# An Outline of the Historical Evolution of *Qawā'id* Literature in Islamic Law

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## Abstract

The legal rules of each legal system reflect their own nature and primary characteristics in both quantity and quality. Since they comprise the main structure of the system, the study of these rules, therefore, gives an idea about the mechanism of the system as a whole. An investigation of the principles behind these legal rules, which represent dominant features of several rules is a further step and gives an opportunity to understand the common points of the particular cases. These principles have different essences and historical backgrounds in every legal surrounding.

The settled principles of Islamic law (*al-qawā'id al-fiqhiyyah*) which reflect the general characteristics of rules, were used in legal corpuses from the early ages and developed at a later stage as an independent subgenre in Islamic law. Not only the four Sunni schools of law, but also Shi'i jurists have made a considerable contribution to the development of the literature in the course of time. In the Muslim world, there are several academic works on the subject such as critical editions, theoretical stuies of the genre, and the investigations and applications of certain *qawā'id* in legal corpuses. Nevertheless, this significant subject

of Islamic law has so far found little attention among the Western academia.

This paper, aims to make a small contribution to this significant component of Islamic law. It is concentrating on *al-qawā'id al-fiqhiyyah, not al-qawā'id al-usūliyyah* (hermeneutic principles). After dealing with the concept of qawā'id and its importance in Islamic law, the paper presents a historical overview of the development of qawā'id literature in four Sunni schools of law. The evolution of the genre is examined in three periods: the formative period second/eighth–fourth/tenth centuries), the self-contained compilation period (fourth/tenth–tenth/sixteenth centuries), and the post-compilation period (tenth/sixteenth–thirteenth/nineteenth centuries).The paper concludes with a list of traditional and modern qawā'id works.

## Introduction

*Al-qawā'id al-fiqhiyyah al-kulliyah*, by nature, are *madhhab* transcending principles that contain several particular cases in various fields of Islamic law. They represent the out come of the legal production of the jurists from the formative period of *fiqh* and express the objectives of Islamic law in short epithetic statements. Although *qawā'id* are legal guidelines, which have importance in the formulation of consistent judicial decisions, they do not bind judges while making decisions. This character of qawā'id expressed by the commission of the *Majallah* as: "the judges of the courts cannot give judgment by these qawā'id, unless they find an authority *(naql al-ṣarīḥ)*."[1] Their principle character does not allow us to restrict them with a particular madhhab. For instance, qawā'id such as "certainty is not overruled by doubt" (*al-yaqīnu lā yazūlu bi 'l-shshakk*), "custom is made the arbiter" (*al-'ādatu muḥakkamatun*), "harm shall be removed" (*al-ḍararu yuzāl*), "hardship brings about facilitation" (*al-mashaḳḳatu tajlibu 'l-taysīr*) are used in the legal corpuses of four Sunni schools and Shi'i school of law. In addition to these common qawā'id, however, each school has specific principles that reflect the logic of its legal reasoning.

The term *al-qawā'id al-fiqhiyyah* is commonly translated in English as "legal maxims." Although there are some similarities between al-qawā'id al-fiqhiyyah and legal maxims—if their cores and historical evolution have been taken into consideration—this translation of *al-qawā'id al-fiqhiyyah* neither echoes the main characteristic of *qawā'id* nor elucidates its meaning properly. However, to bring the term into the Western academia's per-

ception, this translation has been preferred by some scholars.[2] Instead of the term *legal maxims*, the terms *al-qawā'id* or *al-qawā'id al-fiqhiyyah* are used in this article. Although the term *legal maxim* is not preferred to express *al-qawā'id al-fiqhiyyah* in the article—since there are parallel characteristics between the two terms—it is useful to give the definition of *legal maxim* in order to compare it with *al-qawā'id*. From this perspective a legal maxim is defined as "a traditional legal principle that has been frozen into a concise expression."[3] As the definition indicates, both *al-qawā'id al-fiqhiyyah* and legal maxims share the same features in terms of content and form: subject matters of them constitute their legal aspects and their concise expressions is their formal structure. Legal maxims and *al-qawā'id al-fiqhiyyah*, which are formulated as a result of the concentration of legal reasoning in particular areas of law by reason of deduction, on the one hand, are the intellectual activity of human beings and could be considered as universal law-based products of humanity. On the other hand, they reflect the general viewpoint of their legal surroundings where they flourished. Therefore, every judicial system has produced its own distinctive maxims. Compared with other legal systems, *al-qawā'id al-fiqhiyyah al-kulliyyah* of Islamic law also have specific origins and sources that give them their own characteristics.

## The Conceptual Analysis of Qawā'id

*Qawā'id* is plural of *qā'idah* and derived from the verb "q-'a-d." Its literal meaning is *foundation*, *base*, *essence*[4]; it is *the foundation of a house*,[5] *the pillars of a house*,[6] *the essences* and *fundamental of bases*.[7] The word of *qā'idah* or *qawā'id* is used to express the foundations of a house in two verses of the Qur'an.[8] The concepts of stability and permanency exist in the lexical usage of the word. Thus, the word of *qā'idah* is also used for menopausal women and elderly women who have passed the normal age of wedlock.[9] The use of *qā'idah* in both Islamic sources and lexicons has parallel meaning in its technical usage in the legal texts. Particularly, its stability and base function in Islamic law as a principle underlying legal determinations comes from its literal meaning. Since *qawā'id* is not only a legal term, there are several definitions of *qawā'id* with regard to disciplines. I will quote sample definitions of Muslim jurists from both the classical and modern periods, followed by a Western scholar, and then I will give my definition of *qā'idah*.[10]

Before discussing the concept of al-qawā'id al-fiqhiyyah, it is important to state that there is a specific sort of al-qā'idah, which is named as

*al-ḍābiṭah (plural al-dawābiṭ).* Although *ḍābiṭah* is a type of qāʿidah, it differs from qāʿidah in that it is a specific principle that contains a subject or subjects from a single chapter of the *fiqh*. They are subsidiary principles that directly refer to their own subjects such as cleanliness (*kitāb al-ṭahārah*), marriage and divorce (*kitāb al-nikāḥ, kitāb al-ṭalāq*), partnership (*kitāb al-sharīkah*), and legal penalties (*kitāb al-ḥudūd*). The following are examples of *ḍābiṭah:* ignorance about the price of the goods, prevents the validity of the sale contract (*jahālat al-thaman tamnaʿ ṣiḥḥat al-bayʿ*),[11] a legal penalty (*ḥadd*) cannot be divided (*al-ḥaddu lā yatajazzau*),[12] and the prayer of the follower (*muqtadī*) depends on the prayer of the imām" (*ṣalāt al-muqtadī mutaʿalliqatun bi ṣalāt al-imām*).[13] Since dawābiṭ contain specific subjects and directly regulate their rules, comparing with *qawāʿid*, they have less exception.

Al-Ḥamawī (d. 1098/1687), the commentator of Ibn al-Nujaym's (d. 970/1562) *Al-Ashbāh wa 'l-naẓā'ir*, initially gives a general definition of *qāʿidah*, then explains that since jurists' understanding of *qāʿidah* is different from linguists and legal thinkers, this definition is not applicable to *al-qawāʿid al-fiqhiyyah*. The author, after attracting attention to the difference between al-qawāʿid al-fiqhiyyah and the maxims of language (*qawāʿid al-lugha*) and legal thought (*qawāʿid al-uṣūl*), defines it as: "qāʿidah, among jurists, is a predominantly, not a generally, valid legal determination *(ḥukm)* that applies to most of its particular cases (juz'iyyāt) so that their legal determinations will be known from it."[14] After this definition, al-Ḥamawī emphasizes a significant characteristic of *qāʿidah* which is its comprehensiveness. Accordingly, although there are exceptions, qāʿidah is a principle that does not fall under another qāʿidah.[15] This feature of qāʿidah differs it from legal rules and and dawabit.

In addition to medieval Muslim scholars, contemporary scholars defined *qāʿidah* in their works. For instance, the contemporary Syrian scholar Muṣṭafā Aḥmad al-Zarqāʾ, (d. 1420/1999), who devoted a broad space to al-qawāʿid al-fiqhiyyah and comments on them in his *Al-Madkhal*, defines *qawāʿid* as "universal legal principles which are formulated in regulative and concise expressions that contain general normative legal determinations about the cases of their subject."[16]

Joseph Schacht mentions al-qawāʿid al-fiqhiyyah in the glossary of his *An Introduction to Islamic Law* as "rules" and "the technical principles of positive law."[17] This definition on the one hand determines the principal dimension of the qāʿidah, which is appropriate to its function, on the other hand it does not reflect the complete picture of the qāʿidah in that it

stresses positive law. Since the majority of qawā'id are positive law transcending principles, the term *positive law* does not conform to the essence of qawā'id.

I define *al-qā'idah al-fiqhiyyah* as a universal proposition that contains subjects from different chapters of fiqh. *Al-Qā'idah'*s inclusion of separate subjects of *fiqh* makes it different from the qawā'id of other disciplines and particular propositions and rules of fiqh as well. I use the term *universality* because of its comprehensiveness to its subject matters and its applicability to them. Being a proposition does not differ it from the qawā'id of other disciplines. However, it shows that a qā'idah is an informative proposition that includes a descriptive judgment rather than a constructive proposition that engages belief or action. *Qawā'id* are propositions on the one hand, on the other hand, their terse expression distinguishes them from regular propositions. In addition, it shows that a qā'idah is not a universal concept (*mafhūm kullī*).

## The Significance of Qawā'id in Islamic Law

The Maliki jurist al-Qarāfī (d. 684/1285), after dividing Islamic law into *uṣūl* and *furū'*, divides uṣūl into usūl al-fiqh and *al-qawā'id al-kulliyyah*. Al-Qarāfī states that al-qawā'id al-kulliyyah are valuable principles that contain the wisdom and essence (*asrār*) of Islamic law, and countless rules of furū' are built on them.[18] Likewise, al-Zarkashī (d. 794/1392) who classified the disciplines relevant to fiqh after categorizing Islamic law into ten branches, indicates that compared with the rest, qawā'id, which is the tenth science, is the most comprehensive, advanced, and useful discipline. Subsequently, he states that a jurist reaches the degree of *ijtihād* due to the knowledge of qawā'id.[19] The Hanafi jurist Ibn al-Nujaym (d. 970/1562) who acknowledges qawā'id as real *usūl al-fiqh*, is emphasizing the significance of knowledge of qawā'id in order to comprehend the intellectual complexity of intra-school disagreements and discussions. According to Ibn Nujaym, by the knowledge of qawā'id, a jurist rises up to the ability of independent judgment , even in legal verdicts (*fatwā*).[20] The commentator of Ibn al-Nujaym's *Al-Ashbāh wa 'l-naẓā'ir*, al-Ḥamawī (d. 1098/1687), explains the *mujtahid* in *fatwā* as the jurist extracts the legal determinations from the qawā'id and usūl of the imam of the school and his disciples for new cases that these earlier authorities have not dealt with.[21] Accordingly, al-qawā'id al-fiqhiyyah, which are axioms, mediate usūl and furū'[22] and reflect the essence of Islamic law in a concise expression.[23]

The knowledge of qawā'id, which echoes the general principles that Islamic law relies on and an understanding of furū' al-fiqh based on those principles allow an inclusive perception to the approach of different *madhhabs* within the Islamic law tradition. Although Islamic schools of law (*madhāhib*) share the same common al-qawā'id, every legal school has its own specific qawā'id and dawabit that identify its character and differentiate it from other schools. Especially the second type of qawā'id "reflect the logic of a school's legal reasoning."[24] Additionally, if specific cases in furū' books are investigated without taking al-qawā'id into consideration, at first hand, it might be seen that legal determinations (*aḥkām*) are disorganized fragments and contradictory; however, it could be understood by the knowledge of qawā'id that those fragments, which are built within a system, have foundations of principles making them different from the others, and at the same time, falling under another qā'idah or qawā'id of the whole system.[25] For instance, if a person has taken ablution (*wudū'*) and is certain about having ablution, and later doubt occurs to him about the continuity of his ablution, that person's ablution is considered to be intact. On the contrary, if somebody is sure that he does not have ablution and is in doubt as to whether or not he made ablution, in this situation, that person is acknowledged as not having ablution. The point of departure in both cases is the qā'idah "*certainty is not overruled by doubt*."[26] The primary situation in ablution is its breaking in both conditions; however, application of the qā'idah abolishes not having been in ablution in case of doubt.[27]

## Historical Evolution of Qawā'id Literature

*Qawā'id* literature has a significant relation with *furūq* (significant differences of similar cases yielding different legal determinations) literature and cannot be studied unless furūq literature has been taken into consideration. This literature specified the differences between seemingly similar cases and concepts or the differences between some of the qawā'id that are similar to each other but could be distinguished in some respect.[28] Another related term to *qawā'id* is *al-Ashbāh wa 'l-naẓā'ir* which is an umbrella title for both qawā'id and furūq literatures. As Wolfhart Heinrichs states, traditional works devoted to *qawā'id fiqhiyyah*, usually have the term *qawā'id* in their titles. In the later period (eighth/thirteenth–tenth/fifteenth centuries), al-Ashbāh wa 'l-naẓā'ir became a popular name for qawā'id works.[29] Since this article concentrates on qawā'id literature and its limit does not allow us to examine related genres in detail, they will be pointed out shortly.[30]

Qawāʿid literature came into being as an independent discipline after the compilation and doctrinal completion period of Islamic law around fourth/tenth century.[31] The existence of legal thinking based on primary principles in the minds of Muslim jurists from the formation process of Islamic law, and the wealth of materials around this comprehension, is one of the first factors of emerging qawāʿid literature.[32] Additionally, resolving differences among discussed matters according to the rules by referring to the general principles and objectives of Islamic law in furūq literature is one of the major factors that expedited the rise of qawāʿid literature. Because of this function of furūq literature, it came about first, followed by qawāʿid literature; collecting these two disciplines and adding other subjects led al-ashbāh wa 'l-naẓāʾir literature to increase.[33]

On the one hand, the previous and major sources of qawāʿid literature, which came to be studied in separate works in later eras, are furūʿ al-fiqh books.[34] Specification of qawāʿid after the elaboration of the particular legal rules (al-aḥkām al-farʿiyyah) demonstrates that they were collected after investigation of these materials by inductive method. On the other hand, al-qawāʿid al-fiqhiyyah, which have taken final form over the course of time, were determined from the doctrinal approaches and ijtihāds of jurists, acquired by induction of the texts (al-nuṣūs) of al-Qurʾan and Sunnah. The sources of al-qawāʿid al-fiqhiyyah are not limited with the texts. For instance, the attitudes of the Companions of the Prophet provided another basis for solving problems. Likewise, concise expressions narrated from them were another root for qawāʿid literature. Particularly the Companions' methodological approaches to the legal issues enabled the first generation of jurists to expose the legal guidelines behind particular cases. Moreover, if the period of the compilation of separate qawāʿid works is considered, the dominant thought and maxims existed in the early legal treatises of the founder jurists of the schools of law created a significant basis for qawāʿid works. Also, Muslim jurists determined qawāʿid using an inductive method by scrutinizing the goals and objectives of legal cases (al-aḥkām al-sharʿiyyah), the principles of uṣūl al-fiqh, rational principles, underlying common causes (ʿilal) among similar legal rules (aḥkām), and linguistic structure.[35]

## The Formative Period (Second/Eight–Fourth/Tenth Centuries)

It is possible to take early types of qawāʿid and the source material of qawāʿid literature, which appeared after establishment of schools of law,

back to the first periods of formation of the science of fiqh.[36] However, although some normative verses of the Qur'ān and Prophetic sayings have provided the background for the formation of the phenomenon of axiomatization[37] (*taqʿīd*) in Muslim jurists' mind, it does not seem reasonable to acknowledge them as the first examples of qawāʿid and estimate them as the inception of axiomatization.[38]

The aforementioned characteristics of the texts (*al-nuṣūṣ*) have established the attitude of ascribing matters to the early foundation of the source material of qawāʿid literature and from fragments toward entirety in the minds of Muslim scholars from the earlier ages. It is possible to observe the first examples of this attitude within the first two generations. Legal opinions (*fatāwā*) narrated from the companions of the Prophet and the generation who succeeded them, known as the Tabiʿūn jurists, indicate that they had the idea of axiomatization in their mind and they used them in appropriate conditions.[39] For instance, Ibrāhīm al-Nakhaʿī's (d. 96/715) methodology of inference (*istidlāl*) which was a compatible adjudication with the essence of the primary sources (*al-nuṣūṣ*), is an example of this fact. His attitude to the sources was not based on unrestricted approach to the literal meaning of the texts (*al-nuṣūṣ*)—instead, it was built on interpretation of the main idea and principles that emanate from the texts. Derivation of legal principles from the texts and their application to various cases are a result of his diligence in the comprehension of legal bases and qawāʿid and deriving legal rules from them.[40] Dihlāwī (d. 1176/1762) interpreted a statement about Ḥammād b. Abī Sulaymān (d. 119/737), "*Ḥammād b. Abī Sulaymān (d. 119/737) is the best one among those who know Ibrāhīm al-Nakhāʿī's (d. 96/715) masāʾil*"; he is "*the best one who knows Ibrāhīm al-Nakhaʿī's (d. 96/715) al-qawāʿid al-kulliyyah which he selected and followed in his legal opinions (fatāwā)*."[41]

The era of forming the materials that prepared emerging qawāʿid literature starts from the period of foundation of legal schools and ends until the beginning of fourth/tenth century. The fact that jurists did not examine al-qawāʿid al-fiqhiyyah as a subject of separate investigations in this period can be explained by the clear existence of qawāʿid in their minds and by the existence of other controversial issues, such as methodological discussions, which occupied their agenda. Therefore, they did not feel a need for such works.[42] Nevertheless, the initial shapes of several qawāʿid were established in this period and took a more specific concise form in later ages.[43] According to Muṣṭafā al-Zarqāʾ, a number of legal maxims and legal rules such as "*certainty is not overruled by doubt*", "*the norm*

*(of sharī'a) is that of non-liability*", "*custom is made the arbiter*", "*harm shall be removed*", "*hardship brings about facilitation*" were established by utilizing texts in that period.[44]

## The Self-Contained Compilation Period (Fourth/Tenth–Tenth/Sixteenth Centuries)

The collecting of al-qawā'id al-fiqhiyyah in separate books, which is an advanced stage of fiqh literature, started in the fourth/tenth century and this progress flourished in later eras.[45] After the formation and characterization of Islamic schools of law in doctrinal structures, some scholars investigated the legal corpuses and analyzed various legal cases deducted by former mujtahids inductively, endeavored to return similar cases to their bases, and collected them under qawā'id. As a result of these efforts, independent qawā'id books were compiled.[46]

Ḥanafī scholars started the first attempt at writing al-qawā'id al-fiqhiyyah independently in Islamic law. Ḥanafī jurists' giving more place to opinion (*ra'y*) in comparison with jurists of other schools in the process of inferring rules, created numerous *ijtihād* collections which contain broad *furū'* cases over the course of time. Thereby, the exertion of attribution of dispersed furū' rules to the principles caused the compilation of *al*-qawā'id al-fiqhiyyah.[47] Furthermore, while building their legal thought (*uṣūl*), the Ḥanafī jurists' determination of general principles from their founder mujtahids' opinions created an intellectual background of inferring universal (*kullī*) ideas and propositions from specific (*juz'ī*) cases in their minds, and this fact was a significant aspect that led to the phenomenon of axiomatization.[48] The earliest information relevant to collecting al-qawā'id al-fiqhiyyah independently is the narration of Shāfi'ī jurist al-Harawī (d. 488/1095) about one of the Transoxanian Ḥanafī scholars Abū Ṭāhir al-Dabbās's[49] attribution of the whole Ḥanafī School of Law to seventeen qawā'id. According to the story, al-Dabbās collected seventeen principles that the Ḥanafī madhhab could be reduced to and repeated these principles in his mosque every night after the people had left. When al-Harawī heard about this, he traveled there and hide himself in al-Dabbās's mosque to listen him while reciting the principles. After people left the mosque, al-Dabbās started to repeat al-qawā'id as usual, and when he had only recited seven of them, suddenly by al-Harawī's coughing, the blind al-Dabbās realized that there is someone in the mosque. He stopped reciting, grabbed al-Harawī, beat him, and threw him out. Al-Harawī returned to his disci-

ples sadly and transmitted the seven principles he heard from al-Dabbās.[50] After quoting the story in detail, al-Harawī (d. 488/1095) says that when al-Qādī Abū Ḥusayn al-Marwarrūdhī (d. 462/1070) heard about this story he reduced the whole Shāfiʿite madhhab to four principles. These qawāʿid are: "certainty is not overruled by doubt," "hardship brings about facilitation," "harm shall be removed," and "custom is made the arbiter."[51] The story is questionable and there are several reasons to be in doubt about its authenticity: for instance, al-Dabbās and al-Harawī are not contemporaries and concealing knowledge is shunned in Islam.[52]

   Abū al-Ḥasan al-Karkhī's (d. 340/952) *Al-Risālah fī al-uṣūl* which is composed of thirty nine qawāʿid, is regarded as the earliest qawāʿid book that we have today. Al-Karkhī has formed his *Al-Risālah* by adding some qawāʿid to al-Dabbās's list of seventeen qawāʿid.[53] The title of *Al-uṣūl* in his *risālah* (message) is the same as the term refering to qawāʿid in furūʿ books. In the legal texts, jurists usually prefer to use *al-aṣl* rather than al-qāʿidah when they state a principle. Al-Karkhī's (d. 340/952) *Risālah* starts with the qāʾidah "what is proven with certainty is not overruled by doubt" (*al-aṣlu anna mā thabata bi al-yaqīn lā yazūlu bi ʾl-shshakk*).[54] His collection of qawāʾid is not all articulated in a terse and snappy way, but rather many qawāʿid of his *Risālah* are verbose. As Mohammad Hashim Kamali says, "*His equivalent of the concise maxim "custom is a basis of judgment," for example, uses 25 words to deliver the same message.*"[55] With respect to the fifth/eleventh century, Abū Zayd al-Dabūsī's (d. 430/1039) *Taʾsīs al-naẓār*[56] was compiled in order to illustrate causes of the disagreements of jurists; it contains the qawāʾid on which these disagreements were grounded. It is one of the considerable qawāʿid books written in that time.[57] Although some contemporary scholars mention that independent books were not compiled in this field from the fifth/eleventh century to the seventh/thirteenth century, but not having any devoted book to the subject does not mean that efforts of jurists on the topic were discontinued.[58] Furthermore, when the usage of qawāʿid in al-furūʿ al-fiqh books is taken into account it clarifies that legal maxims were attained in a concise structure by being stringently examined in furūʿ books. This fact indicates that the formation process of qawāʿid literature continued until the middle of the seventh/thirteenth century.[59]

   It has been observed that there was a new start of activity with regard to qawāʿid literature in the seventh/thirteenth century. Scholars such as Abū Ḥāmid al-Jājarmī (d. 613/1216), ʿIzz al-Dīn Ibn ʿAbd al-Salām (d. 660/1262), and Shihāb al-Dīn al-Qarāfī (d. 684/1285) could be considered as pioneers among those who investigated the subject in that age.

The eight/fourteenth century is the golden age of qawāʻid literature; the most advanced works were written in this century.[60] In addition to al-qawāʻid al-fiqhiyyah, separate books concerning qawāʻid al-uṣūl and *qawāʻid al-lugha al-ʻArabiyyah* were compiled, thus the qawāʻid literature of each discipline flourished. Therefore, in this century, a new period began by adopting various compilation methods from former eras in terms of content and classifications.[61] One of the significant features of the century is the Shāfiʻī scholars' increasing compilation of qawāʻid works.[62] Alongside Shāfiʻī Ibn al-Wakīl (d. 716/1316), Tāj al-Dīn Ibn al-Subkī (d. 771/1369), and Zarkashī (d. 794/1392), Ḥanbalī Ibn al-Taymiyyah (d. 728/1328), Ibn Rajab (d. 795/1393) and Mālikī Maqqarī (d. 758/1357) are among the foremost jurists of that century who compiled qawāʻid books.

Although some new qawāʻid and furūʻ examples were mentioned in the ninth/fifteenth century corpuses, it seems that those works had the same characteristics of the previous century. Therefore, in regard to *qawāʻid* literature, this era could be expressed as the imitation and recapitulation of the former period.[63]

## The Post-Compilation Period (Tenth/Sixteenth–Thirteenth/Nineteenth Centuries)

The period from the tenth/sixteenth century onwards to the composition of the *Majallah* is the most productive era of mature works in terms of qawāʻid literature. The structure of qawāʻid has been clarified and classification methods of qawāʻid books attained an entrenched system in this time. The contribution of al-Suyūṭī (d. 911/1505) and Ibn al-Nujaym's (d. 970/1562) *Al-Ashbāh wa 'l-naẓā'ir* stood out as two works, which had the characteristic specialties of that period and served as a basis to the later qawāʻid books. Additionally, at that time, some books were written in a poetical fashion (*manẓūmah*) to facilitate memorization. The Mālikī scholar Ali b. Qāsim al-Zaqqāq's (d. 912/1506) *Al-Manhaj al-muntakhab* is one of the particular examples of this poetic style.[64] Scholars of that time who followed the method of earlier centuries produced considerable material in the field of qawāʻid by writing commentaries, extrapolations (*takhrīj*), glosses (*taʻlīq*), and compendiums (*mukhtaṣar*). The most prolific scholars were Ḥanafī jurists and just commentaries and glosses on Ibn al-Nujaym's (d. 970/1562) *Al-Ashbāh wa 'l-naẓā'ir* are nearly as whole works of other schools. Ḥanbalī jurists, in comparison with Ḥanafī, Shafiʻī, and Mālikī jurists, wrote fewer books.[65]

The aforementioned valuable works did not stabilize until the establishment of the commission of *Mecelle-i Aḥkāmı 'Adliyye* and the compilation of al-qawā'id al-fiqhiyyah in definite arrangement. Therefore, it is possible to say that al-qawā'id al-fiqhiyyah had stabilized and attained their ultimate concise expressive form with the *Majallah*. Although the commission under the presidency of Ahmad Jawdat Pasha (d. 1312/1895), which followed the *Ḥanafite madhhab*, made no effort for a new ijtihād, *al-qawā'id al-kulliyyah* in the *Majallah* are compatible with principles that modern law systems have reached after a long period of evolution. A notable part of general principles of modern law is based on the same axiomatic maxims that the *Majallah* relies upon.[66]

Due to the significance of qawā'id literature in Islamic law, the subject is investigated in various contemporary works with multifaceted aspects. Edition critics (*taḥqīqāt*), treatises investigating the historical development of the discipline of qawā'id, qawā'id encyclopedias, extractions of qawā'id from legal corpuses, collections of qawā'id and ḍawābiṭ under a theory of fiqh, and the analyses of the major leading qawā'id in detail are all dominant studies of this period.[67] The most considerable characteristic of modern studies is to concentrate on the scientific legacy of the discipline of qawā'id in general. Particularly, accelerating academic studies at universities have a significant role in the compilation in terms of both quantity and quality.[68]

## Conclusion

The blossoming of *qawā'id* literature from the early period of Islamic law expresses a couple points about this legal tradition. First of all, it explains the attempt of the *fuqahā'* in order to abstract legal determinations in furū' literature by examining their common points. The effort of going over the legal treatises required a high level of sufficiency in the knowledge of the accumulation of the school. If the time of flourishing independent qawā'id works, which is around the seventh/thirteenth century, has been taken into consideration, it is an important response to the claim of stagnation of Islamic law after the formation period. It exposes that fuqahā' were in an effort of working through their legal heritage and ijtihād continued in a different dimension within a particular method—that is, madhhab. Finally though each school has its particular qawā'id and ḍawābiṭ, the existence of several madhhab-external qawā'id can be explained by the development of a common discourse among the schools. These points call for detail

investigations on subgenres such as qawā'id, furūq, an*d takhrij al-furū'* *'alā 'l-usūl* in Islamic law.

## *Qawā'id* Works

It is complicated to determine which book belongs to qawā'id literature from its title. However, the subject matter and main theme of qawā'id books are the most significant tools to distinguish them from other genres of Islamic law. Here are only the basic classical works of the four Sunnī schools of law and some contemporary treatises of qawā'id literature have been laid out.

### *Hanafī*

Karkhī, Abū 'l-Ḥasan 'Ubayd Allāh b. al-Ḥasan (d. 340/952). *Al-Risalah fi 'l-usūl*. With al-Dabūsī's *Ta'sīs al-naẓar*. *Edited by* Zakarīyā 'Alī Yūsuf. Cairo, Egypt: Maṭba'at al-Imām, 1972.

Dabūsī, Abū Zayd 'Ubayd Allāh b. 'Umar (d. 430/1039). *Ta'sīs al-naẓar*. Edited by Zakarīyā 'Alī Yūsuf. It mostly contains dawabit of Ḥanafī School of Law. *(ed*. Zakarīyā 'Alī Yūsuf), Cairo, Egypt: Maṭba'at al-Imām, 1972. Also it has another publication edited by Muṣṭafā Muḥammad al-Kabbānī, Bayrūt: Dār Ibn Zaydūn, n.d.

Ibn Nujaym, Zayn al-'Ābidīn b. Ibrāhim (d. 970/1563). *Al-Ashbāh wa 'l-naẓā'ir*. Beirut, Lebanon: Dār al-Kutub al-'Ilmīyah, 1985. Ibn Nujaym's *Al-Ashbāh* is one of the brilliant works of qawā'id literature. Therefore, there are a number of commentaries written on it:

Al-Ṭūrī, 'Alī b. 'Abd Allāh (d. 1004/1596). *Dhakhīrat al-nāẓir sharḥ al-Ashbāh wa 'l-naẓā'ir*. He is Ibn Nujaym's student and it seems that his book is the first commentary on *Al-Ashbāh*.[69]

Muṣlīh al-Dīn, Muṣṭafā b. Khayr al-Dīn (d. 1025/1616). *Tanwīr al-azhān wa 'l-ḍamā'ir fī sharḥ al-Ashbāh wa 'l-naẓā'ir*. It is a commentary on the second (*al-ḍawābiṭ* chapter) part of *Al-Ashbāh*.

Sharaf al-Dīn al-Ghazzī, 'Abd al-Qādir b. Barakāt b. Ibrāhīm (d. 1034/1624). *Tanwīr al-basā'ir 'alā 'l-Ashbāh wa 'l-naẓā'ir.*[70]

Al-Ardabīlī, Isḥāq b. Aḥmad (d. 1055/1645). *Risāla 'alā 'l-Ashbāh wa 'l-naẓā'ir.* [71]

Karaçelebizāde, 'Abd al-'Azīz b. Ḥuṣām al-Dīn (d. 1070/1660). *Tartīb al-Ashbāh wa 'l-naẓā'ir.*[72]

Al-Ramlī, Khayr al-Dīn b. Aḥmad b. 'Alī (d. 1081/1671). *Nuzhat al-nawāẓir 'alā 'l- Ashbāh wa 'l-naẓā'ir.* It is a glossary on *Al-Ashbāh.*[73]

Al-Ḥamawī, Abū 'l-'Abbās Shihāb al-Dīn Aḥmad b. Muḥammad (d. 1098/1687). *Ghamz 'uyūn al-basā'ir sharḥ kitāb al-Ashbāh wa 'l-naẓā'ir.* Beirut, Lebanon: Dār al-Kutub al-'Ilmīyah, 1985. It is one of the most comprehensive commentaries of Ibn al-Nujaym's *Al-Ashbāh wa 'l-naẓā'ir.*

Pīrīzāde, Ibrahīm b. Ḥusayn b. Aḥmad (d. 1099/1688). *'Umdat dhawī 'l-baṣair li ḥall mubhamāt al-Ashbāh wa 'l-naẓā'ir.*[74]

Al-Barzanjī, Muḥammad b. 'Abd al-Rasūl (d. 1103/1692). *Raf' al-ishtibāh 'an kalām al-Ashbāh.*[75]

Al-Nāblūsī, 'Abd al-Ghanī b. Ismā'īl b. 'Abd al-Ghanī (d. 1143/1730). *Kashf al-khaṭāyir 'an al-Ashbāh wa 'l-naẓā'ir.*[76]

Abū 'l-Su'ūd, Muḥammad b. 'Ali Iskandar al-Ḥusaynī (d. 1172/1758). *'Umdat al-nāẓir 'alā 'l-Ashbāh wa 'l-naẓā'ir.*[77]

Ibn 'Ābidīn, Muḥammad Amīn (d. 1252/1836). *Nuzhat al-nawāẓir 'alā 'l-Ashbāh wa 'l-naẓā'ir.* Damascus, Syria: Dār al-Fikr, 1986. Ibn 'Ābidīn's student Muḥammad al-Bayṭār collected it from his teacher's footnotes. It was published with *Al-Ashbāh. Ashbāh wa 'l-naẓā'ir.* Iskandariya, Iraq: al-Maṭba'at al-Waṭaniya, 1289.[78]

Gözübüyükzāde, Ibrāhīm b. Muhammad b. Saʿīd (d. 1253/1837). *Majmūʿat al-qawāʿid.*[79]

Abū ʾl-Fatḥ, Muḥammad al-Ḥanafī (d. 1294/1877). *Itḥāf al-absār wa ʾl-baṣāir bi tabwīb al-Ashbāh wa ʾl-naẓāʾir.* Iskandariya, Iraq: al-Maṭbaʿat al-Waṭaniya, 1289.[80]

Nāẓirzādah, Muḥammad b. Sulaymān, (d. 1061/1651), *Tartīb al-laʾālī fī silk al-amālī,* (ed. Khālid b. ʿAbd al-ʿAzīz b. Sulaymān Âli Sulaymān), Riyāḍ, Saudi Arabia: Maktabat al-Rushd, 2004. It is an alphabetic qawāʿid work that contains qawāʿid of uṣūl and *furūʿ.*

Al-Khādimī, Abū Saʿīd Muḥammad b. Muḥammad (d. 1176/1762). *Majāmiʿ al-ḥaqāʾiq.* Istanbul: Ḥājjī Muḥarram Efendi Maṭbaasi, 1303. Although the book is devoted to uṣūl al-fiqh, al-Khādimī explains a number of selected *qawāʿid* and *ḍawābiṭ* alphabetically in the *khātimah.* It is one of the main sources of the *Majallah.*

There are two significant commentaries on the *qawāʿid* section of *Majāmiʿ*:

Güzelhisārī, Muṣṭafā (d. 1246/1830). *Manāfiʿ al-daqāʾiq sharḥ Majāmiʿ al-ḥaqāʾiq.* Istanbul, Turkey: Ḥājjī Ḥusayn Maṭbaası, 1308/1890.

Kirkağacī, Sulaymān (d. 1287/1870). *Sharḥ khātimat al-qawāʿid al-uṣūl wa ʾl furūʿ.* Istanbul, Turkey: Bosnalı Ḥājjī Muḥarram Efendi Maṭbaası, 1299.

*Mecelle-i Aḥkāmı ʿAdliyye.* Istanbul, Turkey: Ālem Matbaası, 1314/1896. It was written under the presidency of Ahmed Cevdet Paşa between 1869 and 1876. The *Majallah* has an introductory section of ninety-nine qawāʿid. There are a number of commentaries on the *Majallah.* Here some of them:

Al-Qirimī, ʿAbd al-Sattār b. ʿAbd Allāh (d. 1304/1886). *Tashrīḥ al-qawāʿid al-kulliyyah fī aḥkām al-farʿiyya.* Istanbul, Turkey: Rıza Efendi Matbaası, 1295.

Mesʿūd Efendī (d. 1310/1892). *Mirʾāt-i Mecelle-i Aḥkāmı ʿAdliyye.* Istanbul, Turkey: Matbaa-i Osmaniye, 1290.

ʿĀtif Efendī, Kuyucaklizāde Muḥammad (d. 1316/1898). *Mecelle-i Aḥkāmı ʿAdliyye şerhi ve qawāʿid-i fikhiyyenin īzāhi*. Istanbul, Turkey: Mahmūd Bey Matbaası, 1318.

Al-Atāsī, Muḥammad Khālid b. Muḥammad ʿAbd al-Sattār (d. 1326/1908). *Sharḥ al-Majalla*. Pakistān: al-Maktabat al-Ḥabībiyyah, n.d.

Bāz, Salīm Rustam (d. 1328/1910). *Sharḥ al-Majalla*. Beirut, Lebanon: al-Maṭbaʿah al-Adabīyah, 1923.

ʿAlī Ḥaydar Efendī (d. 1355/1936). *Durar al-ḥukkām sharḥ Majallat al-Aḥkām*. Istanbul, Turkey: Mekteb-i Sanayi-i Şahane Matbaası, 1298/1881. It was written in Ottoman Turkish and then was translated into Arabic by Fahmī al-Ḥusaynī. Beirut. Lebanon: Dār al-Kutub al-ʿIlmīyah, 1985.

A-Zarqāʾ, Aḥmad b. Muḥammad (d. 1357/1938). *Sharḥ al-qawāʿid al-fiqhiyyah*. Beirut, Lebanon: Dār al-Gharb al-Islāmī, 1983.

Bigiyaf, Mūsā Jar Allāh (d. 13639/1949). *Qawāʿid-i fiqhiyye: Ahkam-ı şerʿiyye Mecellesine medhal olmak sıfatıyla*. Kazan, Russia: Örnek Matbaası, 1328/1910.

ʿAlī ʿUlwī. *Talkhīs qawāʿid al-kulliyyah wa istilaḥāt al-fiqhiyyah*. Edirne Bādi Ahmed Efendi Library, No: 002196.

Ergūney, Hilmi. *İzahlı ve Mukayeseli Mecelle Külli Kāideleri*. Istanbul, Turkey: Yenilik Basimevi, 1965.[81]

## Mālikī

Al-Khushanī, Muḥammad b. Ḥāris b. Asad (d. 361/972). *Uṣūl al-futyā fī ʾl-fiqh ʿalā madhhab al-Imām Mālik*. Al-Dār al-ʿArabīyah li al-Kitāb: al-Muʾassasah al-Waṭanīyah li al-Kitāb, 1985.

Al-Qarāfī, Shihāb al-Dīn (d. 684/1285). *Anwār al-burūq fī anwāʿ al-furūq*. Beirut, Lebanon: Muassasat al-Maʿārif, 2003

Al-Maqqarī, Abū ʿAbd Allāh (d. 758/1357). *Kitāb al-qawāʿid*. Mecca: Jāmiʿat Umm al-Qurā, n.d. It is known as the first *qawāʿid* book classified according to *fiqh* subjects [82]

Al-ʿAzzūm, Abū ʿAbd Allāh Muḥammad b. Aḥmad (d. 889/1484). *Al-Musnad al-mudhhab fī qawāʿid al-madhhab*. Some authors mention its title as *Al-Mudhhab fī ḍabṭ qawāʿid al-madhhab*.[83]

Al-Zaqqāq, Abū ʾl-Ḥasan ʿAlī b. Qāsim (d. 912/1506). *Al-Manhaj al-muntakhab ʿalā qawāʿid al-madhhab*. It is a poetical (*manzūmat*) qawāʿid book that attracted several commentaries. Here are some of them:

> Al-Zaqqāq, Abū ʾl-ʿAbbās Aḥmad b. ʿAlī (d. 931/1525). *Sharḥ al-Manhaj al-muntakhab*.[84]

> Al-Manjūr, Aḥmad b. ʿAlī (d. 995/1587). *al-Manjūr ʿalā ʾl-Manhaj al-muntakhab*. Beirut, Lebanon: ʿĀlam al-Kutub, 2003. It is famous among Mālikī scholars, and a number of commentaries and abridgments have been written on it.

> Al-Shinqīṭī, Muḥammad al-Amīn b. Aḥmad (d. 1325/1907). *al-Manhaj ilā ʾl-Manhaj Ilā uṣūl al-madhhab*. Beirut, Lebanon: Dār al-Kitāb al-Lubnānī, 1985.

Al-Wansharīsī, Abū ʾl-ʿAbbās Aḥmad b. Yaḥyā (d. 914/1508). *Īḍāḥ al-masālik ilā qawāʿid al-Imām Mālik*. Rabāṭ, Morocco: Sundūq Iḥyāʾ al-Turāth al-Islāmī, 1980. Many *qawāʿid* of *Īḍāḥ al-masālik* are predominantly valid and expressed in question forms to indicate that they are debatable within a school or schools.

Al-Wansharīsī, ʿAbd al-Wāḥid b. Aḥmad (d. 955/1548). *Al-Nūr al-muqtabas fī qawāʿid Mālik b. Anas*. He has versified his father's *Īḍāḥ al-masālik* in this book.[85]

Al-Anṣārī, Abū al-Ḥasan ʿAlī b. ʿAbd al-Wāḥid b. Muḥammad (d. 1050/1647). *Al-Yawāqīt al-thamīna fī naẓāʾir ʿālim al-Madīna*. He also has *ʿIqd al-jawāhir fī naẓm al-naẓāʾir*.[86]

Al-Fāsī, Abū Zayd ʿAbd al-Raḥmān b. ʿAbd al-Qādir (d. 1096/1685). *Al-Bāhir fī ikhtiṣār al-ashbāh wa ʾl-naẓāʾir*.[87]

Al-Walātī, Muḥammad Yaḥyā b. Muḥammad (d. 1330/1912). *Al-Majāz al-wādiḥ fī qawāʿid al-madhhab al-rājiḥ*. Riyāḍ: Dār ʿĀlam al-Kutub li al-Ṭibāʿah wa-al-Nashr wa-al-Tawzīʿ, 1993. He has writ-

ten a commentary that is titled *Al-Dalīl al-māhir al-nāsiḥ sharḥ al-Majāz al-wādiḥ fī qawā'id al-madhhab al-rājiḥ* on his book.

## Shāfi'ī

Al-Jājarmī, Abū Ḥāmid Muḥammad b. Ibrahīm (d. 613/1216). *Al-Qawā'id fī furū' al-Shāfi'iyah*.[88]

'Izz al-Dīn b. 'Abd al-Salām (d. 660/1262). *Qawā'id al-aḥkām fī iṣlāḥ al-anām*. Damascus, Syria: Dār al-Qalam, 2000. He examines the principle of benefit (*jalb al-maṣāliḥ wa dar' al-mafāsid*), and his book represents a very early stage of dealing with only a qā'idah. Ibn 'Abd al-Salām reduces the whole of law to the principle of benefit.

Al-Nawāwī, Abū Zakariyyā' Yaḥyā b. Sharaf (d. 676/1278). *Al-Uṣūl wa 'l-ḍawābiṭ*. Beirut, Lebanon: Dār al-Bashā'ir al-Islāmīyah, 1986.

Ibn al-Wakīl, Abū 'Abd Allāh Ṣadr al-Dīn Muḥammad b. Omar (d. 716/1316). *Al-Ashbāh wa 'l-naẓā'ir*. It is the first book in Islamic law titled *Al-Ashbāh wa 'l-naẓā'ir*. Riyāḍ, Saudi Arabia: Makta-bat al-Rushd, 1993.[89]

Al-'Alā'ī, Ṣalaḥ al-Dīn Khalīl b. Kaykaldī (d. 761/1360). *Al-Majmu' al-mudhhab fī qawā'id al-madhab*. Mecca, Saudi Arabia: al-Makta-bah al-Makkīyah, 2004.

Al-Subkī, Tāj al-Dīn 'Abd al-Wahhāb b. 'Alī (d. 771/1370). *Al-Ashbāh wa 'l-naẓā'ir*. Beirut: Dār al-Kutub al-'Ilmīyah, 1991. His *Al-Ashbāh* is one of the most significant works in the field and some regard that al-Suyūṭī (d. 911/1505) and Ibn al-Nujaym (d. 970/1562) have mostly benefited from it.[90]

Al-Isnawī, Jamal al-Dīn 'Abd al-Raḥīm b. Ḥasan (d. 772/1371). *Al-Ashbāh wa 'l-naẓā'ir*. Ḥājjī Khalīfah (1067/1657) mentions that its title is *Nuzhat al-nawāẓir fī Riyāḍ al-naẓāir*.[91]

Al-Ṣarḥadī, Muḥammad b. Sulaymān (d. 792/1390). *Mukhtaṣar al-Ma-jmu' al-mudhhab*. He compiled al-'Alā'ī's (d. 761/1360) *Al-Ma-jmu'* and al-Isnawī's (d. 772/1371) *Al-Tamhīd fī takhrīj al-furū' 'alā 'l-uṣūl* in this book.[92]

Al-Zarkashī, Badr al-Dīn Muḥammad b. Bahādir (d. 794/1392). *Al-Manthūr fī ’l-qawāʿid*. Beirut, Lebanon Dār al-Kutub al-ʿIlmīyah, 2000. It is the first alphabetic *qawāʿid* work. There are a number of commentaries and abridgments on *Al-Manthūr*.

> Al-ʿAbbādī, Sirāj al-Dīn Omar b. ʿAbd Allāh (d. 947/1540). *Sharḥ Qawāʿid al-Zarkashī*.[93]

> Al-Shaʿrānī, Abū ’l-Mawāhib ʿAbd al-Wahhāb (d. 973/1565). *Al-Maqāṣid al-saniyah fī bayān al-qawāʿid al-sharʿiyah*.[94]

Sharaf al-Dīn al-Ghazzī, Abū ’l-Rūḥ ʿIsā b. ʿUthmān (d. 799/1397). *Al-Qawāʿid fī ’l-furūʿ*.[95] Some scholars consider him as a Ḥanafī jurist.[96]

Ibn Mulaqqin, Sirāj al-Dīn Omar b. ʿAlī (d. 804/1402). *Al-Ashbāh wa ’l-naẓāʾir*. Karātashī, Idārat al-Qurʾān wa al-ʿUlūm al-Islāmīyah, 1417.

Al-Asadī, Muḥammad b. Muḥammad al-Zubayrī (d. 808/1406). *Asnā al-maqaṣid fī taḥrīr al-qawāʿid*.[97]

Ibn al-Hāʾim, Shihāb al-Dīn Aḥmad b. Muḥammad b. ʿImad al-Dīn al-Maqdisī (d. 815/1412). *Taḥrīr al-qawāʿid al-ʿAlāʾiyah wa tamhīd al-masālik al-fiqhiyyah*. He also has *Al-Qawāʿid al-manẓūmah*.[98]

Al-Ḥiṣnī, Taqiy al-Dīn Abū Bakr b. Muḥammad (d. 829/1425). *Kitāb al-Qawāʿid*. Riyāḍ: Maktabat al-Rushd, 1997. In addition to al-qawāʿid al-fiqhiyyah, he also gave a broad place to *al-qawāʿid al-uṣūliyyah*. The book mostly based on al-ʿAlāʾī’s (d. 761/1360) *Al-Majmūʿ*.

Ibn Khaṭīb al-Dahsha, Nūr al-Dīn Maḥmūd b. Aḥmad (d. 834/1431). *Mukhtaṣar min Qawāʿid al-ʿAlāʾī wa kalām al-Isnawī*. Beirut. Lebanon: Dār al-Kutub al-ʿIlmīyah, 2003.

Al-Khalīlī, Sharaf al-Dīn ʿAbd al-Raḥman b. ʿAlī b. Isḥāq (d. 876/1471). *Naẓm al-zakhāir fī ’l-ashbāh wa ’l-naẓāʾir*.[99]

Al-Suyūṭī, Jalāl al-Dīn ʿAbd al-Raḥmān b. Abī Bakr (d. 911/1505). *Al-Ashbāh wa ’l-naẓāʾir*. Cairo, Egypt: Dār al-Salām, 1998. There are some works on al-Suyūṭī’s *Al-Ashbāh*:

> Ibn al-Ahdal, Abū Bakr b. Abī ’l-Qāsim Aḥmad (d. 1035/1626). *Al-Farāʾid al-bahiyah fī ’l-qawāʿid al-fiqhiyyah*.[100] It is

a *manẓūmah* (didactic poem) on *Al-Ashbāh*. There are a number of works on Ibn al-Ahdal's *manẓūmah*.[101]

Al-Ḥaydarī, Fasīḥ al-Dīn Ibrahīm b. Al-Sayyīd Sibghat Allāh (d. 1299/1882). *Ḥāshiyah 'alā 'l-Ashbāh wa 'l-naẓā'ir*.[102]

Al-Damlījī, 'Abd Allāh b. 'Alī (d. 1238/1819). *Sharḥ al-qawā'id al-khams*.[103]

Al-Saqqāf, 'Ulwī b. Aḥmad (d. 1335/1917). *Al-Fawā'id al-makkīyah fīmā yaḥtājuhu ṭalabat al-Shāfi'iyah min al-masā'il wa 'l-ḍawābiṭ wa 'l-qawā'id al-kullīyah*. It was published under the title of *Sab'at kutub mufīdah*, Maṭba'at Muṣṭafā al-Bābī al-Ḥalabī, The author himself did a *mukhtaṣar* on his *Al-Fawā'id*.

## *Ḥanbalī*

Al-Ṭūfī, Najm al-Dīn Sulaymān b. 'Abd al-Qawīyy (d. 716/1316). *Al-Qawā'id al-kubrā* and *Al-Qawā'id al-ṣughrā*.[104] Some mention that he also has a book titled *Al-Riyāḍ al-nawādir fī 'l-ashbāh wa 'l-naẓā'ir*.[105]

Al-Qāḍi Ibn Jabal, Abū 'l-'Abbās Sharaf al-Dīn Aḥmad b. al-Ḥasan al-Maqdisī (d. 779/1369). *Al-Qawā'id al-fiqhiyyah*.[106] Ibn Rajab, Abū 'l-Faraj 'Abd al-Raḥmān (d. 795/1393). *Taqrīr al-qawā'id wa taḥrīr al-fawā'id*. al-Khubar: Dār Ibn 'Affān li al-Nashr wa al-Tawzī', 1998. Most of qawā'id mentioned in *Taqrīr al-qawā'id* are examples of ḍawābiṭ.

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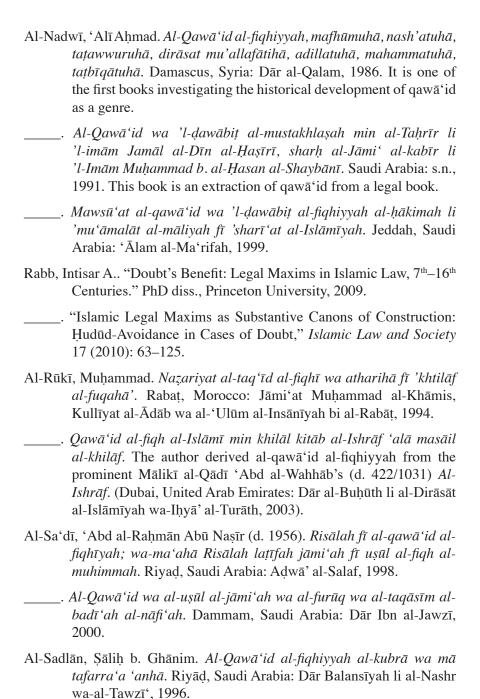Kızılkaya, Necmettin. "*Kāsānī'nin Bedāyiʿ İsimli Eserinde Kavāid'in Yeri*." M.A thesis, Marmara University, 2005.

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## Endnotes

1.  *Mecelle-i Aḥkāmı 'Adliyye.* Istanbul, Turkey: Ālem Matbaası, 1314/1896. The Official Report of the Majallah Commission (Esbāb-ı Mūcibe Mazbatası).

2.  See, e.g., Joseph Schacht, *The Origins of Muhammadan Jurisprudence* (London: Oxford University Press, 1950), 180–89; Mohammad Hashim Kamali, "Legal Maxims of *Fiqh* (Al-Qawā'id al-Kulliyyah al-Fiqhiyyah)," in *An Introduction to Sharī'ah* (Kuala Lumpur, Malaysia: Ilmiah Publishers, 2006), 133–54; Intisar A. Rabb, "Doubt's Benefit: Legal Maxims in Islamic Law, 7th–16th *Centuries*" (Ph.D diss,, Princeton University, 2009).

3.  Henry Campbell Black, "Maxim," in *Black's Law Dictionary*, 7th ed (Eagan, MN: West Group, 1999), 993.

4.  Abū al-Faḍl Jamāl al-Dīn Muḥammad Ibn Mukarram Ibn al-Manẓūr, *Lisān al-'Arab* (Beirut, Lebanon: Dār Ṣādir, 1968), vol. 3, 361; Abū Naṣr Ismā'īl ibn Ḥammād al-Jawharī, *Tāj al-lughah wa-ṣiḥāḥ al-'Arabīyah,* ed. Shihab al-Din Abū 'Amr (Beirut, Lebanon: Dār al-Fikr, 1998), vol. 1, 443.

5.  Khalīl Ibn Aḥmad al-Farāhīdī, *Kitāb al-'ayn,* ed. Mahdī al-Maḥzūmī, Ibrāhīm el-Sāmirāī (Qom, Iran: Intishārāt-i Uswa, 1414), vol. 3, 1502.

6.  Ibn Manẓūr, *Lisān*, vol. 3: 361; Muḥibb al-Dīn Abū Fayḍ al-Sayyid Muḥammad al-Zabīdī, *Tāj al-'arūs min jawāhir al-qāmūs*, ed. Ibrahim Tarzi (Beirut, Lebanon: Dār Iḥyā' al-Turāth al-'Arabī, 1975), vol. 9, 60.

7.  Al-Zabīdī, *Tāj*, vol 9, 60.

8.  Qur'an (2:127); Qur'an (16:26).

9.  Abū al-Ḥusayn Aḥmad Ibn Fāris, *M'ujam maqāyīs al-lughah,* ed. 'Abd al-Salām Muḥammad Hārun (Beirut, Lebanon: s.n. 1991), vol. 5, 108; Abū al-Baqā' Ayyūb b. Mūsā al-Kafawī, *Al-Kulliyyāt,* ed. 'Adnān Darwīsh and Muḥammad al-Miṣrī), (Beirut: Lebanon, 1993), 728.

10. For definitions of *qā'idah* and their analyses see Necmettin Kızılkaya, "Kāsānī'nin Bedāyi' İsimli Eserinde Kavāid'in Yeri" (M.A thesis, Marmara University, 2005), 16–27.

11. 'Alā' al-Dīn Abū Bakr b. Mas'ūd al-Kāsānī, *Badāi' Al-sānāi' fī tartīb al-sharā'i'*, ed. Alī Muḥammad Mu'awwaz and 'Ādil Aḥmad 'Abd al-Mawjūd (Beirut, Lebanon: Dār al-Kutub al-'Ilmiyah, 1997), vol. 7, 362.

12. Ibid., vol. 9, 33.

13. Al-Dabūsī, Abū Zayd 'Ubayd Allāh b. 'Umar, *Ta'sīs al-naẓār*, ed. Muṣṭafā Muḥammad al-Kabbānī (Beirut, Lebanon: Dār Ibn Zaydūn, n.d.), 107.

14. Abū 'l-'Abbās Shihāb al-Dīn Aḥmad b. Muḥammad al-Ḥamawī, *Ghamz 'uyūn al-baṣā'ir sharḥ kitāb al-Ashbāh wa 'l-naẓā'ir* (Beirut, Lebanon: Dār al-Kutub al-'Ilmīyah, 1985), vol. 1, 51. For a comment on the definition, see Ya'qūb b. 'Abd al-Wahhāb al-Bāhusayn, *Al-Qawā'id al-fiqhiyyah* (Riyadh, Saudi Arabia*: Maktabat al-Rushd,* 1998), 44–48; Muḥammad 'Uthman Shubayr, *Al-Qawā'id al-kulliyyah* (Amman, Jordan: Dār al-Furqān, 2000), 16; and Wolfhart Heinrichs, "Qawā'id as a Genre Of Legal Literature," in *Studies in Islamic Legal Theory*, ed. Bernard G. Weiss (Leiden, The Netherlands: Brill, 2002), 367.

15. Al-Ḥamawī, *Ghamz*, 1:51. Many scholars have followed his definition of *qawā'id* and his approach to the subject. See Güzelhisārī, *Manāfi' al-daqāiq fī sharḥ Majāmi' al-haqāiq* (Istanbul, Turkey: s.n., 1273), 305; Ömer Nasuhi Bilmen, *Hukukı İslāmiyye ve Istılahatı Fıkhiyye Kamusu* (İstanbul, Turkey: Bilmen Yayınevi, 1985), vol. 1, 254; Muḥammad Anīs 'Ubādah, *Qawā'id al-fiqh al-kulliyyah* (Cairo, Egypt: n.d.), 1; Abdullah al-Dar'ān, *Al-Madkhal li al-fiqh al-Islāmī tārīkhuhu, qawā'iduhu, mebādi'uhu al-'āmmah* (Riyadh, Saudi Arabia: Maktabat al-Tawba, 1993), 223.

16. Muṣṭafā Aḥmad al-Zarqā', *Al-Madkhal al-fiqhiyy al-'āmm,* (Damacus, Syria: Dār al-Fikr, 1968), vol. 2, 947. His definition of *qā'idah* has a significant impact on contemporary qawā'id scholarship.

17. Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), 300.

18. Shihāb al-Dīn Abū al-'Abbās Aḥmad Ibn Idrīs al-Qarāfī, *Anwār al-burūq fī anwā'i' al-furūq* (Beirut, Lebanon: Muassasat al-Ma'ārif, 2003), vol. 1, 2–3.

19. Abū 'Abd Allāh Badr al-Dīn Muḥammad al-Zarkashī, *Al-Manthūr fī al-qawā'id*, ed. Taysīr Fāiq Aḥmad Maḥmūd (Kuwait City, Kuwait: Wizārat al-Awqāf wa al-Shu'ūn al-Islāmiyah, 1982), vol. 1, 69–71.

20. Zayn al-Dīn Ibn Ibrāhīm Ibn al-Nujaym, *Al-Ashbāh wa 'l-naẓā'ir*, ed. Muḥammad Mutī' el-Hāfiz (Damascus, Syria: Dār al-Fikr, 1983), 10.

21. Al-Ḥamawī, *Ghamz*, vol.1, 34.

22. Muḥammad Zāhid al-Kawtharī, *Maqālāt al-Kawtharī*, ed. Rātib Ḥākimī (Ḥummus: s.n., 1388), 118.

23. Musa Jār Allāh, *Qawā'id-i fiqhiyye* (Kazan: Örnek Matbaası, 1328/1910), 5; Muḥyī Hilāl al-Sarhān, "al-Qawā'id al-fiqhiyyah wa dawruhā fī isrā' al-tashrī'āt al-ḥadīthah," *Al-Risālah al-Islāmiyyah,* vol. 164-165, (Baghdād 1404), 138.

24. Wolfhart Heinrichs, "Ḳawā'id Fiḳhiyya", *Encyclopaedia of Islam, Second Edition*, ed. P. Bearman, Th. Bianquis, C. E. Bosworth, E. van Donzel; and W. P. Heinrichs (Leiden, The Netherlands: Brill, 2010), 12:517.

25. Musa Jār Allāh, *Qawā'id*, 6.

26. al-Kāsānī, *Badāi' al-sānāi' fī tartīb al-sharā'i'*, 1:263.

27. For another examples see Kamali, "Legal Maxims of Fiqh", *An Introduction to Sharī'ah*, 137.

28. Ibid., 148.

29. Heinrichs, "Qawāʿid as a Genre of Legal Literature," 365.

30. For furūq literature see Wolfhart Heinrichs, "Structuring the Law: Remarks on the *Furūq* Literature", in *Studies in Honour of Clifford Edmund Bosworth, Hunter of the East: Arabic and Semitic Studies*, ed. I. Richard Netton), vol. 1 (Leiden, The Netherlands: Brill, 2000), 332–44.

31. Al-Zarqāʾ, *Al-Madkhal*, vol. 2, 952; İbrahim Kafi Dönmez, "Hz. Peygamber'in Tebliğine Hākim Olan Başlıca Hukuk Prensipleri," *Ebedī Risalet Sempozyumu* (İzmir, Turkey: Işık Yayınları, 1993), 167; Mustafa Baktır, "Kāide," *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (Ankara, Turkey: Türkiye Diyanet Vakfı, 2001), vol. 24, 206.

32. Abd Allāh Ibn Mukammad b. Ṣāliḥ al-Sulaymān, *Al-Shakk wa atharuhū fī najāsat al-māʾ wa ṭahārat al-badan wa aḥkām al-shaʿāir al-taʿabbudīyah (dirāsah fiqhiyyah muqāranah) maʿa naẓrah ʿāmmah fī ʾl-qawāʿid al-fiqhiyyah* (Riyaḍh, Saudi Arabia: Dār Ṭuwayq, 2000), 1:57; Baktır, "Kāide," vol. 24, 206.

33. ʿAlī Aḥmad al-Nadwī, *Al-Qawāʿid al-fiqhiyyah, mafhūmuhā, nash'atuhā, taṭawwuruhā, dirāsat muʾallafātihā, adillatuhā, mahammatuhā, taṭbīqātuhā* (Damascus, Syria: Dār al-Qalam, 1986), 72; Şükrü Özen, "Furūk," *Türkiye Diyanet Vakfı İslam Ansiklopedisi* (Ankara, Turkey: Türkiye Diyanet Vakfı, 1996), vol. 13, 224–25.

34. For a similar approach see al-Nadwī, *Al-Qawāʿid*, 115.

35. Al-Zarqāʾ, *Al-Madkhal*, vol. 2, 951; Abū ʾl-ʿAbbās Aḥmad b. Yaḥyā al-Wansharīsī, *Īdāḥ al-masālik ilā qawāʿid al-Imām Mālik*, ed. Ahmed Bū Tāhir al-Khattābī (Rabat, Morocco: Ṣundūq Iḥya' al-Turāth al-Islāmī, 1980), 118; Muḥammad Muṣṭafā ʾal-Zuḥaylī, *Al-Qawāʿid al-fiqhiyyah ʿalā ʾl-madhab al-Ḥanafī wa al-Shāfiʿī* (Al Shuwaykh, Kuwait: Majlis al-Nashr al-ʿIlmī, Lajnat al-Taʾlīf wa al-Taʿrīb wa al-Nashr, 1999), 29; ʿUbādah, *Qawāʿid al-fiqh*, 8; ʿAbd al-Raḥmān al-Sābūnī, *Al-Madkhal li dirāsat al-tashrīʿi al-Islāmī* (Damascus, Syria: Jāmiʿat Dimashq, 1981–1982), vol. 1, 263; Ṣāliḥ b. Ghānim al-Sadlān, *Al-Qawāʿid al-fiqhiyyah al-kubrā wa mā tafarraʿa ʿanhā*, (Riyadh, Saudia, Arabia: Dār Balansīyah li al-Nashr wa-al-Tawzīʿ, 1996), 23.

36. Abū Saʿīd Khalīl b. Kaykaldī al-ʿAlāī, *Al-Majmūʿ al-mudhhab fī qawāʿid al-madhhab*, ed. Muḥammad b. Abd Alghaffār b. Abd al-Raḥmān (Kuwait City, Kuwait: Wizārat al-Awqāf wa al-Shuʾūn al-diniyyah, 1994), vol. 1:47; Baktır, "Kāide," vol. 24: 206, Mehmet Emin Özafşar, *Hadīsi Yeniden Düşünmek: Fıkhī Hadīsler Bağlamında Bir İnceleme* (Ankara, Turkey: Ankara Okulu, 2000), 118.

37. The term *axiomatization* denotes the formulation process of qawāʿid principles in such a way that several rules, which had a common ground and goal behind them, have been expressed in long statements in the early furūʿ works. The later generation of jurists revealed the common points and idea of these rules and expressed them in concise expressions in the course of time, until this process completed with regard to the structure and expression.

38. Al-Bāḥusayn, *Al-Qawā'id*, 288. This approach is very common in contemporary qawā'id works.

39. For some examples of the Companions see Al-Kāsānī, *Badāi' al-sānāi'*, vol. 6, 266; vol. 7, 83.

40. For details see Muḥammad Rawwās Qal'ajī, *Mawsū'at fiqh Ibrāhīm al-Nakha'ī* (Beirut, Lebanon: Dār al-Nafāis, 1986), 198; Al-Shalabī has a similar opinion about Abū Ḥanīfah. See Muḥammad Muṣṭafā al-Shalabī, *Al-Madkhal fī al-fiqh al-Islāmī ta'rīfuhu wa tārīkhuhu wa madhāhibuhu naẓariyyat al-mulkiyyah wa al-'akd* (Beirut, Lebanon: al-Dār al-Jāmi'iyyah, 1985), 323.

41. Shāh Waliyy Allāh al-Dahlawī, *Al-Musawwā sharḥ al-Muwaṭṭā'* (Beirut, Lebanon: Dār al-Kutub al-'Ilmiyah, 1983), vol. 1, 19.

42. Abū Abd Allāh Muḥammad b. Muḥammad b. Aḥmad al-Maqqarī, *Al-Qawā'id*, ed. Aḥmad b. Abd Allāh b. Ḥamīd (Mecca, Saudi Arabi: Jāmi'at Umm al-Qurā, n.d.), vol. 1, 122; Muḥammad al-Rūkī, *Qawā'id al-fiqh al-Islāmī min khilāl kitāb al-Ishrāf 'alā masā'il al-khilāf* (Damascus, Syria: Dār al-Qalam, 1998), 134-135; al-Bāḥusayn, *Al-Qawāid*, 310.

43. Al-Nadwī, *Al-Qawā'id*, 95; Muḥammad Ṣidqī b. Ahmad b. Muḥammad al-Būrnū, *Al-Wajīz fī iḍāh qawā'id al-fiqhi al-kulliyyah* (Beirut, Lebanon: Muassasat al-Risālah, 2002), 58.

44. Al-Zarqā', *al-Madkhal*, 1:175.

45. Al-Shalabī, *Al-Madkhal*, 325; Al-Nadwī, *Al-Qawā'id*, 97; Al-Zuḥaylī, *Al-Qawā'id*, 32; Al-Rūkī, *Qawā'id*, 136.

46. Al-Sābūnī, *Al-Madkhal*, vol. 1, 254–55; Al-Nadwī, *Al-Qawā'id*, 98; Al-Rūkī, *Qawā'id*, 135; Muḥammad Hashim al-Burhānī, *Sadd al-zarāi' fī al-sharīah al-Islāmiyyah* (Beirut, Lebanon: Maṭba'at al-Rayḥānī, 1985), 159–60.

47. Al-Shalabī, *Al-Madkhal*, 325; Al-Nadwī, *Al-Qawā'id*, 99; Al-Rūkī, *Qawā'id*, 140; Al-Dar'ān, *Al-Madkhal*, 223; Al-Būrnū, *Al-Wajīz*, 59; Al-Sulaymān, *Al-Shakk*, vol. 1, 58.

48. Abū Bakr b. Muḥammad b. 'Abd al-Mu'mīn al-Ḥisnī, *Kitāb al-qawā'id*, ed. 'Abd al-Raḥmān b. Abd Allāh al-Sha'lān (Riyadh, Saudi Arabia: Maktabat al-Rushd, 1997), vol. 1, 41.

49. There are no specific details on the time of his death in the sources. However, it is noted that he was born in third/ninth century and died in fourth/tenth century. See al-Zarqā', *Al-Madkhal*, vol. 2, 953; Al-Nadwī, *Al-Qawā'id*, 100; Al-Bāḥusayn, *Al-Qawā'id*, 311. On the other hand, some sources give his exact death time. See Shubayr, *Al-Qawā'id*, 49.

50. Al-'Alāī, *Al-Majmū'*, vol. 1, 252–53; Jalāl al-Dīn 'Abd al-Raḥmān b. Abī Bakr al-Suyūṭī, *Al-Ashbāh wa 'l-naẓā'ir fī qawā'id wa furū' fiqh al-Shāfi'iyyah*, ed. Muḥammad Mu'tasim bi Allah el-Baghdādī (Beirut, Lebanon: Dār al-Kitāb al-'Arabī, 1987), 35–36; Ibn al-Nujaym, *Al-Ashbāh*, 10–11.

51. Al-'Alāī, *Al-Majmū'*, vol. 1, 253–54; Al-Suyūṭī, *Al-Ashbāh*, 36–37. The last qā'idah is "*Al-'ādatu muhakkamah*" in Al-Suyūṭī's *Al-Ashbāh* and "*tahkīm*

al-'ādat" in al-'Alāī's *Al-Majmū'*. See Al-Suyūṭī, *Al-Ashbāh*, 37 and Al-'Alāī, *Al-Majmū'*, vol. 1, 254.

52. For critics of this story, see al-Ḥamawī, *Ghamz*, vol. 1, 36; Al-Bāḥusayn, *Al-Qawā'id*, 312–13; Kızılkaya, *Kāsānī'nin Bedāyi' İsimli Eserinde Kavāid'in Yeri*, 269th footnote; Heinrichs, "Qawā'id", 371.

53. Al-Shalabī, *Al-Madkhal*, 326; Al-Maqqarī, *Al-Qawā'id*, vol. 1, 123; Al-Bāḥusayn, *Al-Qawā'id*, 316; Al-Nadwī, *Al-Qawā'id*, 100; Al-'Alāī, *Al-Majmū'*,vol. 1, 49. Al-Bāḥusayn, however, affirms the existence of a book named *Al-Talkhīs* which belongs to Ibn al-Qās (d. 335/947) and is full of qawā'id, dawabit, and principles. See Al-Bāḥusayn, *Al-Qawā'id*, 307–310.

54. Abū 'l-Ḥasan 'Ubayd Allāh b. al-Ḥasan Karkhī (d. 340/952), *Al-Risalah fi 'l-usūl*. With Al-Dabūsī's *Ta'sīs al-naẓar*, ed. Zakarīyā 'Alī Yūsuf (Cairo, Egypt: Maṭba'at al-Imām, 1972), 110.

55. Kamali, "Legal Maxims of Fiqh," *An Introduction to Sharī'ah*, 145.

56. On the discussion of ascription of this book to Abū al-Layth al-Samarqandī and of its relation with Abū Zayd al-Dabūsī's *Ta'sīs*, see Baktır, "Kāide", vol. 24, 207.

57. Al-Zarqā', *al-Madkhal*, vol. 2, 955; Al-Bāḥusayn, *Al-Qawā'id*, 318–19; İzmirli, *İlm-i Hilāf*, 189.

58. Babanzāda (d. 1338/1920) states that 'Alā al-Dīn al-Samarqandī (d. 540/1146) has a book titled *Īdāh al-qawā'id* in the sixth/twelfth century. See Babanzāda Isma'īl Pasha al-Baghdādī, *Hadiyyat al-'ārifīn asmā' al-muallifīn wa āthār al-muṣannifīn* (Ankara, Turkey: Milli Eğitim Bakanlığı Yayınları, 1955), vol. 2, 90.

59. Baktır, "Kāide," vol. 24, 207.

60. Al-Zarqā', *Al-Madkhal*, vol. 2, 958; Al-Bāḥusayn, *Al-Qawā'id*, 324; Al-Nadwī, *Al-Qawā'id*, 102.

61. See Kızılkaya, *Kāsānī'nin Bedāyi' İsimli Eserinde Kavāid'in Yeri*, 52-53; al-Bāḥusayn, *al-Qawā'id*, 335-336.

62. Al-Nadwī, *Al-Qawā'id*, 102; Al-Būrnū, *Al-Wajīz*, 65.

63. Al-Būrnū, *Al-Wajīz*, 68; Al-Nadwī, *Al-Qawā'id*, 104–105; Al-Bāḥusayn, *Al-Qawā'id*, 336.

64. In addition to Al-Suyūṭī (d. 911/1505) and Ibn al-Nujaym's (d. 970/1562) works, Al-Zaqqāq's (d. 912/1506) *Al-Manhaj al-muntakhab* had a significant impact on works of that period.

65. Al-Bāḥusayn, *Al-Qawā'id*, 350.

66. Mustafa Reşit Belgesay, "Mecellenin Külli Kaideleri ve Yeni Hukuk," *İstanbul Üniversitesi Hukuk Fakültesi Mecmuası*, 12, nos. 2 and 3 (1946): 562–64.

67. Also some specific works of qawā'id such as Muṣṭafā Aḥmad al-Zarqā's *Al-Madkhal al-fiqhiyy al-'āmm* and Subḥī Maḥmasānī's *Falsafat al-tashrī' al-Islāmī* investigate qawā'id as well.

68. For further information on contemporary works, see Al-Bāḥusayn, *Al-Qawā'id*, 402–428; Kızılkaya, *Kāsānī'nin Bedāyi' İsimli Eserinde Kavāid'in Yeri*, 55–56.

69. Al-Baghdādī, *Hadiyyat al-'ārifīn*, vol, 1, 750.

70. Muṣṭafā Ibn 'Abd Allāh Ḥājjī Khalīfah, *Kitāb Kashf al-ẓunūn 'an asāmī al-kutub wa-al-funūn* (Tehran, Iran: al-Maṭba'at al-Islāmiyyah, 1961), vol, 1, 99.

71. Ḥājjī Khalīfah, *Kashf al-ẓunūn*, vol. 1, 99.

72. Al-Baghdādī, *Hadiyyat al-'ārifīn*, vol. 5, 202.

73. Ḥājjī Khalīfah, *Kashf al-ẓunūn*, vol. 1, 100.

74. Al-Baghdādī, *Hadiyyat al-'ārifīn*, 1:758.

75. Ibid., vol. 1, 43.

76. Ibid., vol. 2, 303.

77. Al-Nadwī, *Al-Qawā'id*, 439.

78. Ibid., 438.

79. Al-Baghdādī, *Hadiyyat al-'ārifīn*, 1:41.

80. For a long list of commentaries on Ibn Nujaym's *Ashbāh wa 'l-naẓā'ir*; Kızılkaya, *Kāsānī'nin Bedāyi' İsimli Eserinde Kavāid'in Yeri*, 72–74; Al-Nadwī, *Al-Qawā'id*, 434–39.

81. See Kızılkaya, *Kāsānī'nin Bedāyi' İsimli Eserinde Kavāid'in Yeri*, 74–75; al-Bāḥusayn, *Al-Qawā'id*, 378–84.

82. Ahmet Yaman, "Bir Kavram Olarak 'Fıkıh Kāideleri' Ya da İslam Hukuku-nun Genel İlkeleri," *Marife* 1, no. 1, (Spring 2001): 72.

83. Al-Bāḥusayn, *Al-Qawā'id*, 341.

84. Heinrichs, "Qawā'id," 377.

85. Ibid.

86. Babanzāda Isma'īl Pasha al-Baghdādī, *Īḍāḥ al-maknūn fī al-dhayl 'alā Kashf al-ẓunūn 'an asāmī al-kutub wa-al-funūn* (Tehran, Iran: al-Maktaba al-Islāmiyya, 1378), vol. 2, 732.

87. Al-Baghdādī, *Hadiyyat al-'ārifīn*, vol, 5, 550.

88. Abū al-'Abbās Aḥmad Ibn Muḥammad Ibn Khallikān, *Wafāyāt al-a'yān wa-anbā' abnā' al-zamān* (Cairo, Egypt: Maṭba'at al-Sa'ādah, 1948), vol. 3, 388.

89. Ibn al-Wakīl, Abū 'Abd Allāh Sadr al-Dīn, *Al-Ashbāh wa 'l-naẓā'ir*, ed. Aḥmad b. Muḥammad al-'Anqarī, 'Ādil b. 'Ābd Allāh al-Shuwaykh (Riyāḍ, Saudi Arabia: Maktabat al-Rushd, 1413/1993), vol. 1, 57.

90. Maḥmasānī, Subḥī, *Falsafat al-tashri' fī 'l-Islām* (Beirut, Lebanon: Dār al-Kashshāf, 1952), 201.

91. Ḥājjī Khalīfah, *Kashf al-ẓunūn*, vol. 2, 1950.

92. Shihāb al-Dīn Aḥmad Ibn Hajar al-'Asqalānī, *Al-Durar al-kāminah fī a'yān al-mi'ah al-thāminah* (Ḥaydarābād: Maṭba'at Majlis Dā'irat al-Ma'ārif al-'Uthmānīyah, 1972), vol. 5, 92.

93. Al-Baghdādī, *Hadiyyat al-'ārifīn*, 1, vol, 795.

94. Ḥājjī Khalīfah, *Kashf al-ẓunūn*, vol. 2, 1359.

95. Al-'Asqalānī, *Al-Durar al-kāminah*, vol. 4, 241.

96. Al-Nadwī, *Al-Qawā'id*, 103 and 434; Al-Būrnū, *Al-Wajīz*, 100.

97. Al-Baghdādī, *Hadiyyat al-'ārifīn*, vol. 2, 178.

98. Ibid., vol. 1, 23–24.

99. Al-Baghdādī, *Īḍāḥ al-maknūn*, vol. 2, 659.

100. 'Umar Riḍā Kaḥḥālah, *Mu'jam al-mu'allifīn: tarājim muṣannifī al-kutub al-'Arabīyah* (Damascus, Syria: Maṭba'at al-Taraqqī, 1957), vol. 3, 69.

101. See Heinrichs, "Qawā'id," 380–81; Kızılkaya, *Kāsānī'nin Bedāyi' İsimli Eserinde Kavāid'in Yeri*, 78.

102. Al-Baghdādī, *Hadiyyat al-'ārifīn*, vol. 1, 42.

103. Ibid., vol. 1, 489.

104. Hājjī Khalīfah, *Kashf al-ẓunūn*, vol. 2, 359.

105. Ferhat Koca, *İslam Hukuk Tarihinde Selefī Söylem, Hanbelī Mezhebi* (Ankara, Turkey: Ankara Okulu, 2002), 247.

106. According to al-Bāḥusayn, though it is a furū' work, the author mentions some qawā'id at the beginning of each chapter. See al-Bāḥusayn, *Al-Qawā'id*, 330.

107. Al-Baghdādī, *Hadiyyat al-'ārifīn*, vol. 1, 126.