



ADDIS ABABA UNIVERSITY
INSTITUTE OF LANGUAGE STUDIES
DEPARTMENT OF LINGUISTICS (PHILOLOGY)
GRADUATE PROGRAMME

**Analysis of law and legal history (fiqh) of Jamal Al-Din Al-Anni's
manuscript: With philological description and partial translation**

By: Faysel Hussein



April, 2009

**Analysis of law and legal history (fiqh) of Jamal Al-Din Al-
Anni's manuscript: With Philological description
and partial translation**

By:

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**A thesis submitted to the School of Graduate
Studies, Addis Ababa University**

**In partial fulfillment of the requirements for the Degree of
Master of Arts in Philology (under Linguistics)**

Advisor: Prof. Orin Gensler

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PROF. ORIN PENSLER

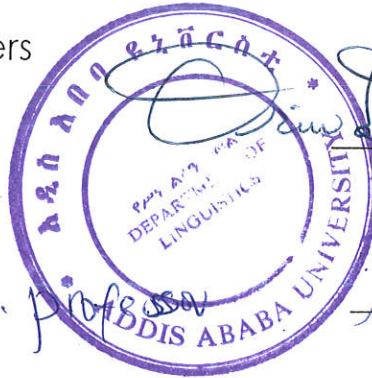
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Abstract

When we discuss the contribution of Shaikh Jamal Al-Din Al-Anni, based on his manuscript Kitab Al-Fatwa, we find that his work represents a masterpiece in legal and cultural history. In general, the ms expresses his legal and theological opinions which are offered in the form of Fatwa.

Also, Al-Anni mentions, in his Kitab Al-Fatwa manuscript, his legal sources from which he derived the answers to the questions he was asked. The sources he indicates include the Quran, Hadith, Sunna, Ijma' and qiyas. These are the basic sources for Al-Anni's Fatwa. He also accepted customary law (*urf* عرف) so long as it did not contradict the Sharia, given the circumstances that existed during the 19th century in northern Ethiopia where he lived. The language and content of the manuscript point to a very high degree of Islamic cultural and literary development in the country. Inquiries were submitted to Shaikh Al-Anni from virtually all sectors of Muslim society from all parts of Ethiopia. His leadership is still recognized and he is widely known as the most prominent spiritual leader and teacher of the Muslim population in Ethiopia and elsewhere in the Horn.

Glossary

Al-Qādiriyya: A sufi brotherhood.

Ajemi : non –Arabic language written in Arabic letters.

Faqih (pl. fuqahā’): Jurist.

Fatwa: Legal or theological opinion.

Ḥadra: A meeting of Muslims to thank, praise or pray to God.

Ijmā’: Consensus of opinion of Muslims.

Kitab: book.

Madḥab: School of Muslim religious law.

Manẓumah: long poem prepared for religious purposes.

Mufti: jurist who is entitled to give fatwa.

Qiyas: legal reasoning by analogy.

Qur’an: the holy book of Islam.

Sunna: Custom or precedent based on the Prophet’s acts or sayings.

Ṭarīqa: order.

‘Ulamā’: Religious experts, scholars.

Abbreviations

AH = After Hıgra

F = Folio

MS = Manuscript

p.b.u.h = peace be upon him

r = recto

v = verso

Table of Contents

	Page
Abstract.....	I
Glossary	II
Abbreviations	III
Contents	IV
Transliterations	VI
Chapter One	
General framework of the research	1
1.1 Background	1
1.2 The purpose and rationale of the research	1
1.3 Methodology	2
1.4 Chapter outline.....	2
Chapter Two	
Review of related concepts	3
2.1 Previous works.....	3
2.2 A short interpretation of legal history	3
2.3 Sketch of Ethiopian political history	4
2.4 The sources of law in Islam	6
2.5 The role of the jurist in the development of Islamic law	9
2.6 The establishment of the four major schools of Sunni jurisprudence.....	11
Chapter Three	
3.1 A brief biography of Shaikh Jamal Al-Din Al-Anni	13
3.2 His educational background.....	14
3.3 His writings.....	15
3.4 His Madhab and Tariqa	16
3.5 His relation with his community.....	16
3.6 His conflict with Emperor Yohannes IV	17

Chapter Four	
Philological description of Kitab Al-Fatwa	22
4.1 General features of Kitab al-Fatwa	22
4.2 Specific features.....	25
4.3 An analysis of the contents	26
Chapter five	
Partial translation of the manuscript of Kitāb Al-Fatāwa	30
Chapter six	
Conclusion.....	46
References.....	47
Informant list.....	49

I. Transliterations

Arabic

Consonants

ء = ' (alif ma'adhiyah)	ز = z	ق = q
ب = b	س = s	ك = k
ت = t	ش = š	ل = l
ث = t̤	ص = ṣ	م = m
ج = j	ض = ḍ	ن = n
ح = ḥ	ط = ṭ	ه = h
خ = kh	ظ = ḏ	و = w
د = d	ع = ' (ayn)	ي = y
ذ = ḏ	غ = gh	
ر = r	ف = f	

Vowels

Short	a = <u> </u> ^{◌َ}	u = <u> </u> ^{◌ُ}	
	i = <u> </u> ^{◌ِ}		
Long	á = <u> </u> ^{◌َ} = ā	í = <u> </u> ^{◌ِ} = ī	ú = <u> </u> ^{◌ُ} = ū

Chapter One

General framework of the research

1.1 Background

The Ethiopian Muslim scholar and jurist Shaikh Muhammad Jamal Al-Din Al-Anni (d. 1299 A.H / 1882 AD) lived in northern Ethiopia at the time when the country was under the rule of several competing provincial rulers, Zamana Masafent (The Period of the Princes), culminating in the emergence of emperors Tewodros (d.1868) and Yohannes (d.1889). The second half of the 19th century was a period in which virtually all of Ethiopia witnessed a significant growth. Before this period the northern provinces were not widely known for being centers of Islamic intellectual and cultural leadership. Indeed, it was Harar and its environs which had been known for representing the peak of Islamic cultural and intellectual development in the Horn region at large.

The northern provinces, where Shaikh Al-Anni lived, were a multiethnic and multilingual society. This locality, still known as Anna, was the place where he was brought up and groomed under the guidance of several scholars of Islam. Shaikh Al-Anni spoke Afan Oromo as his mother tongue, as it was the dominant language of communication in his society. His biographers agree on Shaikh Al-Anni's intellectual abilities in several Islamic disciplines.

The manuscript *Kitab Al-Fatwa* is a living testimony to his deep knowledge and effective usage of Arabic in articulating a variety of complex issues in the field of Islamic law. For anyone familiar with the classical Islamic juristic works like *Kitab Al-Umm*, which was written by the founder of the Shafi'i legal school, it is not difficult to recognize *Kitab Al-Fatwa* as one of the best juristic works of that time. This research, therefore, is intended to make a contribution to shedding light on this manuscript, which is a great intellectual accomplishment of 19th-century Ethiopia.

1.2 The purpose and rationale of the research

The main purpose of this thesis is to give an analytical description of an Ethiopian Islamic manuscript that constitutes part of the broader legal and cultural history of the

country. It is hoped that such a study will contribute towards providing a hitherto unknown source of history to present and future generations of scholars specializing on Ethiopia. *Kitab Al-Fatwa* is one of a number of partially published local Islamic manuscripts in Ethiopia. The present effort to introduce this particular manuscript may help to create a wider interest among scholars in Ethiopia and the outside world in recognizing the need for exploring this area of Ethiopian cultural and historical heritage.

1.3 Methodology

In this study, I rely primarily on a copy of the manuscript which I secured from the locality where Shaikh Al-Anni lived. This manuscript is in the handwriting of Shaikh Abduljalil Abdusamad, the son of Shaikh Al-Anni, dictated by the latter directly. This means the manuscript which I used is the earliest copy.

I did not succeed in tracing any commentary or secondary source written on this manuscript. The celebrated work of Professor Hussein Ahmed (2001) does refer to this work and mentions the historical aspects of the life of the author, but only briefly. I therefore found myself confronted with this local 19th- century manuscript without any significant help from other scholarly works on the subject. Despite its limitations, I hope that this thesis will provide an original review of the manuscript from a philological perspective.

1.4 Chapter outline

This thesis comprises six chapters. Chapter one presents the framework of the research. Chapter two provides a review of related concepts. Chapter three presents an outline of the biography of Shaikh Al-Anni. Chapter four provides an overall description of the manuscript of *Kitab Al-Fatwa*, and an analytical review of the manuscript from a philological perspective. This is the heart of the thesis. Chapter five presents a translation of part of text. Chapter six contains concluding remarks based on my findings.

Chapter Two

Review of related concepts

2.1 Previous works

Worldwide, numerous Muslim scholars have written about Islamic law and its sources. Among these, scholars like Al-Hanafi, Al-Maliki, Al-Shafi'i and Al-Hanbali are prominent. When we come to our country, several Muslim scholars have written about legal issues. For instance, Mufti Dawud in his unpublished ms (see Reference List) discusses Islamic law and its sources.

As far as I know, the first Ethiopian scholar to discuss Ethiopian legal history, in addition to religious edicts and the teaching of scholars, was Abara Jambere. As he states, before the establishment of the 1930 penal code, religious edicts played an important part in Ethiopian law as they were embodied in the *Fetha Negest*. In the context of Ethiopia, the word religion refers to Judaism, Christianity, and Islam; all three embody important concepts of law.¹

Islam was introduced into Ethiopia in the seventh century A.D. Its main religious book, the Quran, embodies a number of legal norms. The legal principles derived from the Quran are known collectively as Sharia law. This Sharia law has been applied by Ethiopian Muslims in cases of marriage and other related affairs.²

The conception of law as the word of God seems to have existed in the mind of a substantial majority of our people up to now, a natural result of the coming of Islam and Christianity from the Middle East. These two important religions, Islam and Christianity, continue to be practiced in Ethiopia side by side. Christianity, unlike Islam, has had from the beginning the status of the religion of the ruling class.³

2.2 A short interpretation of legal history

The definition of legal history may be controversial. But as a working definition we may define it as a systematic study of past legal systems, both early and modern. Legal history compares and contrasts the various past legal systems of the world.⁴

Legal history is a term that has at least the following two meanings.

- 1) Among certain jurists and historians of legal process, it has been seen as the recording of the evolution of laws and the technical explanation of how these laws have evolved with the view of better understanding the origins of various legal concepts.⁵ Some consider it also as a branch of intellectual history.

- 2) Twentieth-century historians have viewed legal history in a more contextualized manner, more in line with the thinking of social historians. They have looked at legal institutions as complex systems of rules, players and symbols.⁶ and they have seen these elements as interacting with society to change, adapt, resist or promote certain aspects of civil society. Such legal histories have tended to analyze case histories in terms of the parameters of social science inquiry, using statistical methods—analyzing class distinctions among litigants, petitioners and other players in various legal processes. By analyzing case outcomes, transaction costs, number of settled cases, etc. they have begun an analysis of legal institutions, practices, procedures and briefs that gives us a more complex and nuanced picture of law and society than the study of jurisprudence, case law and civil codes alone can achieve.⁷

2.3 Sketch of Ethiopian political history

To discuss legal history as related to Jamal Al-Din Al-Anni's manuscript and his sources of law, it is necessary to consider Ethiopia's history and political tradition. Accordingly, this will be briefly presented here in order to appreciate the emergence and nature of the legal tradition of the country.

Modern Ethiopia is the product of several millennia of interaction among peoples in and around the highland and lowland regions. These people managed to produce a culture that despite its pluriformity may be termed as Ethiopian and which at any given time differed markedly from that of the surrounding peoples.⁸ The evolution of this Ethiopian culture was driven and molded by a variety of ethnic, linguistic, and religious groups. A significant influence on the formation of a distinctive culture in Northern Ethiopia was the migration of people from Southwest Arabia in the first millennium which brought Semitic languages and a

writing system to Ethiopia. Another was the northward migration of Cushitic-speaking peoples, which led to intermingling and exchange in various phases of the country's history.⁹

The Aksumite kingdom was founded in the first century of the Christian era. It was king Ezana, an Aksumite king, who accepted Christianity towards the middle of the fourth century AD and who bequeathed to his successors Christianity along with the concept of an empire state under centralized governance. Since its inception, the Ethiopian state was ruled by three dynasties, i.e. the Aksumite, Zagwe and the restored "Solomonic" dynasty successively.¹⁰

The Aksumite state that emerged at the beginning of the Christian era flourished during the succeeding six or seven centuries and then went into a prolonged decline from the eighth to the eleventh centuries.¹¹

In 1137 the Zagwe dynasty took power and ruled Ethiopia until 1270. The Zagwe era is one of the most artistically creative periods in Ethiopian history, involving among other things the construction of eleven monolithic churches in Lalibela.¹²

In 1270 Yekunno-Amlak, who claimed to belong to the "Solomonic" dynasty, drove out the last Zagwe ruler and was crowned as emperor of Ethiopia. The new dynasty that he founded is known as the Solomonic line to emphasize its historical legitimacy as opposed to the Zagwe.¹³

Emperor Zar'a Ya'qob of the same dynasty, who reigned between 1439 and 1468, was one of the most important leaders of Ethiopia. One remarkable cultural achievement seen under his reign was the language development, in which the emperor himself wrote a number of important books including "Meṣhafa Milad" ("The book of nativity"), which partially deals with legal matters. He also ordered Ethiopian Orthodox Church scholars to prepare the first legal code of Ethiopia, the outcome of which was the "Faws Manfasāwi", and later imported the 'Fetha Negest' from Egypt and had it translated into Ge'ez to be applied in Ethiopia.¹⁴

A turning point in Ethiopian history occurred in the middle of the nineteenth century. The modern period of Ethiopia, which commenced in 1855, is represented by the reigns of

emperors Tewodros, Yohannes, Menelik and Haile Sellassie as well as two post-imperial regimes.

Although Christianity is the dominant religion and the Ethiopian Orthodox Church is the established Church of Ethiopia, Islam has been recognized as the second prominent religion since its introduction to Ethiopia in the seventh century AD.¹⁵ To know about the contribution of Islam in Ethiopia, it is important to examine a variety of written materials, i.e. many important unpublished Ajemi and Arabic manuscripts by Ethiopians often containing unique information. These manuscripts include Mufti Dawud's MS and Jamal Al-Din Al-Anni's manuscripts especially his *Kitab Al-Fatwa*.

2.4 The sources of law in Islam

Since the third century of the Muslim era, four sources have been used in Islamic law. These are the Quran, the *Sunna* or sayings and practices of Muhammad, the *ijma'* or consensus of Muslims, and *qiyas* or analogy based on these primary sources. These four sources are the roots of Islamic jurisprudence

A. The Quran

The supreme source of Islamic law is the Quran. The Quran is not itself a code of laws, but very well coordinated collection of moral precepts, exhortations, biblical stories, polemics, and threats against the adversaries of the new faith. In the middle of all this, various legal rules emerge here and there.¹⁶ These rules do not constitute the main part of the book of 6236 verses contained in the 114 chapters or *Suras*. Perhaps 600 verses (maximum) deal with legislation in the strict sense. This legislation is found particularly in the chapters of later date. When one looks at the Quran one sees immediately that it is composed of chapters of unequal length which are also quite different in form. The oldest ones dating from Mecca, that is, the first period of Muhammad's preaching, are very short, nearly exclusively religious in content, and written in a poetic, often lyrical style. The later chapters, Median, are much longer and less strict in form. They contain most of the political and legal precepts. This difference between the two revelations, that of Mecca and that of Medina, corresponds to the periods into which the career of the Prophet and of the movement he founded can be divided.¹⁷ The movement began at Mecca as a purely religious and moral reaction against pagan society; it

ended in Medina with the establishment of a new political religious community. This is why the Medinan chapters contain the first outline of the legal and administrative framework required by the small community of believers which was the forerunner of the future Islamic empire.¹⁸

B. The sunna

Actually, the Muslims did not have to invent the concept of *sunna* and its practical importance. It was already well known to the ancient pagans of the period before Islam. To them the *sunna* meant those rules which were in conformity with the traditions of the Arab world and the ancestral manners and customs. The term *sunna* was still used in this same sense in the early Islamic period by those Arab circles which had been little touched by the influence of Islam. Islam changed the concept and meaning of this ancient term. Among the pious successors of Mohammed and in the oldest Muslim community, *sunna* came to mean anything that could be proven to have been practiced by the Prophet and his oldest disciples. Just as the pagan Arabs adhered to the *sunna* of their ancestors, so was the Muslim community enjoined to follow the new *sunna*. Thus the Muslim concept of *sunna* is a variant of an ancient Arab concept. The *sunna* was regarded from the beginning as a determinate norm in the conduct of the life of the individual and of society.¹⁹

The term hadith has to be distinguished from the term *sunna*. The difference between them is that hadith is an oral communication which is traced back to the Prophet.²⁰ Originally the prophet (p.b.u.h) ordered the Muslims not to write down anything except the Quran, so that it should not be combined with something else; but some time later he permitted the companions to record the Hadith. Thus Al-Tibi Al-Husayn ibn Abdullah (743A.H., 1342 A.D) in his book, *Al-Khulaṣā fi-Uṣūl al-Hadīth*, states that the writing of the hadith started during the lifetime of the prophet (p.b.u.h); he refers to the writing of some of the companions such as Abū Hurayra ‘Abdul Rahman.²¹

Every hadīth consists of two parts. The first is the chain of authoritative informants who have transmitted the information in question from the initial author to the last informant. The creditability of the information rests on these authoritative informants. The chain as a whole is

called the *sanad* or *isnād*, that is, the ‘support’ of the hadīth. This formal element is followed by the text of the saying, called *matn*, the subject matter of the hadīth.²²

C. Ijma‘

Ijma‘ is defined as the consensus of opinion of Muslim jurists on a particular legal conflict in a particular age, after the death of the prophet. Crucially, this consensus of the legal community, which is the third foundation of the law, is considered infallible. This principle rests on these words of the Prophet in the hadīth: “My community (*umma*) will not agree on an error”. In other words, whatever is accepted by the consensus of Muslim jurists is considered correct.²³

D. Qiyas

We have already outlined the three canonical sources of the law which depend more or less directly upon infallible divine inspiration. The fourth and last source depends, by contrast, upon the fallible judgment of man. Thus in cases where the Qur’an, the *sunna*, and the *ijma* yield no help, recourse must be had to the method of analogy.²⁴

As the name itself implies (*qiyās* means ‘analogy’) what is meant here is not one’s purely personal judgment or the application of subjective opinion, but rather an inductive procedure governed by the rules of logic. If a judge does not find in the law (Qur’an and *sunna*) a rule applicable to the case he has to solve, he sees whether a rule cannot be deduced from what has been decided in similar cases. If analogical reasoning based on a single legal provision is not possible, then the judge must examine whether a solution can be derived from the totality of the law, considering it carefully as a whole and applying to the case in question the solution which corresponds best to the general spirit of the law.²⁵

If there is no special legal provision or general foundation for analogical interpretation, the jurist is still not left without recourse. If he is capable of doing so he may have

recourse to *ijtihad* (personal reasoning). By concentrating all his mental facilities and penetration of spirit on the precise meaning of the law, the judge relies upon his conscience. Thus illuminated and supported, he can often succeed in finding the solution for the case in question. *Ijtihad*, therefore, is not the arbitrary, subjective and personal opinion of the jurist, but his careful and considered opinion. It is based upon legal conscience as refined and disciplined by the law in its entirety.²⁶ In general, however, *ijtihad* is only practiced in a very limited number of cases. For the most part, scholars consider the “gate of *ijtihad*” to have been closed.

E. Al-‘urf

Al-‘urf, or customary law, refers to the known customs and practices applied by people in accordance with Islamic law, especially the Quran and the *Sunna*. Thus if a custom is not in harmony with Islamic legislation, or if it does not follow the goals of Islam, then it is not considered a good ‘urf.²⁷ Customs are thus of two kinds, good and bad. The first kind acts in the interests of the people or stops a harmful effect on them. This type of custom is recognized as a source of rules in Islamic law. The second is a prohibited practice, such as the custom of drinking wine.

There are some similarities between these various Islamic legal sources and the legal sources of Judaism and Christianity. These similarities are:

- A. Monotheism
- B. Belief in life after death
- C. The prohibition of killing, injustice, adultery and so on
- D. Performing religious duties such as praying and fasting
- E. Punishment in cases involving crimes

2.5 The role of the jurist in the development of Islamic law

A. General remarks

Although theoretically the development of Islamic law might be regarded as having come to a halt with the ‘closing of the gate’ of independent reasoning, in practice Islamic law,

like any law, has developed further. One means of this further development was through the activity of the muftis, especially as regards *ijtihad*.

Fatwa (giving a legal opinion) consists of providing an answer to a legal or theological question. The person who gives this answer is called a *mufti*; the person who requests and receives this answer is called a *mustafti*. When necessary, the mufti may appeal to *ijtihad*. In principle, the question and answer of the mufti may be formulated either orally or in writing.

28

The Qur'an and other main sources of Islamic law embody a number of legal norms. The legal principles derived from this book and related secondary sources are known collectively as *Shari'a* law. The *Shari'a* law has been applied by Ethiopia in Muslims in family-related cases in the following areas:

- (1) Marriage and matters connected with it, such as dowry, divorce by mutual consent, mutual release upon divorce, proof of relationship and separation.
- (2) Inheritance of all kinds concerning immovable and movable property.
- (3) Maintenance of the wife, children, parents and sisters.
- (4) Guardianship
- (5) Religious endowments (*waqf*)

In the legal history of Ethiopia, as can easily be witnessed from Muslim scholars' manuscripts, their teaching and *Fatwa* have played a prominent role in the development of Islamic law and in the interpretation of legal texts. In the legislative development, the role of the interpretation of legal texts which was manifested by the Muslim jurists' *Fatwa* and opinions was extremely important.

B. The contribution of Islamic law to Ethiopian law: The Fetha Negest

The influence of Islamic law is not limited to Muslim scholars and Muslim society alone. As scholars have argued, Islamic law had its own influence on secular Ethiopian law as

well. During much of Ethiopian legal history until very recently, the Fetha Nagast “The Law of Kings”, containing both religious and secular parts, was the code which was in use in Ethiopia.

The exact origins of the Fetha Negast are still a matter of controversy among scholars. One of the main problems is to trace the respective influences of Byzantine and Islamic law on the Arabic Nomo Canon, which is the direct source of the ‘Fetha Negest’.²⁹ According to the predominant view, an Egyptian Coptic church scholar named Ibn Al-Assal originally created the book in the 13th century. It was written in Arabic and named the Nomo Canon. Living in a multicultural environment, Ibn Al-Assal drew upon the principles of Christianity, Byzantine legal tradition and Islamic commercial law.³⁰ The name Fetha Nagest (the law of the kings) was given to the Nomo Canon when it reached Ethiopian soil in the middle of the 15th century during the reign of emperor Zer’a Ya’qob, who was responsible for the transplantation of this venerable document. It was translated by church scholars from Arabic into Geez in the 15th century, and into Amharic in the middle of the 20th century.³¹ As noted, one of the inputs to the Fetha Nagest was Islamic commercial law.

2.6 The establishment of the four major schools of Sunni jurisprudence

The four schools of *Fiqh* were founded on the basis of *ijtihad* practiced by the most famous jurists, namely Abu Hanifa, Malik, Al-Shafi‘ and Ibn Hanbal. Here, it is important to point out that there is no substantial difference among these four authorities. They do not have differences on matters which might go against the Quran or the *Sunna*, for *ijtihad* is not permitted on matters which can be decided on the basis of these two primary sources of Islam. However, as regards *ijtihad*, the four schools do show small differences.

The Prophet (p.b.u.h) is reported to have said that a judge who reaches a correct answer to a question by practicing *ijtihad* is doubly rewarded, both for his answer and for his effort in seeking to resolve a dilemma which faces the society.

End Notes Chapter Two

1. Abara Jambere, 1998, p. 33.
2. Ibid, p. 34.
3. Muradu Abdu, 2007, p. 155.
4. Ibid, p. 9.
5. Legal history, WWW.<http://en.wikipedia.org/wiki/legalhistory>.
6. Ibid.
7. Ibid.
8. Abara Jambere, 1998, p. 3.
9. Ibid.
10. Ibid, p. 4.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid, p. 4.
15. Ibid.
16. Liebesny, 1975, p. 12. Most of the discussion in the next few pages is taken with very little modification from this source.
17. Ibid.
18. Ibid.
19. Ibid, p. 13.
20. Ibid.
21. Ibid.
22. Ibid, p. 16.
23. Ibid.
24. Ibid, p. 18.
25. Ibid.
26. Ibid.
27. Ibrahim Abdulla Al-Marzouqi, 2000, p. 63.
28. Liebesny, 1975, p. 39.
29. Ibid.
30. Ibid.
31. Abara Jambere, 1998, p. 34.

Chapter Three

3.1 A Brief Biography of Shaikh Jamal Al-Din Al-Anni

3.1 A. The sources

It has to be understood that the bulk of the information which I used in writing this chapter was collected through fieldwork in the localities where several of the informants live currently. I found them to be extremely interesting and still fresh on the life of Shaikh Al-Anni and the times in which he lived. Moreover, I had the opportunity to benefit from an unpublished manuscript composed by Haji Mohammed Tajuddin Ahmed,¹ one of the most prominent and senior Muslim scholars of Ethiopia currently, giving biographical accounts of hundreds of Ethiopian scholars who lived over the last few centuries. This source enabled me to compare and verify the data I secured during the fieldwork with various informants.

B. Family background

According to my informants Shaikh Al-Anni was born during the first decade of the 13th century A.H (19th century A.D.)². Informants say that he was over 120 years old³ when he died in 1299 A.H/1882 A.D. They differ as to the exact date of his birth.

He was born in Raya, presently south Tigray, at a locality called Kulkolo. His father and grandfather were known as prominent community leaders among the Oromo people of Raya.⁴ However, the young Jamal Al-Din was rather inclined to join the Muslim 'ulamā',⁵ and thus he came to spend the rest of his life as a distinguished leader of the community of 'ulamā'.⁶ In any case, our informants provide some genealogical information on the paternal side: Jamal Al-Din Al-Anni Ibn Reso Ibn Babo⁷ Ibn Bore Ibn Brento Ibn Duyo Ibn Humo Ibn Sharif Hussein Ibn Sharif Mohammed Ibn Abubaker.⁸ And on his mother's side: Hawa Shaikh Mustafa, Shaikh Omer Shaikh Ayfara, Shaikh Mohammed Said, Namsay, Alkora, who was a friend and supporter of Imam Ahmed, known as Ahmed Grañ.⁹

Shaikh Al-Anni had six daughters and one son.¹⁰ His daughters were Maryam, Asya, Nafisa, Rehana, Amatu and Walya, and his one son was Shaikh Abdusamad.¹¹ He had three wives, Badrya Alyu, Saliha and Aya Dada.¹² But we are not sure whether he was married to all three wives at the same time or one after another. The locality where Shaikh Al-Anni lived is known for its wealth of natural resources.¹³ It is clear that he led the bulk of his intellectual life under circumstances that were very conducive to scholarship.

3.2 His educational background

Al-Anni was the descendent of a prominent and learned family.¹⁴ He was brought up with this legacy from his family, and his mother was his first teacher who taught him to read.¹⁵ He studied the Holy Quran and committed it to memory using different methods¹⁶ of recitation and interpretation.

He used the same method for studying hadith and jurisprudence, which he mastered under the guidance of his teacher Shaikh Haji Tahir. He was taught grammar and rhetoric at various centers of learning in South and North Wallo.¹⁷ Different informants gave the names of his teachers in every discipline. It appears from his writings that he was quite familiar with hadith, jurisprudence, philology,¹⁸ poetry and logic ('ilm al-manṭiq) over the course of his public life, and the informants agree about his proficiency in all of them.¹⁹ All his teachers acknowledged his abilities and gave him their official approval (Ijāza)²⁰.

Jamal Al-Din studied Quran with his mother and his uncle.²¹ Later he went to a small village of Raya called *Kand Alyu* for further study of theology. Afterwards he learned from Mufti Raya the Arabic language and Islamic studies.²² When the Mufti saw his good memory and passionate desire for knowledge,²³ he asked him to stay with him, and said to him, "My son, don't leave this area. I brought all this knowledge for strong students like you."²⁴ Another scholar came to Raya in the area of *Hara Kuto*²⁵ whose name was Shaikh Al-Sayed Ibn Al-Kabir Zubir Al-Asqāri.²⁶ Then Shaikh Al-Sayed went to Anna area in Raya where he stayed for seven years. Jamal Al-Din Al-Anni went to visit him there.²⁷ When Shaikh Al-Sayed Ibn Al-Kabir met Jamal Al-Din Al-Anni in Anna, he considered him like a son and brought him up under his guardianship.²⁸ In

Anna, Jamal Al-Din began to play a significant role in the development of Sharia law in Raya and in the rest of the country as well.

He made a journey to *Qalu* area (in Wallo) in the village of *Jussir* to study Sharia under Al-Haji Aman,²⁹ and then under Al-Haji Bushra in the same area. After completing his studies he came back to Raya and stayed in Raya for fifty years.³⁰

Jamal Al-Din Al-Anni taught a great many students during these fifty years. Among his students were Yahya Sirajuddin, Shaikh Abdusamad (his son, and the father of Abd Al-Jalil who copied the ms of *Kitab Al-Fatwa* which I used), Shaikh Danni, and Shaikh Abdusalam (whose nickname was *Aba Zeynaba*).³¹

3.3 His writings

From early childhood, Jamal Al-Din Al-Anni displayed a good intelligence, a sharp memory and a passionate desire for knowledge.³² It is true that he was attracted to legal method of Shafi'ī.³³

Al-Anni was a prolific writer. He was not the first to write juridical works in Wallo; there were others who had preceded him.³⁴ He began to write when he was young, composing the *Al-Awrād Al-Qādiriyyah*³⁵ under the guidance of Al-Haji Al-Sayed Mohammad Shafi'ī.³⁶

Jamal Al-Din Al-Anni wrote many well-known works: *Kifāyat al-Ṭālibīn* (a method of Shafi'ī), *Rawḍat al-Asrār*, *al-Istimdād*, *al-Darr al-Fākhr Alā al-Fajr al-Sāfir*, *al-Ṭayyarāt*,³⁷ *Anfā'u al-Rasā'il*,³⁸ *Najm al-Munīr* and (last but not least) *Kitāb Al-Fatwa*, the manuscript which we are examining here.

Jamal Al-Din Al-Anni's work was not limited to legal and theological issues. He also composed poems of the type called *Manzūmah*. *Manzūmah* is a religious poem sung as

part of a Sufi ceremony called ḥadra. This religious poem is memorized and sung from memory. Among his Manẓūmah poems, the following couplet is the most popular one:³⁹

بدأت قولي بحمد الله الكريم
بأن وفقنا لدين الإسلامي⁴⁶

I have begun my praise of Allah, the Glorious,
Because he favored us with the religion of Islam.

3.4 His Madhab and Tariqa

The Sunni school of jurisprudence is divided into four sub-schools (*Madhāhib*). These are Hanafi, Maliki, Shafi'i and Hanbali. Each of these is considered equally Orthodox by all Sunni jurists. Jamal Al-Din Al-Anni's Madhhab was Shafi', in which he was considered as *Faqih*.⁴⁰

Al-Anni's Tariqa (a religious order in Sufism, whereby the believer attains to a closer relationship with God) was Qādiriyya.⁴¹ This religious order is a Sufi brotherhood named after its founder Abdulqādir Al-Jilāni, who died in A.D. 1166.⁴² The order is very widespread all over the northern half of Africa. Al-Anni was a teacher in this order among his followers, and spread it all over the country.

3.5 His relation with his community

Jamal Al-Din Al-Anni had a good relationship with his society.⁴³ He was a well-known and popular religious leader who played a significant role⁴⁴ in changing the way of life in Raya and the rest of the country.⁴⁴ Al-Anni was also known for encouraging everybody to fight poverty individually and collectively through hard work.⁴⁵

He gave a Fatwā (theological opinion) that no one should chew "chat" while working. Jamal Al-Din was not only a scholar but also a hard-working and successful farmer, producing more than a thousand quintal of grain annually. Thus he was a role model to his followers.⁴⁶

In addition to this, Jamal Al-Din Al-Anni also brought about a significant change in the Oromo people by teaching them the general rules and principles of Islam, which led them to abandon the worship of trees and stones for the worship of Allah.⁴⁷

3.6 His conflict with Emperor Yohannes IV

Yohannes IV tried to convert the people of Wallo to Christianity forcibly.⁴⁸ He ordered the building of churches in every corner of the region and also undertook mass conversion of Muslims.⁴⁹ Those who resisted were killed.⁵⁰

This was particularly the case in the first few years, between 1878 and 1882, after the process of conversion was started.⁵¹ Areas inhabited by those who refused conversion were devastated over the course of several campaigns launched particularly against Wallo. Yohannes's earliest campaign in Wallo in order to implement the new edict was in A.H. 1295-96/1878-79 A.D. According to local sources, in that year in collaboration with Rās Mikāēl, Yohannes ravaged Yajju and Raya, and many 'ulamā' and jurists who refused to convert were either killed or had to flee to save their lives. Among those who were forced to leave their homes was 'Jamal Al-Din Muhammad Al-Anni',⁵² who died at Korame in Yajju in 1882.⁵³

Shaikh Al-Anni was over one hundred years old, which made his flight and suffering extremely painful. It was in this situation that the Shaikh came to compose the following verses, by way of communion with the Almighty.⁵⁴

1. زينو نبي زينو نبي يا حبيبي سلام عليك
2. فيض الرحمة أصل الوجود⁵⁶ أنتم زين سر الوجود⁵⁷
3. طابت بكم بقاع الأرض⁵⁸ قد أشرقتم كل الوجود
4. طاف طيف المحبوب⁶⁰ هيجني نسيم الود⁶¹
5. يا كعبة التجلي ويا طور التجلي فجد لي بالتلمي
6. قد عاداني دجال الوقت⁶⁴ فانظر إليه نظر المقت⁶⁵
7. لقد كنت بين الكفار⁶⁶ فأغثنني خير الأخيار⁶⁷
8. أنتم زين ملاذ الأمة⁶⁸ انظروني بعين الرحمة
9. يا طراز الحجاز وعلم المفاز وسبب الجواز

1. O Prophet of merit, O Prophet of merit, O my beloved, greetings to you;
2. You are the splendor of the universal secret, the flood of mercy, foundation of the universe,
3. The world is made pleasant by you, the whole universe is brightened by you.
4. The apparition of the beloved is walking about. The breeze of love has aroused me,
5. O Ka'aba of revelation, O Mountain of revelation, O grant me fullness.
6. Time, the Deceiver, has set himself against me, O look upon him with a look of loathing.
7. I was among heretics; O help me, O best of the best.
8. You are the splendid refuge of the people; look upon me with a merciful eye,
9. O model of Hijaz, and the symbol of success and the cause of the possible.

Chapter 3 End Notes

1. Shaikh Mohammed Tajuddin, unpublished ms.
2. Informant: Shaikh Abdella Idris.
3. Idem.
4. Informant: Shaikh Tajuddin Ahmed.
5. Idem.
6. Idem.
7. Informant: Haji Mohammed Tajuddin.
8. Informant: Abba Raya Abba Boigu.
9. Informant: Shaikh Junayd Abd Al-Jalil.
10. Informant: Shaikh Yusuf Mohammed.
11. Idem.
12. Idem.
13. Informant: Shaikh Abdella Idris.
14. Jāmi‘u Al-Fatwa 1424 A.H/ 2004 A.D., p.1.
15. Ibid.
16. Ibid.
17. Ibid.
18. Informant: Ahmed Nurye.
19. Idem.
20. Idem.
21. Jāmi‘u Al-Fatwa, p. 4.
22. Ibid.
23. Ibid.
24. Ibid.
25. Ibid.
26. Ibid.
27. Ibid.
28. Ibid.
29. Ibid.
30. Ibid.

31. Shaikh Tajuddin Ahmed.
32. Jāmi‘u Al-Fatwa, p. 4.
33. Ibid.
34. Ibid.
35. Ibid.
36. Ibid.
37. Ibid.
38. For this text, see the MA thesis of Saeed Ahmad Mohammad (2009).
39. Informant: Shaikh Mohammed Tajuddin.
40. There is a difference between *‘ilm* “knowledge” and *fiqh*. The latter requires the exercise of independent judgment. A man may be very learned, *‘alīm* (pl *‘ulamā’*, commonly called ulema), but to be a *faqīh* or jurist he must have the quality of independent judgment. Jamal Al-Din Al-Anni was a *faqīh* in the Shafī school where he was a teacher and considered a man with very broad knowledge. Informant: Shaikh Mohammed Tajuddin.
41. Ibid.
42. Trimmingham 1976: 239.
43. Shaikh Tajuddin Ahmed.
44. Shaikh Faydu Mohammed.
45. Idem.
46. Idem.
47. Shaikh Tajuddin Ahmed.
48. Asnake Ali.
49. Ibid.
50. Ibid.
51. Hussein Ahmed.
52. Ibid.
53. Ibid.
54. Shaik Abdella Idris.
55. Shaikh Tajuddin Ahmed.
56. Shaikh Yusuf Mohammed.

57. Idem.
58. Idem.
59. Idem.
60. Idem.
61. Idem.
62. Idem.
63. Idem.
64. Shaikh Ahmed Mantiq.
65. Idem.
66. Idem.
67. Idem.
68. Shaikh Yusuf Mohammed.
69. Idem.
70. Idem.
71. Idem.

Chapter Four

Philological description of Kitab Al-Fatwa

In this chapter the basic philological features of the ms of Kitab Al-Fatwa will be described, together with an analysis of the content and a partial translation.

4.1 General Features of Kitab al-Fatwa

A. Language

Kitab Al-Fatwa is written in Arabic from the beginning to the end, with some admixture of loan words from Amharic and Oromo. Here are some example. **A)** Oromo: gubadana (f.7v), motaja (f.7r), `agamsā (f.12v) “a wild thorny bush with edible, sour fruit”, sēra (f.17v) “law/rule”, ṭumtu (f.13r) “name of a days of month”, dīga (f.12v) “blood”, `ayāna (f.12v) “divinity or holy day”, gādulā (f.12v), dullati (f.12v) “old cow”, qunbūrah (f.7v) “name of a day of the month”, `anjašā (f.5r), šaṭṭa (f.5r), dadisā (f.7v), `irecha (f.14r) “ritual performed under a large tree”; and **B)** Amharic: ma`tab (f.6r), wadāja (f.7v) “a meeting of Muslim shaikhs to thank, praise or pray to Allah”, `abbāgar (f.7v) “the leader of the wadāja”, and qimḥah (f.7v) “the ceremony/process of chewing chat”. (I was unable to determine the meanings of some of these words, but they sound Oromo.) It is interesting that the letter ج, which is normally used in ajemi to indicate the sound[g], also appears in the spelling of the Amharic loan word wadaja, where one would expect regularج .

The fact that such words as “`irecha”, “ma`tab” etc. appear in the ms indicates that the ideas entertained by people who submitted their inquiries to the Shaikh originated in the direct experience of the local population.

There are also some rare words, such as the following: mutuga (f.7r), maskina (f.7r), liḡan(f.24r). These words sound like Oromom, but I was unable to find out what they mena. The Arabic of the manuscript is of good quality. Though the language is clear and of a high standard, the style is sometimes somewhat awkward. There are also some occasional minor

mistakes; for example, fem-plural concord (not fem-singular for an inanimate feminine – plural noun (f.1v lines 11-12). There is also occasional gender inconsistency; thus the word *balad* “country” is treated as fem-singular and masc-singular on successive pages (f.3r lines 11-12, f.3v line 1). The book also contains some occasional unusual orthography that is not normally used in contemporary Arabic writing. For example, *fi man* is written as one word (f.2r line 7), and there is some non-standard usage regarding the “chair” (*kursi*) of the *hamza*. Once a *hamza* is written over an *alif* in a word that has no glottal stop (*rawā-hu*, f.11v line 5). Once or twice there is a mistake regarding the dot which is part of some Arabic letters; thus the word *يَحْذِرُ* is written *يَحْذَرُ* (f.5v line 11). At least once, *tā marbūta* (ة) is written as *hā* (ه) (f.7r line 1). Once the word *takhlū* (“it is free (of)”) is written mistakenly with a final *alif* after the *waw*.

The contemporary Arabic writing system does not allow words to be broken across the end of a line, but we do find this quite often in sheikh Al-Anni’s manuscript. In such cases, the last letter on the line is always one which cannot join to the left in standard Arabic orthography (*ra*, *waw*, *alif*, etc.). In some of the sentences a circular-shaped sign is used to separate sentences; occasionally the symbol *∞* is used for the same purpose (e.g. f.7r lines 5,10). In addition to these, all words which are not of Arabic origin are written in red. Occasionally the Arabic letter ط is written above a word; I do not know what this means.

An interesting syntactic phenomenon is seen in the phrase *mā qawlukum* “what do you (plural) say?”, addressed by a questioner to Shaikh Al-Anni (singular). The ending *-kum* is a “plural of respect”, which is not usual in Arabic but is normal in Amharic and Oromo.

B. Composition

Kitab Al-Fatwa was composed by Jamal Al-Din Al-Anni. The copyist of the present ms was his grandson Abduljalil Abdusamad Al-Anni. I have this information from Junayd, Abduljalil’s son; Abduljalil himself died several decades ago.

The informants did not know where the original manuscript is to be found. The ms which is the focus of this study is a recent copy, as can be seen from the paper on which the copyist wrote. It conforms to the kind of paper that was brought in during the Italian occupation of Ethiopia which lasted from 1935 to 1941 (see section 4.2, E. below).

C. Theme

Kitab Al-Fatwa deals with diverse issues concerning nearly every aspect of law. In its introductory section, it addresses three principal and interrelated themes. First, he discusses the basic requirements needed to become an authoritative jurist who can give religious opinions (Fatwa). Second, it delivers a strong warning against labeling someone an unbeliever on the basis of uncertain allegations. As he points out, the right to declare a person a non-Muslim is determined by the Sharia itself. Third, it deals with the rights of a Muslim as prescribed by the Sharia.

The ms then passes on to deal with 68 issues that were submitted for his legal opinion. Of these 68 questions, twenty-four address issues related to marriage contracts, inheritance, and appointing persons to act as judges. The remaining 44 issues are related to everyday life and customary law, especially as regards un-Islamic practices in the society, like *Irecha*. As part of his question, the questioner would sometimes also ask about a point of Arabic grammar.

D. Handwriting

The ms is written in Naskh handwriting, a style which is very clear, neat and easily readable. It is a type of writing which is widespread among the Ulema of north Wallo, especially in Raya (Kemal Abdulwehab 2007:30). An interesting feature of the manuscript is that kasra and fatha are written as flat horizontal lines.

E. Writing material and Ink

The manuscript was written using a traditional pen called *meqa*, which is prepared from bamboo. The ink is of two types, black and red. The red ink is used in the manuscript for the first one or two words of each question or answer, so that they could easily be differentiated from the rest of the text. The black ink is used elsewhere.

4.2 Specific features

- A. Title:** The title, mentioned on the first line of the ms, is *Kitāb Al-Fatāwī* (in the plural). I will refer to it in this thesis as *Kitab Al-Fatwa*.
- B. Date:** *Kitab Al-Fatwa*, like some other Islamic manuscripts, has no colophon. (There is a colophon at the end of the entire book, but it has no date.) The text must have been written during Shaikh Jamal Al-Din's lifetime, but we do not know when.
- C. Dimensions:** 30 x 19 cm.
- D. Binding:** An attached cardboard (30 x 19 cm) with a vellum binding made from sheepskin.
- E. Paper:** The entire book is written in a notebook of blank ledger forms for recording the receipt and dispatch of shipments, with ruled columns with printed header-labels in Italian. The notebook pages occur in pairs (recto/verso): the recto bears a printed page number and is labeled SCARICO ("unloading"), while the verso has no page number and is labeled CARICO ("loading"). The scribe has written on the pages upside-down, i.e. the Arabic text begins at the bottom of the ledger form; the printed header-labels are thus at the bottom of the Arabic page. (It turns out that the term "recto" identifies the same physical page, both for the Arabic text and the upside-down Italian text.) Catchwords are added at the bottom of every (Arabic) recto page.
- F. Number of folios:** My copy of *Kitab Al-Fatwa* is bound in a book together with two other manuscripts. *Kitab Al-Fatwa* comprises the first 61 folios, from page 1 to 122. It is followed by *Kitab Al-Tārīkh*, from page 123 to 149, and then by *Kitab Al-Murīdīn*, from page 151 to 183. The entire book contains 92 folios.
- G. Lines per page:** Constant, 15 lines per page.
- H. Owner:** The manuscript is now in the possession of Shaikh Junayd ibn Abduljalil, the great-grandson of Jamal Al-Din Al-Anni. This name of the owner is written explicitly on f.1r.

I. Ending:

يا إخواني وبيا من ينظر هذا الكتاب ويطالعه بالله عليكم إذا رأيتم اللحن أن تصلحوه ولا تعيبوني فإني ما وضعت لعلمي بل وضعت مع جهلي للعة التي ذكرتها في أول الخطبة أني جاهل مسترشد لست أهلا تلك المعاني.
وصلى الله على سيدنا محمد وعلى آله وصحبه وسلم تسليما دائما أبدا إلى يوم الدين والحمد لله رب العالمين

O my brothers, and whoever looks at this book and reads it! If you see a mistake, you should correct it, and do not blame me. For I didn't compose it [this book] on the basis of my learning, but rather despite my ignorance, for the reason that I mentioned in the introductory section, that I am an ignorant man seeking guidance, who is not qualified for such matters. And may Allah bless our master Muhammad and his family and companions, and grant him eternal salvation until the Day of Judgment. And praise be to Allah, the lord of creation.

4.3 An Analysis of the Contents

There are three general introductions that make up the first 8 pages of Kitab al-Fatwa. All three introductions give explanations for different topics. The first one explains that any one who gives Fatwa should have a sound knowledge of Islamic law. The second introduction discusses 'Takfir', that is, how and when a person is considered an unbeliever. The third introduction states that any person who testifies to the "two testimonies"— the oneness of Allah, and Muhammad's prophethood —is a proper Muslim and has the same status as any Muslim.

Next, we find the first question with its answer, the second question with its answer, and so on for all 68 questions. In order to understand what the content of this book is, we need to look at the different categories of questions that are given answers. Note that the questions in Kitab Al-Fatwa are not grouped together by topic, but are scattered through the manuscript; sometimes 2 or 3 successive questions may deal with the same theme, but not more.

Customary Law and Traditional Practices

Labeling a person who believes in the "two testimonies" as an unbeliever is wrong even if the person doesn't pray and fast in the obligatory way. In fact, in Oromo traditional culture there are many practices which can be considered "un-Islamic"; nevertheless, people who engage in these practices remain Muslims, although Al-Anni urges them to change their way of life. For example, in the culture of the Oromo people, men exchange their wives temporarily, which is wrong. When they chew "chat" in "Qimha" and say "I have seen such and such things (in a dream), therefore slaughter this or that animal", that is wrong. Traditional Oromo society has a prohibition on performing marriages and praying on certain taboo days of the month; this too is wrong. In general, it is also prohibited to be judged by

Oromo customary law since it is based on cultural belief and not on Islam. However, if the opposing side insists on using this law, there is no harm unless it creates a problem for one's belief. But in all these cases, the person remains a Muslim.

Medical Ethics

Those who falsely claim to be physicians are responsible for any damage they cause to people. However, if a doctor hurts his patient unintentionally, it should not be taken as a crime. It is noted that doctors should be very careful in all their actions.

Muslim Intellectuals

If there is discrepancy between what a scholar writes and what he says, the written materials should be given priority. However, the written idea is acceptable if and only if it does not contradict the Shari'a.

As long as they are called scholars, Muslim intellectuals should be responsible persons and ethical in their judgments. They should not label things as permitted or prohibited based on their individual feelings.

A scholar calling the people towards the right way of life should change the place where he is living if the people reject his call, provided that he has the means of livelihood.

Family Law

In the case of marriage contracts, if the couples do not invalidate the contract and it is based on the agreement of both parties, it is valid.

Another question concerns a marriage contract of a mentally retarded person. This contract will be valid if and only if the person's guardian has participated in the contract. It is also prohibited for such a person to engage in contracts involving business transactions.

In Islam, a normal marriage contract must be announced publicly. On the other hand there is also a kind of marriage contract which is not publicized. This type of contract is valid, according to the Shafi'i school of thought, but only if the bride's father and two witnesses are present. Because it is not publicized and is performed only by these limited numbers of people, it is called a concealed contract.

Questions Concerning Heaven

If the question is asked whether there is day and night in heaven, it should be realized that day and night are natural phenomena only on Earth. Therefore, there is no such concept as day and night in heaven.

Another question which is given explanation is, "Which creatures are better, the heavenly angels or the earthly humans?" Many scholars believe that angels have a higher rank than humans. However, some scholars state that since the prophets are among the earthly creatures, human beings have a higher position than angels.

Another question concerns the cause of earthquakes. They happen on the order of God through Gabriel. They happen only on specific occasions and places based on God's will.

Questions Revolving around Language

Written material, whether literary or non-literary, should be written in clear and easy language.

One question concerns the Arabic word *إنما*, i.e. whether it is a preposition or a noun. A lengthy answer given.

Questions on the Proper Way of Reciting the Holy Quran

According to Imam Nawawi there are seven ways of reciting the Holy Quran (the "Seven Readings", *al-Qirā'āt al-Sab'a*) i.e. seven (minor) variants of the Quranic text. The rest are forbidden. However, according to Bagawi there are ten ways of reciting the holy Quran. He thinks that with the exception of these, the other ways are forbidden. Shaikh Al-Anni does not say which approach is better.

Questions on Appointment of Administrators

Whenever there is instability in a country, people from the judicial body will be appointed to rule the country. Until stability is restored in the country, the appointed body's instructions will be in effect. However, if the appointed body became corrupt and irresponsible, the appointers should remove the corrupt regime.

In the same way if a Mufti is appointed he receives a salary and can accept gifts. However, he should not accept a gift which is given as a bribe, i.e. in order to make him give a reply which pleases the giver.

Questions Revolving around Crime

No one is allowed to take other's property without the permission of the owner.

If a person indulges in major crimes and does not repent, it is wise to imprison him. However, if he repents and does good deeds, he should be treated in the best manner and accepted as a brother.

Religious Questions

One issue in this part deals with a person's relationship with his mother and children. He should treat his mother in the best manner and teach his children good manners. It also explains that people should serve God as best they can. It stresses that ultimately it is only God who is able to hurt or benefit people. If a person helps or hurts another person, it is by God's will.

Another question dealt with in this part is about the Prophet's ascension. There is also a discussion about the grave of Ali, the companion of the Prophet. It is explained that Ali was assassinated by Abdurrahman Muljim. However, the location of his grave is not known.

In general, the content of Kitab al-Fatwa is as stated above.

Chapter five

Partial Translation of the Manuscript of Kitāb Al-Fatāwa

By Jamal Al-Din Al-Anni

[2] *In the name of Allah, the Beneficent, the Merciful*

Praise be to Allah who has chosen Islam for us as a religion, he chose it for Himself and dispatched with it the best of his creations, his Prophet and chosen Messenger. He does not wish unbelief from His servants, but wishes faith and thanks from them; He rewards them with Paradise and delight in the eternal abode. Grace and peace be upon our master and protector Muhammad, who in the strictest terms forbade unbelief, other sinful acts and any imitation of the adulterers and the unbelievers. May grace and peace be upon his righteous relatives and companions, who worshipped God faithfully as true believers, defenders of His true religion. And they promulgated to us the knowledge of his Sharia till it reigned in all places, they illuminated his Sharia until it reigned in all times like the brightness of the sun in the middle of the day.

I have been asked by some who I think are virtuous, righteous and upright, about questions that are of extreme difficulty to me to deal with, as they concern events that only occurred in this area of unbelief, error, ignorance, heresy, and excess. I do not find any guidance from the Quran or the tradition, or any pronouncement by any Imam relating to many of the questions, in addition to my being unqualified to trace the branches back to the [3] root and to match one related case with another.

But as I cannot reject his request in the absence of any dependable authority to whom I can refer the case, I wanted to help by responding to the question to the extent of my knowledge – may Allah make things easy for me and for him, and may He keep difficulties away from us both. I would say that the answer to these questions needs introduction.

First Introduction

First, giving fatwa [responding to questions of legal nature] must not be done except by a qualified person, for it would be forwardness and arbitrariness regarding Allah's law, like riding on the back of a blind man, or random rashness, with the result of misleading oneself

and others. There is disagreement about who counts as a qualified person (to respond to religious questions). Some say that he must be an absolute *mujtahid*. But the correct view is that an “orthodox *mujtahid*” (*mujtahid al-maḏhab*) is eligible to give fatwa. According to Jam‘u Al-Jawāmi‘ in its commentary on Al-Jalal Al-Muḥalla, a person who is capable of weighing the evidence, even if he is not a *mujtahid*, is eligible to give fatwa in the manner of an [orthodox] *mujtahid*, if he acknowledges his source. According to Al-Amadi, the *mujtahid al-maḏhab* is eligible to freely give fatwa based on the orthodox school (*maḏhab*) of his Imam.

Third [sic], when necessary, he is deemed eligible even in the absence of a *mujtahid*, until another *mujtahid* can be found.

Fourth, the fatwa imitator (*muqallid*) is eligible even if he himself is incapable of weighing the evidence, for he is a transmitter of his Imam’s fatwa although he might not be a perfect transmitter. This is in brief the case in recent times.

The best opinion is that as for an absolute imitator, relying on the orthodox school of the Imam he imitates, his fatwa is indeed a mere reporting, as [4] some recent scholars say. And if the mufti is an absolute imitator and the case/question of the fatwa is something new which has not been dealt with by previous scholars or no Imam has expressed his views about it, he is forbidden to give a fatwa as he is not qualified to make legal inference and judgment; the same would be true if he expressed a subjective opinion and did not see whether it is reliable or not. Some scholars are reported as saying that knowledge comes from the heart and not from texts, including the reporting of what is reliable from the scholars. Some scholars said that whoever takes knowledge from texts is misguided and misguides others. Hence, Al-Nawawi (may Allah’s mercy be upon him) said that whoever finds a case in ten books is [still] not eligible to give fatwa about it on the chance that those books may have followed a wrong way or relied on weak evidence. But as he said in his book *Tuhfa*, there is agreement that one may report from reliable books and quote the authors even if there is no direct link between the author and the reporter. Of course one may not quote from a copy of a book unless the reporter is convinced of its correctness, or there are many copies, so that the probability of its correctness is heightened, or he finds its wording well organized, provided that he is an expert and clever enough to identify the worthless and corrupt parts. In the absence of these conditions, he can

say: "I found thus and so", and it is understood from this that if the absolute imitator sees a statement by some considerable Imams in reliable books and if he relies on the author [5] of that book as well known, sound, clear, and a follower of the most correct way, then he can give fatwa on the case. This is regarding the established tradition. And as for the researches of recent scholars, if there are points of difference regarding which recent shaikh should carry greater weight (in his legal opinions), they deem it permissible for the mufti to give fatwa according to whichever of them he wishes. But he should take into consideration the interest (welfare) of the public, giving a strict fatwa for the strong believer and a less strict fatwa for the less strong believer, so as to prevent his departing from the Sharia teachings completely because the words of the Imams relating to common law are like the words of the holy Quran and the tradition (Sunna). It is also stipulated that one must ask for a fatwa if one is involved in a case about which he does not know the divine verdict, if he can find a qualified mufti in his area; otherwise, he is obliged to travel to where he can find the right mufti, and he should not engage in the case without first asking, before knowing the divine verdict about it. Some scholars stated that it is forbidden (haram) to reside in a country where no mufti is found. Some stated that a scholar who is well versed in the madhhab of his Imam and has a multitude of texts to consult can substitute for the mufti. If a person cannot find a mufti in his country and he is incapable of traveling for physical and legal reasons, then the verdict of that case for him will be as the case before the revelation of the Sharia.

In the *Tuhfa* it says that Ibn Al-Ghazari reported [6] that it is forbidden to reside in a country where there is no mufti. This is subject to consideration. Regarding consideration of the distance between the locations of two muftis— to be bound by the distance which requires the shortening of prayers during travel [see Quran 4:101] — the prohibition holds in particular for a country whose distance from the nearest mufti is greater than that required to shorten the prayers. As for the generality of the prohibition, it is necessary to limit it to cases where there is no one in the country who knows the general law and not just special cases, for it has been determined that it is this [the general law] that must be known and studied, so that it may be utilized in case of need.

Second Introduction

The judgment of calling a person an infidel (takfir) is difficult due to the danger of making a mistake about it and because there are warnings against wrongly calling a Muslim an unbeliever. To include an infidel in the community of believers, and to exclude a Muslim from it, is a serious crime in Islam. Therefore, some magistrates said that the mistake of including a thousand unbelievers in the (Muslim) community is less serious than the mistake of shedding even one cupful of blood of a single Muslim. Calling a Muslim an unbeliever in a country where that decision will lead to targeting his life and his property is more difficult than in a country where this is not the case on due to the lack of strength of the Sharia. Some magistrates said that passing a judgment calling a Muslim an unbeliever requires first of all thorough research due to the obscurity of the case, and then a special report due to the severe danger involved in takfir. Therefore, the Imams have always been very cautious about takfir both formerly and today, especially the Imams of the Shafi'i and Maliki schools of law (madhab).

And when some ignorant people wish to argue that something is takfir which does not truly involve takfir, this is simply to frighten the people and to intimidate them. It is great ignorance and insolent irresponsibility, because [7] any addition or attempted addition is considered an attempt to correct the lawmaker (Allah) and a departure from the law, which is in itself a sufficient ignorance and error. Frightening and intimidation can (legitimately) be based only on external evidence, not on intentions. This may perhaps be admissible according to Quran and Hadith, but not in jurisprudence and fatwa, which are meant to clarify halal and haram (what is permitted and what is forbidden) and to teach the people about the laws of their religion, including whatever is obscure in it, as stated by some scholars. For the religion is the truth and the truth is firm and immovable, strong by itself and in no need of strengthening by falsehood.

With regard to the principle which the ignorant appeal to, that whatever is viewed by Muslims as good is good, this is applicable only where it does not contradict the Sharia, for it is limited to those Imams eligible to make *ijtihad*. As the Prophet (peace be upon him) said: whoever establishes a good (legal) precedent, he will be entitled to the reward of his deed and of those who follow it. Some Imams said that this is a general authorization for *mujtahids*. Of course it is permissible to distance oneself from sinners, even forever so long as they do not repent, especially if that distancing will be of religious benefit to the shunner or the one shunned. The example of this is the shunning by the prophet (peace be upon him) of Ka'ab Ibn Malik and his

two friends Marara Ibn Al-Rabi' and Hilal Ibn Umayya when they failed to accompany the Prophet in the battle of Tabuk; Muslims have isolated each other for such deeds, both formerly and today.

Third Introduction

Whoever verbally testifies the two testimonies (*shahadas*) [i.e., there is no God but Allah and Muhammad is the messenger of Allah] has safeguarded his blood and his property; the laws applicable to Muslims are applicable to him [8] regarding worldly matters such as the validity of marriage, the lawfulness of the meat slaughtered by him, performing prayers upon his death, burial in a Muslim cemetery and so forth. And anything beyond this which is a condition for correctness of the faith concerns only matters of the hereafter. The same is true for a person who has been accepted as a Muslim in his childhood or by affiliation or by residence.

In the fatwas of the magistrate Imam Al-Shihab Ibn Hajar (may Allah be pleased with him) it is stated briefly that if we link together the general and the particular, the faith (Iman) will be distorted through distortion of one of the two, whereas if we limit ourselves to the general, the picture will not be distorted through the distortion of the particular. And all this concerns what is useful in the relationship between him and the Almighty. Regarding what safeguards his blood and his property, it revolves around the verbal utterance of the two testimonies. Hence our Imams say that a condition for enjoying the benefits of Islam in the hereafter is, along with the two testimonies that the heart should believe fully in the oneness of the Almighty and in the prophets, the books and the Day of Judgment. Allah Almighty knows best.

Whoever denies a point on which there is an established religious consensus which is definitely well known and open to people who have access to the scholars, so that they know it intuitively without the need to resort to reflection or reasoning, he is considered an unbeliever. The same holds for a person who doubts such a point. But for those who do not have access to the scholars, they will only be considered unbelievers for denying or [9] doubting if there is an unbroken tradition [*tawātur*] as to whether it is required permitted, or forbidden. A denunciation by one or more persons will not suffice so long as the chain of tradition is not

long enough to count as an unbroken tradition. The same is stated in the fatwas of Al-Shihab Ibn Hajar (may Allah be pleased with him). Given this, I would say to the questioner—may Allah preserve him and lead him and keep him from ignorance—what do you say regarding some people who have testified the two testimonies and yet who do not perform the prayers nor fast nor pay the zakat? Some fast, but at the same time do the sinful deeds of the unbelievers such as divination by the limbs of a cow from its tail up to its nose upon slaughtering it for their affairs such as *anjašā*, *šaṭṭa* and so forth, and examining the fat that they take from the belly of the slaughtered animal and suspending it on the neck. The answer has already been mentioned in the introductions: whoever testifies the two testimonies (*shahadas*) will be considered a Muslim regarding external worldly matters and his blood and property are protected, and we do not consider him an unbeliever for omitting prayers and the like unless he denies its being an obligatory deed (*wajib*) or he doubts it after having known about it from contact with the scholars or from an unbroken tradition, as stated above in the introductions drawing on the fatwas of Imam Ibn Hajar (may Allah be pleased with him). This is despite the fact that some scholars have considered as an unbeliever anyone who denies (the fundamentals of Islam) or denies some of its preconditions that are commonly agreed upon such as ablution, or who omits them out of disregard, scorn [10] or the like. But if the person denies them and rejects the appointed times for doing them, let him be killed as punishment, even for a single infraction, after being asked to repent by the authorities and being told that it is obligatory. And a person should also not be considered an unbeliever for omitting fasting, zakat, and pilgrimage, nor for committing sins against Islam such as murder or adultery, nor for committing the deeds and sins of the unbelievers, except in cases where those deeds involve offering worship to other than Allah (ascribing partners to Him) and glorifying other than Him, and disrespect for Allah and his sacred names even if that is only through saying His name in the diminutive form, unless he did not intend disrespect by this.

As is reported in the fatwas of Al-Shihab Ibn Hajar regarding those who speak in rhyme during *dikr*, if it is done in an affected and exaggerated manner it is deemed reprehensible as it is inconsistent with humility; otherwise it is acceptable based on what they (scholars) state regarding this same point in prayer. Indeed, it may happen that while speaking in rhyme, some may say the name of the Almighty in the diminutive form, describing Him as *Allah 'ulay*

instead of *Allah ta 'ālā*. This, when done deliberately, is strictly forbidden; it might even count as unbelief, and some explicitly label it unbelief, which one should be on one's guard against; or scorning one of the messengers of Allah or one of His prophets, even by saying his name in the diminutive form, or scorning his tradition or denying almighty Allah or one of the prophets or openly scorning the law, even if this is done by throwing the fatwa of the Muslim scholars (*Ulama*) on the ground as in Al-Anwar or wearing the clothes of the unbelievers to accompany worship and glorification.

With regard to divination [11] by the limbs of a cow from its nose to its tail, this is patent unbelief. *Anjašā* and *šaṭṭa* are among the ugly practices and hateful customs of the unbelievers. If a Muslim practices them or is present at them without need, he will be affected by it, so that in our opinion it is tantamount to committing a crime or a severe crime and acting immorally (*fisq*). If that is accompanied by such things as glorifying and using this ugly deed for religious purposes, he is considered an unbeliever. The same is true for examining the fat if it is accompanied by glorification of the fat like the glorification of the Almighty book, or practicing religion with it; this too is unbelief. And if not, it is a lie and a fabrication made by merely looking at the veins of the fat, how it is mixed, how it goes up or down, its coarseness or fineness, and its redness. They may add to this a tremendous lie, that the cow had swallowed a book and therefore its fat had become a book. Whoever believes this is considered entirely as an unbeliever. Examining the fat is haram or is unbelief. The same is true for suspending the fat on the neck and wearing it as a collar. But the majority of those who suspend the fat on their necks intend by that to dissociate themselves from the Islamic religion and to embrace unbelief; there is no doubt of their unbelief in that case. In addition, the mere fact of suspending leads to dressing like the unbelievers, like the hanging of a cord around the neck by the Christians (*ma' tab*). The doer of this is considered an unbeliever according to those who believe that dressing like the unbelievers constitutes unbelief in and of itself without anything else added to it. Of course, some of the Oromo chiefs who suspend the fat around their necks and who have secretly embraced Islam [12] told me that they suspend it in order not to be cut off from their leadership position (chieftain) among their community. It is apparent in this case that this does not render one an unbeliever.

Responding to the question by some regarding their (sexual) enjoyment with the wives of others and leaving their own wives for others to enjoy without any jealousy, and if they die practicing these deeds without repenting, are Islamic laws applicable to them such as performing prayers upon their death and other provisions? And if the marriage contract is concluded while practicing these deeds, is the marriage valid?

The answer is that the applicability of Islamic law both in this world and after their death is evident. The validity of their marriage, despite whatever sins they have committed against Islam, emerges from what was mentioned above. Regarding their enjoyment with the wives of other men and letting others enjoy their wives without any jealousy, it is well known that adultery is necessarily haram and that it is the vilest of abominations and the greatest of crimes next to murder, and all religions have agreed on forbidding it. It comes the closest to unbelief except only for murder. If in addition they make this public and leave their wives to others, it becomes still more abominable and hateful. If they deny that it is haram, they are considered entirely unbelievers. In doing this, the Oromos have departed from the circle of rational beings and even from the circle of the animals, as every animal is jealous for the female, except that the pig is said not to have jealousy, which is why its meat is forbidden. Therefore, they are the worst of mankind, indeed even worse than the animals including pigs, in their customs, laws, and nature—may Allah cleanse the earth of their filth and [13] of the likes of them.

Reported in Al-Anwar by Al-Ardabili in the chapter on marriage (*nikāh*), in the course of enumerating the unbelievers, are those who have no book or the likeness of a book, whose animals slaughtered by them and whose marriages are not allowed, such as the *Mabnaḍiya*, who are unbelievers living beyond the river who eat (improperly slaughtered) dead animals and enjoy sex with the wives of others without jealousy. And what is the significance of this?

With regard to the question about a person who says, “I saw (in my imagination) this and that” while chewing *kat* and tells the others to slaughter a cow and the like, saying “I saw you do this, so pray to Allah”, and so forth.

The answer is that if he claimed that this was something that he dreamt while asleep, that could be acceptable as a dream. But true dreams are very minimal in the case of sinners and are rare

in the case of unbelievers, as Al-Qastalani says in his book *Mawāhib*. However, most of what is told by people who chew *kat* is a lie and a fabrication as has been shown by experience. It is mere whispering and deceit of Satan aiming at misleading the people. Regarding his order to slaughter the cow, if he says to slaughter the cow as a means of approaching Allah, and he gives its meat as alms, then this meat is lawful; there is no doubt that prayers and alms are approved actions. If he said "Slaughter the cow for *Muḥja* and *Maskina*, and also do this [14] and that", then the slaughtered animal is considered a dead animal (improperly slaughtered), while that deed is considered haram. Most of what is done by *Wadaja* and *Abbagar* is haram; most of what they practice is among ugly things that lead to unbelief especially during the days of *Qanbura*. Generally, the *Wadaja* is in darkness (*dāj*) and their deeds and words are a joke (*dad*).

It is reported in *Sharh Al-Shihab* by Al-Qādī Al-Qudā'ī from the Prophet (may peace be upon him) that he said: "Joking (*dad*) is not my business". "*Dad*" means jesting or playing. So, you can see the relationship between what they say, (Arabic) *dadi* and (Oromo) *dadisa*, in the two languages. We do not mean by joking (*dad*) the kind of jesting that is permitted, but that which is forbidden. *Gubadana* is like the "mosque of harm" (Quran-9:107), though less harmful, due to the resemblance between the two in various respects, including its being a place of sin where men and women mix and its being "a division among believers and an ambush post of the enemies of Allah" (9:107), i.e. the transgressors, the unbelievers and so forth. "Then let those beware who disobey His commands, lest some trial or a grievous punishment be inflicted on them" (Quran 24:63). For those who return in repentance, Allah will accept their repentance, as He is the Merciful Forgiver. Whoever keeps the divine law (sharia) is protected; whoever supports it is supported.

As to the question, if people wish to slaughter a cow to eat to get strength for battle, or for a guest, or for their families, and they practice divination by its organs as has been mentioned, and they ask a person who is experienced in slaughtering to perform the slaughter with a spear despite the availability of a sword, is it lawful or not? And if [15] the villagers gather and bring out the salt and buy a cow, or else someone gives it to them, and they say "Let us do this for Shaikh Abdulqadir Al-Jaylani (may Allah be pleased with him)" in a cultivated field or under a

tree as is their custom, or at the mosque, or if they did it at the grave for the souls of the dead or at their familiar places, and if they order a man who is skilled in slaughtering to slaughter for them, is this deed harmful or not?

The answer to the first question, Allah knows best what is right, is that if they mean to eat the slaughtered animal or to offer hospitality to a guest and to seek a means of approach to Allah, but if the slaughterer slaughters the cow using a spear and if this is done by someone who treats the deed as a religious observance and who means to glorify the spear, then he is an unbeliever, and his slaughtered animal is considered a dead (inedible) animal because he is an unbeliever. Otherwise, it is deemed halal. However, that deed should be considered haram in our view because he is considered as resembling the unbelievers, and whoever resembles a group of people is considered one of them as reported in the Hadith (tradition). There is no doubt that hospitality to a guest is an approved deed (mandub), including slaughter of an animal. It is said in the Hadith that whoever believes in Allah and the Last Day must offer hospitality to his guest. And it is said in *Al-Jawāhir Al-Maknūn*, as *Al-Hakim* reported from the Prophet (peace be upon him), that whoever slaughters for his guest, that will redeem him from hellfire.

With regard to the second question, if the villagers gather and do what the questioner mentioned [16] and they mean by the slaughter to seek an approach to Allah and to give alms for Shaikh Abdulqadir (may Allah be pleased with him) and to seek intercession with Allah through him by prayer (du'a): indeed, seeking intercession through the friends/patrons (of Allah) is required whether alive or dead. This is supported by the scholars, among them Jamal Al-Din Al-Ramli (may Allah be pleased with him), who states that this practice of theirs is proper and the slaughtered animal is halal unless it is associated with wrongdoing, such as mixing of men and women. It is preferable to do it in the mosque. Doing it in a cultivated field is a heretical act (bid'a), as it cannot be detached from the haram deeds that generally happen in that place. As for doing that under a tree, it is a foul heresy; it may even involve glorifying that tree, and in that case the slaughtered animal is to be considered a dead animal (inedible). The same is true if they intend the slaughter as a means of approach to the Shaikh and glorifying him and getting his blessing through the slaughter, as it is said in the *Zawājir*.

The same is also true with regard to their customary practice of slaughtering for the shaikhs as a means of approach to them; this is haram, and the slaughtered animal is considered a dead animal (inedible). The same is true for slaughtering for *Badgaz*, who is probably the chief of the Jinn in the country; this is why most of the places where the slaughter is made are places of the Jinn, as we have seen by experience. This is considered among the deceptions practiced by the Jinn on mankind, as Allah said of them: "Indeed, there were persons among mankind who sought protection with persons among the Jinn, but they increased them [17] in further error" (Quran 72:6). You will find out in some detail in the answers to the next questions that slaughtering for the Jinn to seek an approach to them is not allowed.

Visiting graves is an approved deed, especially those of good men. The answering of prayer (du'a) made at the graves of good men has been proved by experience. But slaughtering at their graves is condemned and reprehensible, for it is prohibited and may even be harmful to them. But if they make the slaughter as a means of approach to Allah, as they claim, the slaughtered animal is deemed halal, but they are not entitled to reward or merit, as doing a reprehensible deed (*makrūh*) is not subject to reward. And if they did it intending to seek a means of approach to the occupants of the graves, the meat of the slaughtered animal is haram.

With regard to the question if a physician prescribes a cow as a remedy for the patient and they walk the cow in circles around him three times or five times or seven times and then slaughter it, is that harmful or not?

The answer, Allah knows best what is right, is that treatment by giving alms is an approved act, including slaughtering an animal if it is meant as a means of approach to Allah for the recovery of the patient, as has been reported in Hadith (tradition), "Treat your patients by giving alms".

I do not see any objection to the above-mentioned walking in circles, as that is considered a mere treatment and involves no association of partners to Allah (*shirk*). But it is an innovation (*bid'a*). Bid'a is of two kinds: the first goes against sunna (Orthodox behavior) and the second is not part of sunna. Among the latter kind, some things can be brought back to sunna by looking into the foundations of sharia. The first kind is condemned. This [18] walking in

circles has been tried many times in treating patients and the patient recovered after it. The animal may fall down while walking around before the process is completed and it lies down and the patient recovers. That may happen if the illness is caused by the Jinn. The permissibility is supported by the generality of the saying "Whoever desires to benefit his brother, let him do so", which is used by some to justify the treatment by magical incantation of non-Arabic names whose meanings are known and which are free of any danger of unbelief, as reported in *Al-Mawāhib* by Shihab Al-Din Al-Qastalāni (may the mercy of Allah be upon him). The correct judgment, as has been reported in *Ziyādat Al-Rawḍa* and others, is that treatment by impure means is allowed except for alcohol. According to the fatwas of some of our Imams, it is allowed to seek treatment by drinking blood and the like and splashing oneself with it if prescribed by an honest physician and in the absence of pure medicine which might take its place.

However, there are many ignorant people who walk the cow around a healthy person in order to prevent the occurrence of what has been decreed for him in the future, based on their seeing a warning vision or if they are informed of that by an informer. In this case, if this is their purpose, it would be unlawful. This is because it is meant to ward off one's decreed fate, which is unthinkable, as nothing can prevent what Allah desires and decrees: what He wishes happens, and what He does not wish does not happen; and to try to cause this warding off through the mentioned method is *haram* [19], as believing this absolutely will cause them to fall into the danger of unbelief.

Saying prayers and giving alms in order to ward off an affliction and to seek the patient's recovery by drugs/medicine is permissible from the viewpoint of its legality, and it is considered the wisdom of the Wise and Learned One (Allah). He who controls (all men's) destiny (Allah) has ordered us to say prayers; He created medicine as He created illness as is reported in the Hadith.

With regard to what the questioner asked, 'If the physician prescribed', there is no physician who is knowledgeable about medicine in this area. As to the (proper) judgment in this regard, Al-Shihab ibn Hajar (may the mercy of Allah be upon him) was asked about a man who does

not have complete knowledge of medicine, and who is visited by patients seeking treatment. He then looks up in the medical books, and prescribes what he would think medically fit to the nature of the disease; yet he does not know how to diagnose the patient's disease, but he just tells his patient "Do this and that", upon which some will recover and some will not. What will be the judgment in such a case, and what will be the judgment about the treatment/medicine? He responded—may Allah grant (us) the benefit of his knowledge and blessing— saying that a person who reads the medical books and tells the people what is in them without being able to diagnose the disease would blindly risk the destruction of the bodies of the people and causing additional harm to them. This is so because a person who is incapable of diagnosing the disease and has no knowledge of the generalities of medicine is not eligible to deliver an opinion about any of its particulars, as the particulars can only be precisely apprehended in terms of the generalities. That is why some brilliant physicians said that they had prescribed a "killer" for the jurists: that is, they find that a certain substance is a cure for a certain illness and they inform themselves about it for that [20] illness, ignoring the possibility that there may be another hidden illness in the body which opposes the working of this medicine, so that what they thought useful will actually be a deadly killer. In that case that medicine is only good for a person in whose body the opposing agent is absent. And only a skilled and experienced physician will thoroughly understand this, who has taken his knowledge from the heart and not from texts. This physician, if he prescribes a medicine thinking that it is useful and if that medicine turns out to be harmful, he will not be liable except for a great sin and severe punishment in the Hereafter[!]. Therefore, he should fear Allah and refrain from such deeds. Otherwise, he will be in great danger. The remuneration he would (normally) take from patients is forbidden to him, as they only granted it to him thinking that he knew what medicine he was prescribing, and the like. Had they known that he was sinful and subject to punishment for his deeds, no one would have given him anything; hence, he is taking the remuneration deceitfully, falsely, unjustly, and in hostility. Allah knows best.

Regarding slaughtering animals for the Jinn, if the slaughter is meant as a means of approach to Allah to ward off their mischief, it is permissible and good; but if it is to seek a means of approach to them (the Jinn) it is haram. In the fatwas of a Shafi'i scholar of Medina in his answer to the question regarding a person who believes that the Jinn do both harm and benefit,

and who vows many vows to them, and slaughters animals for them: what is the judgment regarding his slaughter?

The scholar responded that whoever believes that the Jinn do both benefit and harm should first of all believe that there is absolutely no one who can do harm [21] or do benefit save Allah, other than whom there is no god; and that there can be no harm or benefit from anyone to anyone except by the power of Allah; and that no one has the power of doing either harm or benefit except through Allah. If in reality no one has power except Allah, then no one except Allah, be it a human being or Jinn, is capable of bestowing either harm or benefit, as stated in the Quranic verse: "Say: who then has any power (to intervene) on your behalf with Allah, if His will is to give you some loss or to give you some benefit?" (48:11), meaning that no one except Allah is capable of doing harm or benefit to you, which is indicative of the fact that no Jinn or human being or any other creature is capable of doing any harm or benefit to anyone without the will of Allah.

As to the judgment concerning making vows to the Jinn, it is clear from the saying of the Prophet (may peace and mercy be upon him), "No vow is allowed concerning sins against Allah" (reported by Muslim). And whoever makes vows to the Jinn does not do this for the sake of Allah but for the sake of the Jinn and to seek a means of approach to them, based on his false belief that they do benefit and do harm; (in fact) as has been mentioned, they can neither benefit nor do harm, and believing that the Jinn can do benefit or do harm without the will of Allah is haram. Making vows to the Jinn based on this belief is a sin on the one hand and a means toward sin on the other; for perhaps fate will have chanced to grant him the attainment of some of his goals in making his vow, and he therefore thinks that he obtained it because of the Jinn and not because of Allah. He thus corrupts his belief more and becomes a cause of misguiding and misleading others and dragging them into Satanic whispers so that they gradually become more and more involved in believing [22] a corrupt and forbidden belief which is against the Quran and the Sunna. Therefore, making vows to the Jinn is incorrect and not allowed.

Regarding the judgment about slaughtering animals for the Jinn, Shaikh Ibn Hajar reported in the *Tuhfa*, in the Book of Hunting and Slaughter, that if someone slaughters seeking an

approach to Allah so as to ward off the mischief of the Jinn from him, it will not be deemed haram; but if it is done seeking an approach to the Jinn, it will be haram. The same is said for slaughtering an animal for the *Ka'aba* or upon receiving a chief/leader. It has been stated in authentic Hadith that whoever slaughters an animal for other than Allah is cursed (reported by Ahmed from a Hadith reported by Ali—may Allah be pleased with him). Al-Khatīb Al-Sharbini—may the mercy of Allah be upon him—reported in *Al-Sirāj Al-Munīr* about the Quranic verse: “Any (food) over which a name other than Allah has been invoked” (16:115), that is, slaughtering and invoking a name other than Allah such as an idol or cross or Moses or Jesus or Muhammad (may peace and mercy be upon him) or the *Ka'aba*; all of these are haram, and is not permissible to eat an animal slaughtered in this manner. If, in addition to this, he means to glorify and worship the one for whom the animal was slaughtered, it is unbelief. Al-Bayhaqi reported from Al-Zuhaidi that the Prophet forbade eating the meat of an animal slaughtered for the Jinn. He said in *Al-Nihāya* that the people used to slaughter for the Jinn whenever they bought a house or dug a spring or built a building, for fear of assault by the Jinn; hence, the slaughter was ascribed to them (i.e., the Jinn). The forbidding is meant to make it haram if the slaughter was made as a means of approach to the Jinn as reported by Ibn Hajar and confirmed by the previous Hadith which stated that Allah has cursed whoever slaughters for other than Allah. A threat accompanied by a curse cannot be invoked except for committing an act that is haram; to do this, i.e, to make a threat accompanied by a curse, is considered a severe crime (sin) according to some scholars. It has been mentioned previously in *Al-Siraj Al-Munīr* [23] that eating the meat of an animal slaughtered for other than Allah is not permissible. Allah almighty said: “Forbidden to you (for food) are dead meat, blood, the flesh of swine, and that over which has been invoked a name other than Allah” (Quran 16:115), such as pronouncing the name of Al-Lāt and Al-‘Uzzā upon slaughtering, or for example saying upon slaughtering that this is for some Jinn. The mere fact of slaughtering for the sake of the Jinn is enough by itself to render the slaughter haram even if one did not pronounce the name of the Jinn, as has been reported above by Ibn Hajar; likewise it is halal if he slaughtered for the sake of approaching Allah, even if he omitted pronouncing His name. In the words of the almighty “Eat not of (meats) on which Allah’s name has not been pronounced: that would be impiety” (Quran 6:121); by impiety is meant a slaughtered animal over which has been invoked a name other than Allah. Al-Shihab Ibn Hajar said in *Zawājir* that the Ulema (Muslim

scholars) said that if a Muslim slaughters an animal seeking a means of approach to other than Allah, he would become an apostate, and the slaughter made by such a person is the slaughter of an apostate. To be sure, the slaughter of the People of the Book is halal, as Allah said: "The food of the People of the Book is lawful unto you" (Quran 5:5). But if they slaughter in the name of Jesus, it is not lawful according to the four Imams (i.e. the four schools of Sharia) and others. And (another) group of scholars said it is absolutely lawful (halal). Their position was countered by the fact that the provision 'that over which has been invoked a name other than Allah' is a specific provision, and as such takes precedence over the general provision 'the food of the People of the Book is lawful unto you'.

Regarding the question if an Oromo man dies, and they slaughter a cow outside of the compound and they say "*dayka* someone", what is the judgment on it? As they say, "Give us a fatwa, may you be rewarded, and give us a clear explanation." The answer in our view, and Allah knows best what is right, is that they mean by this to give alms [24] on his behalf. But giving alms on behalf of an unbeliever is haram; if he believes that it will benefit him (the deceased) by delivering him from hellfire, he is an unbeliever. And if it is added to that the causes which render the slaughtered animal haram, such as seeking thereby a means of approach to other than Allah even if the slaughterer is a Muslim, or if the deceased is an apostate, then it is not allowed to eat it. With regard to the way they immerse it in *diiga* 'blood', part of the process is considered haram, and part may be considered unbelief. A Muslim should not do that; rather, he should give alms for his (deceased) relatives around the mosque and gather the (poor) believers to him and ask them to pray for the deceased and to devote his reward (for the almsgiving) to them (i.e. to the deceased), in keeping with the sharia provision regarding the conditions under which money given in alms is halal or haram.

Chapter six

Conclusion

Jamal Al-Din Al-Anni's work, in spite of its value and importance, has remained almost entirely unpublished, with the exception of some small parts of Kitab Al-Fatwa which were published recently. I expect that henceforth scholars will devote more effort to the publication of his works. I hope that the present thesis will have demonstrated the quality of his thinking and the importance of his role in Muslim Wallo and the rest of the country.

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Informant list

Appendix

Name	Date	Place
Shaikh Abaraya Ababulgo	April 17, 2008	Addis Ababa
Shaikh Abdella Idris	July 2008	Addis Ababa
Shaikh Ahmed Mantiq	July 20, 2007	Addis Ababa
Shaikh Faydu Mohamed	July 7, 2007	Alamata
Shaikh Imam Nurya	August 16, 2008	Addis Ababa
Shaikh Junayd Abd Al-Jalil	August 8, 2007	Alamata
Shaikh Mohamed Awal	August 12, 2007	Dessie
Shaikh Tajuddin Ahmed	June 11, 2008	Addis Ababa
Shaikh Yusuf Mohammed	June 12, 2008	Dire Dawa

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ملك الشيخ
 جنيد بن العار الكندي
 الشيخ عبد الجليل الأرمي

١٤٠٦ هـ

ملك الملك الشريف جليل الدين

Osservazioni	Destinazione	Descrizione	Quantità	Unità di misura	N.º Buono di Uscita
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بسم الله الرحمن الرحيم الحمد لله الذي ارْتَضَى لنا الِإِلاٰهَ
 سَلامَ دِينِ الْإِخْتِيارِ لِنَفْسِهِ وَأَرْسَلَناهُ خَيْرَ خَلْقِهِ نَبِيًّا وَرَسُولًا
 الْمَصْطَفَى الْبِحْتِيارِ وَالْإِيْرَاضِ لِعِبادِهِ الْكَفَرِ وَيَرْضَى مِنْهُ الْإِيْمانَ
 وَالشُّكْرَ وَيُثِيْبُهُم بِالْجَنَّةِ وَالرِّضْوانِ فِي دَارِ الْقَرارِ الصَّلاةِ وَالسَّلامِ
 عَلٰى سَيِّدِنَا وَمَوْلانا مُحَمَّدِ الَّذِي نَهَى وَنَزَّجَرَ بِأَسَدِ الزَّواجِرِ مِنَ الْكُفْرِ
 وَسائِرِ الْفِعْاصِ وَالْتَشْبِهِ بِالْفِجارِ وَالْكُفْارِ وَعَلَى آلِهِ وَصْبِهِ
 الْإِيْبارِ الْمَخاصِي الْدينِ حِفاةً لِّلْهِ حِماةً دِيْنِهِ الْقَوِيْمِ
 فَتَشْرُ وَالْتاعْلومِ شَرْعِهِ حَتَّى ظَهَرَ فِي جَمِيعِ الْأَعْصانِ وَالْأَنْوارِ
 مِثارِ شَرْعِهِ حَتَّى ظَهَرَ فِي جَمِيعِ الْأَعْصانِ ظَهْرُ الشَّمْسِ فِي رِابِعَةِ
 النِّهارِ وَبَعْدَ فَقْدِ وَرَدَتْ عَلَيَّ أَسْئَلَةٌ مِنْ بَعْضِ مَنْ
 أَطَنَ فِيهِ النِّجْرَ وَالرِّشْدَ وَالصَّلاحَ عَنِ الْمَسائِلِ الَّتِي هِيَ عَلَيَّ قَوِيْمٌ
 يَحابُ أَرْهَقَنِي بِهَ عَسرا لِكُونِها حادِثَةً ما وَقَعَتْ الِإِنْفِ
 هَذِهِ النَّاحِيَةُ نَاحِيَةُ الْكُفْرِ وَالضَّلالِ وَالْجَهْلِ وَالْبِدْعَةِ وَالطُّغْيا
 وَالْأَثَرِ دِلِيْلانِ كِتابِ وَنِسْنَةٍ فِي عِيْنِها وَالْقَوْلانِ لِامامِ مِنْ أُمَّةٍ
 هَذِهِ الْأُمَّةُ وَكثيرٌ مِنْها مَعَ عَمِمْ تَأْهِلُ لِرَدِّ الْفِرْعِ إِلَى

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أصله

CARICO

بعض المتأخرين وإذا كان المفتي المقلد الضرف وكانت المسئلة
 التي استفتي فيها حادثة لا يبرء فيها قد ما سلف ولا سيما الامام
 امتنع عليه الا فتاء لعدم تأمله للاسباب والنظر وكذلك اذا
 ركب شيئا ولم يبرأ فهو معتمد أم لا ونقل عن بعضهم انه قال العلم
 ينقل من الصدوق والامان السطور حتى نقل ما هو المعتمد من العلماء
 وقال بعضهم من اخذ العلم من السطور كان ضالا مضلا ولذا قال
 النووي رحمه الله تعالى من ركب مسئلة في عشرة كتب لا يجزئه الا
 فتاء بها الاحتمال ان تلك الكتب ماشية على قول أو طريق ضعيف
 لعن قال في التحفة عند قول المتن معتمد للمفتي تنبيه لما افهمه
 كلامه من جواز النقل من الكتب المعتمدة ونسبة ما فيها المؤلفين
 جميع عليه وان لم يصل سبب الناقل لمؤلفيها نعم لنقل من نسخة كتاب
 لا يجوز الا ان وثق بصحتها وتعددت تعدد يغلب على الظن صحتها
 ويركز لفظها متظما وهو خير فطن يبرئ السقط والتعريفات التي
 ذلك قال وجدت كتابا أو نحوه وفهرمت قوله من ان المقلد الضرف
 اذا ركب كلاما للائمة المعبرين في الكتب المعتمدة واعتمد صاحب

Observazioni	Provenienza	Descrizione	Quantità	Unità di misura	N.º Buono di Entrata	data
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ذلك الكتاب المشهور والصحيح والظاهر والاصح في المنهاج
 يجوز له الافتاء به وهذا في منقول المذهب واما مجموعاته المتأ
 خريته وما اختلف فيه ترجيح المتأخريين من الشيعيين فقد صر
 حوا جواز الافتاء للمفتي بما شاء لكن ينبغي مراعاة المصلحة
 بما فيه الاحتياط بان يفتي للقوي ودينه بما فيه التشديد والضعيف
 ودينه بما فيه التسهيل لتلايق في ورطة المخالفة للشرع بالكلية
 لان نصوص اقول الاثمة وحق العامي كنصوص الكتاب والسنة
 وقد نصوا ايضا على انه يجب الاستفتاء على العامي اذا وقعت له
 واقعة لا يدري حكم الله فيها اذا وجد في حال الافتاء في بلده ولو لا
 وجب عليه السفر الى البلد فيها المفتي ولا يجوز له الاقدام عليها بلا سؤال
 بل معرفة حكم الله فيها وقد صرح بعضهم بحرمة الإقامة في بلد
 ليس فيها مفت وقد ذكر بعضهم ما حاصله ان العالم المتبحر في مذهب
 امامه وله كتب كثيرة يراجعها يقوم مقام المفتي او ما هذا معناه
 واذا لم يجد المفتي في بلده وعجز عن السفر بعد رجسي او شرعي كان
 حكم تلك الواقعة وحقه كما قبل نزول الشرع قال في التحفة نقل ابن الفراء

N° Buono di Uscita	Unita di misura	Quantita	Descrizione	Destinazione	Osservazioni
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انه بحر الاقامة ببلد لا مفتى فيه وفيه نظر وقضية ما منفت
 اعتبار مسافة القصرين كل مفتين ان الحرمه خاصه ببلد بينهما وبين
 المفتى اكثر من مسافة القصر ويتقدر عمومها ينبغي تعيين حرمته
 بان لا يكون بالبلد من لا يعرف الاحكام الظاهره وغير النادره لما تقر
 انها التي يجب تعلمها عينا بنرض الاحتياج اليها المتقدمه الثانيه اعلم
 ان باب التكفير
 صعب لصعوبه الغلط فيه ولورود التحذير عن تكفير مسلم بغير حقي
 فأدخال الكافر في الملة واخراج مسلم عنها عظيم في الدين ولهن افعال بعض
 المحققين الخطا في ترك الكافر في الملة فهو من الخطا وسنة مجمعة
 دم مسلم واحد ولو كان التكفير في بلاد يودي التكفير فيها الى الراجح
 فدم المكفر واجب باحة ماله أشد صعوبه من البلاد التي ليس فيها ذلك
 لعدم شوكة الشرع وقد قال بعض المحققين الاقدام على التكفير يحتاج أولا
 الى تحرير البحث لشدة غموضه ثم الى نقل خالص لعظم خطر التكفير انتهى ولذلك
 ما زالت الأئمة محتاطون في التكفير قد يما وجدنا الاسماء الأئمة الشافعية
 والمالكية وأما ما نسول به نفوس الجهلة من ان التكفير بالاشياء التي
 ليست بمكفرة إنما هو تخويف العوام وتهديبهم جهل عظيم وجرأة لان

OSSEVAZ	Provenienza	Descrizione	Quantità	Unità di misura	N.º Buono di Entrata	Data
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CARICO

الزيادة



الزيادة والاستزادة استند راع على الشارع وخروج عن الشرع وكفى
 بذلك جهلا وضلالا ولان التخويف والتهديد بما ظاهره ليس مرادنا
 يصح في التنزيل والحديث لافي الفقه والفتاوى الموضوعه لبيان الحلال
 والحرام وتعليم الناس احكام دينهم حتى العوام لما فيه من التلبس
 عما قاله بعضهم ولان الدين حق والحق ثابت قوي بنفسه مستند
 عن تقويته بالباطل واما ما يحتج به الجاهل بما قيل ما روى المسلمون
 حسنا فهو حسنة فانما هو فيما لا يخالف نصوص الشريعة على انه انما
 هو مخصوص بالائمة المجتهدين كما في قوله صلى الله عليه وسلم
 من سنت سنة حسنة فله اجرها واخر من تبعها قال بعض الائمة
 المحققين هذا الرذن عام للمجتهدين نعم يجوز هجر اصحاب
 المعاصي ولو جميع الدهر ما لا يتوبوا الا سيما اذا كان فيه مظالم
 لدين الهاجر او المهجور كما هجر صلى الله عليه وسلم عتبت مالكا
 وصاحبيه من امة النبي صلى الله عليه وسلم واهل بيته حين تخلفوا عن غزوة
 تبوك وهجر السلف والخلف بعضهم بعضا ذلك المتقدمه الثالث
 من جاء بالشهادتين عزيمة وقاله واخرج عليه احكام المسلمين

Osservazioni	Destinazione	Descrizione	Quantità	Unità di misura	N.º Buono di Uscita
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بالنسبة للاموال الدنيوية كصحة المناجحة وجل ذبيحته والصلاة
 عليه اذ اقامت ودفنته في مقابر الساميين ونحو ذلك وما زاد على ذلك
 مما يشترط لصحة الايمان بما هو بالنسبة للاموال الاخروية وكذا
 من سبق له حكمه باسلامه في حال صباه بالنبعية او بالدار وفي فتاوى
 الامام المحقق الشهاب ابن حجر رضي الله عنه بعد كلامه والحاصل
 اننا اذا شرطنا الاجمالي والتفصيلي في صورتيهما اختلف الايمان باختلال
 بعض احداهما وحيث اكدنا بالاجمالي لم يمتثل باختلال التفصيلي وان
 ذلك كله بالنسبة لما يمتنع بينه وبين الله تعالى واما ما يعتصم به
 دمه وما له فمداره على اللفظ بالشهادتين ومن ثم قالت ائمتنا بشرط
 لنفع الاسلام في الاخرة مع الشهادتين تصديق القلب بوحدة نبية
 الله تعالى ورسالة وكتبه واليوم الآخر والله سبحانه وتعالى اعلم
 انتهى ثم من انكر محمدا عليه معلوما من الدين بالضرورة وهو
 ما كان قطعيا مشهورا حيث لا يخفى على العامة المخاطبين للامراء
 بان يعرفوه بديهة من غير افتقار الى نظر واستدلال كقولنا ذلك
 بالشك فيه واما غير المخاطبين للعلماء انما يكفر بانكاره الكافر

Data	N.º Buono di Entrata	Unita di misura	Quantita	Descrizione	Provenienza	Osservazioni
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الشكا إذا تواتر عنده رث هدا واجب او حلال او حرام ولا يفي
 اخبار شجر او اشخاص ما لم يبلغوا عدد التواتر كذا في فتاوى ^{الشهاب}
 ابن حجر رضي الله عنه بمعنى انه واذا تقر هذا فاقول قول السائل
 وقاه الله وهداه والجملة عداه ما قولكم في بعض الناس الذين
 اقر بالشهادتين لا يصلون ولا يصومون ولا يزكون وبعضهم
 يصومون ومع ذلك يفعلون فعل اهل الكفر والمعاصي تنو سلم
 بأعضاء البقرة من ذنبها الى اذنها اذا ذبحوا الامور هم كما يجش
 ونشاط ونحوهما ونظرهم الشجر اذا اخرجوه من بطن الذبيحة
 وتعلقهم الشجر بالعنق الجواب انه قد سبق في المقدم ما ت
 من اقر بالشهادتين حكمه باسلامه ظاهرا بالنسبة للاحكام اله
 نبوية وعصمه وماله ولا يكفر بعد ذلك بترك الصلاة
 وغيرها عندنا الا اذا جحد وجوبها او شك فيه بعد ان كان محمدا
 لطال الاعماء او بلغه ذلك بالتواتر كما سبق في المقدمات نقلت
 فتاوى الامام ابن حجر رضي الله عنه وان اطلق بعضهم الكفر بالحج
 او جحد شر وطها الجمع عليها كالوضوء وتركها استخفافا واستهانة

Osservazioni	Destinazione	Descrizione	Quantità	Unità di misura	N.º Buono di Usata
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وتحوز ذلك لكان اذا تركها وانخرجها عن وقتها قتل حد اولو
 فرضا واحدا بعد الاستتابة على المعتمد وقيل وجوبا وكذلك
 يكفر بترك الصوم والزكاة والحج ولا يفعل معاصي الاسلام كالقتل
 والزنا والابغض اهل الكفر والمعاصي الا اذا كان ذلك الفعل مما فيه
 تعبد لغير الله تعالى وتعظيم لسواه واستخفاف بالله تعالى واسمائه
 ولو بالتصغير وان لم يقصد بالتصغير استخفافا وفي فتاوى الشهاب ابي
 حرم ما نصه اما الذكر المسبح فان وقع التسبيح فيه عن تكلفه كان
 مكروها لانه ينافي الخشوع وان اطلاقا سر به اخذ اما ذكره من هذا
 التفصيل في الدعاء نعرف قد يقع لبعضهم انه عند السجود ربما صغر
 اسمه تعالى او وصفه كاله تعالى وهذا عند تعمد حرام شديد
 التحريم بل ربما يكون كفرا بل اطلق بعضهم انه كفر فيحتمل ذلك
 او يترسول من رساله او نبي من انبيائه ولو بتصغير اسمه واستخفاف
 سنه وتكذيب الله تعالى او نبي من الانبياء واستخفاف بشيء
 صريحا ولو بالقاء فتوى العلماء على الاضرار استخفافا كما في الانوار
 او تزيابزي الكفار مع الدين والتعظيم على الاصح والمال توسل

لا يجوز ان يتركها
 ولا يجوز ان يتركها
 ولا يجوز ان يتركها

معطوف على قوله واستخفافا بالله

Data	N.º Buono di Entrata	Unita di misura	Quantità	Descrizione	Provenienza	Osservazioni
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باغراض

CARICO

فكفر

بأعضاء البقرة من أنفها إلى ذنبها وأما الخشا وشتا فمت أفعال

الكفرة التيحة وعادتهم الشيعة فاذا فعله مسلم أو حضرة فيها ؟

غير حاجة لها وقع يتأثر بفواتها فقد ارتكب محرما بل كبيرة يفسد

ما فيما يظهر لنا فان انضم إلى ذلك نحو تعظيم وتدين بهن العمل

القيح كقروك ذلك نظرا لشعره ان كان مع تعظيم لك الشجر كعظيم

كتاب الله أو تدين به يكفر به والافكذب واقتراء بمجرد نظر عرق

شجره وكيفية اختلاطها وتسفلها وترفعها وغاظها ودقها واحمرارها

ربما خسر على ذلك افتراء عظيم وقالوا ان البقرة ابتاعت كتابا فمطر

تحمها كتابا فمت يعتقد ذلك فهو كافر وبالجملة ان النظر في الشجر

سرام أو كقروك ذلك تعليق الشجر على العنق والتطوق به لك الغالب

بأن من يعلق الشجر بعنقه إنما يقصد به الخروج عن دين الاسلام

والدخول في الكفر ولا ريب في كفره حيث مع أن مجرد التعليق يحصل به

التزوي بزوي الكفار كما ثبت في حق النصارى في كفر عند من قال

أن مجرد التزوي بزوي الكفار من غير انضمام شيء إليه كفر قد

اخبرني بعض من يعلق الشجر في عنقه من ولاية الجلاله من قد استام

وهو كالذي
واضح
في القطر
بالشجر
في العنق
من الكفر

N.º Buono di Uscita	Unita di misura	Quantità	Descrizione	Destinazione	Osservazioni
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مُخْفِيًا انما يعلقه لتلاين عزل عن الولاية عند هو الذي يظهر عدم
الكفر حين قول السائل ما قولكم في تمتعهم بنساء الغير ونسائهم
للغير من غير غيرة واذا ما شوامع هذا الفعل قبل التوبة هل يجري عليهم
احكام المسلمين بالصلاة عليهم وغيرها من الاحكام واذا عقدوا النكاح
مع هذا الفعل هل ينعقد النكاح في جوابه انما اجراء احكام المسلمين
عليهم في الدنيا وبعد الموت ظاهر واما صحة نكاحهم وان فعلوا
ما فعلوا من معاصي الاسلاف قد علم مما سبق واما تمتعهم بنساء الغير
وترك نسائهم للغير من غير غيرة فمعلوم ضرورة ان الزنا حرام والله
أفحش الفواحش بعد القتل وأجبر الكبائر وهي الفاحشة التي اتفقت
الملل على تحريمها وهو الذي يبيح الكفر بعد القتل فان انضم اليه الجنا
ه فيه وترك زوجاتهم للغير زاد فحشا وقبحا وان جحدوا تحريمه
عزوا وبالجملة أن الجبال في ذلك قد خرجوا من دائرة العقلاء بل
عن دائرة البهائم إذ كل بهيمة تغير على الأنثى الا ما قيل ان الخنزير
لا يغير ولذا حرم الله لحمه فأذا اهدم شر الناس بل أشرم البهائم حتى
الخنزير عادة وشرعا وطبعاً طهر الله الأرض من أممها منهم ووجود

Data	No. Buono di Entrata	Unita di misura	Quantità	Descrizione	Provenienza	Osservazioni
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أممها منهم

طبخا

CARICO

وكننا فالنبيحة مائة والفعل حرام واكثر ما يفعله ودايحا وادبكار
 حرام بل اكثر ما يفعلونه من الاشياء التيحة المكفرة لاسيما ايام
 قُبُورٍ وبالجمله ان ودايحا في داج وان افعالهم واقوالهم دد وما
 يروى في شرح العباب للقاضي القضاعي عنه صلى الله عليه وسلم انه
 قال مالي وللدن الد اللعب فانظر مناسبة ما بين هذه وبين ما
 يتفوهوت به من دد ودايحا في اللغتين وليس مرادنا بالد اللعب
 المباح بل اللعب المحظور وكجده فانظير المسجد الضار وان كان دور
 فيه ضرر المشابهته له بوجوده ككونه موضع المعصية باجتماع
 الرجال والنساء وكونه تغريقا بين المؤمنين واخر صادرا لاعداء الله
 من الفسقة والكفار ونحو ذلك فليحذر الذين يتخالفون عن امره
 ان تصيهم قنة او يصيهم عذاب اليم ومن تاب تاب الله عليه انه
 هو الغفور الرحيم وحافظ شرع الله محفوظا وناصره منصور وقول
 السائل ما قولكم فيما اذا ارادوا ذبح البقرة للاكل يتقون الغرور
 مثلا او للضيف او لاهلهم وتوسلوا باعضائها كما سبق وامروا برجالا
 يعرف كيفية الذبح ان يذبح بالر مع وجود السيف هل تحل لهم الا اذا

Data	N.º Buono di Entrata	Unita di misura	Quantità	Descrizione	Provenienza	Osservazioni
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CARICO

اجتري

اجتمع أهل قرية واخرجوا الملح واشتروا نحو البقرة أو أعطوا لهم
 رجل منهم وقالوا نفعنا للشيخ عبد القادر الجيلي رضي الله عنه
 عند الحرث أو عند شجرة الأشجار كما هو عادتهما والمسجد
 أو فعلوا أهل القبور عند قبورهم والأماكن المعروفة عندهم
 ثم امروا رجلا يعرف النجس فذهب مع كل يضر فعلهم ذلك أم لا الجواب
 والله أعلم بالصواب عن المسئلة الأولى إن كان قصدهم الأكل
 والضيء إكراماً له أو تقرباً إلى الله تعالى وذبحها الذابح بالربح
 فإن كان ذلك ممن يتدبّر بدلك الفعل ويرى تعظيم ذلك
 الربح فهو كافر وذبيحة ميتة لكونه كافراً والافتحاح عن
 يجر ذلك الفعل فيما يظهر لنا لأنه تشبه بالكفار فميت تشبه
 بتقوم فهو منهم كما في الحديث ولا ريب أن إكرام الضيف مندوب
 ولو بدت مع وفي الحديث من كان يؤمن بالله واليوم الآخر فليكرم
 ضيفه وفي الجواهر المكنون ما لفظه ويرى الحاكم عن النبي صلى الله
 عليه وسلم إن من ذبح لضيفه ذبيحة كانت له فداء من النار
 وأما المسئلة الثانية إذا اجتمع أهل القرية وفعلوا ما ذكره

No. Buono di uscita	Unita di misura	Quantità	Descrizione	Destinazione	Osservazioni
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إذا اعتقاد ذلك على الإطلاق ويوقعهم في محذور الكفر وأما الدعاء
 والصدقة لدفع البلاء والتسبب له للشفاء بالأدوية فجانزمت حيث
 المشروعية وحكمة الحكيم العليم ولأن الذي له القضاء أمرنا بدعاء وكما
 وضع الدعاء وضع له الدعاء كما في الحديث وقول السائل وقصاف الطب
 بزعمه نعم الطبيب العالم بالطب لا يوجد في هذه الناحية وأما حكمه
 فقد سئل الشهاب ابن جرير رحمه الله عن رجل ليست له معرفة تامّة
 بالطب وجرى إليه أصحاب العلال فيظن في كتب الطب فما وجد
 موافقا طباطبعه دوى به ولم يدر تشخيص العلة لصاحب العلة بل قال
 له افعل ففهم من يبرى ومنهم من لا فما الحكم في ذلك وما حكم الماخوذ منهم
 فأجاب نفع الله بعلومه وبركته من يطالع كتب الطب وينتقد للناس
 ما فيها من غير أن يتشخص العلة فقد جازف وتجرى على افساد أبدان
 الناس والحق الضرر بهم لأن من لا يتشخص العلة ولا يتيقن كليات عام
 الطب لا يجوز له أن يفتي بشيء من جزئياتها لأن الجزئيات لا يضبطها إلا
 الكليات ومن ثم قال بعض حذاق الأطباء كتبنا قائله للفقهاء أي لا يهمل
 يدون فيها أن الشيء الفلاني دواء للعلة الفلانية فيستعلمون ذلك

N.º Buono di Uccita	Unita di misura	Quantita	Descrizione	Destinazione	Osservazio
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العلة غافلين عن أن في البدن علة خفية تضاد ذلك الدواء
 فيكون العقل جند من حيث ظنوه نافعاً وجنداً فلا يصلح ذلك الدواء
 إلا لمن علم أنه ليس في البدن مضادته ولا يحيط بذلك إلا الطبيب الماهر
 الذي أخذ العلم عن الصدوق ولا عن السطور ثم هذه الطبيب إذا دوى ظناً
 منه أنه ينفع وكان مضر فلا شيء عليه غير الأثر الشديد والعذر أن العرف
 في دار الوعيد فليقل الله ويرجع عن ذلك^٥ والأفهم من أهل الممالك
 وأما ما يأخذونه منهم فهو محرم عليه^٦ كعلمه لأنهم ليس بمواليه به الاظنا
 منهم أنه يعرف ما يصفه من الأدوية وغيرها ولو علموا أنه معاقب
 آثم بما يفعل لم يعطه احد شيئاً فهو آخذ له بالنفس واليهتان^٧ والجور
 والعدوان والله أعلم وأما الذي يجب أن كان تقرباً إلى الله تعالى ليدفع
 عنه شرهم فبما نزلت حسن أو تقرباً إليهم فرام وفي فتاوى بعض العلماء
 عن السبا فعية من أهل المدينة المنورة وجوابه عن الاستئلة القويية
 وجواب قول السائل ما قولكم فيمن يعتقد في الجان أنهم يضرون وينفعون
 وينذرون لهم نذوراً كثيرة وينذرون لهم ذبائح وما حكم ذبيحتهم أما
 من يعتقد في الجن أنهم يضرون وينفعون في قوله أولاً ان يعتقد أنه لا ضار

Data	N.º Buono di Entrata	Unita di misura	Quantita	Descrizione	Provenienza	Oss
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والنافع على الاطلاق الا الله الذي لا اله الا هو وان لا ضر ولا نفع من أحد
 لاحد الا بقوة الله وقوة لأحد على شيء ضر كان او نفعاً الا بالله
 واذا كان لا قوة والحقيقة الا الله فلا ينفع احد ولا يضر انسياً كان او
 بشياً من دون الله تعالى قال تعالى قل فمن يملك لكم شيئاً ان ادبركم
ضراً او ليراد بكم نفعاً الاية اي لا يملك لكم احد من الله ضراً او نفعاً
 ودل ذلك على انه لا يملك احد من الجن والانس وغيرهما ان يضر احداً
 او ينفع من دون الله أحلاً فاطال وذلك وأما حكم التنزيه فيظهر
 من قوله صلى الله عليه وسلم لا تنزروا في معصية الله رواه مسلم والتناذر للجن
 لا يتفني به وجهه الله بل يتغير به وجه الجن والتقرب اليه بناء على اعتقاده
 الغاسد أنهم ينفعون ويضرون وقد انه لا ينفع ولا يضر فاعتقاد كون
 الجن نافعاً او ضاراً من دون الله حرام والتنزيه للجن بناء على هذا الاعتقاد
 معصية من وجهه ووسيلة الى معصية من وجه آخر فانه ربما يسبق علم
 التنزيه بموافقة حصول غرض من اغراضه عند التنزيه فيظن ان بفعل
 الجن من دون الله تعالى فيزداد الاعتقاد فساداً فيصير سبباً الاغواء غيره
 وازلاله وادخاله لأوساوس الشيطانية حتى يندرج بذلك الى زيادة الاعتقاد

a	N.º Buono di Usclita	Unita di misura	Quantità	Descrizione	Destinazione	Conservazione
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