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Movoraunnahr Scholars of Islamic Law and Their Mature Works

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Abstract

A historical analysis of the origin of Islamic law in ... It focuses on the great contributions made by the scholars of Central Asia who are often remained unacknowledged. This study shows how the scholars of this region have learnt and travelled to learn Islamic law and how their contribution originates and develops some of the key literatures of Islamic law.

Keywords: Islamic law, Maverannahr, Central Asia, Shari'a, contributions.

Introduction

Historical background

Historical sources testify that Ubaydullah ibn Ziyad, sent here by Caliph Muawiyah in 674 CE, was the first to cross the Amu Darya. He besieged and took Paikend, and then approached Bukhara. Two years later, Said ibn Osman set out on a campaign against Bukhara and Sogd. This campaign for the Arabs was successful. He captured a lot of booty and prisoners. However, Belazury, the prominent Arab historian of the 9th century, described that the freedom-loving and warlike Bukhara people did not want to put up with their captivity. According to Narshahiy, they entered the palace of Said ibn Osman, attacked him and killed him, after which they committed suicide themselves. Soon afterwards Kuteiba ibn Muslim was appointed as the Governor of Khorasan. In 706 CE, Kuteiba did not go further than Paikend. The next year, he again went to Movaraunnahr and occupied one of the most ancient cities - Romitan, which is located near Bukhara. In 712 CE, Kuteiba with a detachment entered Khorezm, a little later to Samarkand. Kuteiba fought in Ferghana, Shash and even reached Kashgar.¹ At the same time, the Arabs paid special attention to the spread of Islam throughout the territory. In order to attract the population to Islam, the Arabs pursued a policy of providing new converts with all sorts of benefits. For instance, those who converted to Islam were exempt from the kharaj tax i.e., tax on agricultural land and any produce thereon.

Along with the spread of Islam, there was a spread of the Arabic language, which became the language of state offices, the language of science and literature. Arab commanders attached great importance to the construction of Muslim mosques in the conquered cities. The merchants of Movaraunnahr were the first people to accept Islam. The Arabs provided trade, in particular

¹ O. G. BOLSHAKOV History of the Caliphate, T.IV Apogee and fall. Moscow Ed. Eastern Literature RAS, 2010. - S. 142-155.

caravans, with all the conditions for development. The expansion of trade operations was facilitated by the inclusion of Movaraunnahr, along with the whole of Central Asia, into the then largest state in the world - the Caliphate.

The management of Movaraunnahr was entrusted to the Governor of the Caliph in Khorasan. Cities and other settlements were ruled by khokims (local heads of executive authorities), who were appointed and removed from their positions by the Governor. Their main duty was to collect taxes and maintain order in the localities. The Arabs created a management apparatus and subdivisions for the control of order. As a result, Shari'a law became the main regulator of social relations.

Under the Samanids (9th – 10th centuries), the importance of the higher Muslim clergy grew. Bukhara, the capital of the Samanids, became one of the most authoritative centers of Muslim theology in the East. In parallel with the growth of the authority of the higher Islamic clergy, their material wellbeing also increased. Starting from Ismail Samaniy, the waqf property of mosques and other spiritual institutions has grown significantly.

The Hanafi madhhab was widespread in Central Asia. Hanifites occupied all the highest spiritual positions. The head of the local clergy under the Samanids in Bukhara was a person who bore the title of "Ustad" (teacher); later this name was supplanted by another - "Sheikh ul-Islam". Second in importance after Ustad (Sheikh ul-Islam) among the higher Muslim clergy was the position of Khatib i.e., an official who had the right to pronounce khutba (preach) during Friday prayers in the mosque.

From the 8th century, a new period began in the history of the peoples of Movaraunnahr (or "Turana" - the pre-Islamic Turkic name of the territory of present-day Uzbekistan or "Turkistan" (the Russian name of the region), was introduced in the second half of the 19th century, or "Sogdiana" - as Alexander the Great called it, as for the name Movaraunnahr).² This is the Arabic geographical name of the region in Central Asia between the Amu Darya and Syr Darya rivers.³ Irrespective of the names given to the current territory of the Republic of Uzbekistan, the people of this ancient center of world civilization went through the development of their statehood and law, religion and culture, language and literature to preserve their identity. Movaraunnahr has always been distinguished by the fact that the spirituality of its people did not experience stagnation and was not subjected to excessive normativity. Localism, national and religious isolation, and the principles of traditionalism did not dominate here. Through the Great Silk Road from China and India, Hejaz and Byzantium, the Near and Middle East, not only material objects were brought to Movaraunnahr but also various scientific and artistic works, new ideas and knowledge. These were neither rejected nor denied under the pretext of non-Muslim origin but enriched and improved by the intellect of their ancestors, thus uniting with local practice and culture.

In the process of formation of Islamic law and Shari'a norms, local conditions and realities were taken into account. Anything that contradicted the requirements of the Qur'an, Sunnah, the principle of monotheism - tawhid was disregarded. However, Islam did not manage to subjugate all spheres of life but gradually became a dominant source of social, legal, and political norms. Since then, Islam - Islamic law, Islamic philosophy and other Islamic principles and requirements developed in stages during the 7th - 12th centuries.

International, civil, land, family, marriage, inheritance and other issues of law in Movaraunnahr were regulated by the norms of Islamic law of the Hanafi madhhab (sect). Similarly, criminal cases and civil legal proceedings were conducted by these norms. In addition, Shari'a has incorporated many norms of local customary law, i.e., the traditional establishments of the people of Movaraunnahr, which received the general name "adat (custom)".⁴ Adat rules of conduct adopted

² Barthold, W., 'Mā Warā' al-Nahr, in ed. M. Th. Houtsma, T.W. Arnold, R. Basset, R. Hartmann, *Encyclopaedia of Islam* (First edn. 1913-1936), available at http://dx.doi.org/10.1163/2214-871X_ei1_SIM_4611 (date accessed 17 July 2023).

³ Ibid.

⁴ A. Rakhmanov, *Islamic Law* (T.: Ed. TGUI, 2003) 310.

by a particular group of people or acting in a certain area and observed mainly by force of habit. It should be noted that Islam played the most important role for the fate of the peoples of the East, including Movaraunnahr, namely the role of a unifier of various cultures, traditions, and customs. It also promoted the merger and mutual enrichment of people and formed a new state-legal space at that time.

Historical works such as “Hudud al-alam”, “Kitab al-Masalik val-mamalik” and others, suggested that at the end of the 7th century the concept of “Movaraunnahr” was presented to the Arabs as lands lying for the Amu Darya. However, gradually this concept began to acquire more and more capacious content: if initially Movaraunnahr was considered a part of Khorasan, then, starting from the middle of the 10th century, it appears to be an increasingly independent geographical region. By this period, the territory of Movaraunnahr already included, in addition to Bukhara, Samarkand, Neseft and other nearby regions, namely Khorezm, Badakhshan, Merv, Uzgen, Khuttal and others. Gradually, as a result of a whole range of factors of a political, economic and cultural nature, in the 10th-12th centuries Movaraunnahr turned from a geographical into a political and legal concept. It became the territory of Central Asia with a Muslim population. It also became an important center of the political, economic and spiritual life of the peoples inhabiting a vast territory that was an integral part of the Arab Caliphate. However, Movaraunnahr gradually began to gain more and more independence, intensively enriching all spheres of scientific, cultural, spiritual and legal life.

The contribution to Islamic law by Movaraunnahr scholars

The contribution of the scholars of Movaraunnahr to the development of Islamic law is invaluable. Here lived and worked such great scientists as Al-Khorezmiy, Rudakiy, At-Termiziy, Al-Farabiy, Beruniy, Ibn Sino, Al-Marginoniy, Al-Farganiy, Marvaziy, Az-Zamakhshariy, Yassaviy, Kubraviy, Kashgariy, Ad-Dobusiyy, As-Sarakhsiy and many others who enriched contemporary secular science, kalam and al-fiqh (jurisprudence) with fundamentally new ideas. The outstanding Khorezmiyan scholar and a distinguished commentator of the Qur'an, Abu-l-Kasim Mahmud ibn Umar al-Zamakhshariy, deservedly entered the history of the scientific thought of the East. According to the historian and geographer Yakut al-Khamoviy (1179-1229), “Zamakhshariy is an Imam (religious leader) in verbal sciences, grammar and philology, he had broad knowledge and was a talented scientist in various fields of science.”⁵ The authority of Zamakhshariy in the Muslim world was so great and unshakable that he was called the teacher of Arabs and non-Arabs. Az-Zamakhshariy, and al-Farabiy, and al-Farganiy, and al-Beruniy, and other intellectuals of Movaraunnahr travelled to distant cities in search of new knowledge and experience. For instance, they went to Cairo and Aleppo, Damascus and Baghdad to study, teach and research Islamic law and culture. When caliph al-Ma'mun founded the prototype of the modern Academy of Sciences in Baghdad the “Baytul-hikma (House of Wisdom)” at the beginning of the 9th century, he invited many outstanding scientists from Movaraunnahr there.⁶ It became a prestigious research center under al-Mamun. Two centuries after the creation of the Baghdad Academy of Sciences under Khorezmshah Mamun, another Academy was founded in Gurgench, also called Mamunov, the restoration of which was issued by the corresponding Decree of the President of the Republic of Uzbekistan. It is worth emphasizing that the first leaders (president and vice-president) of the first “Mamun Academy”, as it is customarily called “Baytul-Hikmu” in modern Europe, were al-Farganiy and al-Khorezmiy- two great leaders of Uzbekistan. A great contribution to the development of Islamic culture and law was made by a galaxy of religious philosophers, jurists, reformers, founders of various Sufi orders from Central Asia, namely Imam al-Bukhariy (his main work, called “Sahih al-Bukhariy”, is considered the second book of Sunni Muslims after the Koran), Isa at-Termiziy, Hakim at-Termiziy, Nazhmiddin an-Nasafiy, al-Maturidiy, Yusuf Hamadaniy, Abdukhalik Gijduvany, Burkhonuddin al-Marginoniy, Ahmad Yassaviy, Nazhmiddin Kubro,

⁵ A.Rakhmanov. Islamic Law Textbook TGUI 2003 - P 188. <https://studfile.net/preview/1713759/>

⁶ “Baytul Hikma” was built by Mamun's father, the famous Harun ar-Rashid.

Suhrawardy. Somewhat later (XIV century) Bahouddin Naqshbandiy and others joined this group of famous Muslim scholars.

After the mass conversion of the population of Movaraunnahr to Islam, the most common form of religious tie was the fulfillment by Muslims of pilgrimage to holy places, mainly to Mecca. This contributed to the mutual enrichment of the spiritual and legal culture, the formation and development of Islamic law schools in Movaraunnahr. As mentioned above, the Hanifite madhhab became widespread in the Central Asian region. Its supporters adhered to the following provisions:

1. The components of the Shari'a are obligations related to the cult (ibadat), legal actions (muamalat), and punishments (ukubat).
2. The faqihs (an expert in Islamic jurisprudence) of Movaraunnahr distinguished between the rules relating to a religious cult and legal prescriptions proper. From their point of view, Shari'a is a set of complex of legal norms, principles and rules of conduct, religious worship and legal prescriptions.

The sources of Sharia in Movaraunnahr were:

- Quran;
- Sunna (the actions and sayings of the Prophet Muhammad);
- ijma (consensus of opinion among qualified scholars);
- kiyas (analogy); - local customs i.e., adat, urf, amal.

The decisions of the cadi (judicial decisions) were of the following types:

- a) al-rai (inference by analogy);
- b) al-istihsan (in view of the exception, makes a decision);
- c) al-istislah (comparison for the sake of benefit), in which the requirements were stipulated, namely the decision should not concern faith, the decision should not contradict Islam, the benefit of the decision should be visible.

The development of kalam (theology) led to the emergence of a kind of school of al-fiqh, called "Movaraunnahr". Famous faqihs such as Imam al-Bukhariy, Burkhonuddin al-Marginoniy, Ibn al-Bazaz, Abu Bakr Muhammad bin Alim, Abu Jafar at-Tahoviy and others - made a significant contribution to its creation.

The regulation of public relations was carried out on the basis of the "ar-rai" norm (conclusion on inner conviction), the use of which was allowed for judges (qadis). A feature of the Movaraunnahr school of law was a more humane attitude towards victims of crimes committed. For example, the punishment of theft in the form of cutting off a hand did not apply to pregnant women and poor Muslims. Another feature of this school was that the works of prominent faqihs of Movaraunnahr had the force of law.

Another outstanding faqih, **BURKHONUDDIN AL-MARGINONIY**, was the creator of a masterpiece of Muslim legal thought - "Al-Khidai". He became one of the great representatives of Islamic jurisprudence beside other great names i.e., Sheikhlislam Burkhonuddin al-Marginoniy, is on a par with such great names as Imam al-Bukhariy, Imam at-Termiziy, Imam al-Moturudiy, Mahmud al-Zamakhshariy, Najmiddin Kubro, Bahouddin Naqshband, Khoja Ahrori Valiy. He devoted his life to the triumph of the purity of religion, science and justice, the supremacy of convictions and conscience, received a high calling in the East as "Burkhon ad-din wal-milla (the basis of religion and the nation)." In addition, he bore the title of "mentor on the true path", which was given to him not only by the Ulema (Islamic scholar) but also by the people. This is the reason why his creative heritage, in particular "al-Khidoy (the True Path)",⁷ has been recognized as the

⁷ B. Marginani Khidoya: Commentaries on Muslim Law. Moscow Ed. Walters Kluver, 2010. P-401

most authoritative and modern legal source for more than eight centuries. This masterpiece of legal thought in the 10th-11th centuries, when Burkhonuddin al-Marginoniy lived and worked, contributed significantly to the development of the land of Movaraunnahr. This development includes the correct understanding and observance of Islamic law as an important social necessity. The greatness of the great faqih lies in the fact that in his writings he resolved, from the point of view of Islamic law, the urgent life issues that devout Muslims faced at that time i.e., numerous problems related to family and social relations, property, trade, crime and punishment, duty and responsibility of man.⁸

The results of many years of tireless work of al-Marginoniy were completed in 1178 with a large treatise "Hidoya fi shark il-Bidoya", also known as "Hidoya" (Law). The book consisted of 4 sections and 57 chapters - each of which is divided into parts and chapters. This work is regularly studied and researched in the law schools in Central Asia. He wrote for 13 years in Samarkand. The book is very rich in content and written in accessible language. "Hidoya" was recognized throughout the Muslim world and for several centuries served as the main textbook in the field of jurisprudence. All types of law were included in it. For many centuries, this scientific work served as a practical guide for the ministers of Islamic Themis and lawyers alike. The provisions and norms, methods and principles of Shari'a, set forth in the book, are close to our legal worldview, spiritual values and traditions of peoples who profess Islam.

Al-Marginoni's main directions are:

- study of the legal foundations of socio-economic relations;
- legal basis for the correlation of various types of property, especially public and private, as well as financial activities;
- legal foundations of crime and punishment as social and legal phenomena;
- theory and practice of civil law;
- technology, system, structure of courts and procedural issues.

Another great Islamic scholar, **ABU BAKR AS – SARAKHSIY**, was born in 1009 between the cities of Merv and Mashhad on the border of Turkmenistan and Iran. Previously, this place was called Sarakhsiy, from where his famous name Imam Sarakhsiy came from. For a long time, the imam studied in the city of Bukhara with Abdul Aziz al-Khalvaniy. He was considered one of his best students. He also closely followed a few eminent scholars of that time, namely Sheikhu Islam Abul Hussein Ali bin al Hussein bin Muhammadis Suudi al Hanafi and Abul Hafs Umar bin Mansurul Bazzaz.

Imam Sarakhsiy became one of the strongest scholars of the Hanafi madhhab. He was even called "Shamsu al-Aimma", which means "Sun of the Imams". His book "al-Mabsut", which consists of thirty volumes, is one of the main books of the Hanafi madhhab. The imam wrote this book while he was in prison. In this book he wrote:

Verily, after belief in Allah Almighty, the most powerful of duties is the search for knowledge, as it is given in the hadith, which is transmitted from the prophet (SAW): "The search for knowledge is a duty for every Muslim and Muslim women. Knowledge is the inheritance of prophecy, as it is given in the hadith: The prophets, may blessings and peace be upon them, do not leave a dinar or a dirham

⁸ The Institute of Oriental Studies named after Abu Raykhan Beruni of the Academy of Sciences of the Republic of Uzbekistan has unique handwritten copies of the works of the great scientist, which can become the subject of research by modern philologists, historians, philosophical, legal and religious and ethical thought. Among the surviving books of his, the most famous are: "On Religion", "On Civil Law", "On the Regulation of Inheritance", "Rites of the Hajj", "The Book Showing the Right Path", etc.

as an inheritance, but they leave knowledge as an inheritance, and whoever takes it has truly taken a blessed share.⁹

Imam Sarakhsiy lived during the time of the Karakhanid Khaganate. It was a difficult time, a time when more and more trials fell on the Muslims. On the one hand, the Islamic world was faced with an external threat in the face of the crusaders, on the other hand, it underwent internecine strife, which led to the division of the Islamic world. At that time, the rulers of the Karakhanid Khaganate constantly put pressure on their scientists, and some were thrown into prison. Day by day, taxes increased, which were a heavy burden on the people, people constantly suffered from the pressure of the state. Imam Sarakhsiy spoke out against the tyranny of the state, he criticized some excesses of state policy, issued fatwas on the refusal to pay taxes. Imam Sarakhsiy found haters and miserable hypocrites who reported to the ruler Khakan Amir Hassan that Imam Sarakhsiy was preparing a coup. The ruler, despite the venerable age of the imam (he was already 64 years old) and his merits on the path of knowledge, began to persecute the imam and imprisoned him in the city of Uzgen for 15 years. The prison did not break the imam's strong spirit and steadfast faith and conviction. On the contrary, it became the place where Imam Sarakhsiy wrote his best works. For 15 years, he wrote such books as "Al Mabsut", "Usul-ul-Fiqh", "Sharkh-us Siyarul Kabir", "Ziyadat-uz Ziyadat", "Sharkh-ul Jami-is Sagir", "Sharkh st. Jamil Kabir.

Contribution to international law

The first major fundamental work on international law was formulated in Ferghana, located in the northeast of modern Uzbekistan. The great jurist, Muhammad ibn Ahmad Abi Sahl Abu Bakr Shamsul-Aimma as-Sarakhsiy, studied in Bukhara in the 11th century and spent most of his life in the Ferghana Valley. He was the first to give the classical definition of international law as an independent branch of law in his book Sharh al-Siyar ul-Kabir (Commentaries on International Law). He was also the first to declare that international law should be recognized as a separate branch of law. The scientific heritage of the thinker is very significant both in terms of volume and content. Scientists believe that he created about a hundred fundamental scholarly treatises.¹⁰ Sarakhsiy reflected on the most acute problems of Hanafi law, touching upon the most controversial aspects. Therefore, his works are included in the catalogues of prestigious university libraries and widely distributed throughout the Islamic world.

The treatises of Imam Sarakhsiy reflect the basic concepts and principles of international law, almost all areas and topics, categories and institutions. Imam Sarakhsiy was the first to give the classical definition of the concept of contract in international Islamic law. In the Sharh al-Siyar al-Kabir he describes in detail the concept of different types of contracts, the duration and date of contracts, the scope of contractual rights and obligations, the criteria for the invalidity or validity of contracts, and other issues. This is recognized by the UNESCO as the first doctrinal work on international law.¹¹ Based on these credentials, it can be argued that Sarakhsiy is one of the founders of international law. The legacy of Sarakhsiy is the beginning of the doctrine of international law, not only in Uzbek, Central Asian or Muslim countries, but also in countries around the world. Since he had neither paper nor a pen in prison, he dictated all his thoughts to his students, who listened attentively to their teacher, standing on top of the pit in which their teacher was imprisoned. He taught a number of outstanding scientists. His best students were Usman bin Ali Abu Umar al Baikandiy al Bukhariy, Abu Bakr Muhammad bin Ibrahim al Khasariy, Shamsul Aimma Mahmud bin Abdil Aziz al Uzgandiy, Burhanul Aimma Abdul Aziz bin Maaza, Masud bin al Husain bin Hassan al Qashtaniy, Abu Hafs Saghir Umar bin Habib, Ruknud Din Masud bin al Hasan al Kashaniy.

⁹Imam al-Bukhari's "AL-JOMI'AS-SAHIH" published by Hilal-eštir-2019. –P. 342. [https://e-library.namdu.uz/NamDU%20Axborotnomalari 2022/axborotnoma%20%202022_%2012-son.pdf](https://e-library.namdu.uz/NamDU%20Axborotnomalari%202022/axborotnoma%20%202022_%2012-son.pdf)

¹⁰A.Rakhmanof, H.Yunusov, M.Karatosh. Islamic law textbook. Tashkent. TDYU 2021, <https://uzmarkaz.uz/uploads/2021/12/umom-no5-2021.pdf>.

¹¹ <https://yuristjournal.uz/index.php/lawyer-herald/article/view/283/254> ... ISSN 2181-9416 Doi Journal 10.26739/2181-9416 ISSN 2181-9416 Юрист ахборотномаси 5- сон 1 – жилд Тошкент 2021 б. 92

The books that Imam Sarakhsiy left behind, if put in a pile, will line up above an average height of a human being. He lived a noble life and never complained. Even in the most difficult moments of his life, he, along with his students, did not leave the service of religion. He spent all his days in prison fasting and nights praying. The fidelity of Imam Sarakhsiy to the laws of Allah, his devotion to truth and justice, his hatred of lies and hypocrisy, are great examples for all scientists and Muslims. In 1087 he was released and spent the last three years of his life in the wild, finalizing his books. He died in the city of Uzgen, which is located on the territory of the Osh region of Kyrgyzstan. There is also his mausoleum.

Contribution to Islamic jurisprudence

Dobusia is the largest and most important of the ancient cities on the Great Silk Road connecting Samarkand and Bukhara. In this great city a great scholar was born. His name was Abu Zayd Ubaydullah ibn Isa ad-Dabusiy. He was born in 978 CE in Dobusii, received his primary education in his native city, and then continued his studies in Bukhara. He was one of the famous faqihs of Mavarounnahr. He was the founder of polemical science. As a mature scholar, he wrote several important works on fiqh and Shari'a. He is the author of unique works such as "Al-amad ul-aksa", "Tavilul-adulla fil-usul". Al-Dabusiy was bestowed with the title "Ilm ul-khilaf" (common in jurisprudence). His works have been referenced in key manuscripts. For instance, In the Manuscripts of the Institute of Oriental Studies of the Academy of Sciences of Uzbekistan, "Takvim ul-adilla fil-usul" Dobusiya ("Evidence of the foundations of jurisprudence") referenced in 1094 CE and "al-Amad ul-Aqsa" ("Border to the end") on morality was copied in 1278 CE.

Abu Zayd Dabusiy is known in the Islamic world as an extremely gifted scholar in the field of jurisprudence, method, caliphate, rhythm and mysticism. He opened up new branches of science and raised jurisprudence to a higher level. Therefore, the scientific potential of his work has been recognized by many scientists at all times. According to historians, such works as "Vafayat ul-Ayan", "Taj ut-tarojim", "Javokhir ul-Muziya", "Favoid ul-Bahia", he always met with famous scientists in Bukhara, Samarkand, and he took part in debates with scholars on the key jurisprudential issues at that time. He was also a judge in Bukhara. Hanafi faqihs praised Dabusiy not only as a representative of Kudati Saba, but also as its chairman. Therefore, the name "al-Qadi" (respectful judge) is always added to his name of the scientist.

He mainly wrote about Shari'a. These include "Tassis un-nazar", "Takwim ul-adilla" and "Al-Amad ul-Aqsa" (Fundamentals of Fiqh, Book of Secrets, and the farthest goal). These rare manuscripts are archived in libraries in many Muslim states. Two of them, "Tassis un-nazar" and "Takwim ul-adilla", are being published. In addition, the scholars of "Khizanat al-huda" ("Treasure of Instruction"), Commentary on "Al-Jami al-Kabir" (Commentary on "Al-Jami al-Kabir"), "Al-Anwar fi usul il-fiqh" ("The Light Revealing the Foundations of Fiqh"), "An-Nuzum fil-Fatawa" ("Rules in fatwas"), "Tainis ud-Dabusi" ("Order and classification of Dabusiy"), "At-Taalika" (names of his works, for example, "Hoshiya") have mentioned his work in various sources, but his manuscripts have not yet been found. He is also known to have written works on debate and mysticism.

Abu Zayd Dabusiy is a Central Asian faqih scientist, known for his unique scientific foundations and deep philosophical thinking. Thanks to his works, he created great innovations in the fields of the method of ilm ul-fiqh (the foundations of jurisprudence), ilm ul-khilaf (comparative law), furu ul-fiqh (branches of jurisprudence). In his book Tassis un-nazar, he discusses a yet unexplored branch of jurisprudence called ilm ul-khilaf (comparative law). He raises a legal issue or issue in his work. Solving this issue, the fuqahs show that they are based on different opinions and ideas. As a result, many faqihs, representatives of different legal schools and scholars of different madhhabs disagree on the same legal issue. Dabusius divided the controversial issues into 8 parts. Disputes on matters of jurisprudence are governed by 84 general rules. He addressed each rule with practical comparative questions. In other words, he developed the scientific theory of ilm ul-khilaf (comparative law) and became the founder of this science. After Abu Zayd Dabusiy, legal scholars used the science of ilm ul khilaf a lot. Burkhaniddin Marginony wrote that he used it as the basis for

his work "Khidoy".¹² Comparative law as a separate science in world science developed in the second half of the twentieth century. All this testifies to the viability of the scientific theory developed by the compatriot of Uzbekistan, the great scientist thousands of years ago.

Abu Zaid Dabusiy died in 1039. The high respect shown to the scientist shows that the merits of this great compatriot in the world of science are immeasurable. The duty and obligation of future generations is to study his scientific heritage and perpetuate his memory.

Contribution to the Hadith literature

Hadith is the second source of Islamic law. It is also known as the primary source of law alongside with the Qur'an. **IMAM AL-BUKHARIY** is the greatest hadith scholar of all time. He is known as the great muhaddith (collector of hadiths). His comprehensive collection of hadith literature is composed of 11 volumes of Sahih (verified) hadiths. These hadiths have become well referenced and practiced among the Sunni Muslims all over the world. Undoubtedly, Al-Jami as-Sahih¹³ by Abu Abdullah Muhammad al-Bukhariy is the most popular in terms of its significance. Al-Bukhariy collected about 600 thousand hadiths, but he recognized them as true and included 7,275 hadiths in his collections. The depth of his hadith collection can be traced from his writings as he stated that "I have twice been to Syria, Egypt, the Arabian Peninsula, several times I came to Basra, I lived for six years in Hijaz (Saudi Arabia), I don't remember exactly how many times I had to visit Kufa (Iraq) and Baghdad."¹⁴ Baghdad in those distant times was the center of the caliphate, where knowledge was encouraged and therefore all the eyes of those seeking knowledge turned into that city. Also, many prominent scholars learnt and researched Islamic law there. In Baghdad, al-Bukhariy met with other hadith scholars i.e., Ahmad ibn Hanbal, and worked together in the compilation of Sahih hadiths. In this process he made fellow hadith scholars who, together with al-Bukhariy, contributed to the six most recognized and authoritative collections of Sahih hadiths, which are known as al-kutub as-sitta (six books). These six books are most widely used among the Sunnis as tried and tested collections of hadith that were considered authentic. These books are outlined below:

1. **Imam al-Bukhariy** "Al-Jami as-Sahih" ("Reliable collection"), or abbreviated as-Sahih. This collection gained enormous authority in the Islamic world and was published many times in the East.
2. **Imam Muslim al-Nishapuriy** (817-875) also received recognition from the collection entitled "as-Sahih". The author revised about 300 thousand hadiths and of them recognized only 12 thousand as reliable.
3. **Imam ibn Maja** (died in 886) "Sunnan" ("Sunnah").
4. **Imam abu Daud al-Sijistaniy** (died 888) Collection of "Sunnan" under the same title.
5. **Imam at-Termizy** (died in 802 "Al-Jami al-Kabir" ("Big Collection"), originally from Termez.
6. **Imam an-Nisa'iy** (died in 915) "Sunan", a student of Abu Daud, originally from Nisa, near present-day Ashgabat.¹⁵

Al-Bukhariy's hadith collection is regarded as the top of the six books in terms of authenticity and comprehensiveness. This is because of the photographic memory of this outstanding scholar and his extensive knowledge that he achieved from widely travelling the centres of Islamic education of his time. Imam al-Bukhariy was born in Bukhara in 194 AH, in the month of Shawwal, on Friday. His father died early, when he was still very young, and the care of his upbringing fell entirely on the shoulders of his mother. Outstanding abilities for the sciences, as noted above, manifested themselves in al-Bukhari in early childhood. The Almighty rewarded him with a phenomenal

¹² Iskhakov S.A. Burkhanidin Marginony and Jurisprudence. – Tashkent. IIV Academy 2000, -P. 106

¹³ Imam al Bukhariy Collection of Sunni Traditions al-Jami al-Sahih Biography (2020) C-320

¹⁴ Imam al-Bukhari's "AL-JOMI'AS-SAHIH" published by Hilal-e-Ştir-2019.-P.356, https://e-library.namdu.uz/NamDU%20Axborotnomalari_2022_2012-son.pdf

¹⁵ A. Rakhmanov, Kh. Yunusov, M. Koratosh Islamic Law textbook Tashkent. TDUY 2021. – P, 268 . (in Uzbek)

memory, a sharp analytical mind, at the same time directing his main interest to the study of the hadiths of the Prophet (SAW). Al-Bukhariy was barely 10 years old, when he was already ready to receive knowledge from the mouths of the most prominent scholars of Bukhara. This fact speaks for itself - after all, Bukhara was already one of the most authoritative learning centers of the entire Islamic world of that time. When al-Bukhariy was 16 years old, he already knew by heart the "Collection of Hadiths of the Prophet", compiled by one of the first muhaddis Abdullah ibn al-Mubarak, a native of Merv, located in the same region as Bukhara. At the age of 16, al-Bukhari also knew by heart the book on the hadith Vakiya, he was fluent in the terminology of fiqh. In the year 210 AH, al-Bukhariy went on a pilgrimage (hajj) to holy Mecca with his mother and brother Ahmed. Ahmed and his mother, having completed the hajj, soon returned home to Bukhara, but al-Bukhariy decided to stay in Mecca in order to be able to expand and deepen his knowledge in this holy city, which became one of the very first centers of Islamic civilization.

Al-Bukhariy arrived in Mecca as a well-established scholar and expert, and therefore not only studied himself, but also taught others: generously sharing his comprehensive knowledge with his students, whose number was constantly growing. He often visited Medina - the city where the Prophet Muhammad (SAW) is buried. In these sacred places, he wrote several of his books and prepared the basis for the main book of his life - Al-Jami as-Sahih (Collection of authentic hadiths). Imam al-Bukhariy traveled a lot and visited almost all countries of the contemporary Islamic world, and in a number of them - repeatedly, as he wrote: "I have twice been to Syria, Egypt, the Arabian Peninsula, several times I have come in Basra, lived for six years in Hijaz (Saudi Arabia), I do not remember exactly how many times I had to visit Kufa (Iraq) and Baghdad".¹⁶ Baghdad in those distant times was the center of the caliphate, where knowledge was encouraged, and all the eyes of those seeking knowledge turned.

Al-Bukhariy met and worked with another famous Muhaddith and Imam Ahmad ibn Hanbal in Baghdad. The boundless knowledge of al-Bukhariy and his sharp analytical mind immediately attracted the attention of this outstanding Islamic figure - the founder of one of the four leading legal madhhabs (interpretations) of Islam i.e., Hanbali. Imam ibn Hanbal persistently and repeatedly persuaded al-Bukhariy to move to Baghdad for permanent residence, but he invariably refused such a high honor, preferring to remain in his native Khorosan lands so that knowledge and wisdom would spread even brighter and more radiantly to his own and dearly beloved Motherland. In addition to Ahmad ibn Hanbal, Imam al-Bukhari worked directly with such authoritative experts on hadith literature as Ali ibn al-Madyani, Yahya ibn Muin, Muhammad ibn Yusuf al-Paykandi, Ishaq ibn Rakhawayh and many others. In his book Al-Jami as-Sahih, al-Bukhari listed a total of 289 sheikhs (those learned in hadith literature) among the most authoritative experts on hadith. He became famous for the fact that in the literal sense of the word he was in constant search for authentic hadith. He was a self-motivated and more individualistic scholar. He wrote all his works, all the preparatory materials for them with his own hand, not trusting scribes or anyone else. He wrote much of his work at night. At any time of the night, in a dream or in reality, if an insight came to him and this or that thought cleared up, he never waited to leave the bed to immediately write it down and comment on it.

Another prominent collector and custodian of hadiths was Abu Iso Muhammad at-Termiziy. After receiving a good education in Termez, he visited many cities in the East in order to receive a more complete education. At-Termizi was familiar with both Imam al-Bukhari and other prominent theologians of his era, and more than once participated in scientific discussions on various issues of theology. The book of hadith compiled by at-Termizi is considered one of the most authoritative in the Islamic world. In addition, the merit of at-Termizi is also great as an interpreter of hadiths.

¹⁶Imam al-Bukhari's "AL-JOMI'AS-SAHIH" published by Hilal-eştir-2019. -P,274-78, [https://e-library.namdu.uz/NamDU%20Axborotnomalari 202022_2012-son.pdf](https://e-library.namdu.uz/NamDU%20Axborotnomalari%202022_2012-son.pdf)

Several works of this amazing erudition of a person are also devoted to commenting on hadiths. Also, at-Termiziy in his works explained the essence of traditions, rituals, and customs.¹⁷

During this period, new names appeared in the spiritual field. So, Abu Bakr ash-Shoshiy (903-976) deeply studied and specialized in the sciences of the Koran, hadith, Sharia, linguistics, logic, and created original works on them. Ash-Shoshiy in his work "The Ethics of a Judge" gives a great place to the issues of justice, objectivity of civil servants and all subjects of the Almighty. Also known are his works "Ethics of Discussions" and "The Beauty of Dialectics". In Tashkent, for a long time he performed the duties of a highly respected religious figure. Ash-Shoshiy was one of the recognized imams in the Muslim world. Islam is not a monolithic religion. It has a number of heterogeneous currents and movements. The most widespread was Sufism. It arises in Arabia in the 9th century, respectively, the first Sufis were from among the Baghdadians. These are al-Sariy, Hassan Tonuhi, al-Sakatiy and some others.

Islamic law in Uzbekistan

In Uzbekistan, where the majority of the population traditionally professes Islam, the ideas of enlightened Islam are organically woven into social support. The fact is that, for historical reasons, Islam appears not only as a religion but further than this. For Muslims, it is also the foundation of the way of life, thinking, political system, law, and civilization. In the eyes of the believers of Islam, this is the unity of thought, purpose, way of life, thinking, balance of labor and property. Prophet Muhammad (SAW) reported to have said that: "There is no preference for white over black, an Arab over a non-Arab and a non-Arab over an Arab", "All people are brothers, they are slaves of one Allah".¹⁸ This is perceived by believers as a fair and moral code.

The current stage of state and social construction in Uzbekistan is taking place in conditions where domestic and foreign experience have been accumulated in the formation of a democratic and secular society on a constitutional basis. The Constitution is the greatest achievement of world civilization. It reflects the features of the form of a state, depending on the historical development and national mentality, develops humane legal relations between the state and religion. These features have been reflected in the words of Sh. Mirziyoyev who stated that, "we are the heirs of the great heritage of Islamic culture ... we talk a lot about the fight against religious ignorance, but we do not do everything for this ... in order to convey the true humanistic essence of Islam."¹⁹

In Uzbekistan, the legal provision of a decent life and the free development of a person are fixed. Article 18 of the constitution states that, all citizens of the republic have the same rights and freedoms and are equal before the law without distinction of sex, race, nationality, language, religion, social origin, beliefs and social status. According to Article 30, in the country, all state bodies, public associations, including religious ones, are obliged to provide citizens with the opportunity to familiarize themselves with documents, decisions and other materials affecting their rights and interests. Article 31 states: "Freedom of conscience is guaranteed to all. Everyone has the right to profess any religion or none. Forced imposition of religious views is unacceptable." Article 34 provides for the right of citizens to associate. In accordance with this right, various associations can be created, including religious, trade unions, political parties, and other public associations. Various public institutions play different roles in state and public life. To a certain extent, religious organizations also participate in the implementation of state policy, although the constitution proclaims the separation of the mosque from the state. Public organizations, in accordance with Article 56 of the constitution, are recognized as trade unions, political parties, societies of scientists,

¹⁷ MUSLIM.UZ//The contribution of medieval scientists of Uzbekistan to the development of theology 2018. C-221-28.

¹⁸ Imam al-Bukhari's "AL-JOMI'AS-SAHIH" published by Hilal-eštir-2019.- P, 375, https://e-library.namdu.uz/NamDU%20Axborotnomalari_202022_2012-son.pdf...

¹⁹ <https://centrasia.org/newsA.php?st=1514150340> <https://www.gazeta.uz/ru/2019/04/10/islam/> 10.04 2019, [check referencing style as discussed in the email] ...

women's organizations, organizations of veterans and youth, creative unions and other associations of citizens registered in the manner prescribed by law.²⁰

The conducted comparative textual analysis of legal acts allows us to outline the prospects for a deeper study of the problem of improving the relationship between the state and the Islamic religion. Interesting results can be obtained from an analysis of the ways in which many Koranic provisions penetrate into the new laws of the country, not only directly through the Koran, Sunnah, hadiths, tafsirs, but also through the Uzbek, Arabic, Russian scientific legal literature. Uzbekistan declares itself a secular state and builds its activities on the basis of the separation of religion from the state.²¹ Religion is an important institution of the spiritual and cultural life of society and plays the role of a state-forming factor that unites the state. The relationship of religion and constitutional law is manifested in the form of constitutional guarantees of freedom of conscience, as well as the establishment of the most important principle of the relationship between religion and the state - their separation from each other.

The Center for Islamic Culture of Uzbekistan is being created in Tashkent to deeply reveal the truly humanistic essence and content of religion, President Shavkat Mirziyoyev noted. And also, the President of Uzbekistan Shavkat Mirziyoyev, in his speech at a conference dedicated to ensuring social stability and preserving the true content of Islam, spoke about the need to study the essence and content of religion, as well as instill in young people a healthy attitude towards it. The head of state stressed that dialogue with the people is not a temporary campaign, as some people think, but an invariable priority of state policy, an issue that is at the center of constant attention.²² The President elaborated the fact that in order to comprehensively study the rich historical, scientific and spiritual heritage of the Uzbek people, to widely popularize it among the world community, and most importantly, to deeply reveal the truly humanistic essence and content of the religion of Islam, work has begun on the creation of a Center for Islamic culture of Uzbekistan. This center will collect extensive information about the great Islamic scientists and thinkers, outstanding poets and writers, artists and calligraphers who have made an invaluable contribution to the development of world culture. The head of state noted that it is necessary to strengthen the dialogue with young people, as well as by raising the level of knowledge, enlightenment, life and effective examples, instill in them a healthy attitude towards religion.

In Uzbekistan, as in other countries of the world, there is a growing desire to comprehend the fundamental values of Islam in the spirit of universal moral ideals, in the spirit of openness of the Islamic world, constructive dialogue with non-Muslims. And in these conditions, in our opinion, we are obliged to defend in every possible way the idea of civilized unity and spirituality, as well as religious tolerance, the desire to overcome religious isolation and alienation, the prevention of persecution, discrimination, or infringement of national dignity and civil rights.

The policy of the Uzbek authorities towards Islam has developed more under President Shavkat Mirziyoyev. He took the following measures:²³

- Since 2017, azan has been allowed in some mosques (including the mosque in Tashkent);
- Minors are allowed to participate in religious ceremonies;
- In 2018, the Uzbek authorities increased the number of permits for pilgrims going to the Hajj (pilgrimage). For instance, 7520 people were allowed to go on Hajj this year. (Saudi Arabia allocated a quota three times larger than before). From 1992 to 2016, 5,200 people were allowed to leave Uzbekistan annually to perform Hajj;

²⁰ Constitutional Law of the Republic of Uzbekistan: Textbook / ed. Kh.S.Islamkhodzhaev. - T.: TGUU, 2016. -P. 249.

²¹ This approach has been advocated by An-Na'im. See A. A. An-na'im, *Islam and the Secular State* (Harvard University Press 2008).

²² <https://uz.sputniknews.ru/20170616/Mirziiev-konferenciya-ob-islame>. Jun 16 2017

²³ Kukol S.Yu. Islam in Uzbekistan: modernity and development prospects// Problems of national strategy. - 2020. - No. 1 (58).

- Removed restrictions and lowered prices for Umrah (a shorter version of Hajj);
- Liquidation of positions of representatives of the Republican State Security Service of Uzbekistan under the Spiritual Administration of Muslims of Uzbekistan, its structural divisions, mosques;
- In December 2017, President of Uzbekistan Sh. Mirziyoyev granted amnesty to 763 prisoners for religious reasons;
- A sharp reduction in the number of persons included in the lists for links with extremist organizations (being on the list imposed certain restrictions on its person involved). By 2018, about 18 thousand people were excluded from the lists. Less than a thousand people remained on the lists;
- Opening of the of the Center for Islamic Civilization and the International Research Center, Imam Bukhari International Scientific Research Centre in Samarkand, and Tashkent Islamic Academy. As a result, under President Sh. Mirziyoyev, the number of mosques increased, while the number of religious prisoners decreased. In 2016-2017, the number of prisoners for extremist and illegal religious activities in Uzbekistan decreased from 13.5 thousand to 7 thousand suspects. The number of mosques reached 2042, the highest number since 1998. The Spiritual Administration of Muslims of Uzbekistan launched online Islamic education programs, and in 2018, there was one imam for about 8,000 residents of Uzbekistan.

Currently, there are 16 religious denominations in the republic, and the number of state-registered religious organizations is 2,346. 2149 of them are Islamic and 197 are various non-Islamic confessions. It is worth noting the activities of International Islamic Academy of Uzbekistan, Imam Bukhari, Imam Termizi and Imam Moturidi international research centers, Mir Arab Higher Madrasa in Bukhara, and Hadith Scientific School in Samarkand. Currently, there are 16 religious denominations in the republic, and the number of state-registered religious organizations is 2,346. 2149 of them are Islamic and 197 are various non-Islamic confessions. It is worth noting the activities of International Islamic Academy of Uzbekistan, Imam Bukhari, Imam Termizi and Imam Moturidi international research centers, Mir Arab Higher Madrasa in Bukhara, and Hadith Scientific School in Samarkand.

In December 2018, the special resolution "Enlightenment and religious tolerance" proposed by President Shavkat Mirziyoyev was adopted at the plenary session of the UN General Assembly. The importance of this initiative of Uzbekistan in maintaining peace and religious tolerance in the world is evident in today's difficult times.

Also, efforts to ensure freedom of conscience are highly recognized in the international arena. An example of this is that in December 2020, the US State Department removed Uzbekistan from the "List of countries under special surveillance" regarding religious freedom.

The above figures show the difference made by the initiatives taken to promote Islamic law and culture in Tashkent. These positive initiatives and potential research projects in the Islamic centers would make significant contribution to the social, legal and political development of the state. For instance, the recent research collaboration project in Islamic law and culture between the University of Turkey and Imam Bukhari International Scientific Research Center is the result of the positive initiatives stated above.²⁴

Conclusion

Islamic highly moral legal and spiritual and cultural values, while retaining their significance, play an important role in the development of culture, strengthening statehood and ensuring the

²⁴ 'Movarounnahr is the center of Islamic culture' – available at < <https://www.bukhari.uz/?p=28547&lang=en>> (accessed 19 July 2023).

sustainability of the socio-economic development of the country's society. Therefore, the study of Islam as a religious system of knowledge of the foundations of Shari'a - a systematized code of Islamic laws - is of great scientific and practical importance. It is especially relevant when considering the development of the legal system of a state and social construction during the period of fundamental reforms in all spheres of the life of the republic, the transfer of the economy to the rails of market relations, and the building of a secular society.

From the 8th century, a new period began in the history of the people of Movaraunnahr. Movaraunnahr has always been distinguished by the fact that the spirituality of its people did not experience stagnation and was not subjected to excessive normativity. Localism, national and religious isolation, and the principles of traditionalism did not dominate here. Although, starting from the 8th century, Islam became the dominant religion in Movaraunnahr and, as such, took control of all spheres of public life, at the same time Islam itself adapted to the conditions of Movaraunnahr. Consequently, in the process of formation of Islamic law and Shari'a norms, local conditions were taken into account. Civil, land, family, marriage, inheritance, and other issues of private law in Movaraunnahr were regulated by the norms of Islamic law of the Hanafi madhhab. On the basis of the same norms, criminal cases were also resolved, and legal proceedings were conducted. In addition, Shari'a has absorbed many norms of local customary law, i.e., the traditional establishments of the peoples of Movaraunnahr, which received the general name "adat".

Movaraunnahr became an important center of the political, economic and spiritual life of the peoples inhabiting a vast territory that was an integral part of the Arab Caliphate. However, Movaraunnahr gradually began to gain more and more independence, intensively enriching all spheres of scientific, cultural, spiritual and legal life. The contribution of thinkers and faqihs of Movaraunnahr to the development of Islamic culture and Islamic law is invaluable. Here lived and worked such great scientists as al-Khorezmiy, Rudakiy, at-Termiziy, al-Farabiy, Beruniy, ibn Sino, al-Al-Marginoniy, al-Farganiy, Marvaziy, az-Zamakhshariy, Yassawi, y Kubraviy, Kashgariy and many others who enriched contemporary secular science, kalam and al-Fiqh with fundamentally new ideas.

Bukhara is another place in Uzbekistan where Al-Bukhariy was born and continued his research and compilation of the outstanding hadith literature following his education, knowledge exchange, and collaboration with other hadith scholars. Since then, Bukhara has become a center of Islamic education and research. The potential of this city and its scholars to contribute to the development of Islamic law research is significant let alone the contributions that have been already made.

Uzbekistan as a country has taken some very significant positive initiatives to develop the social, economic and political lives of the people. From the constitutional of the republic to the presidential projects in building the national under the auspices of Islamic legal, social and political thought have proven to be very successful already. The evidence and analysis discussed in this article suggest that the country is going to the right direction under the positive contributions made by the people, scholars, and leaders consistently according to the teachings of Islamic law. They also suggest that the potential of the Islamic scholars, resources, and leadership in Uzbekistan is undeniable and can make a huge contribution generally to Islamic law research and particularly to the development of the country.