

THE LEGACY OF IJTIHAD FOR LEGISLATIVE DRAFTING AND SOCIAL DEMOCRATIC CHANGE IN MUSLIM WORLD

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Abstract

Knowledge of Islamic and modern Jurisprudence with Juristic vision and understanding of the new developments and circumstances that shape the life of a Muslim will help a lot in legislation and issuance of fatwa related to the contemporary social, democratic, cultural and legal key issues such as pluralistic democratic Islamic values, abortion, preemptive jihad. The legal solution needs a legal framework of reference. Absolute obligations are not subject to change such as Halal and Haram whereas relative obligations are subject to changes within the legal criteria. If this is maintained within the theological framework, many important legal issues can be amicably resolved. Allah gave the permission of Ijtihad to the Prophet (pbuh) and he (pbuh) exercised it on many occasions. This paper will justify how Prophet Muhammad (pbuh) is the first Mujtahid (practitioner of Ijtihad) and law maker in the history of Islam and how his students (companions) were trained by him had the best understanding of those rules and were the first to become the protectors of those laws. The companions in the Prophet's (pbuh) lifetime did Ijtihad and put them in front of the Prophet's jurisdiction. He (pbuh) was pleased and expressed his consent silently and also with words of praise. If a companion did not exercise Ijtihad in the proper way, the prophet (pbuh) expressed his dislike. This paper will analyze the balanced approach towards change management in the Prophet's (pbuh) time and how he (pbuh) trained his companions in such a way that these comprehensive laws would become beacons of light for the changing conditions and fulfill the needs of all times to come. Shari'ah laws were transmitted through a chain of transmitters. This transmission continued till the age of the companions and their followers (Tabain). As long as Muslim jurists tackled the new emerging issues with Ijtihad

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the Muslim societies worked smoothly. Later when intellectual stagnation came in the society regarding acceptance of healthy changes, the decline at all levels started.

Key words: Rational basis for Ijtihad, social and democratic change, freedom of opinion, Shura (consultation), Muslim world

Historical origins of Islamic Law: The Qur'an and prophetic practices (Sunnah) were the exclusive sources of the law during the lifetime of the Prophet Muhammad (pbuh). As new and quite unforeseen conditions faced the Muslims in their political and territorial expansion after him, the use of Ijtihad became a common source of legislation. The foundation of change management through Ijtihad is actually found in the decisions, orders, dealings and teachings of the prophet (pbuh). Allah says, "The son of Adam wrongs me for he curses ad-Dahr (Time); though I am ad-Dahr (Time). In My Hands are all things, and I cause the revolution of day and night"¹ Later theologians and jurists deduced the laws from them and gave them the legal forms. The study of fiqh was refreshed with vaster and fresher perspectives. This is very much like studying in detail the Arabic spoken by the nations, their examples, their sayings and then prepare a dictionary of the Arabic language. In very much the same way after meticulous observation and listening to and understanding of the prophet's (pbuh) decisions, orders and dealings, laws were formulated in their light so that problems can be solved. Some of the companions who came from faraway places to embrace Islam were trained by the Prophet (pbuh) in the laws of Shariah in such a way that after they went back to their tribal areas, they could find solutions to future problems.

Theoretical inquiries to practical concerns: The Companions did not argue on trivial and unnecessary matters. They were not habituated to discuss imaginary, unreal problems. They only wanted to go into talks that should prove beneficial. The companions would observe the prophet performing wudu (minor Ablution). They would learn the way wudu is done and did not go into unnecessary inquiries and complications which is also obvious from the message of Qur'an (5:101).

Evolution of legal structure of society of Madina: With the declaration of prophethood (pbuh) (610 A.D) Islamic legal structure started taking proper shape in stages but a proper beginning started in

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the Madinan period (622 to 632 A.D). Commandments related to legal problems were revealed and implemented gradually in 23 years. Even a number of Hadith of that period encompass legal problems. When questions were put to the prophet (pbuh), answers were revealed by Allah to him for example Qur'an (2:219) says "They will ask thee about intoxicants and games of chance" and (2:220) "And they will ask thee about (how to deal with) orphans" and (2:222) "And they will ask thee about (women's) monthly courses" and questions that were in the mind of people but not asked for example Allah says (58:1) "And God does hear what you both have to say" answers to those questions were also revealed by Allah to the Prophet (pbuh).

Purpose of Shari'ah: Purpose of Shari'ah has already been defined, the framework provided and directives indicated for an Islamic State in the modern world. The executive (for the civil and military administration), Legislative, Judicial, Social duties and functions of a Muslim State are clearly mentioned in the Qur'an and Sunnah.

- a. Al-Ghazali (d.505/1111) while mentioning the purpose of Shari'ah writes "The very objective of Shari'ah is to promote the welfare of the people which lies in safeguarding their faith, their lives, their intellect, their posterity, and their wealth. Whatever ensures the safeguarding of these five serve public interest and is desirable."²
- b. Ibn al-Qayyim (d.751/1350) writes, "The basis of Shari'ah is wisdom and welfare of the people in this world as well as the hereafter. This welfare lies in complete justice, mercy, well-being and wisdom. Anything that departs from justice to oppression, from mercy to harshness, from welfare to misery and from wisdom to folly, has nothing to do with Shari'ah."³

Islam is a progressive religion balancing permanence and change. Progress means man's moral, social, spiritual and economic development. In the Qur'an (4:58) rulers are enjoined to deal people with kindness and justice and remove social, cultural, political, and economic and health inequalities. Quran advocates the welfare of mankind (29:45, 9:103, 22:29, 2:182, 2: 216, 21:107) and justice (4:58, 5:2) and removing the hardships of the suffering of humanity (2:185). Allah says (10:44) "Verily, God does not do the least wrong unto men, but it is men who wrong themselves."

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Are Islamic laws unable to manage a modern society? Islam is not a stagnant religion and Prophet (pbuh) was the greatest reformer, but Islam has been misused by political leaders and rulers of the Muslim States (like General Zia al Haq former President of Pakistan, Saddam Hussain of Iraq, Hosni Mubarak of Egypt, Zain al Abideen of Tunisia and Colonel Qadafi of Libya etc.) for their own interests in many ways so that Muslims keep with them. Countries like Saudi Arabia, Iran, and Pakistan affirm that Islam is the religion of the State and Qur'an and Sunnah are the main sources of Law but there are so many questions and doubts about civil, social, political, commercial issues which need proper clarification and justification like the rights of men, women and non-Muslims, Islamic modernity and democracy.

- a. M. Hashim Kamali truly commented on the notion of adaptability and change in Islamic Law and said, "The leading jurists and 'ulama' have consistently maintained the view that Shari'ah is resourceful and well equipped with the necessary tools with which to accommodate social change. The Shari'ah thus recognizes independent reasoning (ijtihad) and its sub-categories, such as considerations of public interest (istislah), juristic preference (istihsan), analogical reasoning (qiyas) and so forth for the very purpose of adapting the law abreast of the changing needs of society."⁴
- b. While mentioning the role and responsibilities of Muslim jurists to the contemporary challenges Danish Yusuf writes, "The differentiation between two kinds of obligations-absolute and not subject to change, relative and subject to changes-necessitated according to legal criteria, which can resolve some important legal issues, was not maintained."⁵

Use of Ijtihad in the legal decision of punishment of theft: When this commandment of Allah (5:38) regarding the punishment to thieves was revealed "Now as for the man who steals and the woman who steals, cut off the hand of either of them." it meant that the root causes of theft should be removed and eliminated. The collective rights and well-being of people should be protected and character training be given to people to reform them. By safeguarding the conduct and wellbeing of people, social, economic and political advantages are gained by a society.

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The meanings of yad: In this blessed verse the word yad is broad (Mutlaq). It means a). The part of the hands from the tips of the fingers to the arms. The ladies who came to see the Prophet Yousuf (pbuh) cut off their fingers but the Qur'an (12: 31) says, "And when the women saw him, they were greatly amazed at his beauty and (so flustered were they that) they cut their hands (meaning only fingers with their knives)" that they cut off their hands.

b). In another place in the Qur'an (5: 6) Allah says "O you who have attained to faith! When you are about to pray, wash your face, and your hands and arms up to the elbows"

The application of Islamic legal principles: Allah Says, (5:38) "cut off the hand (of a thief)." After clarifications it means to cut off the hands till the wrists.

1. Maybe the person implementing this punishment might have had questions about this verse on theft about the exact place from where the hand should be cut because brief statements needed clarification. The prophet (pbuh) ordered cutting the thief's hands till the wrist⁶, thereby putting limitations on the general laws on theft.
2. The Qur'an gives general orders on cutting the hands of thieves. The prophet (pbuh) once and for all clarified this law by ordering the thief's hand to be cut off till the wrists thereby nullifying all other implications.
3. There is also the question whether the right hand should be cut first or the left one. The prophet (pbuh) specified this broad commandment of the Qur'an.
4. After the Prophet's life, his companions applied the same laws of the prophet (pbuh). Nafi quotes from Ibn e Umar (r.a) that "the Prophet (pbuh), Abu Bakr (r.a) and Usman (r.a) punished the thief by cutting his hands off till the wrist".⁷

The meanings of qat:

a). The word qata is singular, it does not signify many. It appears as if no matter how many times theft is done by one thief, he will be punished just once (his hand would be cut off till the wrist once only). This could be misunderstood by people in future; the prophet clarified this misunderstanding by saying that the thief be punished as many times as he commits the theft.

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b). The word qata in the verse (5:38) “wa qattana aideyalun” could mean to wound or injure the hands. This is why in some traditions the hands of the thieves were not severed from body. On the other hand an incision was made on the palms. For the same reason even today in many law courts of the world the witness spread his palms out before taking oath of promise, so that the judge can be sure that he has not been convicted before.

FLEXIBILITY IN THE LEGAL DECISIONS OF THE PROPHET (PBUH) FOR SUSTAINABILITY

Many examples can be quoted where the prophet (pbuh) specified or put limitations on the broad laws of the Qur'an. But sometimes the specified laws were given exemption in exceptional cases.

1. The Qur'an (4:3) has allowed polygamy but the prophet (pbuh) made an exception to this rule and stopped Ali b. Abi Talib (r.a) from marrying the daughter of Abu Jahl and said, “By Allah, the daughter of the prophet and the daughter of the enemy of Allah cannot be put together on the same level”.⁸
2. Generally the sacrifice of a six month-old-sheep is unlawful. But the Prophet (pbuh) made it lawful to Abu Burda b. Niyaz (r.a) to sacrifice a six-month-old goat.⁹
3. It is not allowed to cut trees in the vicinity of the Haram. But when Ibn-e-Abbas (r.a) took permission for cutting Azkhar he was granted permission for it.¹⁰
4. The fidya of fasting is charity to others. But considering the destitution of one companion the prophet made his fidya of Kaffara (expiation) lawful to himself.¹¹
5. Men are forbidden to wear silk but Zubair (r.a) and Abd al Rahman (r.a) were allowed to wear silk due to the itching on their skins.¹²
6. It was not allowed to get share from war booty without participating in Jihad. During the battle of Badr Usman b. Affan (r.a) was looking after his sick wife Ruqayya (daughter of Prophet (pbuh)), so the prophet allowed him to take share from booty without going for Jihad.¹³

Points to ponder

- a. Making laws specific and making exceptions to the law are proven from the teachings of the Prophet (pbuh).

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- b. Jurists, who came later, studied these cases of specifications and exceptions and fixed the principles and laws to be followed in future problems.
- c. These specific and exceptional laws prove the flexibility of the Shariah laws which are noble, comprehensive and pleasing thereby making solutions to problems equally useful for all times.

Occurrence of Ijtihad by the Prophet (pbuh): Allah gave the permission of Ijtihad to the Prophet (pbuh) and he (pbuh) did Ijtihad on situations, then and there and also transferred the methods of Ijtihad to his Companions. The question might arise that when Jibrael (a.s) was with the Prophet (pbuh) all the time, then what was the necessity and wisdom behind his Ijtihad? Maybe one reason is that verses related to laws are few in Shari'ah and there were innumerable problems and difficulties which needed to be solved, so the need for Ijtihad was very important and necessary. The Prophet (pbuh) established the theoretical/ideological and practical models for his companions and for all jurists of the future generations, so that problems could be solved whenever and wherever necessary and there should not be any kind of difficulties in this regard.

Views of scholars on occurrence of Ijtihad by the Prophet (pbuh):

- a. Saifuddin al-Amadi Shafii (d. 631/1233) while explaining the verse (3:159) "And take counsel with them in all matters of public concern" writes that shura (consultation) is required in the matters which need Ijtihad and if there is revelation from Allah there is no need for Ijtihad. Whenever clear verses regarding problems are present in the Qur'an, there is no need for Ijtihad at all. But when there is need for clarification Ijtihad has to be done by shura (consultation).¹⁴
- b. Imam Shafi also supports the same idea and he writes, "Whenever the prophet (pbuh) gave decision on conflicts and disputes and afterwards they were contradicted by Allah through later revelations, he (pbuh) would not take back his decision but followed the directions of the revelation in future decisions and situations".¹⁵

The establishment of Ijtihad by the Prophet (pbuh): Most of the scholars agree¹⁶ that the Prophet (pbuh) exercised Ijtihad in his life under Allah's permission.

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1. Ibn Abbas (r.a) quotes the question by many people, that "What should be the treatment meted out to prisoners in the Battle of Badr? Various opinions were being offered to the Prophet (pbuh). Some companions (r.a) thought that the prisoners should be freed after taking (fidya) from them. The Prophet (pbuh) accepted this advice and acted on it. On this occasion, this Quranic verse (8:67) was revealed".¹⁷
- a. Mullah Jeevan Hanafi (d. 1130/1717) in this regard has said, "O Prophet (pbuh) because this decision was taken by you on the basis of Ijtihad by shura (consultation,) therefore no one will be accountable in this regard."¹⁸ He further commented on the conclusions that can be derived from the above verse and says, "This clarifies the stance and reason of Ijtihad and is a clear proof for those who reject analogical reasoning".¹⁹
- b. Imam Nasafi (d.710/1310)²⁰ and Imam Abu Jafar Ahmed al-Tabari²¹ has also derived the same conclusions that the Prophet (pbuh) did Ijtihad in his life.

Injunctions to conduct the affairs of the Islamic State through Shura (consultation): The verse (42:38) also guides matters of communal nature were to be decided through shura (consultation) with the community to whom the rulers are accountable. It means that political matters of an Islamic State should be conducted in consultation with a legislative Assembly and other authorities be made accountable to the community. The Prophet (pbuh) encouraged mutual consultation and discussion on several matters.

Larbi Sadiki, teacher at the University of Exeter, England while analyzing the current stagnation in the Muslim world and evolution in the past comments that, "Like ijma, shura stopped being democratic. Instead of evolving into a popularly-based institution of consultation for the enactment of civic responsibilities, shura became a narrow-focused process between and within concentric circles of power. Thus except for the first 39 years of Islam, since the beginning of the Medinan period in 622 and upto the reign of the last rightly guided Khalifah in 661, shura was absent from political rule".²²

2. Ibn-e-Abbas (r.a) quotes that "A person came to the Prophet (pbuh) and said, "My sister had promised Allah that she would perform Hajj (Pilgrimage), but she died". The Prophet (pbuh) to this remarked, "If your sister had debts to be paid, wouldn't

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you pay them off to the debtors? The man replied in the affirmative. The Prophet said, "then perform Hajj (Pilgrimage) on her behalf, as the promise was made to Allah, so you are bound to keep the promise of your sister. This promise was not given to any person. It was given to Allah." ²³ This Hadith teaches about the existence and use of Ijtihad.

Training and permission of Ijtihad to the companions by the Prophet (pbuh): The prophet (pbuh) gave permission and training of Ijtihad to his companions and produced a community of fuqaha (jurists) for change management and they practiced it. He (pbuh) also received information about the Ijtihad done by his companions. For the investigation and methods of solving problems, there are many Hadith, of which one is of Maaz, considered the most important in Islamic law and its deductions. This hadith is found in many books of Hadith such as Tirmizi, Abu Dawood etc.

How to move forward step by step? The Prophet (pbuh) while sending Maaz bin Jabal (r.a) to people of Yemen guided him with the following words, "If you are faced with a problem to which a solution is required, how would you solve it? Maaz replied, "I would look for the solution in the Holy Quran." The Prophet (pbuh) then asked him, "If you don't find the solution from the Quran, then what would you do?" Maaz (r.a) replied, "then I would try to find the solution from the Sunnah of the Prophet (pbuh)." The Prophet (pbuh) asked him again, "What if you don't even find the solution in the Sunnah of the Prophet (pbuh)?" Maaz (r.a) remarked, "I would then do Ijtihad according to my understanding of the Qur'an and Sunnah in the best possible way, taking all the necessary precautions." The Prophet (pbuh) passed his hand over Maaz's chest and said, "Thanks to Allah, who guided the envoy of the Prophet (pbuh) on the right path and this has made me happy."²⁴

Conclusions from the above mentioned hadith:

1. Any and all problems related to knowledge and understanding of Islam and their solutions will be first sought from the Qur'an. After doing a thorough study of the Qur'an to find solutions to various problems, the Sunnah will be consulted and studied in depth. If the solution is not clear or not found either in the Qur'an or the Hadith then Ijtihad has to be done. It means

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Ijtihad can be done only when solutions to problems are not explicitly mentioned in the Qur'an and Hadith.

2. The Prophet's (pbuh) words, "If you cannot find the solution" instead of saying, "If the solution is not present in the Qur'an" shows that individuals have different capabilities. If a scholar cannot find the solution, it doesn't mean that the solution to this problem is not available in the Qur'an. There are chances that other scholars with better insights may be able to do so from the Qur'an.
3. In the same way, the Prophet (pbuh) told Ibn-e-Masud (r.a) on one occasion after teaching him the methods of investigation of Ijtihad said "When you find a commandment in the Qur'an or hadith then pass your fatwa accordingly. If you cannot find the solution from both sources then resort to Ijtihad".²⁵
4. Saeed b. Musayyab quotes that "Ali (r.a) once asked the holy Prophet (pbuh) "If we are confronted with a problem to which there is no related commandment/instruction in the Qur'an or Hadith, then what should we do?" The Prophet (pbuh) replied, "In that situation gather the pious people and people of knowledge and learning and consult them in that regard and do not do Ijtihad based on an individual's opinion".²⁶
5. Once the Prophet (pbuh) told the companions that "Asr (afternoon prayer) should not be offered before reaching the locality of Banu Quraydah"²⁷ when the time of Asr (afternoon prayer) came on the way, some companions said that they would not offer Asr before reaching in the locality of Banu Quraydah and some said that they would offer it on the way. When this matter was brought into the notice of the Prophet (pbuh) he did not question or expresses anger on either of the parties because both groups of jurists applied different jurisprudential approaches within theological legal framework.

Deduction of the results from this hadith,

1. The companions of the prophet (pbuh) had different opinions on the offering of Asr (afternoon prayer).
2. When this was mentioned to the Prophet (pbuh), he neither sought clarification nor condemned any of the two parties. This proves that both parties did Ijtihad and took their decisions and the Ijtihad of both the parties was correct.
3. Ibn-e-Taimuniya (d.728/1328)²⁸ and Ibn-e-Qayyam (d.751/1350) have written that jurists have a difference of

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opinion in this regard as to which side's action was better than the other. Some said the better side was the one which offered Asr prayer on the way, thereby taking preference over the other party by obeying the instructions of the Prophet (pbuh) and so took precedence over the other. Some said that the better party is the one which delayed offering Asr prayer because they wanted to reach the Dayar-e-Bara Quraydah quickly.²⁹

4. When the Prophet (pbuh) did not express his anger or dislike to either of the parties, it means that both parties are correct in their own understanding and judgment. Therefore, there is no need to go any further into this matter by argument or deep consideration.

Rational basis for Ijtihad: Academic and Judicial limits of Law: It is necessary for Ijtihad and Istinbat to follow the rules laid down by Shari'ah. The Ijtihad which does not comply with the principles of Shari'ah is not authentic.

Anurb. al-Aas (r.a) says, "On the occasion of a battle, one cold night, I came under a major state of ritual impurity for which I had to take Ghusl (the greater ablution) I could not do that as the cold would have killed me. So I performed tayammum (Dry Ablution) and joined the congregation. When other companions told about my act to the prophet (pbuh), he (pbuh) said, "How could you offer your prayer in congregation when you were in a ritually impure state." I clarified my position and recited the verse (4:29), "Don't kill yourselves. Surely Allah is kind and Merciful".³⁰ The Prophet (pbuh) smiled and didn't say anything. Anurb. al-Aas (r.a) followed the principles of Shari'ah for Ijtihad.

Ability to think correctly in time: Jabir (r.a) quotes that, "We were on a journey, a stone hit one of our fellow-travelers and his head was injured. He came in a state of ritual impurity. He asked other companions if he could perform the Tayanunum (dry ablution) for prayers. Everyone said when water is available, then what can be the excuse for ablution by sand. After listening to the answers, he performed the greater purification (bath) and he died. Afterwards when the prophet (pbuh) was informed about this by his companions the Prophet (pbuh) said that they had killed him. If you didn't know how to behave and what to say in this kind of situation, why didn't they ask? The only solution to ignorance and wrong actions is to ask

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questions. Tayanunum (dry ablution) was enough for that wounded man. After dressing up his wounds or just after covering the wound with a cloth, he could have just passed his wet hands over that part and washed the rest of the body with water^{30, 31}.

Points to ponder:

- a. Only those companions could exercise Ijtihad who had all the capabilities to do so. When a mistake of a companion was brought to the notice of the Prophet (pbuh) he showed his displeasure and stopped him from exercising Ijtihad.
- b. The Prophet (pbuh) considered that person a murderer of his brother, who because of his ignorance and lack of complete understanding of Ijtihad passed fatwa in this regard.
- c. Although it is unthinkable even to think that the companions' intentions were bad in any way. Whatever they said and did, could only be with the best of intentions. Prophet (pbuh) warned them because of their inappropriate use of knowledge.
- d. To fulfill the requirements of Ijtihad certain capabilities and conditions are required. If those conditions and capabilities are missing Ijtihad should not be done. This is the lesson that all Muslims should keep in the mind for all places and all times.
- e. Only those people have the right to analyze and interpret Islam who fulfill those requirements of Ijtihad. Otherwise in spite of the best intentions a wrong image and impression of Islam would reach people.
- f. The Qur'an has also guided the Muslims by saying that if you do not have knowledge about something, you should ask people who have knowledge about it.

CONCLUDING REMARKS AND FUTURE DIRECTION

The Prophet (pbuh), the first Mujtahid (who exercised Ijtihad, which gives freedom of opinion and expression), and Head of the Islamic State formed a balanced community, guaranteed every individual citizen, man and woman, Muslim and non-Muslim equal rights and trained his companions to deal with any difficult problems or situations easily which may come in the future. The principles of Ijtihad existed in the time of the Prophet (pbuh) but their proper compilation was done later. The permission to exercise Ijtihad was only given to those companions who had the capability to do so. The Prophet (pbuh) expressed his happiness at Ijtihad which was done on the basis of principles of the Qur'an and Sunnah where as he expressed his

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resentment and anger where Ijtihad was not done the proper way. Sometimes there would be difference of opinion in Ijtihad of different companions as they looked at the situation from different angles, nevertheless, they did not transgress the boundaries which were laid down by the prophet (pbuh) for Ijtihad. All those situations due to Ijtihad which came up to the standards of Ijtihad laid down by the Prophet (pbuh) were accepted and authenticated by the Prophet (pbuh). Clarity of ideas and values are essential for guiding the community and exploration of the new ways of dealing with the emerging key issues in the 21st century. Knowledge of Islamic and modern Jurisprudence with Juristic wisdom and vision can bring about a positive social and democratic change in the Muslim world. Seemingly conflicting texts of Qur'an and Hadith related to current issues can also be reconciled through Ijtihad.

Democratic system is not a complete and perfect form of government due to a number of reasons such as power and authority is given through vote to individuals regardless of their qualifications and is based upon man-made social and political ideas instead of Allah's (God's). There are also similarities and contrasts between Islamic and Western concepts of democracy. Democracy is neither obligatory nor prohibited, therefore; at least a democratic way of government which is not contradictory with Islamic values can be adopted partially as an initiative in Muslim countries. Hence the main purpose of Shari'ah is welfare and well being of the people through rule of law, poverty alleviation, equal opportunities on merit, no discriminatory treatment to the people of other creeds, a vibrant free press and media, free from all kinds of oppression, tyranny and exploitation, independent judiciary which is essential for the administration of justice in an Islamic State, and enhancement of human resources through physical, mental, psychological, spiritual health and education.

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26. Alamul Mawqqiein an Rabbil Alamin. Vol. 1, p.65.
27. Sahih al-Bukhari Kitab al-Maghazino. 64. bab no. 31 Hadith no.4117 p.698
28. Ibn Tamiyyah, Taqi al-Din Ahmed.(1958). Raf al-Malam an Ayyamat al-Akam. Cairo: Matba al-Sunnah Muhammadiyah p.25
29. Alamul Mawqqiein an Rabbil Alamin. Vol. 1, p.203 and afterward.
30. Sunan Abu Dawud. Kitab al-Tahara, bab 126 Hadith no. 334 p.65
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DEOBAND SCHOLARS AND THE DEVELOPMENT OF URDU LITERATURE IN THE SUB-CONTINENT

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Abstract

Service to religion, support to Islam, renaissance of Islamic arts and sciences and their dissemination, and help to the students craving religious knowledge are the hall marks of alimani hailing from Dar ul uloom Deoband. Over a hundred years, they have been working on the research in Quran, Hadith, logic and translations. The Scholars hailing from Deoband also enriched the Urdu Literature through their translation and interpretation work of Hadith and Fiqha. Dar-ul-uloom Deoband inducted hundreds of scholars, orators, debaters, speakers, historians, journalists and writers who have served the Urdu Literature.

Introduction: The establishment of Dar-ul-uloom Deoband benefitted the Sub-Continent with a great body of knowledge, information and wisdom. This institution provided protection to the religious thoughts and purified the norms and values from self inducted concepts in Islam. These writers diverted the direction of those elements who were defacing the Islamic values. It (Dar ul uloom) served the Urdu Literature including poetry, prose, and literary creativity and complimented the previous works of calligraphy, translation of Arabic Books and provided an arrangement for publication of weekly and monthly newspapers, periodical and Journals. This research study aims at examining the contribution of Deoband scholars in the development of Urdu language and literature in the Sub-Continent.

Methodology: This is a library based research. An extensive review of literature was made. A combination of descriptive and analytical

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methods of research was used in this study. In this regard, the library resources of the Punjab University, Lahore were accessed frequently. An access was also made to the e-journals and e-books available at the Punjab University, Lahore Library. Based on these reviews, inferences were drawn and recommendations were made.

Impact of Deoband Ulama on Urdu Literature: Moulana Muhammad Qasim Nanotwi founded the greatest institution of Deoband. He also enriched the Urdu literature and language to convey the message of Islam to the human beings. Some of the writers even used metaphors and other literary tools and their work attracted the people towards Islam. At the same time, it can be inferred that their work was not based upon any story fabrication and dramatization. It only deals with teachings of Allah almighty and the sayings of the Prophet of Islam (PBUH). Dr. Nawaz Deobandi described Dar-ul-uloom's services in these words: "The best tool to convey message is written work. The writers of Deoband proved themselves extraordinary in this record. The literature of Deoband consists of thousands of books. The writers hailing from Deoband proved themselves as masters in literature, creativity and matchless in prose and written work. They created a much diversified history in the field of Urdu journalism."

Ulema e Deoband excelled them in conveying the message of Islam in the form of their verses and poems. Poetry creates duty inscription and enhances the attraction of written work. Allama Anzar Shah Masoodi has observed that there is no doubt that Islam does not permit any poetry which based on vulgarity, sensational, excitement, worldly beauty and love, but if expression of reality based emotionalism and thoughts is done in poetry, Islam does not oppose such poetryⁱⁱ. Therefore the poetry by the Deoband scholars is based on reality and the very basis is the love of God. Unlike others, they never use their poetic qualities as their profession. They composed poems and sonnets according to the situation and never did they count themselves as themselves as extra ordinary sukhawar (poets). Just for example, if we critically look at the Moulana Muhammad Mian's famous book, titled, Ulema-e-Hind Ka Shandar Mazi, it can easily be inferred that in addition to the narration of the role of Ulema e Deoband in the field of educational and political development, this broad based study encompasses the contributive role of many artists, orators and poetsⁱⁱⁱ. Qari Muhammad Tayyab has observed that: "Neither have I considered

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myself a poet nor poetry is my profession but sometimes my feelings overcome and are shaped into verses and they do not follow the parameters of poetry^v.”

Moulana Qasim Nanotwi: Moulana Qasmi was an inborn poet with a background of daunting and fearless approach towards religion. According to ‘Sawnih Qasmi’, Moulana Qasmi had a habit of recording his daily routine activities and even the sports events in the form of verses in his childhood^v. Moulana Mamlook Ali who was the teacher of Moulana Qasmi, was also a religious poet and a man of artistic qualities was a contemporary of Mirza Ghalib. Moulana enriched the Urdu language through written work. He wrote many books including Aab-e-Hayat [commentary of the life of the Prophet (SAW)], Jamal-e-Qasmi, Tauseeq-ul-Kalam, Intisari ul-Islam, Qibla Numa and Mubalissat Shahjahan Pura^{vi}.

Moulana Yaqoob: He was the first head teacher/principal of Dar ul uloom. He was not only capable of decorating his emotions with poetry but also had a spiritual personality. He was contemporary of Ghalib, Momin, Zouq, Subhai and Azirda. In one of his letters to Munshi Qasim Niangri, Moulana advised him to study the work Moulana Dard, Soda and Zouq^{vii}. In authorial works he has left three treatises. Sawnih Qasmi is a very brief biography of Moulana Qasim and is very valuable in respect of language and expression. His second collection is entitled Muktabat-e-Yaqubi, which consists of 64 letters. The third collectives are Bayaz-e-Yaqubi: it consists of the chronicles of the pilgrimage journey, chains of authorities of the tomes of Hadith, poems, devotional exercises, etc. containing some medical (tibbi) recipes at the end^{viii}.

Moulana Mahmud Hassan: Maulana Mahmood Hassan titled as, Sheikh-ul-Hind, was a class unto him. He was founder and chairman of record independence movement. He has a great contribution in making the Urdu poetry so fertile with his own thoughts. This was cause of their love and affection with the natural poetry since his student life. Trueness of emotions, elaboration in thoughts and deep philosophical approach always glitter his work. All these things gave life to his poem and verses. Whenever he said a verse, it was not only liked by his competitors but also praised by his contemporaries^{ix}. He has a good legacy of contributions in Tafseer, Hadith and Fiqah. He wrote an exegesis of the Quran, called Tafsir-e-Usmari in Urdu, together with Moulana Shabbir Ahmad Usmani^x.

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Moulana Ashraf Ali Thanvi: He was a prolific author. His literary contributions are in the order of eight hundred to one thousand in number, including sermons, discussions, discourses, treatises, and books^{xi}. He was a translator and exegete (mufassir) of the Quran; he explained its injunctions and wisdoms. As a scholar of hadith, he expounded its intricacies and subtleties. He was described as a moving orator (khatib) and hundreds of his speeches have been published and widely circulated. He mostly remained busy in not only reform of Muslim Society on every time became busy in writing and publishing books. His book entitled, *Bea-ul-Quran* is greatest master piece in literature of Urdu literature. According to Moulana Kashmiri, "I was always considering Urdu literature devoid totally of knowledge and research but after having the study of *Tafseer* of Moulana Thanvi, I had to change my opinion and now I think that Urdu is also have the honor of having high knowledge and researches"^{xii}. In his piece of his writing, we find a glimpse a scholar and in every situation we will have to admit that he was one of the persons whose status is high in literature^{xiii}.

Moulana Anwar Shah Kashmiri: Moulana Anwar Shah is also known for his poetry and his scholarly writings^{xiv}. In 1929, the *Majlis-i-ilm* educational academy was opened in Delhi primarily to publish Shah's writings on Islam^{xv}. He is also an Arabic, Persian and Urdu poet. According to Allama Anwar Shah, his father (Anwar Shah Kashmiri) has written over fifteen thousand verses in the Arabic^{xvi}. "Commenting on the poetic qualities of his father, the author describes that the ancestor homeland of Kashmir where high hills, blooming cultivated lands and beautiful valleys, flowing river, falling waterfalls, colorful clouds, soft morning breeze and the vastness of valleys enhance aesthetic sense compelled him to create beautiful fluent verses"^{xvii}.

Moulana Shabbir Ahmed Usmani: He was an inventor and master of specific style and way of writing and from the selection of words he used, an Islamic orientation reflects out. His greatest literary work is *Tafsir-e-Usmani*. This is an Urdu translation of the tafsir of the Quran written by his Sheikh, Shaikhul Hind Mahmud Hassan. His most renowned literary work is *Fathul Mulhim Sharh Sahih Muslim*, which is a commentary on *Sahih Muslim*. He completed three volumes, and his work was complemented by a six-volume

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work, *Talasila Fathul Mulhim*, published by Mufti Muhammad Taqi Usmani. Another of Usmani's notable works is *Tareek-e-Muvalaat Par Mufasssal Tabsera*, a pamphlet written in 1921 requesting that the ulema lead the Muslims of India against the British. His other literary works include *Hamara Pakistan* (a pamphlet written in 1942), *Hamara Islam* and *Khutbat-e-Usmani*^{xviii}.

Mufti Muhammad Shafi: He the greatest Mufti and prominent author. His artistic thinking compelled him to say verses on special events. He was well versed in Persian and Urdu language. With his stirring thoughts, he awakened the masses from deep slumber. He composed verses in a very piously noble manner. His sayings were very meaningful and commonly understood. He has not only excellent writing skills, but also has very artistic taste. He has many beneficial works whose number surpasses one hundred, most of them in the Urdu language. His best-known and most widely translated work is the *Ma'ariful Qur'an* (The Wisdom of the Quran), which he finished (in Urdu) four years before his death^{xix}. His works include: *Jawahir al-Fiqah*, *Khatm al-Nubuwwah*, *Sirat Khatam al-Anbiya*, *Alat Jadidah*, *Ahkam al-Arabi*, *Imdad al-Muftin*, *Al-Tasreeh bima Tawataara fi Nuzul al-Masih*, *Hadiyyat al-Mahdiyyin fi Ayat Khatam al-Nabiyyin*, and *Thamarat al-Awraq*^{xx}.

Muhammad Taqi Usmani: Muhammad Taqi Usmani served as a judge on the Federal Shariat Court of Pakistan from 1981 to 1982 and the Shariat Appellate Bench of the Supreme Court of Pakistan between 1982 and 2002. He is an expert in the fields of Islamic Jurisprudence (fiqh), economics and hadith. His book titled *Umm ul Quran* is an Urdu work on the sciences related to the revelation and exegesis of the Quran. In Urdu language, he has written over 40 books. Among those, the most read books are: *Tozeeh-ul-Quran* (Aasan Tarjuma e Quran), *In'aanul Bari* (Explanation/Commentary of Sahih ul Bukhari), *Undukh Mein Chand*, *Roz, Islam Aur Seesat-e-Hazra*, *Islam Aur Jidat Pasandi*, *Islahe Ma'ashara*, *Islahi Maw'iz*, *Islahi Majalis*, *Islahi Khutbat*, *Islam Aur Jadeed Ma'eeshat Wa Tijarat*, *Akabar Deoband Kya The? Bible Se Qur'aan Tak*, *Taqleed Ki Shari'i Hasiyat* (The Legal Status of Following a Madhhab), *Jahan-e-Deda*, *Duniya Mere Aagaye*, *Hujjat Hadith* (Authority of Hadith), *Deeni Madaris Ka Nisab Wa Nitham*, *Zabat-e-Wiladat* (Birth Control: Islamic Rulings), *Fard Ke Islah* (Individual Reform), *Milkiyat-e-Zamion Aur Uske Tahdid* (Land

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Ownership and Its Limitations), Nuqoosh-e-Raftigan (Obituaries of Islamic Scholars and Other Dignitaries), Hamare A'eli Masaa'il (Our Family Issues), Hamara Ta'limi Nizam (Our Educational System), Hamara Ma'ashi Nizam (Our Economic System), and Gher soodi bankari. Since 1967, he's been the Chief Editor of the monthly Urdu-language magazine Albalagh and since 1990, he has been Chief Editor of the monthly English-language magazine Albalagh International. He has also contributed articles to leading Pakistani newspapers on a range of issues. He has authored more than 60 books in Arabic, English, and Urdu^{xxi}. He has participated in numerous commissions set up by the government of Pakistan in the field of education and economics.

Moulana Izaz Ali: He was one of the most distinguished graduates and subsequently, a teacher of Dar ul uloom Deoband. He is titled as Sheikh-ul-Adab wal Faqah on the scene of Da ul uloom Deoband. His relation with art and poetry is unbreakable and ancient and in both the poem and literature, Moulana had a strong grip. If on one side he spread his skills towards literature, on the other side, he proved himself a master in the field of poetry. Freshness, truthfulness, innocence, and proper selection of words; all of these prove him an artist^{xxii}. He has also the honour of writing Hashiya (commentary) on Moulana Muhammad Abdullah Bin Ahmad's book, Karz al Daqa'id.

Moulana Hamid ul Ansari Ghazi: He was one of the pioneer writers who explained their political thoughts in the style of essays. He penned down current events supporting by his personal views. His writings are reflective of his political maturity. He was a scholar, researcher, writer, journalist, poet and an author in more than one field. The fluency of his pen was worth reading. His young fresh attractive, meaningful writing convinced everybody of his thinking abilities, mind, and knowledge and research abilities. His style of writing and deep study brought him in the line of high statuses journalists and authors^{xxiii}. He was the Editor of Medina Urdu Newspaper, Bijnor.

Moulana Atiqur Rehman: He is the founder of great institution like Nidwa tul Musanfeen. The famous magazine, Burhan, was published by this institution^{xxiv}. In the words of Allama Anzar Shah Masoodi, with the mature consciousness, peculiar style and full strength, he established the institution. Deoband can be pride of him and at the second place his thoughts always his pen remained busy in the

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construction of Urdu literature and when this chain of poetry remained busy in calculation the sitting use to become garden and color of spring. He composed verses according to the situation verses. He wrote many books and the magazine like Burhan was also a product of his institution^{xxv}.

Moulana Hussain Ahmed Madni He was an Islamic scholar from the Indian subcontinent, conferred with the title of Shaikhul Islam as to acknowledge his eminence in hadith and fiqh. After graduating from the Dar ul Uloom Deoband, he migrated to Medina with his family. He began teaching Arabic grammar, usul al-fiqh, usul al-hadith, and Quranic exegesis. He was a great orator and a writer. His writings are a reflection of his literary and poetic and style of writing. In his literature simplicity is greatly present. Even a very ignorant and common person could know the reality of the complex issues. Sometimes he explained important issues in verses^{xxvi}.

Moulana Manazar Ahsan Gilani Maulana Manazir Ahsan Gilani is often referred as Muhaqqiq Islam (the researcher of Islam), Sultanul Qalam (King of the Pen) and Mutakallime Millat. After graduating from Dar ul Uloom Deoband, he stayed in Deoband until 1338 AH working for the monthly magazine Al-Qasim of the Dar ul Uloom. During this time his literary works such as Savanih-e-Abu Zar Ghifari and Kynaat-e-Rooahaani made him famous amongst the academic and literary circles of the Ulema of the Indian subcontinent. After his retirement, he devoted most of his time to writing. He was a master of the Urdu language and a talented and prolific writer. He enlightened the hearts and minds of thousands with his unique style of writing and speech. His most famous works are: An-Nabiul Khatim, Rahmatulil Alameen, Savanih-e-Abu Zar Ghifari, Savanih-e-Awais Qarni, Imam Abu Hanifa ki Siasi Zindagi, Tazkara-e-Shah Waliullah, Savanih-e-Qasmi - biography of Muhammad Qasim Nanautawi, Musalmano ka Nizame Taleem-o-Ta'biat, Islami Muashiyat, Tadween-e-Hadith, Ad-deerul Qayyim, Tadween-e-Quran, Tadween-e-Fiqh, Muqalaat-e-Ahsani, Tafseer-e-Soorah Kahf, Musalmano ki Firqabandio ka Afsanaa, and Hazar(1000) Saal Peheley.

Maulan Syed Abul Hasan Ali Nadwi says appreciating the services of Moulana, comments as: Maulana Gilani was an organization in him. He was the scholar of scholars, writer of writers, historian of historians, jurist of jurists, Muhaddith (Hadith Scholar) of

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Muhadditheen, Mufassir (Scholar of Quranic Interpretation) of Mufasssireen, and researcher of researchers^{xxvii}. His writings are depictive of his exemplary knowledge and that also show his dot less literary love. In his writing there was excitement like debaters and addresser and style is like teachers. He was fluent with his pen and one in his mental and physical abilities in the field of poetry.

Moulana Sarfraz Khan Safdar: Moulana Sarfaraz penned the highest number of books among Deobandi scholars after Moulana Ashraf Ali Thanawi and Mufti Muhammad Shafi. His books were highly popular among scholars as well as laymen. Allama Mufti Taqi 'Usmani, commenting on the writing qualities of Moulana, expresses as: The Moulana's style of writing is such that whenever he mentions something, there is a huge collection of supportive references behind it, and every page of his book is decorated with those references. Every single piece of writing by your honorable self is a great resource of knowledge for students such as me. For this reason, this most worthless one has, with great interest, collected all of your works and from time to time I make use of them during lectures...^{xxviii}. According to one estimate, his tafsir students across the world number over forty thousand^{xxix}. His lectures, titles, Khutbat Imam Ahl al-Sunnah, have recently been published in three volumes. His two exegeses (tafsirs) of the Qur'an, comprising 8 and 20 volumes, are in the process of being published. Because of his well-researched writings he is known among scholars as muhaqqiq al-'asr and imam Ahl al-Sunnah.

Besides the persons listed above, there is a vast list of leading personalities whose contributions in the field of literature are worth remembering. Among these are included: Moulana Hifz-ur-Rehman Sueoharvi, Maulana Muhammad Mian, Qazi Moulana Athar Mubrakpuri, and Moulana Manzoor Noumani. Their contribution and role in the evolution of Urdu language and literature are unforgettable and Moulana Muhammad Abdullah's book titled, 'Ulema-e-Deoband Aur Urdu Ardab' gives an exhaustive account of role of Deoband Ulema.

Other important writers hailing from Deoband are: Moulana Salam Qasmi, Moulana Riasat Ali Zafar, Moulana Amiri Noor Aalam khali, Moulana Habib-ur-Rehman Aaezmi, Moulana kafeel-ul-Rehman Alvi, Moulana Afzal-ul-Haq Qasmi, Moulana Nadeem-ul-wajidi, Moulana

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Israr-ul-Haq Qasmi, Allama Qamar Usmani, Moulana Naseem Akhtar Shah Qaiser, Moulana Khalid Saif-ullah Rehmani, Mufti Sulman Mansoorpuri, Moulana Salim Jami, Moulana Anees-ul-Rehman Azad, Moulana Haqari Al Qasmi and Moulana Aseer Adravi are remindable/recalledable. These writers enriched the Urdu language with their pious and knowledgeable thoughts.

The ulema hailing from Deoband also became famous for the editorship of various journals/magazines. Among these are included: Al-Qasim by Moulana Manazir Ahsan Gilani, Al-Furqan (Breh) by Moulana Manzoor Ahmad Nomani, Asar e Jadeed by Moulana Shaiq Usmani, Daily Al Aman by Moulana Mazhar ud Din Bijnoori, Madinatul Bijnoor by Moulana Hamid al Ansari Ghazi, Monthly Al Balag by Moulana Taqi Usmani, Monthly Dar ul uloom Deoband by Moulana Azhar Shah Qaiser and Qari Habib ur Rehman, Al Haq by Moulana Sami ul Haq, Baniat by Mufti Muhammad Yousaf, Naqoosh e Hayat by Moulana Muhammad Sadiq, Nida e Shahi by Mufti Suleman Mansoorpuri, Tarajaman e Islam (Banaras) by Muhammad Aseed Adwani, Al Faisal (Hyderabad) by Muhammad Al Qasmi, and Mili Ittehad by Moulana Abdul Qadir Shamash, etc.

Summary: The accomplished scholars hailing from Dar ul uloom Deoband, in every period of time have rendered valuable services in disseminating and spreading correct religious beliefs and religious sciences. These scholars are busy in performing religious and academic services in various countries of the world and everywhere they have acquired a prominent status or religious guidance of the Muslims. Because of their extensive research on Quran, Sunnah and Fiqah, they have produced many thousands volumes of books in Urdu language. Thus these scholars enriched the Urdu language with their Islamic thoughts. Urdu literature produced by these scholars is good blend of softness, purity and novelty. These writers produced books on interpretation, logic and history. Some of these writers expressed their thoughts in the form of poems. The Urdu literature produced by them was aimed at revival of religious thoughts among the Muslims. The above mentioned facts are but just a glimpse to the vast contributions made by the alumni of Dar ul Uloom Deoband in the field of Urdu literature.

END NOTES:

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ⁱ Nawaz Deobandi, *Savannah Ulama e Deoband*, (Deoband: Nawaz Publications, 2009), 243-244.

ⁱⁱ Anwar Shah Masoodi, *Hayat e Kashmiri---Naqash e Dawam*, (Lahore: Idara Taleefat-e-Asrafia, 2006), 247.

ⁱⁱⁱ Muhammad Mian, Syed, *Ulama e Hindi Ka Shandar Mezi* (Karachi, Maktaba Rashidia, 1991), Volume 1-5.

^{iv} Muhammad Tayyeb, 'Pesh Lafz', In: *Tareekh Dar ul uloom Deoband*, Mahboob Rizvi, Syed (Lahore: Idara-e-Islamiat, 2009), 35.

^v Gilani, Manzoor Ahsan, *Savannah Qasmi*, Volume 1, (Deoband, Dar ul uloom Deoband, 1373 AH), 267.

^{vi} Muhammad Sarfraz Ahmad Khan, *Bari Dar ul uloom Deoband* (Gujranwala: Maktaba Safdaria, 2007), 12-13. Also see the web link: <http://storyofpakistan.com/maulana-mohammad-qasim-manzoorvi/> (assessed on 31st May, 2012).

^{vii} See the web link: <http://darululoom-deoband.com/urdu/introulema/4/a.htm> (assessed on 31st May, 2012).

^{viii} See the official website of Dar ul uloom Deoband: <http://www.darululoom-deoband.com/english/introulema/founders3.htm> (assessed on 31st May, 2012).

^{ix} Muhammad Saleem, *Bar e Sagheer Kay Chand Muslim*, Mashuher (Lahore: Sang-e-Meel Publications, 2004), 52.

^x Further details can be found: Asghar Hussain Deobandi, *Hayat Sheikh ul Hind* (Deoband: Maktaba Dar ul uloom Deoband, 1948).

^{xi} Ayub Qadri, Muhammad, *Karwan-e-Rafta* (Islamabad: Dost Publications, 2009), 25.

^{xii} Anwar Shah Masoodi, *Hayat e Kashmiri---Naqash e Dawam*, (Lahore: Idara Taleefat-e-Asrafia, 2006), 70.

^{xiii} Further details can be found: Abdul Rehman Munshi, *Seerat e Asraf*, (Multan: Idara e Nashar o Ma'arif, 1954).

^{xiv} Chishti, Aaliyah, 'Maulana Anwar Shah Kashmiri'. In: *Challenges to religions and Islam: a study of Muslim movements, personalities, issues and trends*. Hamid Naseem Rafiabadi (ed.), (New Delhi: Sarup & Sons, 2006), 922-944.

^{xv} Ibid, 923.

^{xvi} Anwar Shah Masoodi, *Hayat e Kashmiri---Naqash e Dawam*, (Lahore: Idara Taleefat-e-Asrafia, 2006), 248.

^{xvii} Ibid, 267.

^{xviii} For further details, see: Anwar ul Hassan Sherakoti, *Tajjalat e Usmani*, (Multan: Idara e Nashar o Ma'arif, 1951).

^{xix} Muhammad Shafi, *Ma'ariful Qur'an: A Comprehensive Commentary on the Holy Qur'an* (Karachi: Mataba-e-Darul-Uloom Karachi, 2008), Volume 1. xv

^{xx} For further details, see: Akber Shah Bukhari (ed.), *Bees Ulama e Haq* (Lahore: Maktaba Rehmania, 2006), 264-303.

^{xxi} See the official website: <http://www.muftiaqismanni.com> (Accessed on 23rd June, 2012).

^{xxii} For further details, see the official web site: <http://darululoom-deoband.com/english/index.htm>;

<http://www.darululoom-deoband.com/urdu/introulema/5/b.htm> (Accessed on 19th May, 2012).