in Islamic Substantive Law." *Islamic Law and Society* 1 (1994): 40.

and *taqlīd* (following a school of law). Giving an introduction for al-Ḥalabī's*Multaqāal-Abḥur*, Katib Çelebi writes:

> "…he did *ijtihād* in emphasizing the most correct (*aṣaḥ*) and the strongest (*aqwā*) opinion."[79]

Moreover, in the *Multaqā* under the discussion on the office of a *qāḍī*, al-Ḥalabī says:

> "… Likewise being a *muftī* and the ability to do *ijtihād* are conditions for preference while appointing a *qāḍī*."[80]

These two statements suggest that among the Ottoman scholars there were at least some who accepted the possibility of doing *ijtihād* while staying within the framework of a school of law.

Earlier scholars on Islamic law, especially Joseph Schacht, played a part in assigning negative connotations to the concept of *taqlīd*. Schacht was also one of the foremost proponents of the theory of "closing of the door of *ijtihād*."[81] It amounted to indicating that Islamic legal thought experienced a stagnation in the post-formative period. Such a view results from the way Joseph Schacht defines *ijtihād* and *taqlīd*. He understands *ijtihād* as "independent reasoning" and *taqlīd* as "unquestioning acceptance of the doctrines of established schools."[82] Such definitions result in understanding the two phenomena as binary opposites rather than as complementary legal tools. Characterizing *taqlīd* as unquestioning acceptance of school doctrine does not help explain the change that Islamic law experienced in the post-formative period. Earlier discussion in this chapter has demonstrated that, in spite of the practice of *taqlīd* of Ḥanafī law, the Ottoman

[79] Katib Çelebi, *Kashf al-Ẓunūn*, II: 1814.
[80]Ibrāhīm al-Ḥalabī, *Multaqā al-Abḥur* (Istanbul: al-Maṭbaʿa al-Uthmāniyya, 1891), 115.
[81] Sherman A. Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din Al-Qarafi*(Leiden: E.J. Brill, 1996), 74.
[82] Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Oxford University Press, 1982), 71.

*muftī*s were able to sustain a change and development in the legal thought. Therefore we will need to have a better understanding of *taqlīd* in order to understand the change in Islamic law during the Ottoman period.

Sherman Jackson proposes that the essential principle in *taqlīd* is not servile imitation, but "a search for stable and uncontested sources of authority."[83] According to Jackson, a search for authority can either be directed towards a past authoritative jurist or it can be directed, not to the past, but to the center, i.e., to the authority of the *madhhab* (school of law).[84] According to him, multiplicity of opinions can exist within a school but this multiplicity is "overridden by the going opinion of the school."[85] So, affectively, Jackson gives the idea of a *madhhab* as certain progression of legal thought. Accordingly, when *taqlīd* is understood as seeking the authority of a certain legal thought in progression, it would not seem like blind following. Rather, the one seeking the authority would himself be a participant in this progression of thought. His opinion would also play a part in the development of the legal thought. Jackson also accepts the possibility of a jurist having a personal view and this view becoming part of the continuum of legal discourse.[86]

In the light of the above discussion it can be said that the juristic activity of manipulating the multiplicity of opinions within a school to arrive at a legal position signifies an inter-play of *ijtihād* and *taqlīd*. Such an activity stays within the framework of a legal school but at the same time plays a part in the overall progression in the legal thinking. This seems to be the sense in which Katib Çelebi and Ibrāhīm al-Ḥalabī understand *ijtihād*. Both of them accept the possibility of practicing *ijtihād* while staying within the framework of a school of law. According to this

[83]Jackson, *Islamic Law*, 80.
[84]Jackson, *Islamic Law*, 82.
[85] Ibid., 83.
[86] Ibid., 83.

view *taqlīd* and *ijtihād* are complementary phenomena and they can be practiced together. The literature produced by Ottoman jurists exemplifies both the invocation of the authority of Ḥanafī school (i.e. *taqlīd*) and independent reasoning which sustained a change in Islamic legal thought (i.e. *ijtihād*). Therefore, it may be said that, generally, Ottoman legal discourse demonstrated an inter-play of *ijtihād* and *taqlīd*. And al-Ḥalabī's works discussed above also represent the same trend. The next chapter will argue that al-Ḥalabī's *Multaqā al-Abḥur* best epitomizes the interplay of *ijtihād* and *taqlīd*. The *Multaqā* invokes the authority of Ḥanafī tradition and at the same time creates the possibility of some level of change and progression in the Islamic law.

III. THE *MULTAQĀ* AND ITS SOURCES: THE HISTORICAL EVOLUTION OF THE GENRE OF *MUKHTAṢAR*

Multaqā al-Abḥur is based on six authoritative texts on Ḥanafī law. Şükrü Selim Has has written in detail about the six sources in his dissertation on al-Ḥalabī. However, he does not contextualize the *Multaqā* and its sources in a discussion on the various genres of legal literature. Such a discussion is important to understand the significance that the *Multaqā* held for the Ottomans. In what follows I will study the sources of the *Multaqā* in the context of the evolution of a particular literary genre of Islamic law, the *mukhtaṣar*. A *mukhtaṣar* is essentially a compendium of law in which articles of law are organized systematically under topical headings. I will propose to assign the *Multaqā* a place in the evolution of the genre of *mukhtaṣar*. It would help us appreciate the authoritative nature of the *Multaqā* and hence its importance for the Ottomans.

III.1 Two Important Genres of *Furū' al-Fiqh*

Islamic law (*fiqh*) is studied under two main disciplines namely *Uṣūlal-Fiqh* and *Furū'al-Fiqh*. *Uṣūl al-Fiqh* (literally foundations or principles of *fiqh*) deals with the methodology on the basis of which the rules are derived, while *Furū'* (literally branches, derivatives of *fiqh*) deals with the actual rules and regulations which are derived from the sources. Our concern in the present study is the discipline of *Furu' al-Fiqh* as the *Multaqā* is a book of derived laws and not the methodology employed to derive them. In modern terminology *Furū' al-Fiqh* is the discipline which deals with substantive law. The literature produced on *Furū' al-Fiqh* can be categorized into various different genres. For the present study it is important to introduce two of those genres, which are *mukhtaṣar* (translated as epitome or compendium) and *mabsūṭ* (translated as expansum). Norman Calder distinguishes between the two in the following words:

> "The ***mukhtaṣar*** characteristically contains a succinct and highly compressed sequence of norms, loosely bundled under topical headings: a structured framework or skeleton of the law. The ***mabsūṭ*** justifies and explains the law and multiplies its details. In its most characteristic form, it is a commentary on a *mukhtaṣar*."[87]

It may be added here, that a *mukhtaṣar* may or may not contain the differences of opinion (*ikhtilāf al-rā'iy*), but a *mabsūṭ* almost certainly mentions the differences within a school and, sometimes, amongst different schools of law as well. A *mabsūṭ* also often invokes concepts and arguments from the field of *Uṣūl al-Fiqh* to provide justification for rules.

The *Multaqā* is related to the discipline of *Furū' al-Fiqh* and can be characterized as a *mukhtaṣar*. It is based on six authoritative sources on Ḥanafī law, five of which are *mukhtaṣar*s and one is a *mabsūṭ*. The five *mukhtaṣar*s are: *Mukhtaṣar al-Qudūrī* of Abū al-Ḥusayn al-Qudūrī (d. 1037), *al-Mukhtār li-l-Fatwā* of 'Abdullah Ibn Maḥmūd al-Mawṣilī (d. 1283), *Majma' al-Baḥrayn* of Muzaffir al-Dīn Ibn Sā'ātī (d. 1295), *Wiqāyat al-Riwāya* of Maḥmūd Ibn 'Ubaydullah al-Maḥbūbī (d. 1312) and *Kanz al-Daqā'iq* of Ḥāfiẓ al-Dīn al-Nasafī (d. 1310). The sixth source of the *Multaqā* is *al-Hidāya* of Burhān al-Dīn al-Marghinānī (d. 1196), a work consisting of four volumes, which belongs to the genre of *mabsūṭ*. It contains detailed discussions on Ḥanafī law and gives the divergent views from within and without the Ḥanafī school.

[87]Norman Calder, *Islamic Jurisprudence in the Classical Era* (Cambridge: Cambridge University Press, 2010), 39. A *mukhtaṣar* and *mabsūṭ* may also be called matan (text) and Sharh (commentary) respectively. This is because *mabsuṭ* is mostly a commentary on a *mukhtaṣar*, e.g. *al-Hidāya* of al-Marghinānī is a commentary on his own work *Bidāyat al-Mubtadī*.

The five *mukhtaṣars*, which the *Multaqā* is based on, are included among the most authoritative texts in the Ḥanafī school. In the Ḥanafī tradition there were two prevalent views about the most authoritative texts. According to one view, the most important texts are three (identified as: *al-mutūn al-thalātha*): *Mukhtaṣar al-Qudūri, Wiqāyat al-Riwāya* and *Kanz al-Daqā'iq*. According to the second view, the most important texts are four (identified as: *al-mutūn al-arba'a*): *Wiqāyat al-Riwāya, Kanz al-Daqā'iq*, *al-Mukhtār li-l-Fatwā* and *Majma' al-Baḥrayn*.[88] In either case, the *Multaqā* includes all of them as sources. Being a combination of the most authoritative sources, the *Multaqā* holds an authority of its own. The *Multaqā* combines the legal material present in the sources into one book. Therefore, the *Multaqā* eventually found its place in the most authoritative texts on Ḥanafī law. It was used as a good substitute for its sources in the Ottoman Empire. The Ottoman *muftī* Ibn 'Ābidīn includes the *Multaqā* among the seven most reliable texts (*al-mutun al-mu'tabara*) on Ḥanafī law and it is the only text which is included in this list from the post-fourteenth century period.[89]

III.2 The Sources of the *Multaqā*:

In the prologue to his book, Ibrahīm al-Ḥalabī indicates that he wrote the book in response to a request made by someone[90] to compose a work which would combine the rulings of *Mukhtaṣar al-Qudūrī*, *al-Mukhtār li-l-Fatwā*, *Kanz al-Daqā'iq* and *Wiqāyat al-Riwāya*. Thus the initial request was made to use only four of the six sources. However, he says that out of necessity he occasionally consulted *Majma' al-Baḥrayn* and *al-Hidāya* in addition to the texts mentioned above. In the following section the sources of the *Multaqā* are briefly introduced.

[88]'Abd al-Ḥayy al-Laknawī al-Hindī, *Al-Fawā'id al-Bahiyya fī Tarājim al-Ḥanafiyya* (Cairo: Maṭba'at al-Sa'āda, 1906),106, 107.
[89]Muḥammad Amīn Ibn 'Ābidīn, *Sharḥ 'Uqūd Rasm al-Muftī* (Karachi: Maktabat al-Bushrā. 2009), 60.
[90] It is not clear who this person was. Al-Halabī uses the phrase *ba'ḍ ṭālibī 'l-istifāda* (someone from the seekers of benefit). It might be one of his students. The word used for a student in Arabic is similar: *ṭālib al-'ilm* (seeker of knowledge). See: Al-Ḥalabī, *Multaqā al-Abḥur*, 2.

1. *Mukhtaṣar al-Qudūrī*

This is the work of Abu al-Ḥusayn Ahmad Ibn Muḥammad al-Qudūrī (d. 1037), a Ḥanafī jurist from Baghdad. It is regarded as the first well-organized collection of Ḥanafī rulings.[91] There were other such works composed before *Mukhtaṣar al-Qudūrī*, but they lacked organization and a proper structure. It is the earliest and, undoubtedly, the most authoritative of the sources of the *Multaqā*. It had a huge stature in Ottoman scholarship. The seventeenth-century Ottoman scholar Katib Çelebi (d. 1657) writes:

> "This is a text of strength and reliability (*matan(un) matīn(un) mu'tabar*) which is well-known among the leading scholars and its fame and popularity needs no explanation."[92]

2. *Al-Mukhtār li-l-Fatwā*

Al-Mukhtār li-l-Fatwā is a work of 'Abdullah Ibn Maḥmūd al-Mawṣilī (d. 1283), from Mosul, Iraq. Al-Mawṣilī studied in Damascus and, later on, spent some time in Kufa and Baghdad also.[93] According to Katib Çelebi, al-Mawsili initially wrote *al-Mukhtār li-l-Fatwā*, including in it only the opinions of Imam Abū Ḥanīfa. However, later on, he expanded his work on the request of his contemporaries and included some more details and opinions of other jurists.[94]

3. *Majma' al-Baḥrayn waMultaqā al-Nayyirayn:*

[91]Ya'akov Meron, "The Development of Legal Thought in Ḥanafī Texts" *Studia Islamica* 30 (1969): 78.

[92] Katib Çelebi, *Kashf al-Ẓunūn*, II: 1631.
[93]Has, Sukru Selim. 172.
[94] Katib Çelebi, *Kashf al-Ẓunūn*, II: 1622.

Majma‘ al-Baḥrayn was composed by Muzaffar al-Dīn Ibn Sā‘ātī (d. 1295). It is mainly based on two works: *Mukhtaṣar al-Qudūrī* and *al-Manzūma* of Abu Ḥafṣ al-Nasafī (d. 1142).[95] In his prologue Ibn Sā‘āti says that he relied on these two works because *Mukhtaṣar al-Qudūrī* guides to the positions held by Ḥanafī jurists, while *al-Manzūma* lists differences of opinion between the different schools of law.[96] Therefore *Majma‘ al-Baḥrayn* does not exclusively list the opinions of Ḥanafī jurists but includes the opinions held in other schools of law as well.

4. *Wiqāyat al-Riwāya*

Wiqāyat al-Riwāya fī Masā’il al-Hidāya is a book by Maḥmūd Ibn ‘Ubaydullah al-Maḥbūbī (d. 1312). It is an abridgement of the rulings of *al-Hidāya* of al-Marghinānī. He wrote it for his grandson Ṣadr al-Sharī‘a al-Sānī ‘Ubaydullah Ibn Mas‘ūd (d. 1346). The grandson then wrote a commentary on the text by the name of *Sharḥ al-Wiqāya*. He also summarized *Wiqāyat al-Riwāya* of his grandfather and named it *al-Nuqāya*[97]. *Al-Nuqāya* will be mentioned later when we discuss the Ottoman jurisprudential canon. This is one of the texts included by Ibn ‘Ābidīn in the most reliable sources on Ḥanafī law.

5. *Kanz al-Daqā’iq*

Kanz al-Daqā’iq is a book by Ḥāfiẓ al-Dīn al-Nasafī (d. 1310), from the town of Nasaf (modern day Qarshi in Uzbekistan). The same author also wrote *Kitāb al-Manār*, one of the most famous works in the field of Ḥanafī *Uṣūl al-Fiqh*. Ottoman *Şeyhülislam* Ebussuud wrote a commentary on the beginning part of *Kitāb al-Manār* and titled it *Sawāqib al-Anẓār fī 'Awā’il al-*

[95] Abū Ḥafṣ al-Nasafī (d. 1142) should not be confused with Hāfiẓ al-Dīn al-Nasafī (d. 1310), the author of *Kanz al-Daqā’iq*. Both are Hanafi scholars from the same area but different periods.
[96]Muẓaffir al-Dīn Ibn Sā‘ātī, *Majma‘ al-Baḥrayn wa Multaqā al-Nayyirayn* (Beirut: Dar al-Kutub al-‘Ilmiyya, 2005), 59.
[97] Çelebi, *Kashf al-Ẓunūn*, II: 1971.

Manār.[98] Both *Kitāb al-Manār* and *Kanz al-Daqā'iq* were highly regarded by Ottoman scholars. The most famous commentary on *Kanz al-Daqā'iq* is also by an Ottoman scholar from Egypt, Ibn Nujaym (d. 1563) and it is titled *al-Baḥr al-Rā'iq*.

Kanz al-Daqā'iq is a summary of al-Nasafī's earlier more detailed work titled *al-Wāfī*. *Al-Wāfī* is itself based on various earlier works like *Mukhtaṣar al-Qudūrī*, *al-Hidāya* of al-Marghinānī, the aforementioned *al-Manzūma* of Abu Ḥafṣ al-Nasafī (d. 1142), *al-Jami' al-Saghīr* and *al-Jami' al-Kabīr* of Muḥammad al-Shaybānī (d. 804), and some other sources as well.[99] Since *Kanz al-Daqā'iq* is an abridgement of *al-Wafī*, it is indirectly based on all the sources mentioned above. It is a landmark effort by al-Nasafī in which he uses almost all the major authoritative sources of Ḥanafī law in a concise and coherent style. In *Kanzal-Daqā'iq* al-Nasafī leaves out the differences of opinion and mentions only the preferred rulings (*rājiḥ*). It is an attempt to give a concise statement of the whole expanse of Ḥanafī law. The book is praised for its conciseness and coherence.[100]

Among all its sources, *Kanz al-Daqaiq* is the closest to the *Multaqā* in terms of organization and style. Many chapters in the *Multaqā* start with exactly the same words as contained in al-Nasafī's book, especially when it comes to defining various phenomena like sale (*bay'*), usury (*ribā'*), marriage (*nikāḥ*), etc. The organization of the chapters is also almost similar. So the *Multaqā*, in one way, can be seen as an updated version of *Kanzal-Daqā'iq*. This fact has a special significance if it is analyzed in light of the discussion of by Norman Calder on the evolution of the literary genre of *mukhtaṣar*. His views will be discussed in detail in the coming sections.

[98]Atcil, "The Formation," 244.
[99] Çelebi, *Kashf al-Ẓunūn*, II: 1997.
[100] See below quotation from Norman Calder.

6. *Al-Hidāya*

Al-Hidāya is a hugely influential *mabsūṭ* composed by Burhān al-Dīn al-Marghinānī (d. 1195). It is a commentary on a *mukhtaṣar* named *Bidāyat al-Mubtadi*, which is written by the same author. *Bidāyat al-Mubtadi* itself is based on two earlier sources: *Mukhtaṣar al-Qudūri* and *al-Jami' al-Saghīr* of Muḥammad al-Shaybānī (d. 804). *Al-Hidāya* can be characterized as a work on comparative jurisprudence since it compares the opinions presented in the different schools of law, especially Ḥanafī and Shāfi'ī schools. Al-Marghinānī discusses the various legal positions with a detailed explanation of the logical and textual proofs that the jurists give for their rulings.

It can be seen that all the above-mentioned works are inter-related directly or indirectly through their sources. This is very typical of Islamic legal literature and is also visible in the Ottoman scholarship, as mentioned in the previous chapter. All the texts collectively play a part in the sustenance of the legal thought.

III.3 The Evolution of the Genre of *Mukhtaṣar*:

The historical evolution in the style and organization of texts is crucial to understanding the development in the legal thought of any school of law. In a study based on legal texts the most important point is to appreciate the different roles that the different literary genres play in the development of the school of law. Any laxity in this respect can lead to incorrect conclusions.

The views of two scholars will be discussed here who attempted to explain the course and trajectory of legal texts in Ḥanafī law. Ya'akov Meron categorizes the history of Ḥanafī law into three periods: ancient, classical and post-classical. Meron's periodization is based upon his study of the production of legal literature in different periods. The ancient period is identified by legal

texts like *al-Aṣl* of Muḥammad al-Shaybāni (d. 805) and *Mukhtaṣar* of al-Ṭaḥāwī (d. 935). According to him, the texts of the ancient period are arbitrary expositions of rules lacking any organization or explanation.[101] The classical period starts with the emergence of the *Mukhtaṣar* of al-Qudūrī. This period produces works like *Badā'i' al-Ṣanā'i'* of al-Kasāni (d. 1191), which are detailed, coherent and better organized.[102] The post-classical period starts with the production of *al-Hidāya* of al-Marghinānī. The texts in the post-classical period lack originality and coherence like the texts of the classical period. According to Meron, the texts produced in the post-classical period are either full of casuistic rulings far-removed from the legal principles or are blind imitations of earlier texts.[103]

Meron's analysis does not appreciate the distinction between the different genres of law. A genre like *Mukhtaṣar*, as we have already discussed, contains the summarized legal opinions and it is never meant to justify articles of law by relating them to legal principles and methodology. Such a task is achieved in a *mabsūṭ*. On the other hand, another genre of law, called *fatāwā*, contains legal views of jurists presented in the form of questions and answers. However, it is natural for the *fatāwā* to be casuistic and less organized than *mukhtaṣars* and the *mabsūṭs*. All the genres of law were developing side-by-side throughout the three periods that Meron identifies, and a distinction between the different genres needs to be made when conducting any study on legal texts.

A better analysis of the history of texts in Ḥanafīlaw is given by Norman Calder. In his discussion of the evolution of *mukhtaṣars*, he focuses on four such compilations, which are: *Mukhtaṣar al-Qudūrī, al-Mukhtār li-l-Fatwā, Bidāyat al-Mubtadī* and *Kanz al-Daqā'iq*. Calder

[101]Meron "The Development," 73, 74.
[102]Meron "The Development," 78-91.
[103]Meron "The Development," 91, 92.

traces the course of the stylistic development of *mukhtaṣars* starting from al-Quduri's *Mukhtaṣar*, which is the first attempt at organization and coherence. He looks at the *mukhtaṣar*s produced in the subsequent periods as part of a process "marked by (among other factors) the increased concision of expression, the emergence of technical vocabulary, and heightened precision and refinement of presentation."[104] According to Calder, the search for refinement and concision in the *mukhtaṣars* reaches its culmination with *Kanzal-Daqā'iq* of Ḥāfiẓ al-Dīn al-Nasafī. Calder praises al-Nasafī's book for "its grammatical control, extensive ellipsis and achieved concision".[105] He summarizes the process of the evolution of *mukhtaṣar*s from *Mukhtaṣar al-Qudūrī* to *Kanz al-Daqā'iq* as a move from "classicism to mannerism."[106] Calder asserts that by basing himself on the maximum number of authoritative sources, al-Nasafī has made his work worthy of being viewed as the most perfect epitome of Ḥanafī law. So, *Kanz al-Daqā'iq* is not just a culmination of "mannerism," it is also an amalgamation of authority. Al-Ḥalabī would do the same, later on, in his *Multaqā*: amalgamating all the authoritative texts into one. The *Multaqā* is very close in style and organization to *Kanz al-Daqaiq* but unlike al-Nasafī's book, it does include differences of opinion within the Ḥanafī School. The *Multaqā* also incorporates rulings from other *mukhtaṣars* which are left out by al-Nasafī in order to achieve concision.

Much of the effort spent by the authors of the *mukhtaṣar*s was aimed at transmitting the doctrine of the school comprehensively and at the same time concisely. But there is an obvious trade-off between comprehensiveness and conciseness that the authors of the compendiumshad to face. A success of a *mukhtaṣar* depended on its ability to achieve an ideal and optimum

[104] Norman Calder, *Islamic Jurisprudence in the Classical Era.* (Cambridge: Cambridge University Press, 2010), 28.
[105] Ibid., 33.
[106] Ibid.,35.

balance between comprehensiveness and conciseness. In *Kanz al-Daqā'iq,* al-Nasafī achieved conciseness to the level of perfection but in doing so he had to leave out the differences of opinion. It is an excellent source for definitions of legal concepts as it gives the most comprehensive definitions that are sometimes absent from other sources. However, in the subsequent details that follow after definitions *Kanz al-Daqā'iq* leaves out a lot of detail. This is, probably, the only drawback of *Kanz al-Daqā'iq*. It is a brief statement of the doctrine of Ḥanafī school, but it does not have the practical value that one would expect in a compendium. The *Multaqā* makes use of the concise terminology of *Kanz al-Daqā'iq* and adds to it further details from other sources. Therefore, the *Multaqā* is an improved *mukhtaṣar* which achieves greater balance between comprehensiveness and conciseness. It is this character of the *Multaqā* that a commentator praises. ʻAbd al-Raḥmān Ibn Shaykh Muḥammad, the author of *Majmaʻ al-Anhur Sharḥ Multaqā al-Abḥur*, says:

> "(*Multaqā al-Abḥur*) is the most beneficial of the texts (*mutūn*) of the school and the latest one; and it is the most complete of them in usefulness and the most perfect one; it is free from tedious details and confusing brevity."[107]

For instance, it is interesting to study the case of the definition of *shahīd* (martyr) in the different *mukhtaṣars* in order to see its evolution.

In *Mukhtaṣar al-Qudūrī* a *shahīd* is defined as:

> "A *shahīd* is someone who is killed by a non-believer or is someone who is found in the battle-field with wounds or is someone who is killed by Muslims

[107] ʻAbd al-Raḥmān Ibn Shaykh Muḥammad, *Majmaʻ al-Anhur* (Beirut: Dār al-Kutub al-ʻIlmiyya, 1998), I: 8.

> unjustly such that this killing does not obligate the payment of blood money."[108]

The definition in *al-Mukhtār li-l-Fatwā*, *Majma' al-Baḥrayn* and *al-Hidāya* is similar to the one given above.[109] In *Wiqāyat al-Riwāya*, the definition is slightly different. It is given as:

> "(A shahīd includes) everyone who is clean,[110] adult and is killed with iron (i.e. weapons) unjustly or is found dead, with wounds in a battle."[111]

Kanz al-Daqā'iq gives the most comprehensive definition as compared to the above-mentioned works. However, the subsequent discussion is very brief. The definition of *shahīd* is given as:

> "(A *shahīd* is someone) who is killed by the people of war (*ahl al-ḥarb*)[112] or rebels (*baghā'*) or robbers (*qatā' al-ṭarīq*) or is someone who is found in the battlefield with signs (of being killed in fighting) or is someone who is killed by Muslims unjustly such that it does not obligate the payment of blood-money."[113]

[108]Abū al-Ḥusayn al-Qudūrī, *Mukhtaṣar al-Qudūrī* (Beirut: Dār al-Kutub al-'Ilmiyya, 1997), 49.
[109] See, Muẓaffir al-Dīn Ibn Sā'ātī, *Majma' al-Baḥrayn wa Multaqā al-Nayyirayn* (Beirut: Dar al-Kutub al-'Ilmiyya, 2005), 178. And, 'Abdullah Ibn Maḥmūd al-Mawṣilī, *Al-Mukhtār li-l-Fatwā.* (--------), 13. And, Burhān al-Dīn al-Marghinānī, *Al-Hidāya Sharḥ Bidāyat al-Mubtadī* (Karachi: Idārat al-Qur'ān wa-l-'Ulūm al-Islāmiyya, 1997) II: 154.
[110] Here it means being ritually clean. A person who is not ritually clean can be considered as a martyr but the procedure for his burial will be different. The purpose of the author is to discuss the procedure for burial and funeral prayer for a martyr.
[111]'Ubaydullūh Ibn Mas'ud, *Sharḥ al-Wiqāya.* (Karachi: Mīr Muḥammad Kutub Khana, ….), 34. The book cited here is a commentary on the *Wiqāt al-Riwāya*. I couldn't find the primary text published in a separate edition. But the commentary is equally helpful since the original text is distinguished from the comments by markings above the text.
[112]i.e. those with whom the Islamic State is at war.
[113]Ḥāfiẓ al-Dīn al-Nasafī, *Kanz al-Daqā'iq.*(Karachi: Maktabat al-Bushrā, 2010) I: 183. This text of *Kanz al-Daqā'iq* is with commentary, but the primary text is in separate section.

Al-Ḥalabī includes exactly the same definition as given in *Kanz al- Daqā'iq*.[114]. This is an illustration of the fact that al-Ḥalabī is incorporating Ḥanafī law in its fully evolved shape. The *Multaqā* differs from *Kanz al-Daqā'iq* in the subsequent discussion about the funeral prayer and the procedure of burial for a martyr. It gives a more detailed account along with the differences of opinion amongst the Ḥanafīs, which *Kanz al-Daqā'iq* ignores. The *Multaqā* makes use of the process of evolution and perfection in the style of *mukhtaṣars* but adds to that more details and differences of opinion. Hence it is affectively improving the practical applicability of the genre of *mukhtaṣar*. This fact has earned the *Multaqā* a special place in the evolution of *mukhtaṣars* and also makes it a useful point of departure for future progress in legal thought. As discussed before, mentioning the differences in opinion can also be seen as propagating an image of law which is not inflexible and resistant to change; rather, it is something which can be differently interpreted in different contexts.

III.4 Important Features of the *Multaqā*

In the prologue to his book, al-Ḥalabī says:

> "I explained the difference of opinion amongst our leading jurists (*al-a'imma*) and I mentioned first the preferred (*al-arjaḥ*) from their opinions, and deferred the rest of them; except in the case where I put a condition which explains which of the opinions are preferred. Regarding the difference of opinions among later scholars (*muta'akhirūn*) or among the books just mentioned, when I start a sentence by the words "it was said" (*qīla*) or "they said" (*qālū*), and when these sentences also contain words like "the most correct" (*al-asaḥ*) or others like this, then that means that this opinion over-rules the rest. Whenever

[114]Al-Ḥalabī, *Multaqā al-Abhur*,25.

> I mention the dual form of a word without any preceding indication, that denotes two imams, Abu Yūsuf and Muḥammad al-Shaybānī, may Allah have mercy on them. I did not spare any effort in emphasizing upon "the most correct" (*al-aṣaḥ*), "the strongest" (*al-aqwā*), and "preferred for fatwā" (*al-mukhtār li-l-fatwā*)."[115]

The above-cited passage from the prologue illustrates the following important characteristics of the *Multaqā*:

1. Al-Halabī consistently uses a style of presenting legal views employing a specific terminology. Consistent use of terms like *al-aṣaḥ* and *al-aqwā* can help a reader in getting familiar with the style of the text. As a result, such terminology can help in quick-referencing for a student of law. Such techniques are also meant to be of help in the memorization of a legal compendium. As will be discussed later, students of law often liked to memorize the texts to help them in getting well-versed in the school doctrine.
2. By indicating which of the different views are to be preferred, al-Ḥalabī makes the *Multaqā* a useful legal book for quick referencing not only for *qaḍīs* and *muftīs* but also for ordinary readers.
3. The mention of divergent views by al-Ḥalabī creates a possibility for later scholars to choose an opinion that is more suited to their respective social contexts. Differences of opinion, as shown by Haim Gerber, create room for the practice of *ijtihād*.[116]
4. At times al-Ḥalabī gives the order of preference in rulings by mentioning its suitability to his time and social context. In the section on agency (*wakāla*) he discusses the issue whether the appointment of an agent for filing a suit in a court (*khuṣūma*) would also entail the agent's

[115] See the prologue in Al-Ḥalabī, *Multaqā al-Abḥur*.
[116]Gerber, *Islamic Law*, 78.

appointment to acquire property (*qabḍ*) on behalf of the principal (i.e. the one who is appointing the agent). Al-Ḥalabī says:

> "An agent for filing suit is (naturally) an agent for acquisition. Zufar has the opposite opinion and these days the *fatwā* is on Zufar's opinion."

The first opinion is that of the three imams, Abu Ḥanīfa, Abu Yūsuf and Muḥammad al-Shaybānī who are in agreement on this issue.[117] However, their opinion is overruled by another Ḥanafī jurist Zufar Ibn Huzayl (d. 775) because of the need of the time. In the commentary on the *Multaqā, Majma' al-Anhur,* it is stated that the reason for such preference is the widespread dishonesty in the society. The purpose of this ruling was to preempt the usurpation of the property of the principal by the agent. Al-Ḥalabī is not the first one to give this order of preference. It was first given by a Ḥanafī Jurist al-Ṣadr al-Shahīd 'Umar Ibn 'Abd al-'Azīz (d. 1141) and some other jurists from the cities of Balkh and Samarqand.[118] Al-Ḥalabī is adopting the same ruling by pointing to its suitability to his own context.

5. In his *mukhtaṣar,* al-Ḥalabī also includes *fatwā*s issued by jurists who came later than the founders of Ḥanafī law. He sometimes prefers their views over the opinions of earlier authoritative figures. Thus, he affectively presents a view of the school of law that is not a fixed and static body of laws, but rather, is a thought that is in a continuing state of development. This point seconds the argument made by Hallaq that newer *fatwā*s dealing with changing contexts were incorporated on a regular basis into the body of substantive law.[119] By making this assertion, Hallaq dispels the notion held by some scholars that Islamic law became rigid after the formative period. He maintains that a considerable change did

[117] Ibn Shaykh Muhammad, *Majma',* III: 332.
[118] Ibn Shaykh Muhammad, *Majma',* III: 332.
[119] Wael Hallaq, "From Fatwas," 40, 55.

occur in all the schools of Islamic law in the post-formative period owing to the continued practice of *ijtihād* by jurists in applying law to newer circumstances.

6. Probably the most important feature of the*Multaqā* is its use of the most authoritative Ḥanafī texts as sources. By efficiently selecting definitions and articles of law from these authoritative sources al-Ḥalabī has made his work a good substitute for the other texts. It is probably for this reason that Ibn ʻAbidīn, in his book *Sharḥ Uqūd Rasm al-Muftī*, mentions the *Multaqā* in the list of the most reliable texts (*al-mutūn al-muʻtabara*) on which a muftī should base his *fatwā* before consulting other detailed works. Ibn ʻAbidīn's viewpoint will be discussed in detail under the section dealing with Ottoman jurisprudential canon.

To illustrate the points made above it is better to quote a text from the *Multaqā* and discuss al-Ḥalabī's style of listing legal opinions in detail. In the book on endowment (*waqf*) al-Ḥalabī writes:

> "*Waqf* is the confinement of property in the ownership of the founder and giving in charity its benefit/utility, it is like lending something for use. So it is not irrevocable and the owner will not lose the ownership except when the ruler passes a decision. It is said that the ownership will be lost in case a person suspends it to his death by saying "if I die then my property isgiven in *waqf*." According to Imam Abu Yūsuf and Imam Muḥammad, it is the confinement of property in the ownership of Allah in such a way that the benefit/utility goes to the people. It is irrevocable and the ownership of the founder ends simply by the utterance of the word according to Imam Abu Yūsuf. According to Imam

> Muḥammad, the ownership will not end unless he delivers the property to the guardian."[120]

It can be seen that the three Ḥanafī jurists are taking very divergent views. The first view is that of Abu Ḥanīfa and this is the preferred view according to al-Ḥalabī. However, he does mention the viewpoint of Abu Yūsuf and Muḥammad al-Shaybānī. While mentioning the difference of opinion he starts off with the difference in the definition of *waqf* according to the three imams. This is important for the generation of further discussion on these issues. These definitions can potentially serve as legal maxims and points of departure for a more extensive debate. Therefore, the differences can be applied to newly arising cases. These definitions are also important for identifying the *ratio legis* (*'illa*) behind a certain opinion. And the identification of *ratio legis* is necessary to exercise analogical reasoning (*qiyās*) to apply the same legal opinions to newly arising cases.[121] Al-Ḥalabī also includes the views of later jurists where he starts the sentence with "it is said" showing a characteristic continuity in a legal school.

What follows this passage is a more detailed discussion of different cases relating to the issue of *waqf*. A little lateral-Ḥalabī discusses the issue of designating movable property (*manqūl*) as *waqf*. He says:

> "And it is lawful to designate as *waqf* real estate and such movable property whose designation as *waqf* is established as custom, according to Imam Muḥammad."[122]

[120]Al-Ḥalabī, *Multaqā,* 96.
[121]For a discussion on use of *'illa* in *qiyās*, see, Wael B. Hallaq, *A History of Islamic Legal Theorie: An Introduction to Sunnī Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1997), 83-95.
[122]Al-Ḥalabī, *Multaqā,* 96.

So, al-Ḥalabī prefers the view of the permissibility of designating movable property as *waqf* mentioning the principle of custom (*'urf*). Abu Ḥanīfa had declared such practice as impermissible.[123] Later Ebussuud argued for the permissibility of donating cash as *waqf* (*waqf al-nuqūd*) using the argument of *'urf*.[124] Ebussuud's point of view may, therefore, be seen as a further stage in the gradual process of introducing leniency in this particular issue, which is also visible in the *Multaqā.*

All the features of the*Multaqā* listed above, make it an important asset for the Ottomans who were interested in engineering a pragmatic judicial structure to manage a vast and diverse empire. Although the composition of the *Multaqā* was not sanctioned by the state, the Ottoman administration and scholarly class soon realized its importance. Eventually the*Multaqā* found its place in the curriculum of the *madrassas* and came to be used as a reference book by *qaḍīs* (judges) and *muftīs* (jurists). It is in the legal and judicial tradition of the Ottoman Empire where the *Multaqā* achieves a canonical status. The next chapter will discuss the status of the *Multaqā* in the legal scholarship and the judicial and educational system of the Ottomans in the later centuries.

[123]Al-Qudūri, *Mukhtaṣar,* 127.
[124]Jon E. Mandaville, "Usurious Piety: The Cash Waqf Controversy in the Ottoman Empire," *International Journal of Middle East Studies*10 (1979): 298.

IV. THE STATUS OF THE *MULTAQĀ* IN OTTOMAN INTELLECTUAL HISTORY AND JUDICIAL SYSTEM

According to the information given in the manuscripts of the *Multaqā*, Ibrāhīm al-Ḥalabī completed his book on 11th September 1517.[125] In the years subsequent to its compilation the *Multaqā* enjoyed wide acceptance in the Ottoman learned community. It served as the main reference book for *qāḍī*s and *muftī*s and was widely taught in the *madrassas* as a text-book. Before discussing the place of the *Multaqā* in Ottoman history in detail, it is necessary to understand the special function a *mukhtaṣar* is meant to serve.

IV.1 The Function of a *Mukhtaṣar*

When speaking about the seven most reliable texts of Ḥanafī law (*al-mutūn al-mu'tabara*), Ibn 'Ābidīn says that these texts are preferred over the others because they are compiled to transmit the school doctrine (*naql al-madhhab*) which is contained in the set of books which are together called *Ẓāhir al-Riwāya* (manifest transmission).[126] *Ẓāhir al-Riwāya* is the name given to the six books attributed to Muḥammad al-Shaybānī, which are the basis of Ḥanafī law.[127] These books contain the view-points of the three founders of Ḥanafī Law – Abu Ḥanīfa, Abu Yūsuf and Muḥammad al-Shaybānī. So the basic purpose of the *mukhtaṣar*, according to Ibn 'Ābidīn, is the transmission of the opinions of the founders of law. They may contain, like the *Multaqā* does, later *fatwā*s, but the transmission of the authoritative views is a requirement that they must fulfill. Some *mukhtaṣars*, like *Kanz al-Daqā'iq*, may mention only the preferred opinion leaving aside the rest. But the *mukhtaṣar*s are not meant to totally absolve themselves of the opinion of authoritative jurists. Therefore one cannot expect to find major

[125] Has, "A Study," 193.
[126] Ibn 'Ābidīn, *Sharḥ 'Uqūd,* 60.
[127] These books are: *Kitāb al-Aṣl* (also known as *mabūṭ*), *Jāmi' al-Ṣaghīr, Jāmi' al-Kabīr, Ziyādāt, Siyar al-Ṣaghīr* and *Siyar al-Kabīr*. See, Ibn 'Ābidīn, *Sharḥ 'Uqūd,* 19.

innovation of thought in a *mukhtaṣar*. All that a *mukhtaṣar* can do is manipulate the differences of opinion to devise an order of preference or to include the opinion of later jurists and give them a higher place in the order of preference. This is what, as we have seen, is done by al-Ḥalabī. The point to be made here is that the *mukhtaṣars* do not introduce any substantial change in law. However they can, and actually do, provide significant scope of change and development in law that can be realized in secondary legal literature based on the *mukhtaṣar*s. Baber Johansen points out that some scholars have failed to understand the purpose served by different genres of legal literature and as a result they arrive at hasty conclusions regarding the issue of*ijtihād* and *taqlīd*. The texts (*mutūn*, identical to *mukhtaṣars*) are not meant to contain radical changes in the law. It is the other texts that serve this purpose. Johansen says:

> "While the early tradition is upheld in the text books for teaching purposes and is used as a yard stick by which to measure the unity of legal system, new solutions are widely accepted in other literary genres like the commentaries (*shurūḥ*), the responsa (*fatāwā*) and the treatises on particular questions (*rasā'il*)"[128]

The commentaries and the works on *fatāwā* use the discussion in the primary texts and the works of theoretical jurisprudence (*Uṣūl al-Fiqh*) as points of departure. Therefore, the primary texts are active participants in the development of legal thought even if they themselves donot contain radical changes in law. One may add here that some *mukhtaṣars* are more helpful in facilitating change and continuity in law, and the *Multaqā* is an ideal example that fulfills such

[128] Johansen, Baber. "Legal Literature and the Problem of Change: the Case of Land Rent," in *Islam and Public Law: Classical and Contemporary Studies*, ed. Chibli Mallat (London: Graham and Trotman, 1993), 31.

a purpose. The reason is the mention of difference of opinion, which has already been discussed in detail.

Since the main purpose of the *mukhtaṣar* is the transmission of the school doctrine, one important purpose it serves is didactic. Therefore, the *mukhtaṣars* are an integral part of *madrassa* curriculum in the Ottoman Empire. These texts help in educating the newer generations of scholars in the basics of law. One of the aims that the authors of the *mukhtaṣars* try to achieve is to make their works easy to read and memorize. The students of law often liked to memorize these texts to have a full grasp over the school doctrine. Norman Calder quotes Burhān al-Dīn al-Marghinānī who describes the purpose of writing his *mukhtaṣar* titled *Bidāyat al-Mubtadī*, the primary text on which *al-Hidāya* is based. Al-Marghinānī says:

> "I found the Mukhtaṣar of Qudūrī the finest of books, presenting the highest degree of skill and delight. And I observed that the great ones of the age, old and young, desired to memorize *al-Jami' al-Saghīr* (of al-Shaybānī). So I formed the intention of combining them, in such manner as not to go beyond the two texts, save where necessity demanded. And I called my book *'Bidāyat al-Mubtadī'*."[129]

In the prologue to his book *Majma' al-Baḥrayn*, Muzaffir al-Dīn Ibn Sā'ātī, introduces his work as:

> "This is a book whose size is small for the one who memorizes and whose knowledge is abundant for the one who acquires it."[130]

[129]Calder, *Islamic Jurisprudence,* 29.
[130]Ibn Sā'ātī, *Majma',* 57.

The two accounts just quoted, shed light on the fact that some students of law were indeed interested in memorizing these texts and it was a known practice among the scholars of law. To serve this purpose the authors of these *mukhtaṣars* employed stylistic techniques to help in the process of memorization. The author of *Majma' al-Baḥrayn* uses different sentences in Arabic – nominal sentence, verbal sentence in the present tense, verbal sentence in the past tense, etc. – to indicate the difference of opinion among the different scholars.[131] He uses this style consistently throughout the book to help the reader and the memorizer to get used to it. Similarly, Ibrāhīm al-Ḥalabī consistently uses specific terminology that can also be seen as serving the same purpose, i.e. to make the text easy to read and memorize. This feature of a *mukhtaṣar* helps us to further appreciate the importance of the *Multaqā*. The *mukhtaṣars*are meant to be internalized and absorbed in order to bring the thinking of a student of law in line with the doctrine of the school. This makes every single term and definition of the *Multaqā* extremely important. By being part of the *madrassa* curriculum in the Ottoman Empire the *Multaqā* was expected to fashion the thinking of the students of law in a particular way. Given the diversity of the opinions given in the *Multaqā*, it can be said that the *madrassa* students in the Ottoman Empire internalized a doctrine of Ḥanafī Law as pluralistic and diversified. The use of terms like *'urf, istiḥsān*, etc. must have made the students realize the importance and utility of these concepts while applying law in diverse social circumstances. The students trained in such system of education are expected to be more open minded and pragmatic in approach. The inclusion of the *Multaqā* in the *madrassa* curriculum, therefore, was in alignment with the needs of the Ottoman Empire to construct and maintain a judicial system adaptable to changing conditions of an expanding, multi-cultural empire.

[131] Ibid., 60, 61.

IV.2 The *Multaqā* as a part of the *Madrassa* Curriculum

The *Multaqā* was widely taught in the Ottoman *madrassas* as the main text-book on Ḥanafī law. It is not clear, however, as to what the level was in the hierarchy of madrassas and the progressive scheme of teaching at which the *Multaqā* was taught. One can conjecture that it may have been taught at the basic level. The *Multaqā*, as is typical of *mukhtaṣar*s, is simple in style and does not contain complex discussions on the justification of rules invoking arguments of methodology and logic. Such arguments are normally contained in the secondary literature, which are based on the *mukhtaṣar*s, like commentaries (*shurūḥ*). These commentaries are likely to have been taught at more advanced levels, to students who were well-versed in the basics of law. Since the commentaries are based on *mukhtaṣars*, it is plausible that the *mukhtaṣars*, like the *Multaqā*, were meant to be taught before the commentaries.

The acceptance of the *Multaqā* in the *madrassa* curriculum was a slow process. Şükrü Selim Has attributes it to the conservative system of education in the *madrassas*. Most of the times the syllabus to be taught in the *madrassas* was stipulated in the endowment deeds which were set at the time of the establishment of the *madrassas*. It was difficult for new books to be entered into the curriculumthat was already described in these endowment deeds. Moreover, it was natural for the *madrassa* teachers to want to teach the same books which they themselves had studied in their student-life. It would normally be after many years that a book could find a place in such a system.[132] However, in the seventeenth century, the book is mentioned in a number of sources, which indicates its acceptance as an important part of curriculum. A seventeenth-century Italian scholar Abbott Toderini mentions the *Multaqā* in his work on the

[132] Şükrü Selim Has, "The Use of *Multaqā al-Abḥur* in the Ottoman *Madrassas* and in Legal Scholarship." *Osmanli Araştırmaları*. 7-8 (1988): 395, 396.

Ottoman educational system.[133] Şükrü Selim Has mentions a scholar from Iraq, ʻAbd al-Razzāq al-Hilālī, who conducted a study on the history of educational system in Ottoman Iraq from 1638 to 1917. In his book al-Hilālī mentions that the *Multaqā* was one of the books taught in the *madrassas* in Iraq. This is an evidence of the fact that the *Multaqā* was taught not only in the *madrassas* in the center of the empire but also in the provinces.[134] By the nineteenth century the book was well-recognized as an integral part of the curriculum and was widely taught in the *madrassas* throughout the empire. Ottoman scholar Shams al-Dīn al-Sāmī (d. 1904) writes in his work *Qamūs al-Aʻlām* about the *Multaqā*:

> "The work of al-Ḥalabī contains the whole of the knowledge of *fiqh* in an easy and fluent style; and in our present time it is accepted as a text-book throughout the Ottoman state and is found currently in the hands of the students."[135]

The *Multaqā* was also a part of the curriculum of law in the Ottoman palace school. Barnette Miller mentions that the *Multaqā* was one of the books taught in the palace school. The curriculum also included *Mukhtaṣar al-Qudūrī* and *al-Hidāya*, two of the sources of the *Multaqā*. These books were taught after an initial education in Arabic grammar.[136] All these books were based on Ḥanafī Law. This is a further testimony to fact that the Ottomans were serious in maintaining a Sunnī-Ḥanafī character.

[133] Ibid., 396.
[134] Ibid., 396.
[135] I couldn't find this book to see in what context the author is talking about the Multaqā. It would have been interesting to see if he also discusses about some other books included in the curriculum and about the level at which the *Multaqā* was taught in the madrassas. I had to rely on Has's article for this quotation. See Ibid., 397.
[136] Barnette Miller, "The Curriculum of the Palace School of the Turkish Sultans." In *The Macdonald Presentation Volume,*eds. Shellabear et al. (New York: Princeton University Press, 1933) 314. Also quoted in: Has, "The Use," 397.

The information provided above gives sufficient evidence to say that the *Multaqā* was an integral part of the educational system of the Ottoman Empire. The scholars trained from the *madrassas* were well-aware of its importance and constantly used it in the secondary literature they produced on jurisprudence. The influence of the *Multaqā* is felt in other forms of literature which are not directly related to the science of *fiqh*. One of the most important literary genres of this sort produced in the Ottoman Empire were the *ilmiḥāls* or catechisms.

IV.3 The *Multaqā* as a Reference in *Ilmiḥāl* Literature

In this study my focus has been more on the Ottoman state and its bureaucratized learned hierarchy as the agents for promoting the Sunnī-Ḥanafī character of the empire. Likewise, the legal literature that is discussed is that which has been sanctioned and endorsed by the state-*ʻulamā* establishment. Also involved in the project of promoting Sunnī-Ḥanafī orthodoxy were scholars who stayed at the margin of, or were completely detached from, the state-*ʻulamā* establishment. Thus, the literature which is produced by scholars in their individual capacities, directed towards the larger population, is also equally important in such project.

From the late sixteenth century onwards the Ottoman Empire saw a proliferation of works called *ilmiḥāl*s, which are, essentially, catechisms. Such literature was produced by scholars in their individual capacities with the aim of educating the masses in matters of orthodoxy and orthopraxy. Derin Terzioğlu links the proliferation of such literature to the Ottoman project of sunnitization which became well-pronounced in the sixteenth century. According to her, it resulted from an increased *shariʻa*-consciousness, especially, among the urban classes, which was a result of state-sponsored projects like building mosques and *madrassas*. Increase in the mosques, *madrassas* and *mektebs* (schools for teaching Qurʻan)

resulted in an increase in literacy and consciousness of religion in the population in the major cities.[137]

The main aim the authors of the *ilmiḥāl*s wanted to attain was to reform the society and educate the population in the matters of faith and law. Islamic law was the most prominent feature in the notion of piety that these *ilmiḥāl*s tried to promote.[138] Therefore the Ottoman *ilmiḥāl*s often relied on works on Ḥanafī law to present normative ideals according to which the conduct of the society needed to be regulated. One author whose *ilmiḥāl* works became particularly famous, Birgivi Mehmed Efendi (d. 1573), relies on a wide range of legal literature in his writings. Katharina Ivanyi notes that Ḥanafī tradition became the main point of departure for Birgivi's writings. For Birgivi, the goal of cultivating piety in the individual and the society could only be achieved within the framework of law.[139] Birgivi relies on a number of Ḥanafī legal works belonging to different genres. One important source for Birgivi in his writings was the *Multaqā*.[140] As said earlier, one of purposes that the *Multaqā* serves is didactic, and in this respect it can bea good source to be referred to in *ilmiḥāls* to educate the masses.

Another author whose *ilmiḥāls* became very famous was the Kadizadeli[141] preacher Üstüvani Mehmed (d. 1661). His books contain extensive referencing to the *Multaqā* as well as to another work of al-Ḥalabī, *Ghunyat al-Mutamallī Sharḥ Munyat al-Muṣallī*, which is also known as *Halabī Kabīr*. Some sections of Üstüvani's writings contain direct quotations from the

[137] Terzioğlu, Derin. "Where *'ilmiḥāl* Meets Catechism: Islamic Manuals of religious Instruction in the Ottoman Empire in the Age of Confessionalization." *Past and Present* 220 (2013): 84, 85.
[138] Katharina Ivanyi, "Virtue, Piety and The Law: A Study of Birgivī Meḥmed Efendī's *Al-Ṭarīqa Al-Muḥammadiyya*," (PhD Diss., Princeton University, 2012), 28.
[139] Ibid., 65.
[140] Ibid., 73.
[141] Kadizadeli movement was a seventeenth century urban puritanical movement lead by mosque-preachers who zealously criticized certain policies of the Ottoman establishment as well as popular Sufi practices in the society which they deemed as un-Islamic. For more detailed account, see Madeline C.Zilfi, "The Kadizadelis: Discordant Revivalism in Seventeenth-Century Istanbul." *Journal of Near Eastern Studies*. 45 (1986): 251-269.

Multaqā translated into Turkish.[142] By quoting the *Multaqā*, the *ilmiḥāl*s must have added to the fame of the *Multaqā* because they are directed towards a much larger public. Moreover, the *ilmiḥāl*s are likely to have increased the Sunnī-Ḥanafī consciousness in the community by referring exclusively to Ḥanafī legal sources.

IV.4 The Place of the *Multaqā* in Ottoman Judicial System and Legal Scholarship

Although the importance of the *Multaqā* cannot be ignored as a part of *madrassa* curriculum or as a source in *ilmiḥāls*, its role as the chief reference book in the legal scholarship and the judicial system in the Ottoman Empire needs special attention. It is in this respect that the *Multaqā* enjoys a canonical status. Its status as an integral part of Ottoman jurisprudential canon can be easily recognized. While the inclusion of the *Multaqā* in the *madrassa* curriculum was a slower process, its recognition as a reference book in the judicial system was realized very soon after its composition. The book was seen as a good substitute for its sources and was used as a reference book by *qāḍī*s and *muftī*s already in the sixteenth century. Joseph von Hammer (d. 1856), the nineteenth century Austrian orientalist, says that prior to the composition of the *Multaqā, Kanz al-Daqā'iq* of al-Nasafī was used as the chief reference book by Ottoman *muftīs* and *qāḍī*s but the *Multaqā* replaced the said work during the reign of Süleyman.[143] It seems likely that the *Multaqā* found immediate acceptance in the Ottoman judicial system and replaced *Kanz al-Daqā'iq*. It is plausible that it was due to the fact that the *Multaqā* is much better than *Kanz al-Daqā'iq* in terms of offering a wide range of legal opinions. The Ottomans must have seen it as a better reference book for the judicial system.

[142]Has, "The Use," 398.
[143]Ibid., 403.

Haim Gerber conducted a study on Ottoman *qāḍī* court system relying mostly on court records and books of complaints (*şikayet defterleri*). Based on his study he dispels the notion that there was a wide gap between theory and practice in the *qāḍī* court system. He observes that the *qāḍī* court records show a lot more conformity with Islamic procedural and substantive law explained in the primary and secondary legal literature. The *qāḍī* court records, he maintains, were replete with *fatwā*s issued by the *muftis*.[144] Gerber mentions the *Multaqā* as the main manual followed in the court proceedings.[145]

The *Multaqā* continued to maintain an important status in the Ottoman judicial system well into the nineteenth century. Şükrü Has found that the *Multaqā* and its commentary *Majma' al-Anhur* provided the single largest contribution to the *Mecelle*, the law code that was issued under the *Tanzimat* reforms and was promulgated in 1877. According to him, more than 20 % ofthe articles in the *Mecelle* are taken from the *Multaqā* and its commentary.[146]

One source informs us that somewhere around 1860, Ottoman Sultan Abdulmecid I (r. 1839 – 1861) received a letter from British Queen Victoria, requesting him to send a scholar to teach the Cape Malay Muslim community in South Africa on religious matters and to solve their disputes. Abdulmecid sent a certain Ḥanafī scholar Abu Bakr Efendi (d. 1880) who lived in South Africa for teaching the local community. Although Cape Malay community mostly followed Shāfi'ī Law, many of them started following Ḥanafism due to the influence of Abu Bakr. Sometime after his arrival in South Africa Abu Bakr Efendi compiled a book for the local community titled *Bayān al-Dīn*, with a text in Arabic and the commentary in Cape Dutch. According to Mia Brandel Syrier, the translator of the said work into English, *Bayān al-Dīn* is a

[144]Haim Gerber, *State, Society and Law in Islam: Ottoman Law in Comparative Perspective* (New York: State University of New York Press, 1994), 23.
[145] Ibid., 30.
[146]Has, "The Use," 410.

close copy of the *Multaqā*.[147] Abu Bakr must have recognized the *Multaqā* as the best text that can serve the needs of the Muslim community in South Africa.

The *Multaqā* also generated a significant amount of intellectual activity in the Ottoman scholarly community. A large number of commentaries were written on the *Multaqā*. The most famous of them was *Majma' al-Anhur* of 'Abd al-Raḥman Ibn Shaykh Muḥammad (d. 1667). Şükrü Has tells us that some fifty commentaries were written on the *Multaqā* over the centuries.[148] The first commentary was written in al-Ḥalabī's lifetime in the first half of the sixteenth century. The authors who wrote commentaries on the *Multaqā* were very widely distributed chronologically and geographically. This shows a continued and widespread interest taken by the scholars in the *Multaqā*.[149]

IV.5 The *Multaqā* as a Part of Ottoman Jurisprudential Canon

The function and importance of various legal texts in the Ottoman legal discourse and judicial system can be understood reasonably well through the work of a nineteenth-century Ottoman scholar Ibn 'Abidīn (d. 1836) who was a state-appointed *muftī* of Damascus. Ibn 'Abidīn wrote an *urjūza* (a type of poetry) titled *'Uqūd Rasm al-Muftī* (Chaplets on the *Muftī*'s Task). In this work he discussed how a Ḥanafī *muftī* should interact with the texts, concepts and the authoritative jurists in the legal tradition while issuing *fatwas*.[150] Later on, he wrote a commentary on the same work with more detailed discussion on the same issue. The commentary gives a glimpse of how the *muftī*s issued, or were expected to issue, *fatwā*s in the later period in the Ottoman Empire.

[147] See the Preface and the section titled "The Manuscript and its Author" in Mia Brandel-Syrier, *The Religious Duties of Islam as Explained by Abu Bakr Effendi* (Leiden: E. J. Brill, 1971).
[148] Has, "A Study," 306.
[149] Has, "A Study," 219, 220.
[150] For an introduction and English translation of the piece of poetry, see Norman Calder, "The '*Uqūd rasm al-muftī* of Ibn 'Ābidīn," *Bulletin of the School of Oriental and African Studies* 63 (2000): 215-228.

Ibn ʻĀbidīn emphasizes on the need to respect a hierarchy of texts while giving legal opinions. In this hierarchy, the first place is given to the reliable texts (*al-mutūn al-muʻtabara*, which are essentially *mukhtaṣars*), then come the commentaries (*shurūh*, i.e. *mabsūṭs*) and then the collections of legal opinions (*fatāwā*). According to this scheme, a *muftī* should proceed according to the set hierarchy: he should first try to find the solution to a legal issue in the *mukhtaṣars* and if he is not able to find any clue, he should consult the *mabsūṭs* and finally the *fatāwā*. The *mukhtaṣars* occupy the most important place in this hierarchy.[151]

Ibn ʻĀbidīn gives a list of seven legal texts that he deems as reliable sources of references for *muftīs*. These are: *Bidāyat al-Mubtadī*of al-Marghinānī, *al-Mukhtaṣar* of al-Qudūrī, *al-Mukhtār li-l-Fatwā* of Ibn Sāʻātī, *al-Nuqāya* of ʻUbaydullah Ibn Masʻūd, *Wiqāyat al-Riwāya* of al-Maḥbūbī, *Kanz al-Daqā'iq* of al-Nasafī and *Multaqā al-Abḥur* of al-Ḥalabī.[152] Thus Ibn ʻĀbidīn mentions the *Multaqā* in the list of the most reliable texts on Ḥanafī Law. And it is the only work from post-fourteenth century period to have been endowed with this status. Ibn ʻĀbidīn's recognition of the authority of the *Multaqā* necessitates a discussion of how and why al-Ḥalabī's text acquired such level of authority.

Guy Burak has recently discussed the process of canonization of legal texts in the Ottoman Empire in his dissertation. In the setting of an imperial jurisprudential canon, his focus is more on the role of the learned hierarchy and especially the *Şeyhülislam* in assigning canonical status to a text. He shows that a text could gain canonical status owing to its recognition by the scholars in the learned hierarchy.[153] This recognition could be known through written or oral

[151]Ibn ʻĀbidīn, *Sharḥ*ʻ*Uqūd*, 59.
[152]Ibn ʻĀbidīn, *Sharḥ*ʻ*Uqūd*, 60.
[153] Guy Burak, "The Abu Ḥanīfa of His Time: Islamic Law, Jurisprudential Authority and Empire in the Ottoman Domains (16th -17th Centuries)" (PhD Diss., New York University, 2012), 206.

comments praising the work as a reliable source of law. Here I will attempt to complement his views by emphasizing another aspect in the process of canonization of a legal text. In my view a text like *Multaqā* can also be said to hold some level of authority prior to its designation as a part of a canon. Moreover, I propose that it is not only that the state-*ʻulamā* establishment designates a text as authoritative but also that an authoritative text like *Multaqā* endows the state and the ʻ*ʻulamā* with legitimacy and authority.

To understand how and why a text can wield authority it is necessary to bring in the ideas of Stephen Chapman. While discussing the canonization of The Bible, Chapman proposes to understand the canon as an "inter-text" which had an existence even prior to an "official" delimitation of a set of readings. It means that there existed a loose collection of texts which were interrelated, i.e. they were edited and read as related to each other. The interrelated editing and reading were aimed at orienting the various texts towards one another and to shape and guide the whole in a particular direction.[154] Chapman's ideas imply that what gives authority to a text is its ability to participate in the progression of thought in relation to other authoritative texts. Therefore, it can be said that texts gain authority and become part of the canon by relating themselves to other authoritative writings and by placing themselves in the same progression of thought which is generated and sustained collectively by the various authoritative texts.

It may be argued that Norman Calder's idea of the evolution and development in the genre of *mukhtaṣar* fits well into Chapman's description of canon as an inter-text. Norman Calder also talks about a concerted effort by generations of scholars to improve the style and presentation of the *mukhtaṣars*. And it can be seen in the third chapter that these *mukhtaṣar*s are

[154]Stephen P. Chapman, "How the Biblical Canon Began: Working Models and Open Questions." In *Homer, the Bible, and Beyond: Literary and Religious Canons in the Ancient World,* ed. Margalit Finkelberg and Guy G. Stroumsa (Leiden: Brill, 2003), 38, 39.

very much related to each other, directly or indirectly, through a common heritage of sources. The authors of the different *mukhtaṣar*s were attempting to improve the texts in conciseness and comprehensiveness by making use of the established practices in terminology, organization and structure. So, these different *mukhtaṣars* are thought to cumulatively build on their authority by relating to other legal literature.

The sources of the *Multqā* were already thought to be an integral part of Hanafī legal canon before the Ottoman period. *Mukhtaṣar*s identified as *al-mutūn al-Arba'a* (the four texts) and *al-mutūn al-thalātha* (the three texts) were already designated as the most reliable and authoritative *mukhtaṣars* in the time of the *muta'akhirūn* (later day jurists). *Al-Muta'akhirūn* are generally understood to include the generation of jurists who are coming in the age bracketed by Shams al-A'imma al-Ḥulwānī (d. 1056) and Ḥāfiẓ al-Dīn Muḥammad al-Bukhari (d. 1232). However this is a rough designation and it is not to be taken as a strict categorization of history.[155] In fact, some of the *mukhtaṣar*s mentioned here were composed after 1232. However, it does show, at least, that before the Ottoman period there were a number of legal texts which were widely held to be authoritative and canonical. These texts were the carriers of an inter-textual tradition that collectively formed the basis of Ḥanafī Law.

Multaqā al-Abḥur attains canonical status by placing itself in an already established inter-textual tradition and by participating in the progression of style and thought generated and sustained by earlier authoritative texts. Moreover, as relevant for the Ottomans, the *Multaqā* also presents itself as a better *mukhtaṣar* in terms of creating possibility for the applicability and adaptability of law in different contexts. By consistently mentioning the preferred opinions on

[155] 'Abd al-Ḥayy al-Laknawī al-Hindī, *Al-Nāfi' al-Kabīr Sharḥ al-Jāmi' al-Ṣaghīr* (Karachi: Idārat al-Qur'ān wa-l-'Ulūm al-Islāmiyya, 1990), 56.

which *fatwā* is to be based and by mentioning the dissenting views of the jurists, the *Multaqā* provides an easy source of reference for the jurists and judges and also creates possibility of multiple interpretations of law in changing social circumstances. While Ibn ʿĀbidīn strictly recommends basing the legal opinion on the preferred view, he does allow for a change in the order of preference due to necessity (*ḍurūra*), a change in circumstances of the time (*taghayyur ahwāl al-zamān*) and the change in custom (*ʿurf*).[156] Therefore, a listing of multiple interpretations of law in the *Multaqā* makes the law more adaptable to various different circumstances. In this sense the *Multaqā* holds a special importance in the Ottoman Empire where a state-*ʿulamā* alliance was concerned with building a pragmatic legal system responsive to the change, while at the same time invoking the authority of tradition. It may be argued that by the adoption of an authoritative text like the *Multaqā*, the Ottoman state also gained legitimacy for itself.

[156]Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 67, 68, 85,

CONCLUSION

In the preceding pages I have presented a study on Ibrāhīm al-Ḥalabī's compendium on Ḥanafī Law titled *Multaqā al-Abḥur.* Drawing on a discussion of the context in the sixteenth-century Ottoman Empire, I have argued that establishing an order of justice based on Sunnī-Ḥanafī religion remained the main source of legitimacy for the Ottoman state and the *Multaqā* effectively served the Ottoman rulers in this respect. The *Multaqā* is based on the most authoritative sources of Ḥanafī Law and it presents the differences of opinion in such a way that makes it a useful legal text for practical purposes. It can be used as an easy reference book in the judicial system by the *qaḍīs*. The legally pluralistic character of the *Multaqā* also creates opportunity for the interpreters of law, i.e. the *muftīs*, to use the diversity of views to the effect of making the law more adaptable to changing social contexts. So the *Multaqā*, in a way, is an embodiment of authority and pragmatism. It invokes the authority of tradition by basing itself on the most authoritative sources and also creates room for multiple interpretations of law according to the various different socio-cultural contexts. Therefore it serves a useful purpose by offering the Ottoman state a source of legitimacy for its judicial system and, at the same time, a means to make law more adaptable to the need of the time.

In this study I have restricted myself to the *Multaqā* itself and have not gone deep into studying the way the text was used in the Ottoman Empire in the *qaḍī* courts and in *fatwās.* It will require a more thorough and in depth study based on *fatwā* collections and *qaḍī* court records to actually see how the text is used there as a reference. Such a study may also be conducted with the aim of reaching broader conclusions on how a pluralistic legal school served the Ottoman Empire to achieve the goal of good governance in a culturally diverse empire.

BIBLIOGRAPHY

Primary Sources:

Ahmed, Taşköprizade. *Al-Shaqā'iq al-Nu'māniyya fī 'Ulamā' al-Dawla al-'Uthmāniyya*. Beirut: Dār al-Kutub al-'Arabī, 1975.

Al-Baghdādī, Ismā'īl Pasha. *Hadyat al-'Ārifīn: Asmā' al-Mu'allifīn wa Āthār al-Muṣannifīn.* Beirut: Dar Iḥyā al-Turāth al-'Arabī, 1951.

Al-Ḥalabī, Ibrāhīm.*Multaqā al-Abḥur*. Istanbul: al-Maṭba'a al-Uthmāniyya, 1891.

Al-Hindī, 'Abd al-Ḥayy al-Laknawī.*Al-Fawā'id al-Bahiyya fī Tarājim al-Ḥanafiyya.* Cairo: Maṭba'at al-Sa'āda, 1906.

Al-Hindī, 'Abd al-Ḥayy al-Laknawī.*Al-Nāfi' al-Kabīr Sharḥ al-Jāmi' al-Ṣaghīr.*Karachi: Idārat al-Qur'ān wa-l-'Ulūm al-Islāmiyya, 1990.

Al-Marghinānī, Burhān al-Dīn. *Al-Hidāya Sharḥ Bidāyat al-Mubtadī.*Karachi: Idārat al-Qur'ān wa-l-'Ulūm al-Islāmiyya, 1997.

Al-Mawṣilī, 'Abdullah Ibn Maḥmūd.*Al-Mukhtār li-l-Fatwā.* ----------.

Al-Nasafī, Ḥāfiẓ al-Dīn. *Kanz al-Daqā'iq.* Karachi: Maktabat al-Bushrā, 2010.

Al-Nawawī, Yaḥyā Ibn Sharaf.*Al-Minhāj Sharḥ Ṣaḥīḥ Muslim*. Cairo: Al-Maṭba'a al-Miṣriyya, 1929.

Al-Qudūrī, Abū al-Ḥusayn.*Mukhtaṣar al-Qudūrī.*Beirut: Dār al-Kutub al-'Ilmiyya, 1997.

Al-Ṭaḥāwī, Abū Ja'far Aḥmad Ibn Muḥammad.*Al-'Aqīda al-Ṭaḥāwiyya.* Beirut: Dār Ibn Ḥazam, 1995.

Çelebi, Katib.*Kashf al-Ẓunūn 'an Asāmī al-Kutub wa-l-Funūn*.Beirut: Dar Iḥyā al-Turāth al-'Arabī, 1941.

Ibn 'Ābidīn, Muḥammad Amīn.*Sharḥ 'Uqūd Rasm al-Muftī.* Karachi: Maktabat al-Bushrā. 2009.

Ibn Mas‘ud, ‘Ubaydullūh.*Sharḥ al-Wiqāya.* Karachi: Mir Muḥammad Kutub Khana, ----------.

Ibn Sā‘ātī, Muẓaffir al-Dīn. *Majma‘ al-Baḥrayn wa Multaqā al-Nayyirayn.*Beirut: Dar al-Kutub al-‘Ilmiyya, 2005.

Ibn Shaykh Muḥammad, ‘Abd al-Raḥmān.*Majma‘ al-Anhur.*Beirut: Dār al-Kutub al-‘Ilmiyya, 1998.

Secondary Sources:

Abisaab, Rula Jurdi. *Converting Persia: Religion and Power in the Safavid Empire*. London: I.B. Tauris, 2004.

Ahmed, Shahab, and Nenad Filipovic. “The Sultan's Syllabus: A Curriculum for the Ottoman Imperial Medreses Prescribed in a Fermān of Qānūnī I Süleymān, Dated 973 (1565).” *Studia Islamica* 99 (2004): 183-218.

Atcıl, Abdurrahman. “The Formation of the Ottoman Learned Class and Legal Scholarship (1300-1600).” PhD Diss., The University of Chicago, 2010.

Brandel-Syrier, Mia.*The Religious Duties of Islam as Explained by Abu Bakr Effendi.* Leiden: E. J. Brill, 1971.

Burak, Guy. “Faith, Law, and Empire in the Ottoman ‘Age of Confessionalization’ (fifteenth – seventeenth centuries): The Case of ‘Renewal of Faith’.” *Mediterranean Historical Review* 28 (2013): 1-23.

Burak, Guy. “The Abu Ḥanīfa of His Time: Islamic Law, Jurisprudential Authority and Empire in the Ottoman Domains (16th – 17th Centuries).” PhD Diss., New York University, 2012.

Burak, Guy. “The Second Formation of Islamic Law: The Post-Mongol Context of the Ottoman Adoption of a School of Law.” *Comparative Studies in Society and History* 55 (2013): 579-602.

Buzov, Snježana. “The Lawgiver and His Lawmakers: The Role of Legal Discourse in the Change of Ottoman Imperial Culture.” PhD Diss., The University of Chicago, 2005.

Calder, Norman. “The ‘*Uqūd rasm al-muftī* of Ibn ‘Ābidīn.” *Bulletin of the School of Oriental and African Studies*63 (2000): 215 – 228.

Calder, Norman. *Islamic Jurisprudence in the Classical Era.* Cambridge: Cambridge University Press, 2010.

Chapman, Stephen P. “How the Biblical Canon Began: Working Models and Open Questions.” In *Homer, the Bible, and Beyond: Literary and Religious Canons in the Ancient World*, edited by Margalit Finkelberg and Guy G. Stroumsa, 29-51. Leiden: Brill, 2003.

Dressler, Marcus. “Inventing Orthodoxy: Competing Claims for Authority and Legitimacy in the Ottoman-Safavid Conflict.” In *Legitimizing the Order: The Ottoman Rhetoric of State Power*, edited byHakan T. Karateke and Maurus Reinkowski, 151-173. Leiden: Brill, 2005.

Fleischer, Cornell. “The Lawgiver as Messiah: The Making of the Imperial Image in the Reign of Süleyman.” In *Süleyman the Magnificent and His Time*, edited by Gilles Veinstein, 159-177. Paris: La Documentation Française, 1992.

Gerber, Haim. *Islamic Law and Culture: 1600-1840.* Leiden: Brill, 1999.

Gerber, Haim. *State, Society and Law in Islam: Ottoman Law in Comparative Perspective.* New York: State University of New York Press, 1994.

Hallaq, Wael B. “From *Fatwās* to *Furū*‘: Growth and Change in Islamic Substantive Law.” *Islamic Law and Society*. 1 (1994): 29-65.

Hallaq, Wael B. *A History of Islamic Legal Theories: An Introduction to Sunnī Uṣūl al-Fiqh.* Cambridge: Cambridge University Press, 1997.

Hallaq, Wael B. *The Origins and Evolution of Islamic Law*. Cambridge: Cambridge University Press, 2005.

Has, Şükrü Selim. "A Study of Ibrāhīm al-Halebi with Special Reference to the *Multaqā*." PhD Diss., University of Edinburgh, 1981.

Has, Şükrü Selim. "The Use of *Multaqāal-Abḥur* in the Ottoman *Madrassas* and in Legal Scholarship." *Osmanli Araştırmaları*7-8 (1988): 393-418.

Hodgson, Marshall G. S. *The Venture of Islam: Conscience and History in a World Civilization.* Chicago: University of Chicago Press, 1974-7.

Ihsanoğlu, Ekmeleddin. "The *Madrassas* of the Ottoman Empire." *Foundation for Science Technology and Civilization*, 2004.

Imber, Colin. *Ebu's-su'ud: the Islamic Legal Tradition.* Stanford: Stanford University Press, 1997.

Inalcık, Halil, *The Ottoman Empire: The Classical Age 1300 to 1600.* London: Phoenix Press, 2000.

Ivanyi, Katharina. "Virtue, Piety and The Law: A Study of Birgivī Meḥmed Efendī's *Al-Ṭarīqa Al-Muḥammadiyya.*" PhD Diss., Princeton University, 2012.

Jackson, Sherman A. *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din Al-Qarafi*. Leiden: E.J. Brill, 1996.

Johansen, Baber. "Legal Literature and the Problem of Change: the Case of Land Rent." In *Islam and Public Law: Classical and Contemporary Studies,* edited by Chibli Mallat, 29-47. London: Graham and Trotman, 1993.

Kamali, Mohammad Hashim. *Principles of Islamic Jurisprudence.* Cambridge: Islamic Texts Society, 1991.

Makdisi, George. *The Rise of Colleges: Institutions of Learning in Islam and the West*. Edinburgh: Edinburgh University Press, 1981.

Mandaville, Jon E. "Usurious Piety: The Cash *Waqf* Controversy in the Ottoman Empire." *International Journal of Middle East Studies* 10 (1979): 289-308.

Meron, Ya'akov. "The Development of Legal Thought in Ḥanafī Texts". *Studia Islamica* 30 (1969): 73-118.

Miller, Barnette. "The Curriculum of the Palace School of the Turkish Sultans." In *The Macdonald Presentation Volume,* edited by William G. Shellabear, Edwin E. Calverley, Elbert C. Lane, Ruth S. Mackensen, 303-324. New York: Princeton University Press, 1933.

Moin, Azfar. *The Millenial Sovereign: Sacred Kingship and Sainthood in Islam.* New York: Columbia University Press, 2012.

Necipoğlu, Gülru. "Süleyman the Magnificent and the Representation of Power in the Context of Ottoman-Hapsburg-Papal Rivalry." *Art Bulletin* 71 (1989): 401-427.

Necipoğlu, Gülru. *The Age of Sinan: Architectural Culture in the Ottoman Empire.* Princeton: Princeton University Press, 2005.

Repp, R. C.*The Müfti of Istanbul: A Study in the Development of the Ottoman Learned Hierarchy*. London: Ithaca Press, 1986.

Schacht, Joseph. *An Introduction to Islamic Law*. Oxford: Oxford University Press, 1982.

Stewart, Devin J. "Polemics and Patronage in Safavid Iran: The Debate on Friday Prayer during the Reign of Shah Tahmasb." *Bulletin of the School of Oriental and African Studies* 72 (2009): 425-57.

Stewart, Devin J. "The Ottoman Execution of Zayn al-Dīn al-ʿĀmilī," *Die Welt des Islams* 48 (2008):289-347.

Terzioğlu, Derin. "How to Conceptualize Ottoman Sunnitization: A Historiographical Discussion." *Turcica* 44 (2012-13): 301-338.

Terzioğlu, Derin. "Where *'ilmiḥāl* Meets Catechism: Islamic Manuals of religious Instruction in the Ottoman Empire in the Age of Confessionalization." *Past and Present* 220 (2013): 79-114.

Wensinck, A.J. *The Muslim Creed: its Genesis and Historical Development*. Cambridge: Cambridge University Press, 1932.

Zaman, Muḥammad Qasim. *Religion and Politics under the Early Abbasids: The Emergence of the Proto-Sunnī Elite.* Leiden: Brill, 1997.

Zilfi, Madeline C. "The Kadizadelis: Discordant Revivalism in Seventeenth-Century Istanbul." *Journal of Near Eastern Studies* 45 (1986): 251-269.