

Shawkani's Views on Ijtihād

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Shawkani was born in 1173AH/1760 AD.¹ By all early indications he was destined to become the *mujaddid* of 13th century. He was encouraged to write by Shaikh Hassan Ibn Isma'il al Maghrabi who convinced him to write a book on the commentary of *Nayl al-Awtar* on the *al Muntaqa min Akbar-al-Mustafa* of the grandfather of Ibn Taimiyah, which had subsequently a great impact on him especially in the process of his Salafi upbringing². While discussing the educational training he talks about several types of it, i.e., physical, moral, rational and spiritual³. Shawkani made the mission of Islam his lifelong concern and was saddened by the factional biases, *taqlid* and doctrinal and practical deviation (*bid'ah*) of the people of his period. He launched a jihad against all these through both his pen and tongue and did not fear the abuses of those who opposed him. He was always insisting on *ijtihād* and innovative thinking⁴. Shawkani has discussed the methodology of *ijtihād* and conditions of it vis-a-vis his views on *taqlid*.

1. Knowledge of the *nasûs* of the Qur'an and the *Sunnah*: In this respect Shawkani says that knowledge of the whole Qur'an and Sunnah is not needed for *ijtihād*, but only their commandments. However, about the details he has several points to offer. For example he criticised Ghazzali⁵ and Abu Bakr Ibn Arabi⁶, "who thought that there are only five hundred verses of the Qur'an dealing with the commandments" [as they might have thought that this may be the number in the ostensible manner] otherwise according to him "there are many more verses from which commandments can be derived and a person who has reason, can extract these even from the verses related to tales and analogies (*qasas wal amthal*)"⁷.

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As for as the knowledge of Sunnah for a *mujtahid* is concerned according to Shawkani it has been mentioned by some scholars to consist of five hundred or 12 hundred ahâdith to be known by a *mujtahid* to become entitled to *ijtihâd* etc. He says in this matter that people are either exaggerating or making wrong suggestions. But he insists that a *mujtahid* should in real sense of the word be well conversant with “the knowledge of *Sunnah* with all the books and compilations of this science which have been scribed by the people belonging to this field like the *Sihah Sittah* and other books known as *Masanid* and the explanatory books (*al-Mustakhrijyat*) as well and those books whose writers have taken special care of the authenticity of the *Ahâdith*. However, it is not necessary that the *mujtahid* should remember these traditions by heart but must be able to refer to these books when need arises for it”⁸.

Shawkani has opposed people like Ghazzali⁹ and some people belonging to the category of doctors of principles of jurisprudence (*usulîn*) that *mujtahid* needs only those books of Ahâdith which consist of commandments like Abu Dawûd¹⁰.

Here what is of special interest to Shawkani is that the terminology of Hadith is the prerequisite for any work so that the *mujtahid* may be able to differentiate between the various types of ahadith like *sahih*, *da'if*, *hasan* and know the position of the narrators also. A *mujtahid* should be able to ascertain the stature of the narrators so that the *Ahâdith* are judged on the basis of the principles of Hadith criticism¹¹.

Though the Mujtahid may not be remembering these sciences by heart but he should have access to the books of *Jarh wa ta'dil* to know the conditions of the narrators, to know worth accepting and not worth accepting traditions etc¹².

2. Knowledge of the matters of *ijma'* as it is being considered as hujjah by many people. A *mujtahid* should be well versed with the details about *ijma'* so that he may not give a *fatwa* on

which there is an *ijma'*. Thus he may go against *ijma'* also and should also ascertain that it has an evidence from *Shari'ah* behind it.

3. Requisite Knowledge of Arabic language (*ilmal lughah al-Arabia*): As Shawkani considers *ijma'* one of the important conditions for *ijtihad*, in the same manner he thinks it incumbent on a *mujtahid* to have mastery over Arabic language so that he may be able even to know the purport of the rare terms used in the Qur'an and the Sunnah¹³. He thinks that syntax and grammar are essential requirements in this regard. Though the *mujtahid* may not know these all details of lexicography and language by heart but he should be able to take assistance and should undergo complete instruction and training under the guidance of the masters of this language, who deal with the semantic philological and grammatical sciences or other linguistic nuances and subtleties of the Arabic language¹⁴. Here he seems to be opposing the other scholars who consider that a *mujtahid* should know language and grammar to the extent of understanding the speech of the Arabs only and their ways of usages of their tongue and of speech¹⁵.

According to Shawkani he should have attained the status of *mujtahid* in this area also so far as the language and its mastery is concerned as it is a prerequisite of *ijtihad* in his view to be *mujtahid*, he should have reached to the level of *ijtihad* in the language of Arabs also before venturing to indulge in legal *ijtihad*. In other words linguistic *ijtihad* should pave way for this legal *ijtihad*. He says, for example:

Mujatahid should be able to understand the meanings of words and the specifics of its sentences and compilations and the nuances and subtleties of language and should be a master of syntax (*al nahaw*), *sarf*, *ma'ani* (semantics) and fluency (*bayan*) and should be able to take advantage of

all these privileges of language science and linguistic tools when the need arises so that he may be able to see through the exact angle and perspective the problems under probe and may be able to extract the strongest analogy from the injections by adopting the sound method¹⁶.

From almost all the *usulîn* only Shawkani and Shatibi¹⁷ have highlighted this crucial significance of expertise and knowledge of language as a basic requirement of *ijtihâd*. From these details it will be quite evident that Shawkani makes it compulsory for a *ijtihâd* to be accompanied by the knowledge of language. He makes it a necessary condition not just a recommendation because it is through this knowledge and mastery over language that a strong consideration to deal with the arguments is possible. When the difference will arise or there is divergence of opinion about the meaning or our mind stops on understanding of a *hukm* of *Shari'ah* we can use our utmost competence of differentiation between truth and falsehood [on the strength of our linguistic acumen] and will not be dependent solely on the opinions of any sect of grammarians but on ones deep knowledge of the language and till the real meaning dawns on us with an argument. Shawkani does not accept the views of some of the scholars of jurisprudence like Ibn Arafah¹⁸ who believed that the *mujtahid* does not need such great erudition in Arabic language with such a stringent excellence but consider little studies and knowledge of language as a prerequisite of *ijtihâd*. He says in this regard:

Whosoever does limit the measures of these sciences and considers little knowledge and awareness as the prerequisite of this enterprise by reading some medium size books on the subject is a farfetched approach to this intricate problem. But the more and more knowledge and repetition and training in these sciences and vast awareness of the voluminous books on the subject in this field is

a great deal of help to the *mujtahid* and likely to increase his capacity to give more strength to his views while making arguments and insight in extracting the commandments and more farsightedness in order to reach to the purposes of the *Shari'ah* commandments under scrutiny. Thus there is no way out but to have an erudite mastery over these sciences and this training and mastery is possible only after lengthy and hectic exercises and by keeping company of the teachers of this science"¹⁹.

However Shawkani does not think that *ilm al-balaghat* is very crucial in this respect for the understanding of the Book of Allah as it is not necessary for extracting commandments "though it is helpful to understand the eloquence of the Qur'an and to see and discover its miraculous nature as well."²⁰

Moreover *ijtihad* according to Shawkani consists of *Shari'ah* arguments and not rational ones, therefore we do not essentially need external support for its very conduct²¹. He considers knowledge of non-*Shari'ah* sciences beneficial for *ijtihad* to reply the biased and reject the erring people and the people of opinion and for those who don't have any relation with the argument. He says knowledge of every subject is good than entertaining ignorance²² about it. Even in our times also our deviation owes to our ignorance of religion and from the *Kitab* and *Sunnah* and *salf Ummah* in understanding basic tenets of Islam its commandments and beliefs therefore we need to revive the old trusted methodology (*manhaj*) of pious ancestors (*salf salihin*).

4. Knowledge of principles of Fiqh: Shawkani laid much emphasis on this point that a *mujtahid* should be quite well versed with the principles of *fiqh* because these are the pillars of *ijtihad* and the foundation on which stands the building of *ijtihad*²³. The purpose of knowledge of it is a permanent insight and avoidance of *taqlid*. He says for example:

It is incumbent on him to see in each problem the perspective which leads to the truth in it .When he is able to do it, it will be possible for him to return the details to the origin with ease .But if he lacks in this science the return of it to its root will be difficult and there will be confusion and intermixing.

The point which Shawkani wants to make is that when a person is a mere follower (*muqalid*) in the fiqh principles he will not be able to make inference (*istanbat*) in the branches and details. The results follow the premises when a person is not *mujtahid* in the premises of *ijtihād* he is not *mujtahid* in real sense of the word.

5. Knowledge of *nasikh wal mansukh*: Shawkani makes knowledge of *nasikh wal mansukh* as compulsory for a *mujtahid* so that nothing remains hidden from him. So that he may not fall into the discussion about *ijtihād* in an abrogated (*mansukh*) commandment. Some people have provided rational arguments to support that reason is a condition in the processes of *ijtihād*²⁴. While as others have denied it .He says that the rational argument is true not in any aspect as it can't be considered as reference point (*marjah*) in the matters of *ijtihād* and it is necessary not to consider it as a source of *ijtihād* and a necessary condition for *ijtihād*. He says:

It is true because *ijtihād* revolves (*yaduru*) around the *Sharī'ah* arguments (*al addhillatun al-shar'iyah*) and not rational ones, and a person who has made reason the judge he should not include the rational speculations as a part of the propositions of *ijtihād*.²⁵

However, here one point needs our serious consideration: When we analyse the conditions of *ijtihād* according to Shawkani it will become clear that the sciences he has attached with the subject of *ijtihād* are the required sciences to meet the conditions for reaching to the stage of *ijtihād*. Therefore

mastery over other sciences are neither needed in the field of *ijtihād* for becoming competent to resort to *ijtihād* in that case. However there is nothing which stops us from using these auxiliary sciences and aids when need arises. Possibility of availing from these according to our requirements and Shawkani in case seems averse to that. However to rely on these auxiliary or supportive sciences and advocate their urgency in this process is opposed by Shawkani. While as there are people who have supported these and made some of these as the prerequisites for the very conduct of *ijtihād*. This shows only the difference in the attitudes of the people towards *ijtihād* among the *mujtahidūn*. But seen from a different perspective this emphasis on this limited way that exercises *ijtihād* is a sign of his reformatory thought in the field. It is his belief that *ijtihād* has been made easy for the people by Allah and its possibility is within our competence so that there remains no possibility for our resorting to *taqlīd* under the pretext that *ijtihād* is beyond our competence, and also not this lame excuse that since the door of *ijtihād* is closed for all times.

A person who knows language of the Arabs through which he can understand Allah's Book after undergoing little training of grammar and etymology and lexicography (*ilm al nahaw wal saraf*) and has got good knowledge of the important principles of *Fiqh* in action which he has understood from the Book of Allah or the sacred *Sunnah* of the Prophet, for him it will not be lawful to attach himself to what comes due to the difference of opinion [about these matters] though the opinion may be expressed by one person or a group of persons or a party, or the majority (*wahīdan aw jamatan aw al jamhur*)²⁶.

Shawkani has made a difference between the sciences needed as the conditions for *ijtihād*. One is necessary for reaching the stage of *ijtihād* which he has linked with the five

conditions and those which are not conditions for exercise. This classification also indicates the difference of opinion among the *mujtahidûn* in this matter. Thus going by this logic there are two types of *ijtihâd*. First category is of the *mujtahidûn* who have attained all the sciences needed here and are able to extract commandments from the arguments when they will like and how they may like and thus they become the imams in this science who will be quoted, and their statements will be referred by their disciple muftis and others. This is the highest group of the *mujtahidûn*.²⁷ According to Shawkani the status and greatness of this group demands that they should also study other sciences which are not included as the prerequisite sciences for performing *ijtihâd*. These includes sciences like logic which may enable a mujtahid to understand the rational sciences and to have comprehension of the logical discussions made by the writers of the books on the science of *ijtihâd*.²⁸ In the same way the study of *ilm al-kalam* will help them to know the reality of the doctrinal teachings and to be justified to deal with every group having complete awareness about preference or criticism (*tarjih aw tajrih*) about their views. In this respect for better understanding sciences like *tafsir*, *ilm tafsir-i-hadith*, and history will be necessary for this group of *mujtahiddûn*.²⁹

He, however, has warned the mujtahid not to praise or appreciate the admonitions of some scholars which they have provided against the study of sciences of philosophy, mathematics, physics, arithmetic, astronomy and medicine and indulging in their pursuit. He says:

Leave these, you don't listen to these absurd statements, this is also from the mentality of *taqlid* [i.e., to prohibit their study but] now you are after the study of all these sciences their ruler not subject, because of your knowledge and erudition and you may be able to decide for yourself what is right for you³⁰.

Shawkani also denied that a *mujtahid* should not deprive

oneself from other sciences apart from the *sharī'ah* sciences. He says:

We have found in those sciences which are not *Sharī'ah* sciences, great benefit and grand profit so far as the views of the falsifiers are concerned and biased (*daf al-mubtilūn wal mutasibūn*) and the people of mere opinion (*ahlul al-rai'*) and for those who deal with these without an argument.³¹

Shawkani has mentioned a golden principle in this regard when he says:

The knowledge in every subject is better from the ignorance and for these people who belong to the higher group of people it is a must and [prerequisite of their] higher status³².

Second category is of those who have the possibility of knowledge about the matters what are demanded by the *Sharī'ah* from them. The commandments relating to obligations (*ahkam al takleef*) and placing these for his own practice but does not need help of other in this field and not able to benefit others from the implications of his knowledge as the first category of *mujtahidūn* does.³³ After mentioning the qualities of this group of the *mujtahidūn* with reference to the five qualities and disciplines where in they are at home and which are the essential conditions for performing *ijtihād*, Shawkani says:

From all others, one who are prohibited not to act anything without argument and for such a person it is necessary to do research at every occasion where he has to take help from the people of knowledge and also to understand the condition of their argument in those situations and what they have said in that case and what they have set aside in such issues from this practice they can benefit perfectly and should add with his knowledge, sciences and with his understanding their

understandings. If he may be even not among the people belonging to the first category still he will not be so far as the matters relating to his religious obligations are concerned to still he does not need more to this knowledge he has already possessed³⁴.

Shawkani has a reformative role in the context of *ijtihād* when he challenged the idea of partial *ijtihād* according to which it is thought that a *mujtahid* scholar (*aalim*) may resort to *istanbāt* in some matter and not in all³⁵. The first elements of this type of *ijtihād* and its being allowed can be seen firstly in the book of Imam Ghazzali, *al-Mustasfa*³⁶ and he was followed by majority of *usulīn* people like Amidi, Al Qarafi, Ibn al Qaym, Ibn al Humam, Ibn Daqīq al-‘Īd, Ibn Subki and Ibn Qudamah and others³⁷.

Their argument is that by relying on any chapter of Fiqh makes it possible to acquire the knowledge of getting the commandments from the root of *ahkam* and when this knowledge is acquired from the sources, the *ijtihād* becomes possible.³⁸

But Shawkani has opposed this position of partial *ijtihād* on these two bases: 1) The relationship of the sciences of *ijtihād* to each other. 2) The proof of the capacity to perform *ijtihād* on the part of the *mujtahid* making an *‘alim* capable to resort to *ijtihād* in all matters and chapters of *fiqh*.

He says in this regard:

A person who is not able to perform *ijtihād* in some problems will not be able to make *ijtihād* in other matters likewise because most of the sciences of *ijtihād* are related to each other closely and are strengthening each other and for a person who has the competence to perform *ijtihād* and in case these conditions are perfectly found in any person he will become able to make *ijtihād* in all the matters.³⁹

Thus *ijtihād* in one matter will not make a man entitled to be called a *mujtahid* as such. There may be two reasons why

Shawkani has stressed this theory of *ijtihād* in this manner. Firstly it is to remove the excuses of the people about the proposition that *ijtihād* is highly difficult enterprise and has laid emphasis on the simple procedure of its being possible for all times to come after a person has competence to perform it and for his being able to extend *ijtihād* to all the commandments. Secondly the partial *ijtihād* was providing the outlet to the people to try to excel in it after the door of *ijtihād* was closed. Dr. Wahbat al-Zuhaili⁴⁰ says:

The partial *ijtihād* was effective for the sake of which the ‘ulamā’ has competence to perform for the lessening of rigidity or barrier to the gate of *ijtihād* and is performed under a necessity or for a need arising by chance and ‘ulamā’ resort to it at times in every period for giving decree about a new commandment for new situations and circumstances⁴¹.

But Shawkani has severely rejected this claim and has exposed its religious status in detail and that is its being getting prevalence in times when the absence of a *mujtahid* has warranted it. Thus the person who invites to this possibility of *ijtihād*, that is about the partial *ijtihād*, according to Shawkani is not deserving our serious attention. Because in his view the compulsory status of *ijtihād* is not explained except by an absolute and free *mujtahid* (*mujtahid al-mutlaq*) and other than this no person can be counted from amongst the people who are people of *ijtihād* in true sense of the word. According to Shawkani the important aspect of *ijtihād* is his view that no period has been without a *mujtahid*. He has discussed the objections to the possibility of *ijtihād* in every period from the rational and *Shari‘ah* point of view. He says *ijtihād* remains *fard al kifayah* and if no one is performing it, all become sinful, thus it is obligatory on Muslim ummah. For example he says:

It will not be beyond your perception that if we say that *ijtihād* being *fard* makes it necessary

that every period should have some *mujtahid* in it. And on this fact is testimony from the saying of the prophet in a *Sahih Hadith*: 'A group of my Ummah will always remain steadfast on the truthfulness till the Day of Judgment takes place'.

So far as the rational argument is concerned, Shawkani argues that it is in the nature of sciences and knowledge to progress and keep on developing. So he says while refuting the views of those who deny the possibility of *ijtihad* in every period of time, they according to Shawkani in a way give tacit approval to this false thinking that since Allah has deprived a particular period from the *fazl*. He had given the understanding (*kamal al-fahm*) and power of comprehension (*quwatul al-idrak*) and in the capacity of acquiring sciences. This allegation is from the worst type of false claims and this is the absurd type of ignorance. But if these people say it is because the predecessors had availability of resources and it was easy for them than us in the present times and the people of their times this claim is also worthless and false. Because a person who has a little bit of understanding will discover that for the later generations, Allah has made it easier as was not possible for the predecessors, to have access to knowledge in a comparably better way. Because the *tafasir* of the Qur'an are now compiled and provided in form of books in great excess which is beyond count in the same way the Sunnah has also been provided in the form of compilations. "The scholars have talked about *tafsir*, *takhrij*, *al-tasjih* and *tarjih* which is more and surplus than a *mujtahid* needs [for resorting to *ijtihad*]. While as the pious ancestors (before the false claims of these people who deny the possibility of *ijtihad* in modern times) that a person amongst them would travel for knowing a single hadith had to go from one continent to another and from one region to another. Thus *ijtihad* has become easier for the successors than it was for their predecessors and no one having right perspective and common sense (*fahmun sahihun, wa aqlun sayihun*) can oppose this

position".⁴² According to Shawkani the *Shawâfi'ah* have denied the existence of a *mujtahid* in the subsequent periods. However within the school of *Shawâfi'ah* denial of existence of a *mujtahid* is not tenable as mentioned by Zarkashi,⁴³ who say, "Even two people can't deny that Ibn Abd al-Salam⁴⁴ had reached the stage of *ijtihâd*, in the same way as Ibn al Daqîq al 'Îd".⁴⁵ Zarkashi adds that this is the *ijma'* of the Shafi'î which will suffice in meeting the antithesis and opposition of the agreement on it's not being a possibility by another Shafi'î, i.e., Al-Rafi'î, where he is reported to have said, "All the people jointly agree that today there exists no *mujtahid*".

Thirdly if it is accepted that there is no existing *mujtahid*, it will logically lead us to assume that we have to believe in the [principles based on] *taqlîd* of the innovative religions and to consider that the truth lies within these and dwells in the midst of jurisprudential reasoning (*al-aql al-faqhi*), as has been nicely explained by Shawkani:

There is no possibility of *ijtihâd* after the establishment of the schools of thought and the death of their imams⁴⁶. Thus [this assumption is] making *taqlîd* an obligatory matter and *ijtihâd* a prohibited one which is [most] despised an affair (*amran munkaran*)⁴⁷.

This point has been stressed by Shawkani by quoting statements of the luminaries of these schools. He mentions for example that one group of these people say: "that after Abu Hanifah and Abu Yusuf⁴⁸ no one has the right to exercise *ijtihâd* ... and to this view most of the Hanafites are inclined from amongst their followers". In the same way Bakr Ibn al-Ala al Qushairi al Maliki⁴⁹ thinks that: "No one has any right to indulge in *ijtihâd* after the two centuries of Hijrah". And others said that after Awza'î,⁵⁰ or Sufiyan Thawri,⁵¹ or after Wakih Ibn al-Jarah,⁵² or after Abdullah Ibn Mubarak⁵³ *ijtihâd* is not possible, while as some others claimed that after Shafi no one has any right to indulge in the practice of *ijtihâd*.⁵⁴

Though while going these views of Shawkani it seems that he became concerned deeply about the views of the people who denied the possibility of a *mujtahid al mutlaq* and he did not consider the people called as *mujtahid fil madhahib* as mujtahid at all. But the matter does not stop there that we could not have a *mujtahid al mutlaq* but even *mujtahid fil madhab* was also not found in the later times. For example the author of *Fawatih al-Rahmut Sharh Musalimu al Thabut* said:

There have had been the people who have decreed that after Allama Nasafi⁵⁵, this *ijtihad* stopped with his death that means even the *ijtihad fil-madhab* [ceased to exist] .But so far as the *ijtihad al mutlaq* is concerned they claimed that it was stopped with the four Imams and after them they have made *taqlid* of one of these obligatory for all from among these four Imams.⁵⁶

After analysing in a succinct way the false belief about the impossibility of the presence of a *mujtahid* in every period of time, Imam Shawkani has given a rational, practical and religious justification of its possibility.

References and Notes

1. About his date of birth we have relied on the narration from his father Ali Ibn Muhammad Ibn Abdullah Ibn Al Hassan, otherwise there are other suggestions that he was born in 1177 A.H or even in 1172. *Darurur al Hur al Ain*, manuscript, p. 237, quoted in Muhammad Ibn Hassan al Shajini, *Al Taqsar fi Jayid Allamatul Aqalim wal Amsar Shaikhul al Islam Muhammad Ibn Ali al Shawkani*, edited by Muhammad Ibn Ali al Akuh, Maktabat ul al Jayl al Jadid, Sanaa, 1990, edition first, p. 25. He was from *Khulan al Aliliya al-Tayal* which is around 20 kms away from Sana'a. His father was a judge at Sana'a. He belonged to a scholarly family which had good reputation for the knowledge of Islamic jurisprudence. He was of middle height and was good mannered, fond of knowledge and always engrossed in studies. See *Muqaddimah al Sayl al Jarar lil Imam Al Shawkani*, edited by Mahmud Muhammad al Zayid, Darul al Kitab al Ilmia Beirut, 1985, edition first, p. 12). He was inclined to reclusion and *Taqwa*. He learnt the Qur'an from the scholars of Sana'a and completed its studies with Hassan Ibn Abdullah al-Habul. He studied famous *Tafsir* of the Qur'an *Kashaf* also see al-Shajini *op.cit.*, p. 29.
 There were 14 narrators between him and the Prophet (SAW). He learnt the sciences of *Hikmah*, mathematics, physics, theology, astronomy, polemics etc. in great detail. He learnt from about 17 scholars of Yemen. He was dubbed by some writers as a Zaidi, for example Subhi Ahmad Mahmud, (*Al Zaidiyah*, Dar al Nahdatul al Arabiya, Beirut, 1991, third edition, pp. 451-453), and others called him as an Asharite, (for example Al Maghrawi, *Al Mufasirun Bayn al Tawil wal Ithbat Fi Ayaat al Sifat*, Muwasuisatul al Risalah, Beirut, 2000, edition first, pp. 1272-1290). For details about the life and early childhood education etc please refer to Al Shawkani, *Al-Badar al-Talah Bimahasint min badi al-Qarn al-Sabih*, research, Subhi Hassan Hallaq, Dar Ibn Kathir, Damascus-Beirut, Volume 2nd, 2005, first edition, pp. 602-605.
2. Among his illustrious students was Allama Abdul Haqq Ibn Fazlulullah al Muhamadi al Hindi (1206AH), who was his disciple at Sana'a, and who died at Mina while being on a Hajj pilgrimage in 1286. Shawkani had many students belonging to different parts of the Muslim world. See Khan Muhammad Sadiq Hassan, *Abjad*

- al-Ulum*, Al Matbaitul al Sadiqiyah, Bhopal, Al-Hind, 1296, A.H, edition first, volume, 2nd, p. 886.
3. Ali Mohammad Taleb Saeed, *Altohaf Fi Mazahib Al Salaf, lil Al-Shawkani, Maqaranatun Mawzoitun wa tahlilyatun*, Ph.D Thesis, submitted to the Department of Sunni Theology, AMU Aligarh, 2009, pp. 70-72.
 4. May be it was due to this fact that he was approached for reply by his colleagues with questions being a son of a judge. He started issuing *Fatawa* from his early age and did not charge for it, Al Shajini, *op.cit.*, p. 422, see also Ali Mohammad Taleb Saeed *op.cit.*, p. 79. *Irshad al-Fahul*, *op.cit.*, p.571.
 5. Abu Hamid Muhammad Ibn Ahmad Al Ghazzali, whose title was *Hujjat al Islam*. Zainuddin al Tusi, who was a jurist of the Shafite order and there were only rare people like him in his times, he was born in 450 A.H and he has some very important books to his credit like *Al-Mustasfa al-Wajiz Khulasat fil Fiqh*, *Ihyâ al-Ulum al-din* etc. He died in 505 A.H. See for details *Sayir Ialam al Nubala*, Vol.19, pp. 322-346, Ibn Khalikan *Wafayat al-Ayan*, *al-Anbat Abna il Zaman*, edited by Ihsan Abbas Dar al Thaqafat, Lebanon, Vol. 4, pp. 216-219.
 6. Muhammad Ibn Abdullah Ibn Al Imam Abu Bakr Ibn al Arabi al Maafari al Andulasi, was born in 468 A.H and has written many books like *al Tafsir wa Ahkâm al Qur'an* and *Sharah Muwatta Sharah al Tirmidhi* etc. He was the judge of his city and died in 543 AH. See for details Al Dawani, *Tabqatul al Mufasssirin*, edited by Sulaiman Ibn Salah al-Khazi, Maktabat al-Ulum wal Hukama Madinatul al-Munawwarah, 1417 A.H./1997 AD, edition 1, Volume 1, p. 105.
 7. *Irshad al Fahul*, *op.cit.*, p. 566. Though some people have mentioned five hundred verses as the subject matter of Ijtihâd yet there are many people who have differed on this matter. Imam Abu Yousuf, a famous Hanifite Imam considers eleven hundred verses and Abdullah Ibn Mubarak nine hundred verses as such. If we take only five hundred verses as the subject matter of ijtiâd still according to Allama Fatuhi this may be seen from the perspective of apparent number of commandment verses which are very clear in their legal purport otherwise there may be hardly any verse of the Qur'an which does not contain possibility of extraction of any commandment from it. It may be in this sense

- that Shafi considers it necessary for a *mujtahid* to be the *hafiz* of the complete Qur'an and Imam Abu Ishaq Shatibi thinks knowledge of the habits customs, rites, beliefs and circumstances of the age of Arabs of the period of Ignorance essential for the real understanding of the Qur'an. See Burhanuddin Sumbhli, in *Fikr-i-Islami ki Taskil-i-Jadid*, Edited by Ziaul Hassan Faruqi and Mushirul Haqq, Zakir Husain Institute of Islamic Studies, Jamia Millia Islamia, Jamia Nagar New Delhi, 1978, p. 140.
8. Irshad, *op. cit.*, p. 568.
 9. Abu Hamid Muhammad Ibn Ahmad Al Ghazzali, whose title was Hujjat al Islam Zainuddin al Tusi, who was a jurist of the Shafite order and there were only rare people like him in his times, he was born in 450 A.H and he has some very important books to his credit like *Al-Mustasfa*, *al-Wajiz Khulasat al-fil Fiqh*, *Ihyā al-ulum al-din* etc. He died in 505 A.H. See for details *Sayir Ialam al-Nubala*, Vol. 19, pp. 322-346, Ibn Khallikan, *Wafayat al Ayan*, *al-Anbat Abna il zaman*, edited by Ihsan Abbas Dar al Thaqafat, Lebanon, Vol. 4, pp. 216-219.
 10. Irshad, *op. cit.*, p. 568. However among the scholars there is difference of opinion regarding the number of *ahadith* and *faqih* and a *mujtahid* needs to remember for becoming entitled to conduct *ijtihad*. Some people consider that he needs to remember five hundred while as others expand their number to five lakh. When Imam Ahmad was asked about this number he had replied that such a person requires to remember four lakh or according to another narration five lakh *ahadith* to remember first then to deserve to become a *Faqih*. Burhanuddin, *Fikr-i-Islami Ki Taskil-i-Jadid*, Edited by Ziaul Hassan Faruqi and Mushirul Haqq, Zakir Husain Institute of Islamic Studies, Jamia Millia Islamia, Jamia Nagar New Delhi, 1978, p. 141.
 11. *Ibid.*, p. 568. Maulana Taqi Amini has mentioned a very important fact when he says that though the principles of criticism of Hadith have already been established by the scholars of Hadith. Yet in case we feel need to search for some new methods in this regard we must not feel shy to adopt these. Moreover the *ahadith* which have been already scrutinised can once again be made subject of discussion to ascertain their further authenticity if need arises. Because according to Amini though the earlier attempts in this field are really appreciable, yet these are neither final nor as to

have been approved of by the revelation. See *Fikr-i-Islami Ki Taskil-i-Jadid*, Edited by Ziaul Hassan Faruqi and Mushirul Haqq, Zakir Husain Institute of Islamic Studies, Jamia Millia Islamia, Jamia Nagar New Delhi, 1978, p. 116.

12. *Irshad*, op.cit., p. 568.
13. *Ibid.*, p. 569. In a sense "the first major area leading to Fiqhi divergence relates to Arabic, which is known, is the language of the Book of Allah and His Messenger Muhammad. Like other languages, Arabic has its native intricacies. Scholars have identified one such subtlety as *ishtirak* or "linguistic ambiguity," meaning that some terms and phrases validly accept more than one meaning, in which the alternative meaning is as literal a nuance (and not figurative) as its counterpart, as in the following examples: 'As'as means both "advance" and "retreat". 'Ayn refers to the organ of sight (the eye), the metal gold, a wellspring, and also a thing's essence. 'Qur' means "purity" as well as "menstruation". 'Mahid signifies "menstruation" or the site of the conjugal act in the female anatomy. The Qur'an makes use of some of these terms of ambiguity. As such, scholars differ in their comprehension of the precise meaning of a given Text or context. Some prefer one meaning over its counterpart, while others choose the alternative.
14. *Ibid.* p. 569.
15. As Ghazzali has maintained in *al-Mustasfa* edited by Muhammad Abdus Salam Abdus Shafi, Dar ul al Kitab al Ilmia, Beirut, 1413A.H, Vol. 2, p. 352.
16. *Irshad*, op.cit., p. 569.
17. Abu Ishaq Ibrahim Ibn Musa Ibn Muhammad al Khami al Gharnati al Maliki, commonly known as Shatibi was a jurist and has famous books to his credit like *Al Mawafiqat fi Usul al Fiqh*, *al A'tisam*, etc. He died in 790 AH, See for details *Mu'ajim ul Muallifeen*, Vol. 1, p. 118) has mentioned the crucial importance of Arabic language.
18. Al Hassan Ibn Arafah Ibn Yazid al Abadi, died in 257 AH) and Ibn Al Wazir (Al Mahdi Al Wafi, *Al-Ijtihad fil Sharaitil al-Islamia*, Darul Thaqafat al Maghrib, 1984, edition first, p. 431.
19. *Irshad*, op.cit., p. 569.
20. Shawkani, *Al-Qaul al-Mufeed fi adihillatil al-Ijtihad wal Taqlid*, edited by Ibrahim Ibn Ibrahim Hilal, Darul al Nahdah, al Arabiah,

- Cairo, 1979 AD, Edition 1, p. 54.
21. Ibid., p. 102.
 22. Shawkani, *Adabal al-Talab wa Muntahi al-Irab*, edited by Abdullah Yahya Al Sareehi, Dar Ibn Hazm, Beirut 1419, AH/ 1984, edition 4th, pp. 220-222.
 23. Irshad, *op.cit.*, p. 569.
 24. Ibid., pp. 569-570.
 25. *Irshad al-Fahul*, *op.cit.*, p. 570.
 26. *Al-Badar al-Talah*, volume 2, p. 640.
 27. *Adabal al-Talab*, *op.cit.*, pp. 179-180.
 28. Ibid., p. 195.
 29. Ibid., pp. 203-204.
 30. Ibid., p. 207.
 31. Ibid., p. 208.
 32. Ibid., p. 207.
 33. Ibid., p. 220.
 34. *Adbul al-Talab*, *op.cit.*, p. 222.
 35. Al-Umari, *Al Ijtihad fi al-Islam*, *op.cit.*, p. 164.
 36. *Al Mustasfa*, *op.cit.* Vol. 2, p. 352.
 37. Umari, *op.cit.*, p. 166.
 38. Shawkani, *Irshad al Fahul*, *op.cit.*, p. 575.
 39. *Idem.*
 40. A Syrian scholar born in 1932.
 41. *Al Wasit fi usul al-Fiqh*, Al Matbaitul al-Ilmia, Damascus, 1969, edition 1, p. 527.
 42. *Irshad*, *op.cit.*, p. 574.
 43. Muhammad Ibn Abdallah Ibn Bahadar al Zarkashi al Musili al Shaifi born in 745 A.H. He was a man of letters in the science of principles of jurisprudence.
 44. Abdul Aziz Ibn Abdus Salam Ibn Abi Qasim Ibn Hassan Ibn Muhammad Ibn Muhazzab al Muslimeen was a *Shaik al Islam* and one of the most famous scholars who was given the titles like *As Sultan al Ulama*. He was born in 578 AH and among his books are *Qawaidul al Ahkam fi Masalih ul al Annam* and a *Tafsir* etc. He died in Egypt in 660AH.
 45. He was a *faqih*, *hafiz* and *muhaddith* and a *mujtahid*, *aalim*, *Shaik al-Islam*, Abu al-Fath Muhammad Ibn Ali Ibn Wahb Ibn Mtiih al Qusairi al-Manfaluti. He was born in 625AH and among his famous publications are *Sharah Umdat al-Ahkam*, *al-Imam fi al-*

- Ahkam, Al-Iqtirah fi Ulum al-Hadith*. He died in 702 A.H., (Al Zarkashi: *al Bahr al Muhit fi usuli al Fiqh*, p. 63)
46. *Al-Qaul al-Mufeed fi Addilatil al-ijtihad wal-Taqlid*, *op.cit.*, p. 63.
 47. Talab, *op.cit.*, p. 109.
 48. Imam al Qazi Yaqub Ibn Ibrahim Ibn Habib al Ansari born in 113 A.H and died in 182 A.H.
 49. Abul Fazl Bakr Ibn Ala Ibn Muhammad Ibn Ziyad Ibn al-Wali al-Qushairi was among the great scholars of the Malikite school so far as the narrations of Hadith is concerned. He died in 344 A.H.
 50. Abu Umaru Abdur Rahman Ibn Umarau Ibn Yahmad Al Auzaie was a *Shaikh al Islam* and the leader and imam of people of Syria, their jurist consult and scholar. He was well versed in fiqh, Hadith and ilm. He was born in 88 A.H and died in 157 A.H.
 51. Abu Abdullah Sufiyan Ibn Sayeed Ibn Masruq al Thuri al Kufi, was a *Shaikhul al-Islam*, *Imam al-Hafiz al-Mujtahid* and was born in 97 A.H and died in 126 A.H.
 52. Wakih Ibn al-Jarah Ibn Malih al-Rawasi Abu Sufyan al-Kufi was an *Imam al-Hafiz* and the *Muhaddith* of the Iraq. He was born in 129 A.H, and died in 197 A.H.
 53. Abu Abdur Rahman Abdullah Ibn Mubarak Ibn Wazah al-Tamimi. He was *al-Imamal Hafiz* and great *faqih* and a Sufi *Zahid*. He was born at Maru in 118A.H and died in 181.
 54. Al-Shawkani: *Qatari al Wali ala Hadith al Wali op.cit.*, p. 346.
 55. Abu Ja'far Muhammad Ibn Ahmad Ibn Mahmud al Nasafi who was a great *faqih* of Hanifite school of thought and was a great jurist and a pious Imam who died in 414 A.H.
 56. Muhammad Ibn Nizam al Din Ansari, *Fawatihul al-Rahmut Sharah Muslimu al Thabut*, Darul al-Kutub al-Ilmia, Beirut, 1983 AD, Volume 2, p. 399.