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PRIVATE *MUFTĪS* IN A POSTCOLONIAL STATE: A STUDY OF LEGAL REASONING AMONG DEOBANDĪ ḤANAFĪS IN CONTEMPORARY PAKISTAN

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ABSTRACT

Broadly speaking, this dissertation examines how traditionally trained Muslim jurists respond to changes brought on by modernity. More specifically, this dissertation focuses on a group of traditionally trained jurists (Ḥanafīs) who belong to a social/religious reform movement (Deobandīs) that arose in a colonial context (British India) and is currently operating in a postcolonial state (Pakistan). The main case study is a recent, as yet unconcluded, debate among contemporary Pakistani Deobandīs regarding the legitimacy or otherwise of Islamic banking.

The dissertation uses this case study to answer two sets of questions, one pertaining to flexibility in Islamic law and the other regarding the relationship between legal education and legal reasoning. The dissertation thus has three major parts dealing respectively with Deobandī education, Deobandī economic thought, and the Deobandī approach to fatwa-giving. One of the central arguments of this study is that even a strict *taqlīd* regime (adherence to a single school of law) like the one that Deobandīs follow contains within it tools for flexibility as exemplified by Muftī Taqī ʿUsmānī's approach to Islamic banking. These tools are the principles governing deviation from the standard opinion (*muftā bihi*) of the Ḥanafī School such as *ḍarūra* (necessity), *ḥāja* (need), *ʿumūm balwā* (general affliction), *ʿurf* (custom), etc. Deploying these tools, however, requires a jurist to exercise his subjective judgement which is what separates Taqī ʿUsmānī from his critics.

A jurist's subjective judgment on any issue is a function of his education, experience, and research. Whereas Deobandī madrasas provide excellent training in Islamic sciences, the average Deobandi graduate suffers from weaknesses in the other two areas, i.e., limited exposure to the world and reliance on anecdotal research as opposed to social scientific research. This is a

consequence of the heavier focus on transmission of knowledge in Deobandī madrasas as opposed to production of new knowledge. Moreover, these madrasas developed a religious vs. worldly knowledge binary during the colonial period that persists to this day. The result is an educational system that is not designed to produce intellectuals. Part of the reason why Deobandī approach to knowledge and education has been slow to change is the extremely important role senior scholars, called *akābir* or elders, play in the movement. More than the *ʿulamā* as a whole, it is these *akābir* who are the custodians of change among Deobandīs, and they have yet to practically embrace the idea of integration of medieval and modern knowledge.

As a result, Deobandīs as a group have still not fully understood the modern condition especially in so far as some areas of fiqh such as economics and finance overlap with national-level legislation or policymaking and thus require one to engage in system-level thinking as opposed to piecemeal fatwas. Although Taqī ʿUsmānī is more cognizant of this need than his critics, he is the exception that proves the rule. Consequently, not only is there a disconnect between the critics' arguments against Islamic banking and their other fatwas on economic and financial matters, Deobandīs' overall approach to education and fatwa-giving also handicaps them in their self-assigned mission to implement Islam in Pakistan as a comprehensive way of life.

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In many ways, this dissertation is the culmination of my life's work. Ever since my undergraduate days, I have been engaged in a study of Islam. Coming from a modern-educated and middle-class Pakistani family, the *ʿulamā* were the distant other for me. Nevertheless, as a born Muslim, I was curious to know more about Islam especially its history of transmission and its place in the modern world. What had started as a personal spiritual journey undertaken sporadically became a full-time obsession and eventually evolved into an intellectual mission which sought to make sense of two very distinct traditions of Islamic studies, namely the Sunnī Islamic scholarly tradition and Western academic Islamic studies. I probably would not have pursued this path if I had not come from the background that I did. On the way, I have accumulated debts to people that are too numerous to mention here. From my parents who have played a critical role throughout my life to my teachers at every stage of my educational journey (from all levels of basic schooling to college to the two madrasas I attended (Darul Uloom al-Madania at Buffalo NY and Jāmiʿa Ashrafiyya at Lahore Pakistan) to the International Islamic University Malaysia to Washington University in St. Louis to the University of Chicago), I owe a debt of gratitude that can never be fully repaid.

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your patience and hope for your forgiveness for the time spent away from you due to this dissertation.

CHAPTER 1: INTRODUCTION

It was the summer of 2008. A large number of prominent *ʿulamā* (traditionally trained Islamic scholars; sing. *ʿālim*) belonging to a specific Sunnī orientation, the Deoband movement, had gathered at Karachi Press Club. Their goal: to declare to the Pakistani public that Islamic banking was *ḥarām* (religiously forbidden) because it violated *sharīʿa* (Islamic law). The press briefing read out a *fatwā* (non-binding legal opinion) put together by the *muftīs* (jurisconsults) based at a prominent Karachi *madrasa* (Islamic seminary), Jāmiʿat al-ʿUlūm al-Islāmiyya Banūrī Town (henceforth BT) and endorsed by a nation-wide group of prominent Deobandī *ʿulamā*.[1] It said:

> "The majority of jurists in the country declare existing banking associated with Islam to be against *sharīʿa*…. In some regards, we consider this system even more dangerous than the conventional banking system. There are two reasons to call this system un-Islamic:
>
> 1. Existing Islamic banking does not follow the proposed Islamic way.
> 2. Even the proposed Islamic way of financing consists of several shortcomings from a *sharīʿa* perspective."

The detailed *fatwā* read out in the press conference and later published in BT's monthly journal *Bayyināt* elaborated these two points.[2] Although Deobandīs had long been divided over Islamic banking and finance, what was new here was that quite a few prominent Deobandīs had gone public with their opposition to Islamic banking. Moreover, for them, it was not a matter of valid disagreement among jurists (*ikhtilāf muʿtamad bayna al-fuqahā'*); rather, they considered Islamic banking to be absolutely forbidden and therefore their duty to warn the public against it.

[1] Jāmiʿat al-ʿUlūm al-Islāmiyya Banūrī Town, "*Murawwaja Islāmī bankārī aur jumhūr ʿulamā kay mawqaf kā khulāṣa*," *Bayyināt* 71, no. 9 (2008).

[2] Translation taken from Shoaib Ghias, "Juristic Disagreement: The Collective Fatwā against Islamic Banking in Pakistan," in *Contemporary Islamic Finance*, ed. Karen Hunt-Ahmed (New Jersey: John Wiley and Sons, 2013), 107-115.

Furthermore, they were willing to publicly go against one of their own, someone who was otherwise a star of the Deobandī universe namely Muftī Muḥammad Taqī ʿUsmānī (b. 1943).

How did the Deobandīs get here? A movement that had stood the test of time for more than a century and a half seemed at the brink of a major fragmentation. Perhaps, even more importantly, why should anyone care what Deobandīs think or do? To answer this, we must look at the current state of Islamic legal studies.

1.1: Problem Statement

Islamic legal studies (ILS) as it has developed in the Western academy in the last hundred years or so has been heavily focused on the Middle East, both in the premodern and modern periods. Moreover, because of the secularization/modernization thesis, many scholars in the twentieth century had assumed that the influence of *ʿulamā* in Muslim societies had been reduced to such an extent that they were not worth studying. Thus, most studies of Islamic law in the modern world tended to focus on either modernists or Islamists, or the state. The Iranian revolution of 1979 forced Western scholarship to acknowledge the existence and power of the *ʿulamā* in the Shīʿī context yet the Sunnī *ʿulamā* remained understudied. This began to change at the turn of the century.[3] However, for many scholars, the idea of a premodern *madhhab* (school of law) surviving into the modern period still seemed far-fetched.[4] Studies of how a *madhhab* is formed, how it creates and maintains its boundaries, and engages creatively with newer issues within the confines of a *taqlīd* (adherence to a single *madhhab*) regime, have thus been mostly relegated to the premodern

[3] Later in this chapter, I review the works of M. Qasim Zaman that have done much to highlight the continuing influence of the *ʿulamā* in Muslim societies.

[4] The word *madhhab* can be translated in a number of different ways depending on what aspect is emphasized. It can refer to a body of legal doctrines, a set of interpretive principles, or the set of institutions which propagate it.

period.[5] On the other hand, studies of the institution of *fatwās* and *muftīs* in the modern world often take place without reference to a *madhhab*.[6] This, despite the existence of groups of single *madhhab*-based *ʿulamā* in the Middle East & North Africa (especially Mālikīs in Morocco), South East Asia (Shāfiʿīs), and South Asia (Ḥanafīs).[7] Among the Ḥanafīs of South Asia, there are two groups of *ʿulamā* who strictly adhere to the Ḥanafī *madhhab*. These are the Deobandīs and the Barelvīs.[8]

The existence of groups of *ʿulamā* such as Deobandīs who adhere to a single *madhhab* provides us with an opportunity to bridge the gap between studies of Islamic law in the premodern and the modern period by bringing the sophisticated scholarship on critical Islamic legal concepts (premodern) into conversation with works on Islamic legal responses to the modern condition. Instead of speculating how a *madhhab* may have worked in the past, we can see for ourselves how it works today, especially as it relates to the concepts of preponderance (*tarjīḥ*), those who are qualified to establish preponderance (*ahl al-tarjīḥ*), and the hierarchies of scholars, texts, and legal issues (*ṭabaqāt al-fuqahā' wa al-kutub wa al-masā'il*). Moreover, we can see how *muftīs* respond to the changed circumstances brought about by colonial and postcolonial modernity by invoking legal concepts such as *ḍarūra* (necessity), *ḥāja* (need), *ʿumūm balwā* (common exposure), *ʿurf* (custom), etc. All this, while they try to strictly adhere to a single *madhhab* (*taqlīd shakhṣī*).

[5] I have in mind here the works by Hallaq, Jackson, Fadel, Ibrahim, and others. More on these later.

[6] Perhaps the only exception in this regard is Al Atawneh's recent work on Wahhābī Ḥanbalī *muftīs* in Saudi Arabia. I discuss studies of *fatwā* and *dār al-iftā'* later in this chapter.

[7] South Asia is a more neutral name for the Indian subcontinent, which does not privilege India over other countries. It includes the three larger countries of Bangladesh, India, and Pakistan, as well as the smaller nations of Bhutan, Maldives, Nepal, and Sri Lanka. Because of its location at the juncture of South Asia, Central Asia and the Middle East, opinions are divided as to whether Afghanistan should be considered a part of South Asia or not. For the purpose of this project, I do not include it in South Asia. This is mainly because it was not directly ruled by the British, and therefore, did not experience modernity the way other countries of South Asia did.

[8] I look at the existing scholarly literature on these groups later in this chapter.

On the face of it, the formal repertoire of tools available to Ḥanafi *muftīs* of today is the same as that available to their premodern counterparts, and thus Ḥanafī *fatwās* of today can at times, seem indistinguishable from premodern ones in terms of how they are framed and what is cited.[9] This raises the question, have the Deobandī *ʿulamā* of South Asia not been affected by their experience in colonial India and postcolonial Pakistan? Conversely, has the Deobandīs' long history as a reform/preaching movement, and their anti-British and anti-modernist Muslim struggle affected how they approach Islamic law and how they respond to changes created by modernity? Is it possible that while the formal *fatwās* of today seem to be indistinguishable from premodern ones, other factors might be at play behind the scenes which affect a Deobandī *muftī*'s choice of which premodern legal opinion to adopt?

Lastly, and perhaps equally importantly, what role does the particular history of socio-economic development among Muslims in colonial India and postcolonial Pakistan, which has resulted in most *ʿulamā* belonging to the lower and lower middle classes, play in how a Deobandī *muftī* approaches *fatwā*-giving? That is, what effect, if any, does a person's social, cultural, economic, and educational background play in acquiring knowledge of the world around them (*wāqiʿ*)? In other words, can we posit that if a *muftī* comes from a middle or upper middle-class background, and if he has received education in both Urdu and English, in addition to Arabic, that this will affect how he understands the world around him? Does this mean that his understanding of *ḍarūra*, *ḥāja*, *ʿumūm balwā*, *ʿurf*, etc. will be different from his colleagues who come from a different background?

In this dissertation, I try to answer these questions by focusing on the recent, as yet unconcluded, intra-Deobandī debate on the legitimacy or otherwise of Islamic banking. The *fatwā*

[9] There is more detail to this which I explore later in this chapter.

cited at the beginning of this chapter was the opening salvo of this very public debate. Its main protagonists were all based in Karachi, Pakistan, and were affiliated with a handful of *madrasas*. Moreover, the literature produced by both sides is rich enough to allow a study of all the questions posed above. However, before I delve further into the details of this project, it would be useful to discuss at some length the evolution of Islamic law in modern Muslim South Asia, the origin and development of the Deobandī movement, and its history in postcolonial Pakistan.

1.2: Historical Background

The early history of the Ḥanafi *madhhab* in South Asia is not well-documented but this much is known that the Ḥanafī *madhhab* had served as the dominant *madhhab* in India since the early seventh/twelfth century. This dominance of the Ḥanafī *madhhab* in Muslim South Asia continued unchallenged until the modern period,[10] when the conquest of Delhi by the British East India Company in 1803 served as an important milestone in the process of British expansion in India that had begun almost half a century ago with the British victory in the Battle of Plassey in 1757.[11] In the intervening period, the British had set up courts for adjudication of matters involving locals in the areas that it controlled in eastern India, namely Bengal and Bihar. The British respected the religious beliefs and customs of the locals, and thus made provisions for a Hindu priest and a Muslim scholar to be attached to each court to provide their scholarly opinions when needed. However, an important change had already taken place since the judges were no longer Muslim.

[10] For a brief overview of the status of the Ḥanafī School in the late Mughal Empire, see Muhammad Khalid Masud, "Religion and State in Late Mughal India: The Official Status of the *Fatawa Alamgiri*," *LUMS Law Journal* 3, no. 1 (2016): 32-50.

[11] As a result of the famous Battle of Plassey, the British were able to acquire revenue rights to two rich former Mughal provinces, Bengal and Bihar. For more, see Sugata Bose and Ayesha Jalal, *Modern South Asia: History, Culture, Political Economy* (New York & London: Routledge, 2004), 53-59.

As British control expanded inland, increasing number of Muslims, including in the former Mughal heartland of the Indo-Gangetic plain, came to be British legal subjects.

As the century progressed, the British developed their own codified version of Islamic law called Anglo-Muhammadan law. This was accompanied by a restriction of "Islamic" law to personal matters such as marriage, divorce, inheritance, etc.[12] Eventually, the provision of a Muslim or Hindu scholar being attached to the court was dropped in the 1860s. It was this Anglo-Muhammadan law that governed personal affairs of Muslims in British India for the next 80 or so years, and that continues to be the main source of Muslim personal law in each of its succeeding nations of Pakistan, India, and Bangladesh.[13]

1.2.1: The *ʿUlamā* in Colonial India: Internal Fragmentation

The Deobandī movement emerged around the middle of the nineteenth century as a reform movement focused on preservation of Islam through education and popular preaching against what it believed were growing elements of syncretism, polytheism, and religious innovation among Muslims. Named after a town called Deoband, located north of Delhi, where the first *madrasa* of the movement, later called Dār al-ʿUlūm, was established in 1866, its origins, intellectual and spiritual, can be traced to an earlier prominent figure of north India, Shāh Walī Allāh (d. 1762) of Delhi.[14] An influential scholar and a Sufi shaykh, Walī Allāh had spawned a socio-religious

[12] For a brief overview of British judicial practices in India during the first century of their rule, and the formation of Anglo-Muhammadan law and its effects on Muslims, see Muhammad Qasim Zaman, "Islamic Law and the ʿUlama in Colonial India: A Legal Tradition in Transition," in *The ʿUlama in Contemporary Islam: Custodians of Change* (Princeton, NJ: Princeton University Press, 2002), 17-37.

[13] For a discussion of the continuities between colonial and postcolonial legal systems with respect to personal laws, see Rina Verma Williams, *Postcolonial Politics and Personal Laws: Colonial Legal Legacies and the Indian State* (New Delhi: Oxford University Press, 2006).

[14] For a detailed study of Walī Allāh's life and work, see Saiyid Athar Abbas Rizvi, *Shāh Walī Allāh and His Times* (Canberra, Australia: Maʿrifat Publishing, 1980). For a review of Walī Allāh's religious thought, see J.M.S. Baljon, *Religion and Thought of Shāh Walī Allāh Dihlawī 1703-1762* (Leiden: Brill, 1986). For a brief overview of the links

movement that sought to reform Muslim thought and practice, both popular and scholarly, in a comprehensive manner. Due to the ambiguities inherent in his thought, his movement later split into two main factions, one of which crystallized as the Deobandīs and the others as the Ahl-i Ḥadīs. The Deobandīs adhered to Walī Allah's approach of reviving the average Muslim's connection to the Qur'ān and the Sunna but insisted it must be through the medium of strict adherence to the Ḥanafī *madhhab*.

The Ahl-i Hadīs, on the other hand, took Walī Allāh's legacy in the other direction and called for abandonment of strict adherence to *madhhab*s (*taqlīd*). Hence, their name *ghayr muqallidīn*, i.e., those who do not adhere to any *madhhab*. Both sides, however, saw themselves engaged in a sacred mission of comprehensive revival of Islam which often entailed cleansing Muslim society of what they considered to be un-Islamic ideas and practices. As a reaction to their efforts at reform, there emerged another group of Ḥanafī *ʿulamā* and Sufis who sought to defend what they considered to be traditional Islam. Named after their main leader Aḥmad Rizā Khān Barelvī (d. 1921),[15] the Barelvīs were thus the third piece of this intra-Sunnī north Indian rivalry, where each group was strongly opposed to the other two.

1.2.2: Muslim Responses to Colonial Modernity

The three groups mentioned above, viz. the Deobandīs, the Ahl-i Ḥadīs, and the Barelvīs had emerged in response to internal dynamics of Islamic thought and practice. As such, all three can be labelled as traditionalists especially since the main reference point for all three groups was the

between Walī Allāh and the Deobandīs and other reform movements of the nineteenth century, see Francis Robinson, "Islamic Reform and Modernities in South Asia," in *Islamic Reform in South Asia,* ed. Filippo Osella and Caroline Osella (Cambridge, UK: Cambridge University Press, 2013), 26-49.

[15] For a detailed study of the life and times of Aḥmad Rizā Khān Barelvī, see Usha Sanyal, *Devotional Islam and Politics in British India: Ahmad Riza Khan Barelwi and his Movement, 1870-1920* (Delhi: Oxford University Press, 1996).

pre-modern Islamic tradition and because all of them rejected most aspects of modernity. Opposite them was the Aligarh movement led by Sayyid Aḥmad Khān (d. 1898).[16] Unlike the traditionalists, Khān and his modernist followers sought to reconcile between the pre-modern Islamic tradition and modernity and adopted a more eclectic approach towards *madhhabs* of the premodern period.[17] Interestingly, like the Deobandīs and the Ahl-i Ḥadīs, Khān and his followers also labelled themselves as "reformers" vis-à-vis the "outdated" customs and traditions of the Indian Muslim community.

The presence of the British in India not only changed the political situation for Muslims but also posed cultural challenges to them.[18] To begin with, there was the issue of language. The British first replaced Persian with Urdu and then brought in English. Each of these transitions meant a loss of power by the old Muslim elite. Coupled with this was the dismantling of the indigenous educational systems and their replacement by British-style mass education system.[19] This created a new system of patronage and/or advancement for the middle and upper classes in which British-style education with competency in English became a ticket for one's future. Unlike the Hindus who had been drawn to the British education system early on and had even created their own private educational institutions, most Muslims rejected British educational institutions.

[16] For a brief overview of Khān's thought and the Aligarh movement, see the second chapter in Aziz Ahmad, *Islamic Modernism in India and Pakistan, 1857-1964* (London: Oxford University Press, 1967), 31-56.

[17] I rely on the traditionalist vs. modernist binary merely as a point of departure acknowledging its simplistic nature. To be sure, there were many other thinkers and movements that sought to find a middle path between the extremes represented by Aligarh and Deoband. Examples include Nadwat al-ʿUlamā' and Jamāʿat-i Islāmī. However, for the most part, the two-way division of Muslim society South Asia has remained, with many shades in between.

[18] For a brief overview of the cultural challenges facing Muslims in early colonial India, see Bose and Jalal, *Modern South Asia*, 60-69.

[19] For a brief overview of what the indigenous education systems looked like and how British policies affected them, see the preface and summary of G. W. Leitner, *History of Indigenous Education in the Panjab since Annexation and in 1882* (Calcutta: Superintendent of Government Publishing, 1882), 1-16.

Moreover, since the defeat in the 1857 war of independence affected Muslims disproportionately, they were slow to create new educational institutions of their own. Perhaps the first such effort was the *madrasa* at Deoband which was an attempt to preserve the indigenous Islamic educational system but using British techniques of mass education. Dār al-ʿUlūm Deoband, as it came to be called, soon spawned a series of *madrasas* that were all linked to each other by way of informal association through student-teacher and shaykh-*murīd* networks. Other traditionalist groups such as the Ahl-i Ḥadīs and the Barelvis also followed suit and soon established *madrasa* networks of their own. However, the Deobandīs remained the largest group of *madrasas*.

The other most important effort at educating Muslims came from the modernist camp. This was the Anglo-Muhammadan Oriental College, later called Aligarh Muslim University (AMU) that Sayyid Aḥmad Khān established at Aligarh in northern Indian in 1875. Just as the *madrasa* at Deoband was the leader of the traditionalist camp, AMU became the leader of the modernist camp. Muslim elites were divided between the two. Some families would send one child to Deoband and the other to Aligarh. However, over time, most of the Muslim elite chose Aligarh and similar institutions because of the possibilities of future advancement for their children. It was graduates of Aligarh and those affiliated with them who were pivotal in the campaign for the creation of Pakistan in 1947.[20]

Their opposite stances vis-à-vis the Islamic heritage and towards the British, which at that time were often taken by Indian Muslims to represent all the West and all things modern, caused Aligarh and Deoband to drift apart. Moreover, the social dynamics involved whereby the elite

[20] For an overview of the various Islamic groups and/or movement active in India in the first half of the twentieth century, and their role and influence in the Pakistan movement, see Muhammad Qasim Zaman, *Islam in Pakistan: A History* (Princeton, NJ: Princeton University Press, 2018), 14-53.

increasingly chose Aligarh while the poor chose Deoband also played a role. Over time, different social classes emerged. Most of the middle classes and the upper classes which had hitherto treated *ʿulamā* with respect now looked to Aligarh and similar institutions as the way of the future and considered *ʿulamā* as obscurantists and narrow-minded. Even the term *mawlawī* (also spelled *maulavī* or *molvī*) which had so far been used as a title of respect for a traditionally trained *ʿālim*, now acquired pejorative connotations. Due to the changed behavior of the elite and the dismantling of the old patronage system, it was now the poor and those from the lower middle classes who supported *madrasas* like Deoband. Very few from the elite chose to support *madrasas*.

1.2.3: Pakistan: An Islamic State?

The socio-economic divide that the colonial experience and Muslim reactions to it had engendered, continued after the partition of India into India and Pakistan. Power in the newly created state of Pakistan was mainly in the hands of those who were part of or had been influenced by the Aligarh movement. Burdened with communal violence, mass migrations, shortage of funds, and war, the nascent state was in no position to make Pakistan into a laboratory for demonstrating the truth of Islam as its founders had promised. If anything, the leaders and officials of the new state mainly saw Pakistan as a modern nation state whose inspiration was to be found in British and European models and not in archaic legends of Islamic history, their rhetoric to the contrary notwithstanding.[21]

In this new setup, the *mawlawīs* continued to be despised. Most of the institutions of the new state including the legal code were legacies of colonial times. The domain of Islamic law was

[21] For an overview of how different groups used Islamic rhetoric to advance their own agendas in the run-up to the partition of India, see Paul Brass, "Elite Groups, Symbol Manipulation and Ethnic Identity among the Muslims of South Asia," in *Political Identity in South Asia*, eds. David Taylor and Malcolm Yapp (London: Curzon Press, 1979), 35-77.

still restricted to personal affairs, and this too in accordance with Anglo-Muhammadan law which the *ʿulamā* considered problematic. The educational system of the new state also continued to reflect its colonial heritage. Moreover, the new powers that be chose to maintain a patronage system in which English was placed at the top of the hierarchy, followed by Urdu and then regional languages. Religion was paid lip service but never taken seriously. In this environment, the *ʿulamā* who had chosen to stay in Pakistan or had migrated to it from what was now India, found themselves in a hostile environment, akin to their experience in colonial India. The only change was that now they lived among a majority of Muslims instead of Hindus, but power was still in the hands of others, i.e., modernist and/or non-practicing Muslims who quite often despised *mawlawīs*.

The same social divisions and state of alienation of *ʿulamā* from the state continued until the 1980s when General Zia-ul-Haq's "Islamization" policies and participation in the Afghan Jihad brought many *ʿulama* closer to the state, especially the military arm of it. However, this honeymoon was short-lived and ended with the General's death in 1988. In 1999, another general, Musharraf, came to power and initiated a sweeping program of media liberalization. This increased the penetration of Western and Indian (read "un-Islamic") culture in Pakistani society and led to increased alienation of *ʿulamā* from the general public in the urbans areas which was showing increasing disdain for traditional Islamic values and those who stood for them. Coupled with this was the newly launched US war on terror. As a frontline ally of the US, the Pakistani state came to be seen as suspect by most of those affiliated with *madrasas*. Since many among the Afghan Taliban had once studied in Deobandī *madrasas* in Pakistan, many Deobandīs felt a special affinity for them. Many also saw the US war on terror as a Western assault on Islam. It is in this context

of heightened social polarization and anti-Western sentiment that the long-brewing intra-Deobandī debate on Islamic banking and finance came into the open.

1.3: The Intra-Deobandī Debate on Islamic Banking

Among the many new issues that modernity has raised, interest-based capitalist finance is an important one. While some Muslims have come to accept this as not being in conflict with Islamic law, many *ʿulamā'* equate it to *ribā* which is prohibited in Islam.[22] Their response to it has been the purportedly interest-free Islamic banking & finance, which emerged in the 1970s.[23] Whereas the premodern Islamic modes of financing had been *qarḍ ḥasan* (interest-free loan), *muḍāraba* (investment/silent partnership) and *shirka* (partnership), the newly devised modes of financing relied quite heavily on double *mudāraba* (based on profit and loss sharing) and *murābaḥa*.[24] While traditional *muḍāraba* only entailed investment from one side and entrepreneurship from the other, double *mudāraba* meant that on the liabilities side, the depositor acted as the financier and the bank as the entrepreneur, while on the assets side, the bank acted as the financier and the borrower acted as the entrepreneur. Similarly, while traditional *murābaḥa* was merely a sale with a profit, the new version of *murābaḥa* entailed the bank acting as a merchant, purchasing required goods from a supplier and selling them to the customer for deferred payment. As a result of these

[22] *Ribā* is used in the Qur'an (2:275) to refer to monetary gain from a loan made in lieu of delay in repayment of the loan. Modern-day Islamic scholars disagree over whether modern interest falls under the rubric of *ribā* or not. Many think it does, and hence the need for an alternative that is interest-free.

[23] Warde has divided the growth and evolution of the modern Islamic finance industry into three stages, 1975-91, 1991-2001, and 2001-the present. See Ibrahim Warde, *Islamic Finance in the Global Economy* (Edinburgh: Edinburgh University Press, 2010), 2-4.

[24] In the pre-modern period, Muslim jurists recognized only two main modes of equity financing, namely *muḍāraba* (investment/silent partnership) and *shirka* (partnership). Applying these two methods in todays' complex financial system has become difficult. For this reason, Islamic finance theorists trying to create a space for contracts based on earlier Islamic legal practice have resorted to creating modified versions of pre-modern contracts such as *ijāra*, *murābaḥa*, etc. For more details about various Islamic finance products, see Muḥammad Taqī ʿUsmānī, *An Introduction to Islamic Finance* (Karachi: Maktaba Maʿārif al-Qur'ān, 2002).

innovations, entrepreneurs could now borrow money without having to pay interest and the transactions would still fall under the overall rubric of Islamic law.

Among the prominent scholars engaged globally in articulating Islamic finance theory and overseeing its implementation is the Pakistani Deobandī scholar Muḥammad Taqī ʿUsmānī.[25] While ʿUsmānī's scholarship has been positively received inside and outside Pakistan, he has also had his share of critics. To begin with, there are those who consider Islamic finance to be a farce, and a losing attempt by obscurantist *mullas* (pejorative term for the *ʿulamā*) and power-hungry Islamists to exert authority.[26] Even for many among traditionally trained *ʿulamā* who consider modern interest to be *ribā*, the so-called Islamic banking & finance falls short of the minimum that is needed to make it Islamic. These include Deobandīs and non-Deobandīs. Because of the particular dynamics of religious vs. non-religious social groups and of inter-sect rivalries in Pakistan, Deobandīs have historically tried to keep their internal divisions to themselves. However, this all changed in 2008 with the issuance of an "agreed upon (*muttafiqa*)" *fatwā* cited at the beginning of this chapter. This *fatwā* declared Islamic banking to be impermissible, and the private conversations that took place around it accused ʿUsmānī of subverting *sharīʿa* (Islamic law) and trying to legitimize *ribā*.

[25] Muḥammad Taqī ʿUsmānī is a traditionally trained Ḥanafī *ʿālim* (scholar) and serves as the vice-president of Dār al-ʿUlūm Karachi, one of the prominent Deobandī *madrasas* in Pakistan. As a top-rated Ḥanafī jurist (*muftī*), he has written definitive texts in most branches of Islamic learning such as Islamic law, Qur'anic studies, *ḥadīth* studies, comparative religion, etc. Moreover, he has served as a judge in the Federal Sharīʿat Court of Pakistan and continues to serve as the vice-president of the World Fiqh Academy based in Jeddah, Saudi Arabia. He also serves on the Sharīʿa advisory boards of numerous banks as well as the Sharīʿa Standards Board of the Bahrain based Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). Considering his overall credentials, both traditional and modern, he is often invoked by Deobandī apologists engaged in debates with secularists in Pakistan as the prime example of what their *madrasa* system can produce. For more on him, see Kelly Pemberton, "An Islamic Discursive Tradition on Reform as Seen in the Writing of Deoband's Mufti Muhammad Taqi Usmani," *The Muslim World* 99, no. 3 (2009): 454-456.

[26] See Timur Kuran's interview in William Barnes, "Islamic Finance sits awkwardly in a Modern Business School," *Financial Times*, July 21, 2013, https://www.ft.com/content/ee2a2b36-9de5-11e2-9ccc-00144feabdc0.

The people at the forefront of this "agreed upon" *fatwā* were prominent Deobandīs from Karachi. Among them was ʿUsmānī's former teacher Salīm Allāh Khān (d. 2017), who also happened to be the head of the Deobandī Board of Madrasas in Pakistan (Wifāq al-Madāris al-ʿArabiyya) and the head of the Jāmiʿa Fārūqiyya *madrasa* in Karachi. However, most of the legwork for the *fatwā* was done by young *muftīs* based at another important Karachi *madrasa*, Jāmiʿat al-ʿUlūm al-Islāmiyya Banūrī Town. Deobandī critics of Islamic banking and finance later produced a more detailed critique in a work titled *Murawwajā Islāmi bankārī* [Conventional Islamic Banking]. In response, ʿUsmānī wrote his *Ghayr sūdī bankārī* [*Ribā*-free Banking] responding point-by-point to all the charges made against Islamic banking. In response to that, the opponents produced another work titled *Ghayr sūdī bankārī: Ayk munsifāna jā'iza* [*Ribā*-free Banking: An Objective Analysis]. To this day, the debate is far from settled. However, the main elements of the debate can be gleaned from these works.

1.3.1: Critique of Islamic Banking[27]

The "agreed upon" *fatwā* and the book that followed it, *Murawwajā Islāmī bankārī*, alleged that contemporary Islamic banking is impermissible for two main reasons, namely, it does not properly follow the procedures prescribed by Islamic banking and finance theorists, and secondly these prescribed procedures are themselves in conflict with *sharīʿa*. In support of the first claim, the authors presented the alleged testimony of Islamic banking professionals as well as of ʿUsmānī himself who were reported to have shared their misgivings about how the industry functioned. In

[27] For a brief overview of the critique, see the translation of the *fatwā* cited earlier in Ghias, "Juristic Disagreement: The Collective Fatwā against Islamic Banking in Pakistan," 107-115. For a more detailed explication of these charges in Urdu, see Rufaqā Dār al-Iftā Jāmiʿat al-ʿUlūm al-Islāmiyya Banūri Town, *Murawwajā Islāmi bankārī* (Karachi: Maktaba Bayyināt, 2008).

support of the second contention, the "collective" *fatwā* listed, and the book explained the problems with Islamic banking. These problems can be summarized as follows:

1. *Murābaḥa* as practiced in Islamic banks does not conform to legally valid *murābaḥa* because determination and assignment of price, and clear knowledge and existence of cost are necessary elements of a *murābaḥa* sale and these are generally absent in the sales contracted under the auspices of Islamic banks.
2. The agency (*wakāla*) assumed by the customer on behalf of the bank in *murābaḥa* sales is invalid agency (*wakāla fāsida*) because despite the apparent language, in reality the same person is the buyer and the seller.
3. *Ijāra* when used as a mode of finance turns it into a sale.[28] Calling it an *ijāra* is disingenuous. However, it is not even a valid sale because it is a contract in which another contract is stipulated (*bayʿ mashrūṭ bi al-ijāra*), and that is against *sharīʿa*.
4. Using conventional interest rate as a standard to determine the rent renders it similar to *ribā* (*shubhat al-ribā*), which is as bad as *ribā* itself. Moreover, since the conventional rate changes from time to time, while the rent in *ijāra* has to be known beforehand; therefore, this contract is invalid.
5. Forcing customers to pay charity as a penalty in case of default on a payment is invalid. This is no better than *ribā*.

[28] *Ijāra* is basically a transaction that entails transfer of usufruct of a property from one person to another for a certain period of time for a certain payment. As such it was not used as a mode of financing in the premodern period. However, in modern Islamic finance, *ijāra* is used as a mode of financing whereby the lessor, the financial institution, purchases an asset through the lessee with the latter acting as the former's agent (*wakīl*). Then, the lessor leases this asset to the lessee for an agreed amount. This mode of financing is quite often used for car leasing as well as home finance. For more on *ijāra* and its use in modern Islamic finance, see ʿUsmānī, *Introduction to Islamic Finance*, 109-127.

6. There is no permission in *sharīʿa* for security deposits in case of *ijāra* or other contracts. The concepts of *mushāraka* (partnership), *ijāra*, *murābaḥa*, etc. belong to the category of trusts (*amānā*) and hence cannot be treated as collateral (*rahn*).
7. Existing Islamic banking contracts of *mushāraka* and *muḍāraba* include stipulations for the customer to abide by the rules and regulations of the State Bank of Pakistan (henceforth SBP). Since, SBP's regulations change over time, this amounts to unilateral amendments to contracts, which are not permissible.
8. SBP regulations by their very nature are un-Islamic because they require Islamic banks to insure their assets among other things. Insurance is impermissible and complying with SBP's regulations renders Islamic banks' operations impermissible.
9. The proposed method of allocation of profits in the case of *mushāraka* and *muḍāraba* contracts does not fulfill Islamic requirements. Instead of an actual rate of return, an estimated and fictional rate of return is used.
10. Many of the contracts that take place under the auspices of Islamic banks involve a transaction within a transaction (*ṣafaqa fī ṣafaqa*) which is impermissible.
11. Existing *murābaḥa* and *ijāra* as modes of financing are mere *ḥiyal* (stratagems or ruses) and since all *ḥiyal* are suspect in the eyes of *sharīʿa*; therefore, they cannot be allowed to be used on a permanent basis. However, these currently serve as the cornerstone of Islamic banking. In this case, the following principle must be applied "when permissible and impermissible are found together, and the latter dominates, then the whole is rendered impermissible." Hence, Islamic banking is not Islamic.
12. The idea of a legal person is inherently problematic. It entails limited liability and serves as a means to providing unlimited profits to bankers and saving them from actual losses.

1.3.2: ʿUsmānī's Response

ʿUsmānī main response to the first part of the critique, viz. the alleged testimony of banking professionals and of ʿUsmānī himself that Islamic banking is not fully *sharīʿa*-compliant, was that the critics had misunderstood these statements. Some of the cited statements had been taken out of context. In other cases, the critics had relied on bad translations of banking documents, and further still they had conflated exhortation to improve with condemnation of something impermissible. It seems that this part of ʿUsmānī's response has been accepted by his critics, since the counter response as contained in *Ghayr Sūdī bankārī: Ayk munsifāna jā'iza* did not raise this issue again.

A basic response of ʿUsmānī to the more technical aspects of the critique was his allegation that his critics had mixed *fatwā* with *taqwā* (piety or God-consciousness).[29] It is one thing to exhort someone to take the more cautious path and avoid all those matters that *might* be impermissible or whose permissibility may be differed upon. It is, however, quite another matter to declare these same matters to be impermissible, out of caution.[30] Citing medieval Ḥanafī sources, ʿUsmānī went on to argue that with respect to *ḥiyal*, the issue of *ṣafaqa fī ṣafaqa*, as well as the problem of Islamic banks forcing defaulting customers to pay charity, the Ḥanafī law was actually more detailed than what the critics had understood. There were various categories of *ḥiyal* and other issues raised by the critics. Islamic finance experts had only employed those that were permitted. If anything, the critics had not taken the time to comb through Ḥanafī literature thoroughly.[31] For the most part,

[29] In Islamic legal thought, jurists have traditionally distinguished between *fatwā* and *taqwā*, where the former indicates the minimum and maximum limits of permissible and impermissible, while the latter indicates the more moral/desirable approach, which often involves hardship. I discuss this in some more detail in the fifth chapter.

[30] Muḥammad Taqī ʿUsmānī, *Ghayr sūdī bankārī: Mutaʿalliqa fiqhī masā'il kī tahqīq aur ishkālāt kā jā'iza* (Karachi: Maktaba Maʿārif-ul-Qur'an, 2009), 99.

[31] ʿUsmānī, *Ghayr sūdī bankārī*, 161-208, 239-257, and 277-297.

ʿUsmānī was able to make his case with reference to the works of the Ḥanafī *madhhab*. However, in some cases, he was forced to refer to other *madhhabs* such as in the case of Islamic banks forcing defaulting customers to pay charity where he had to cite an Mālikī opinion, which considers voluntary promise of charity to be binding.[32]

1.3.3: Construction of Authority

Beyond the technical answers given by ʿUsmānī, it is his as well as his opponents' particular methods of constructing authority that should also be highlighted here. Like any good piece of juristic writing, ʿUsmanī and his opponents cited relevant Qur'anic verses, *ḥadīths*, and legal texts from jurists across the centuries. More than his opponents, ʿUsmānī's erudition and scholarly analysis comes to the fore in these discussions. It is, however, remarkable that he devoted considerable space, perhaps one-third of his book, *Ghayr sūdī bankārī*, to argue two points. One is the permissibility of borrowing from other *madhhabs* when needed, and the other is demonstrating the support of his actions by earlier senior Deobandī *ʿulamā* such as Rashīd Aḥmad Gangohī (d. 1905), Ashraf ʿAlī Thānvī (d. 1943), ʿUsmānī's father Muftī Muḥammad Shafīʿ (d. 1976), the founder of Dār al-ʿUlum Karachi and Yūsuf Banūri (d. 1977), the founder of the Banūri Town *madrasa*. The last one is particularly important because the main concentration of ʿUsmānī's critics was in the Banūri Town *madrasa*.

On the part of ʿUsmānī's critics, they resorted to the same. Their writings, both the *fatwā*, and the books detailing alleged problems with Islamic banking, are replete with references to earlier Deobandī *ʿulamā* and their statements on the subject.

[32] ʿUsmānī, *Ghayr sūdī bankārī*, 277-297.

1.3.4: *Taqlīd* and Deviation from It

As discussed earlier, a major point of contention between the two sides was the permissibility or otherwise of borrowing from another *madhhab*. As staunch Ḥanafīs, both sides generally refrain from leaving their *madhhab*. ʿUsmānī himself is the author of the standard Deobandī text arguing in favor of *taqlīd shakhṣī*.[33] However, Deobandīs also acknowledge the permissibility of doing so when required by necessity (*ḍarūra*) or extreme need (*ḥāja shadīda*). The difference between the two sides was over the exact threshold of this necessity and/or need. Although ʿUsmānī's detractors did not say so explicitly, a reading of their works suggests that for them, the necessity or need, which could allow one to leave one's *madhhab*, could only be something at the level of a life-or-death issue. ʿUsmānī, on the other hand, saw a wider scope for need. In his appeal to past Deobandī authorities, he cited the statement from the above-mentioned Thānvī who is reported to have said that he had sought special permission from Gangohī to give *fatwā* on another *madhhab*'s opinions in economic matters (*muʿāmalāt*) when it was hard for the general public to avoid something which Ḥanafīs considered impermissible.[34] ʿUsmānī's critics did not raise this issue again in their counter-response *Ghayr Sūdī bankārī: Ayk munsifāna jā'iza.* It is not clear whether they agreed with ʿUsmānī's discussion of need and necessity or whether they had accepted the arbitration of an esteemed Deobandī elder.

1.3.5: The Larger Reason Underlying the Debate

As alluded to earlier, the disagreement between the two sides over the two closely inter-linked issues of definition of needs and necessities and the permissibility of borrowing from another

[33] See Muḥammad Taqī ʿUsmānī, *Taqlīd kī sharʿī ḥaysiyat* (Karachi: Maktaba Dār al-ʿUlūm Karachi, 2004).

[34] ʿUsmānī, *Ghayr sūdī bankārī*, 288.

madhhab, are in turn dependent on the issue of Deobandī attitudes to the modern world. Metcalf has discussed in detail the forces that shaped the worldly outlook of the early Deobandī movement. Muslim loss of political power coupled with the culturally aggressive British colonialists forced early Deobandīs to adopt a defensive approach that focused on preservation of the Islamic heritage and shunning of modernity.[35] This attitude has continued to this day best exemplified by a shunning of the English language and of modern educational institutions.

Although ʿUsmānī comes from the same tradition, he stands apart from his opponents in terms of his language skills (he speaks fluent English), rich experiences of the modern world in general and of global finance in particular. Thus, while his opponents have to rely on others to translate bank documents from English to Urdu, and for explanation of how the banking system works, ʿUsmānī has no such handicap. He has first-hand knowledge of the banking industry's theory and practice. *Muftīs* at Dār al-ʿUlūm Deoband recognized as much when they responded to a question about ʿUsmānī and Islamic banking by stating that "Ḥazrat Muftī Ṣāḥib [honorifics referring to ʿUsmānī] has deep knowledge of *fiqh* and *fatwā*, the ability to run banking the Islamic way, and the capacity to protect the system from interest (*sūd*) and other non-*sharʿī* matters."[36]

1.3.6: Deobandī Ambitions and Their Limitations

Connected with the above-mentioned issue of Deobandī attitudes towards modernity, we must also keep in mind that Deobandīs have assigned themselves multiple missions and one of these is the implementation of Islam as a comprehensive way of life in Pakistan. This is what motivated Taqī ʿUsmānī to get involved in Islamic banking and this is what spurred his critics to publicly reject

[35] Barbara Metcalf, *Islamic Revival in British India: Deoband, 1860-1900* (New Delhi: Oxford University Press, 2002), 16-86.

[36] Ghias, "Juristic Disagreement," 115.

his version of Islamic banking. Adherence to what they consider to be true Islam is thus a key element of Deobandī self-image. In the Deobandī imagining of Muslim society, the *ʿulamā* are supposed to be at the forefront providing guidance to the Muslim community on all matters to varying degrees of detail. The intra-Deobandī debate on Islamic banking thus provides a useful avenue to understand and evaluate not only the various themes of Islamic law highlighted at the beginning of this chapter, but also to see how Deobandīs measure up to the mission they have assigned themselves.

1.4: The Deobandī Approach to *Fatwā*-giving

Having introduced the intra-Deobandī debate on *fatwā*-giving, a few words on the Deobandī approach to *fatwā*-giving are in order. To begin with, it should be noted that when a Deobandī *muftī* drafts a *fatwā* today, he is operating under two sets of guidelines. One connects him to the pre-modern Ḥanafī *madhhab*, while the other grounds him in his modern South Asian training, i.e., the South Asian Deobandī sub-school. The main connection between him and the pre-modern Ḥanafī *madhhab* is through the vast number of texts produced in the *madhhab* that deal with substantive law (*furūʿ fiqhiyya*). This body of texts tends to be very diverse, including not just legal manuals such as compendia (*mukhtaṣarāt*) but also commentaries (*shurūḥ*) and glosses (*ḥawāshī*), as well as *fatwā* collections. Important ones include *Nūr al-īḍāḥ, Mukhtaṣar al-Qudūri, al-Hidāya, Fatḥ al-Qadīr, Fatāwā Qāḍīkhān, al-Fatāwā al-Ālamkiriyya* aka *al-Fatāwā al-hindiyya, Ḥāshiyat Ibn ʿĀbidīn* aka *Fatāwā Shāmiyya* aka *Radd al-muḥtar ʿala al-Durr al-mukhtār,* etc. To this can be added works of legal theory (*qawāʿid fiqhiyya* and *uṣūl al-fiqh*). At the root of all these texts are, of course, the Ḥanafī foundational texts, called *ẓāhir al-riwāya,* attributed to a student of Abū Ḥanīfa (d. 767), Muḥamamd b. al-Ḥasan al-Shaybānī (d. 805). These

are *al-Aṣl*, *al-Jāmiʿ al-kabīr*, *al-Jāmiʿ al-ṣaghīr*, *al-Siyar al-kabīr*, *al-Siyar al-ṣaghīr*, and *al-Ziyādāt*. However, as important as these are to the Ḥanafī *madhhab*, they are not always referred to in Deobandī *fatwās*.

Governing a Deobandī *muftī*'s interaction with all these texts are the guidelines that a muftī is supposed to adhere to, often termed as *adab al-muftī* or *rasm al-muftī*. The main reference for Deobandī Ḥanafīs of today with respect to *adab al-muftī* is the work produced in early nineteenth century by the Syrian jurist Ibn ʿĀbidīn titled *Sharḥ ʿUqūd rasm al-muftī*, which is a commentary on a short poem by the same author. This work serves as a guide on how to navigate the plethora of Ḥanafī texts that the pre-modern *madhhab* has bequeathed to the modern Ḥanafī. It provides a hierarchy of texts and scholars, and a structured system of interacting with them. The hierarchy of scholars covers a broad spectrum from the senior most (*mujtahid muṭlaq*, i.e., independent jurist) to the junior most (*muqallid*, i.e., mere follower). On this scale, most contemporary Ḥanafī *muftīs* see themselves as *muqallids*. In between the two extremes are various levels including the *aṣḥāb al-tarjīḥ* (people who give preponderance to one opinion over others) who play a critical role in keeping the *madhhab* alive and relevant. More than the founders of the *madhhab* such as Abū Ḥanīfa, Abū Yūsuf (d. 798) and Muḥammad al-Shaybānī, it is the works of such *aṣḥāb al-tarjīḥ*, which serve as first reference for later Ḥanafīs.

The concept of *tarjīḥ* (giving preponderance to one opinion over others) can be traced back to at least the Mamluk times, perhaps even earlier to the fourth/tenth century.[37] It basically refers to the process of determining the preferred opinion from among a set of opinions that have been

[37] For a brief discussion of early *tarjīḥ*, see Eyup Kaya's study of the three sub-schools of the Ḥanafī School in the tenth to thirteenth centuries, namely Iraq, Balkh and Bukhara, in Eyup Kaya, "Continuity and Change in Islamic Law: The Concept of *Madhhab* and the Dimensions of Legal Disagreements in Ḥanafī Scholarship of the Tenth Century," in *The Islamic School of Law: Evolution, Devolution and Progress*, eds. P. Bearman, R. Peters, and F. E. Vogel (Cambridge, MA: Harvard University Press, 2005), 26-40.

inherited from the past. The output of this process is also referred to as *tarjīḥ*, hence *tarjīḥāt* (preferred/chosen opinions). People performing this task, or those seen as qualified to perform this task, are referred to as *aṣḥāb al-tarjīḥ* or *ahl al-tarjīḥ*. Following the process of *tarjīḥ* is the process of *taṣḥīḥ*, which refers to a later scholar's confirmation of an earlier scholar's *tarjīḥ*. Quite often, the two processes of *tarjīḥ* and *taṣḥīḥ* are simply referred to as *tarjīḥ*.[38]

Along with the pre-modern and non-South Asian set of texts and guidelines, the contemporary Deobandī *muftī* is also guided by his local sub-school, i.e., the Deobandī movement. Although I have yet to encounter this explicitly stated, the early scholars of the Deobandi movement, referred to as the *akābir* (elders), effectively serve as *aṣḥāb al-tarjīḥ*. These scholars are understood to have sifted the pre-modern Ḥanafī *madhhab* and to have already distinguished strong opinions from the weak. Hence, when seeking an answer to a legal question, a Deobandī Ḥanafī *muftī* often begins not with Ibn ʿĀbidīn or an earlier Ḥanafī text but with what the *akābir* may have said on the subject. Numerous *fatwā* collections have acquired great importance among Deobandīs. These include: *Imdād al-fatāwā* of Ashraf ʿAlī Thānvī (d. 1943), *Kifāyat al-muftī* of Kifāyat Allāh (d. 1952), *Fatāwā Maḥmūdiyya* of Maḥmūd Ḥasan Gangohī (d. 1996) and *Aḥsan al-fatāwā* of Rashīd Aḥmad Ludhyānvī (d. 2002). All of these works are multi-volume and in Urdu but have been researched upon by other Deobandīs such that newer editions of the works are accompanied by detailed glosses outlining the pre-modern sources of these *fatwās*.

As mentioned earlier, when seeking a response to a legal question, the contemporary Deobandī *muftī*'s starting point will often be one of the many works produced in his sub-school in Urdu. However, the formal writing down of the *fatwā* takes a different course. For that, the starting

[38] For an excellent and detailed study of the processes of *tarjīḥ* and *taṣḥīḥ* and how they operate in the Ḥanafī *madhhab*, see Talal al-Azem, *Rule-Formulation and Binding Precedent in the Madhhab-Law Tradition: Ibn Quṭlūbughā's Commentary on The Compendium of Qudūrī* (Leiden: Brill, 2017).

point often tends to be an Arabic work, most likely *Ḥāshiyat Ibn ʿĀbidīn* aka *Fatāwā Shāmiyya* of the afore-mentioned Syrian jurist Ibn ʿĀbidīn. Other works that are often cited alongside, or in addition to *Ḥāshiyat Ibn ʿĀbidīn*, include the following: *al-Fatāwā al-hindiyya*, compiled in the late 17th century by a committee of scholars under orders of the Mughal emperor Aurangzeb (d. 1707), *Badā'iʿ al-ṣanā'iʿ* of al-Kāsānī (d. 1191), as well as numerous commentaries on legal manuals such as *Kanz al-daqā'iq* of Abu al-Barakāt al-Nasafī (d. 1310) and *al-Hidāya* of Burhān al-Dīn al-Marghīnānī (d. 1197). Prominent among these commentaries are al-*Baḥr al-rā'iq* on *Kanz al-daqā'iq* and *Fatḥ al-Qadīr* on *al-Hidāya*.

In many albeit not all cases, Deobandī *muftīs* work from stock answers that have been arrived at by the Deobandī *akābir*, and whose basis can be located in *Ḥāshiyat Ibn ʿĀbidīn* or *al-Fatāwā al-hindiyya*. As such, a *muftī*'s personal legal reasoning tends to be limited to that of locating the *juz'iyya* in *Ḥāshiyat Ibn ʿĀbidīn* or other such works to back up the answer that he already knows from his sub-school. In case of complex issues or new issues that have not been discussed by earlier jurists, the matter is often deferred to the senior *muftīs* of today. In other cases, there are also committees of *muftīs* that convene on a regular basis to discuss new or complex issues. In the case of India, there is the Indian Fiqh Academy (IFA), a Deobandi body that brings together *muftīs* from all over India as well as overseas. Its many publications of the proceedings of fiqh seminars are being used as references by Deobandī *muftīs* around the world. There also exist smaller bodies such as the *Majlis ʿIlmī* in Karachi, which performs the same task as IFA but on a smaller scale.

As mentioned earlier, the nineteenth century in India saw the emergence of a South Asian version of the Salafi movement, called the Ahl-i ḥadīs. Because of their insistence on adherence to Qur'an and Sunna, the Ahl-i ḥadīs often engage in debates with Ḥanafīs trying to prove that the

Ḥanafī *madhhab* is not grounded in *ḥadīths*. In response to this hostile environment, an increasing number of Ḥanafī *fatwās* now provide evidence for their reasoning not only from earlier Ḥanafī texts but also from Qur'an and *ḥadīth*. This process has been further augmented by the overall increase among South Asian Muslims of skepticism towards *ʿulamā*, which can be attributed to modernity. As a result, an increasing number of South Asian Ḥanafī *fatwās* tend to also provide rational evidences for their opinions. Despite all these changes, the majority of *fatwās* given on a daily basis still follow the basic format of a question followed by a brief answer, and perhaps a reference to an Arabic Ḥanafī text.

In the background of all of these changes is a particular political change, namely the divorce between *ʿulamā* and the state. In the colonial period following the fall of the Mughal Empire, *ʿulamā* became disconnected from state. This has remained unchanged in the post-colonial era. *ʿUlama* have an ambiguous relationship with the new states especially purportedly Islamic ones such as Pakistan. As such, they have resisted all attempts to become part of any government set up. Unlike their counterparts in the Middle East, South Asian *muftīs* operate independent of their governments. All *dār al-iftā*'s are privately run, be they in Pakistan, India, or Bangladesh. Hirings and firings in *dār al-iftā*'s is also a local affair, independent of the government and basically in the hands of the head (*ra'īs*/*ṣadr*) of the *dār al-iftā*. The result of this independence is the increased number of *dār al-iftā*'s, *muftīs* and *fatwā* collections.

Accompanying all of these changes is the material change, which has affected *muftīs* globally. Whereas earlier *fatwās* were often written by hand, and addressed the particular questioner (*mustaftī*), today's *fatwās* are often typed up and recorded in the registers of the *dār al-iftā* issuing them. After some years or decades, when a decent number of *fatwās* have gathered, the *dār al-iftā* publishes them. One such prominent collection is *Fatāwā Dār al-ʿUlūm Deoband*.

Alongside these printed *fatwās* are the *fatwās* given by telephone, email, and internet. Online *fatwā* websites that have emerged around the world including South Asia also maintain a record making it available to any reader. What all this means is that the particular nature of the *fatwā* is changing. Although still addressed to a single questioner, it is now understood that it will be read by many more. As such, the *muftī* has to be careful to use a language that can be understood by a broad audience and is relevant to most people.

1.5: Literature Review

In light of the questions that I posed earlier and of the area of my research, I review the existing scholarship in two main areas, namely traditionally trained *ʿulamā* and Islamic law in the modern world, and the *taqlīd* regime in premodern *madhhabs*.

1.5.1: Traditionally trained *ʿUlamā* and Islamic Law in the Modern World

As mentioned earlier, for most of the twentieth century, Sunnī *ʿulamā* were neglected in Western scholarship. This changed at the turn of the century with the publication of new works that shed light on the power and authority of the *ʿulamā* in modern Muslim societies. Through a close analysis of a range of *fatwās* given by Egyptian *muftīs* from 1895 to the last quarter of the twentieth century, Jakob Skovgaard-Peterson demonstrated in his *Defining Islam for the Egyptian State: Muftīs and Fatwās of the Dār al-Iftā* (Brill, 1997) that these "official" *muftīs* were not merely toothless government bureaucrats serving the state. Rather, he argued that they saw themselves as defenders of *sharīʿa* and were successful in "transferring a certain degree of Salafi vision of Islam" to the Egyptian population, which was key to the Islamization of the Egyptian society in the 1970s and 1980s.

A few years later, Muhammad Qasim Zaman's *The ʿUlama in Contemporary Islam* (Princeton University Press, 2002) did much to highlight the important role that *ʿulamā* continued to play in modern Muslim South Asia well into the twentieth century. His work dealt with the question of how *ʿulamā* constructed their authority, put it on display, and constantly defended it. In particular, he brought into sharp focus the dynamic and variegated nature of the discourse that takes place among *ʿulamā*, as well as their jostling for religious authority with other stakeholders in Muslim societies. At the same time, he also turned academic scholars' attention towards Deobandīs, who form the largest and most influential group of such *ʿulamā* in today's Muslim South Asia. Incidentally, his work coincided with the newly launched US war on terror which made Deobandī *madrasas* an important object of study for policy makers, journalists, and academics.

Since then, much has been written about Deobandīs and their *madrasas*, some serious academic work and a lot of sensationalistic journalism. For many, Deobandīs became important because of their alleged role in fomenting extremism. In the process, their more "mundane" roles as prayer leaders, *madrasa* teachers and jurists were ignored. Zaman provided an important corrective through his *Modern Islamic Thought in a Radical Age: Religious Authority and Internal Criticism* (Cambridge University Press, 2012). Through a comparative study of one South Asian (ʿUbayd Allāh Sindhī) and two Arab *ʿulamā* (Rashīd Riḍā and Yūsuf Qaraḍāwī) operating at various points in the past hundred years, Zaman outlined the internal criticism as well as diversity evident among *ʿulamā*. As such, this work was a continuation of his earlier 2002 work in terms of its focus on questions of authority. However, unlike the older work, the newer one showed a much more robust engagement with certain important themes in Islamic legal thought such as consensus (*ijmāʿ*), interpretive authority (*ijtihād*), and questions about common good (*maṣlaḥa*). However,

because of its focus on internal critics, its engagement with the legal thought of the mainstream/majority of traditional *ʿulamā* went into the background.

Sophisticated engagement with important themes in Islamic legal thought especially as it pertains to the institution of *fatwā* in the modern world has been limited in Western Islamic studies to a few works, prominent among them being the previously mentioned study by Skovgaard-Peterson, and the edited volume, *Islamic Legal Interpretation: Muftīs and their Fatwās* (Harvard University Press, 1996). In the latter work, twenty-seven scholars presented their study of *fatwās* from three time periods (premodern, early modern, and modern), engaging not only with important aspects of Islamic legal thinking but also demonstrating the political and social uses of *fatwās*. In addition, the first two introductory chapters provided a broad overview of the concepts and institutions associated with *fatwā* and its position in Islamic law, as well as some of the qualifications of a *muftī* that various scholars have specified across the centuries, mainly with regards to his being a *mujtahid* (qualified to engage in independent interpretive reasoning) or not.

An important recent addition has been Muhammad Al Atawneh's *Wahhābī Islam facing the Challenges of Modernity: Dār al-Iftā in the Modern Saudi State* (Brill, 2010). Al Atawneh looked at a range of *fatwās* issued by the two main Saudi *ʿulamā* councils, the Board of Senior ʿUlamā and the Permanent Committee for Scholarly Research and Legal Opinions, which together constitute the Saudi Dār al-Iftā'. Based on his research, Al Atawneh argued that while Saudi *muftīs* had been strict on matters pertaining to ritual, gender segregation and morality, they had been quite pragmatic in their rulings on financial matters invoking principles of necessity (*ḍārūra*) and public interest (*maṣlaḥa*) when needed. As complex as Al Atawneh's account was, it painted a picture different from the one people conjure up when hearing the word Wahhābī and Islamic law in the same sentence. Unfortunately, despite its rich depiction, Al Atawneh's work was short in his

conclusions. He did not try to identify the logic undergirding Saudi *muftīs*' divergent approaches to gender segregation and morality on the one hand, and financial and medical matters on the other hand.

Nevertheless, in their engagement with actual *fatwās*, the above-mentioned three works represent a significant advance in our understanding of how traditionally trained Sunnī jurists have responded to modernity invoking various principles available in their premodern heritage. Another common theme that runs across these three works is that their objects of study, the *muftīs* are not strict adherents of a single *madhhab*. Even the Saudi *muftīs*, who are supposedly Wahhābī-Ḥanbalī are relatively relaxed in their adherence to the Ḥanbalī *madhhab*.

Studies that pertain to *fatwās* issued under strict *taqlīd* regime in the modern period have to look elsewhere, such as Muslim South Asia. As mentioned earlier, here are found two very large groups of traditionally trained Ḥanafīs, the Deobandīs and the Barelvīs. Of the two, Deobandīs have been garnering increasing attention. While the earliest monograph length study of Deobandīs by Barbara Metcalf had characterized them as a religious reform movement focused on personal improvement of one's faith and practice,[39] most post 9/11 studies tended to highlight the political dimensions of Deobandī thought. Those focused on the legal dimensions of the Deobandī movement, tend to deal with the colonial period. Thus, Zaman's previously mentioned works, Ali Altaf Mian's recent article about loudspeakers,[40] and Fareeha Khan's dissertation length study of Ashraf ʿAlī Thānvī's (d. 1943) *fatwā* on women's right to divorce all deal with colonial India.[41] How have Deobandi *fatwās* changed in the postcolonial period has been studied academically only

[39] See Metcalf, *Islamic Revival in British India*.

[40] Ali Altaf Mian, "Troubling Technology: The Deobandī Debate on the Loudspeaker and Ritual Prayer," *Islamic Law and Society*, 24, no. 4 (2017): 355-383.

[41] Fareeha Khan, "Traditionalist Approaches to Sharīʿah Reform: Mawlana Ashrafʿ Ali Thānawi's Fatwa on Women's Right to Divorce," (PhD diss., University of Michigan, 2008).

as part of larger projects such as Mashal Saif's dissertation on the *ʿulamā* and the state in contemporary Pakistan, or the previously mentioned works by Zaman.[42] As such, a study of how a *madhhab* or a sub-school functions today in terms of legal argumentation and social dynamics has not really been undertaken. Moreover, what are the continuities and discontinuities between contemporary *madhhabs* and premodern ones is another unexplored area.

Baber Johansen has brought to the attention of Western scholarship the idea of contingency in Islamic law, especially as it pertains to the ontological differences between Islamic law and theology.[43] This is something that has obviously been well known to insiders, i.e., those who study and practice Islamic law. Yet it is also true that for many insiders and outsiders, Islamic law (or even Islam) is often understood as a reified entity. This is how it is often presented by preachers and *madrasa* teachers among insiders and by journalists and college professors among outsiders. Hence the proliferation of such statements as "What does Islam say about such and such?" among Muslims and non-Muslims alike.

A counter-narrative is provided by Zaman who argued that while the concept of *sharīʿa* hardened in the public imagination and official circles during colonial times in India, the *ʿulamā* did not become fully inflexible. Rather, they maintained understandings of Islamic law that allowed them to respond creatively to newer conditions. His main examples are Thānvī's

[42] Mashal Saif, "The *ʿUlamā'* and the State: Negotiating Tradition, Authority and Sovereignty in Contemporary Pakistan," PhD diss., Duke University, 2014. To these studies one can also add biographies of prominent Deobandīs such as Ashraf ʿAlī Thānvī and Ḥusayn Aḥmad Madanī mentioned earlier, and Ali Altaf Mian's dissertation "Surviving Modernity: Ashraf ʿAlī Thānvī (1863-1943) and the Making of Muslim Orthodoxy in Colonial India" (PhD diss., Duke University, 2015). Questions of authority, of personal discipline, communal politics, and preservation of true Islam in the face of modernity all figure prominently in these studies.

[43] Baber Johansen, *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden: Brill, 1999). See especially his introduction (pp. 1-76) and "How the Norms Change" (pp. 446-464).

previously mentioned *fatwā* about women's right to divorce and the support of the main Deobandī political party for a united India as opposed to a separate Muslim homeland.[44]

Standing apart from all these studies is a recent work by Muhammad Moj titled *The Deoband Madrassah Movement: Countercultural Trends and Tendencies* (Anthem Press, 2015). Using a multi-layered approach (historical, textual, and surveys) to study Deobandī attitudes vis-à-vis popular social and religious practices of the larger body of Muslims in colonial India and postcolonial Pakistan, the author concluded that the Deobandī movement possesses a countercultural character which must be taken into account when interpreting or analyzing the movement. Although I agree with Moj's larger argument, I find his reasoning methods problematic since he is prone to making generalizations where none are warranted. Perhaps, this is born of his background as a non-Deobandī coupled with lack of sustained personal interactions with individual Deobandīs.

Most closely related to my topic of research is the recent doctoral dissertation by Sohaib Khan submitted at Columbia University in 2020 which examines how Deobandī *muftīs* transform Islamic law in their bid to adapt Islamic commercial law to modern finance. His central argument is that Islamic banking secularizes Islamic commercial law because the discursive and disciplinary technologies are reengineered according to the logic of market governance. Khan makes his case by exploring the twin themes of reconfiguration of Islamic texts and creation of unique ethical subjectivities. According to Khan, *sharīʿa*-compliance entails two related transformations: reification of polyvalent Islamic legal texts into a standard finance code and change of Islamic ethics from cultivating piety to developing pragmatic risk-taking and profit optimization. He sees this shift from *muʿāmalāt* to *sharīʿa*-compliance as a movement from Islamic law as nomos, i.e.,

[44] Zaman, *The ʿUlamā in Contemporary Islam*, 21-37.

a system of socially embedded norms, to Islamic law as logos, i.e., Islamic law codified according to the logic of market governance. Khan goes on to argue that these ethical and textual shifts are enabled by acts of textual and economic performativity. One of his key insights, namely Islamic finance is an instance of subsumption of Islamic commercial law into global capitalism confirms one of the main accusations leveled by Deobandī critics of Islamic banking.

Despite the great overlap between our areas of research, Khan's work is of a very different nature than mine. To begin with, his analysis is grounded in anthropological and postcolonial theory and their concerns provide the framework with which he approaches his topic of research and his subjects. This creates two potentially problematic issues. On the one hand, the voices of his subjects end up being used in academic debates for or against this or that academic theory. While empowering in the sense that their ideas are being deployed well beyond their local context, this also entails a certain distortion of their voices because they did not even conceive of the debates for which their ideas are being used. Secondly, for the uninitiated or those less exposed to these kinds of theoretical debates, Khan's sophisticated engagement with theory obfuscates more than it reveals. Thus, his main argument that *sharīʿa*-compliance is a case of secularization of Islamic law sounds jarring since the common understanding of secularization is that of either separation of religion from politics or that of decline of religion in the public sphere. Khan, on the other hand, uses secularization in a very specific sense, namely "establishing kinship and continuity between religion and secularity."[45] In short, as tempting as it is to engage with Khan's analysis, it is counterproductive for my research because it would completely alter the nature of my work.

[45] Sohaib Khan, "Translating Capital: Islamic Law and the Making of Sharīʿa Compliance in Pakistan," (PhD. diss., Columbia University, 2020).

1.5.2: The *Taqlīd* Regime

Madhhab and *taqlīd* have long had a bad name in Western scholarship. Probably under the influence of their Arab interlocutors, many earlier Western scholars regarded *taqlīd* as blind imitation which was the opposite of creativity. The creative impulse in Islamic history was said to have ended long time ago with the closing of the gates of *ijtihād*.[46] However, much has changed in the last few decades. Fadel, Jackson, and Hallaq have argued that the *taqlīd* regime instituted by medieval *madhhabs* should not be seen as stifling juristic creativity. Rather, it should be seen as disciplining the work and role of jurists and judges and providing predictability/stability to law through its codification.[47]

In the same vein, scholars working on *fatwā* have argued that *taqlīd* should be seen as a principle of vitality within a hermeneutic tradition.[48] *Fatwās* have played an important role in premodern Islamic history as legal tools, as social instruments, as political discourses, and as doctrinal-reform devices. Others such as Masud et al, Skovgaard-Peterson, and Al Atawneh have demonstrated the same for the modern period. Moreover, Alexandre Caeiro has argued that even the *adab al-fatwā* (manuals on a *muftī's* task) texts that are mostly seen as ahistorical documents should be seen as embedded in their particular social contexts, and responding to them.[49] This is particular relevant to this dissertation since one of the main subjects, ʿUsmānī, recently authored

[46] See, for example, Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), 70-71.

[47] Mohammad Fadel, "The Social Logic of *Taqlīd* and the Rise of the *Mukhtaṣar*," *Islamic law and Society* 3, no. 2 (1996): 193-233; Sherman Jackson, "*Taqlīd*, Legal Scaffolding and the Scope of Legal Injunctions in Post-Formative Theory: *Muṭlaq* and *ʿĀmm* in the Jurisprudence of Shihāb al-Dīn al-Qarāfī," *Islamic Law and Society* 3, no. 2 (1996): 165-192; and Wael Hallaq, *Authority, Continuity and Change in Islamic Law* (Cambridge: Cambridge University Press, 2004).

[48] See Norman Calder, "Al-Nawawī's Typology of *Muftīs* and Its Significance for a General Theory of Islamic Law," *Islamic Law and Society* 3, no. 2 (1996): 162-164; and Norman Calder, "The "*ʿUqūd rasm al-muftī*" of Ibn ʿĀbidīn," *Bulletin of the School of Oriental and African Studies* 63, no. 2 (2000): 215-228.

[49] See Alexandre Caeiro, "The Shifting Moral Universes of the Islamic Tradition of *Iftāʿ*: A Diachronic Study of Four *Adab al-Fatwā* Manuals," *The Muslim World* 96, no. 4 (2006): 661-685.

Uṣūl al-iftā' wa ādābuhu which has become the main *adab al-muftī* text in Dār al-ʿUlūm Karachi's curriculum replacing Ibn ʿĀbidīn's *Sharḥ ʿUqūd rasm al-muftī*.

Studies of *adab al-muftī* manuals have also brought to light the hierarchical structure that medieval *madhhabs* had created with respects to scholars and texts, which allowed room for growth as well as provided stability to the law. An important concept in this regard, alluded to earlier, is the idea of *tarjīḥ*, i.e., giving preponderance to one of many opinions, and the people who perform it, viz. *ahl al-tarjīḥ*. Scholars like Wiederhold and Hallaq have discussed *tarjīḥ* in the context of Islamic substantive law (*fiqh*) and Islamic legal theory (*uṣūl al-fiqh*), providing insights into how medieval jurists grappled with multiplicity of legal opinions and created a mechanism for sifting strong opinions from the weak, and how this worked in tandem with the *adab al-muftī* literature.[50] Most recently, Talal al-Azem has demonstrated the same but in a much more detailed manner through his extensive engagement with a Ḥanafī work from the late Mamlūk period, namely *al-Taṣḥīḥ wa al-tarjīḥ* of Qāsim Ibn Quṭlūbughā (d. 879/1474).[51]

1.6: Sources and Methodology

My originally proposed project had entailed two components, one textual and the other ethnographic. This would have generated sufficient data to properly answer the questions I raised earlier. However, due to various circumstances, many of them beyond my control, I was unable to undertake field research. As such, this study, by necessity, is incomplete since it only relies on textual sources. This, however, does not mean that it is devoid of benefit. The research it

[50] See Lutz Wiederhold, "Legal Doctrines in Conflict: The Relevance of *Madhhab* Boundaries in Legal Reasoning in the Light of an Unpublished Treatise on *Taqlīd* and *Ijtihād*," *Islamic Law and Society* 3, no. 2 (1996): 244-247; Wael Hallaq, "From *Fatwās* to *Furūʿ*: Growth and Change in Islamic Substantive Law," *Islamic Law and Society* 1, no. 1 (1994): 29-65, esp. 51-53; and Wael Hallaq, "Operative Terminology and the Dynamics of Legal Doctrine," in *Authority, Continuity and Change* (Cambridge: Cambridge University Press, 2004), esp. 127-135.

[51] See the previously cited work al-Azem, *Rule-Formulation and Binding Precedent*.

undertakes and the picture it paints is a necessary first step towards making sense of the Deobandī approach to *fatwā*-giving and how it interacts with the modern world especially as it pertains to economics and finance. I hope that this will pave the way for future studies that will hopefully complete the picture.

The main textual sources for this project are Urdu works produced by Deobandīs on economics, banking, and Islamic law. Some of them are also in Arabic. Most of those dealing with Islamic banking and finance have been mentioned above during the course of my discussion of the intra-Deobandī debate on Islamic banking and finance. Others are discussed in their relevant chapters. In some cases, I also bring in non-Deobandī primary sources to enrich my study. There are only a few such works pertaining to Islamic law and economics and will be introduced in the fourth chapter.

1.7: Organization and Scope of the Study

The goal of this study is to understand legal reasoning among contemporary Pakistani Deobandīs. The main case study for this is the intra-Deobandī debate on Islamic banking. Analyzing this debate in its proper context requires an exploration of Deobandī understanding of economics and finance. Moreover, to fully understand how Deobandīs deploy legal reasoning, we also need to understand what goes into the training of a Deobandī *ʿālim* or *muftī*, i.e., what is his familiar territory and where might he be out of his depth? This is relevant also because one of the Deobandī *ʿulamā*'s self-stated missions is to serve as guides for the Muslim community. This includes among other things implementation of Islam as a comprehensive way of life in Pakistan. There are thus three main parts of this study, viz. training of Deobandī *ʿulamā* and *muftīs*, Deobandī

understanding of economics and finance, and lastly, the Deobandī approach to *fatwā*-giving. Overall, the dissertation comprises six chapters whose brief summaries are given below.

The first chapter lays out the dissertation's main questions, explaining how they have so far not been adequately addressed in the existing scholarship on Islamic law in the modern world. After providing a brief historical background to the Deobandī movement and the socio-political context in which it has emerged and operates, this chapter provides an overview of the intra-Deobandī debate on Islamic banking which sets the stage for the future chapters to follow.

The second chapter provides an overview of the social, political, and ideological dimensions of the Deobandī movement especially as they relate to this project. The chapter outlines the complex web of individuals and institutions, ideas and practices that constitute the Deobandī school of thought. My key goals in this chapter are to highlight the crucial role the *akābir* of the movement have played and continue to play in shaping the average Deobandī's attitude towards the Islamic tradition as a whole and towards Sufism and law in particular. It demonstrates how the *akābir*'s dual roles as *ʿulamā* and Sufis, and as preachers and *muftīs* provided the foundation for the fusion of the notions of *taqwā* and *fatwā*. The chapter also describes in much more detail how the Deobandīs see it as their mission to establish Islamic law in Pakistan which is part of their broader view of the role of *ʿulamā* in society. This last point is crucial to understanding why this dissertation proceeds the way it does. Lastly, this chapter also provides an overview of the history of the movement in post-independence Pakistan especially as it pertains to its relationship with the state and the general Muslim population.

The third chapter is devoted to examining the kind of training that goes into the making of a Deobandī *ʿālim* or *muftī* because it is these individuals who are the key protagonists in the intra-Deobandī debate on Islamic banking. The goal is to show how the Deobandī educational enterprise

compares to the mission that they have assigned themselves, viz. to serve as guides for the Muslim community. The chapter lays out in detail the historical context in which Deobandī *madrasas* emerged and how the colonial environment impacted what was or was not taught in these *madrasas*. An important element in this regard is the comparison between Deobandī *madrasas* and "mainstream" schools and colleges and their relationship with one another. Lastly, this chapter also describes the Deobandī approach to intellectual activities and the factors that might be responsible for the preponderant focus on transmission of old knowledge vis-à-vis production of new knowledge. A common thread between this and the previous chapter is Deobandīs' countercultural tendencies which have influenced the kinds of decisions they have made regarding education.

The fourth chapter analyzes the Deobandi discourse on economics and finance. After providing a brief survey of Western and general Islamic economic thought, it describes in detail how Deobandī economic thought has evolved over the last century or so from discussions of meta-level issues to those focused on areas of overlap between laws and economics and the minutiae of Islamic contract law as they pertain to finance. The intra-Deobandī debate on Islamic banking is an example of this evolution and is the focus of the second half of the chapter. Through intra-Deobandī discussions on banking, legal person, limited liability, and various areas of contract law, I bring out the differences and similarities between Taqī ʿUsmānī's reasoning and those of his Deobandī critics. Another crucial element that I draw on here is the ideas of non-Deobandī economists and legal experts. Through a comparative analysis of these discussions, I describe how Deobandī elders continue to serve as key sources of authority for Deobandīs. This serves to set the parameters of the debate while also keeping Deobandīs united. At the same time, this chapter also

highlights the limits of *ʿulamā*'s legal reasoning when dealing with modern issues of economics and finance.

The fifth chapter continues with the convergences and divergences in Taqī ʿUsmānī's and his critics' legal reasoning, but with a focus on the principles of *fatwā*-giving. My focus here is three things, namely the Deobandī approach to *taqlīd*, the principles for deviation from the standard opinion in the Ḥanafī madhhab, and *fatwā*-giving in the modern world. The chapter describes how the Deobandī elders while not formally given a title in the hierarchy of Ḥanafī jurists effectively serve as *ahl al-tarjīḥ*, and that while Taqī ʿUsmānī and his critics mostly agree on the principles governing deviation from the standard opinion, their main disagreement has to do with their application. This disagreement, in turn, stems from two things: juristic acumen and how one gains knowledge of the *wāqiʿ* (ground reality). This is where the limitations of the Deobandī educational system handicap them and affect how they deploy the tools for flexibility in Islamic law.

The sixth chapter summarizes the main findings of the study pertaining to the Deobandī movement as well as Islamic law. With respect to the Deobandī movement, the dissertation concludes that although Deobandī ambitions are grand, their colonial and postcolonial experiences have handicapped them in ways that limit their ability to achieve those goals. With respect to Islamic law, one of the key findings of the study is the extent to which jurists can be creative while still faithfully adhering to a *taqlīd* regime. At the same time, Islamic banking is a good example of the limits of creative solutions possible in a strict *taqlīd* regime. One of the reasons why most Deobandīs are still so beholden to a strict *taqlīd* regime is that they have not yet realized that some aspects of economics and finance require an approach similar to national-level legislation and policymaking.

CHAPTER TWO

INDIVIDUALS, INSTITUTIONS, AND THE MOVEMENT

The Deobandīs did not start out as a formal group. There was no meeting or convention to agree on the name or agenda of the movement. Rather, Deobandīs acquired the name as a result of their association with a *madrasa*. As such, it is tempting to think that the most important and obvious element of Deobandī identity is the affiliation of its members to one of the many thousands of *madrasas* spread out across South Asia and abroad, who must ultimately be connected to Dār al-ʿUlūm Deoband, India (established 1866). However, no such formal link exists. What does exist is an informal voluntary association at emotional/spiritual, intellectual, and social levels. While these associations are important, they are nevertheless not sufficient to explain who a Deobandī is.

We must, therefore, go further to identify what makes a Deobandī. One possibility is to focus on Deobandīs' strong adherence to the Ḥanafī *madhhab*. While this is definitely a key element of Deobandī identity, it is also not sufficient since there are many other Ḥanafīs around the world, some of whom are bitterly opposed to the Deobandīs.[1] Therefore, we must look to another element of Deobandī identity, subsumed under its affiliation with Dār al-ʿUlūm Deoband, which it does not share with any other group or movement. This is the individual Deobandī's affiliation with one or many of the *akābir* (elders) of the movement. Taken together, these three dimensions viz. adherence to the Ḥanafī *madhhab*, affiliation with one of the thousands of self-identifying Deobandī *madrasas*, and affiliation with the *akābir* is sufficient to describe the

[1] For a discussion of the relationship between the Deobandīs and other Sunnī movements and groups in South Asia, see Metcalf, *Islamic Revival in British India*, 264-314.

Deobandīs in *social* terms.[2] What emerges, then, is a complex mix of individuals, institutions, and movements (political and non-political), inter-linked through various modes of relationships such as teacher-student and shaykh-*murīd*, as well as employee-employer and memberships of preaching or political groups. The key nodes in all these networks and relationships are the *akābir*.

2.1: The Deobandī *Akābir* (Elders)

Akābir (elders) is a malleable label that basically refers to the senior leadership of the movement in any given generation. The first group of *akābir* were the people who laid the foundation of Dār al-ʿUlūm Deoband and served as its intellectual and spiritual leaders in the early years. The two most prominent names in this generation are Muḥammad Qāsim Nānautvī (1832-1880) and Rashīd Aḥmad Gangohī (1829-1905). Right alongside them was Muḥammad Yaʿqūb Nānautvī (1833-1884), Qāsim Nānautvī's cousin and the first head teacher at Dār al-ʿUlūm Deoband. In the second generation of Deobandīs, the mantle of leadership fell on the shoulders of people like the Shaykh al-Hind Maḥmūd Ḥasan (1851-1920), ʿAbd al-Raḥim Rāipūrī (d. 1919), and Khalīl Aḥmad Sahāranpūrī (1852-1927). In the third generation, the prominent leaders were Ashraf ʿAlī Thānvī (1863-1943), Muḥammad Ilyās Kāndhlavī (1885/86-1944) and Ḥusayn Aḥmad Madanī (1879-1957). In the fourth generation, the prominent leaders were Muḥammad Zakariyya Kāndhlavī (1898-1982), Muḥammad Yūsuf Kāndhlavī (1917-1965), Muḥammad Yūsuf Banūrī (1908-1977) and Muḥammad Shafīʿ (1897-1976).[3]

[2] I add the caveat "in social terms" because the aspect of doctrine and practice is also very important which I will discuss at the end of the chapter.

[3] This is, of course, not an exhaustive list. For a brief overview of the lives and times of some of these *akābir*, and the relative statuses of Gangohī and Thānvī in the Deobandī scheme of things, see Aamir Bashir, "*Sharīʿat* and *Ṭarīqat*: A Study of the Deobandī Understanding and Practice of *Taṣawwuf*" (Master's thesis, International Islamic University Malaysia, 2010), 68-130, https://www.academia.edu/4077245/Shariat_and_Tariqat_A_Study_of_the_Deobandi_Understanding_and_Practice_of_Tasawwuf.

In the Deobandī self-image, each one of the *akābir* combined in himself scholarly erudition with high levels of spirituality (*rūḥāniyat*). As such, they are all seen as exemplars whose opinions and actions serve as role models for later generations. Nevertheless, as the twentieth century progressed, some among the third generation of *akābir* ended up serving as figureheads of narrower groupings within the larger Deobandī movement. This is especially true of Thānvī, Madanī, and Ilyās Kāndhlavī, whom I shall discuss later in this chapter.[4]

As mentioned earlier, what makes the *akābir*, especially the earlier ones, unique is their combination of scholarly erudition and spiritual rank, as perceived by their followers. Metcalf has analyzed in considerable detail the multi-faceted roles early Deobandī *ʿulamā* played.[5] They displayed their scholarly erudition first and foremost as teachers in the various *madrasas* they established across north India. They also gained fame as legendary scholars of *tafsīr*, *ḥadīth, fiqh, etc.* who had revived the memory of medieval *ʿulamā*. Beyond teaching, the main conduit of their scholarly prowess was in their role as *muftīs* and writers. As *muftīs*, they provided informal legal advice to questioners, as well as formal legal opinions to the princely states. Over time, their *fatwās* came to be collected in such works as *Fatāwā Rashīdiya*, *Fatāwā Dār al-ʿUlūm Deoband*, *Imdād al-fatāwā*, etc. More recently, online repositories of questions and answers such as https://www.darulifta-deoband.com/ have emerged that carry on the legacy of the earlier elders.[6]

[4] For a detailed study of the life and thought of Ashraf ʿAlī Thānvi, see Muhammad Qasim Zaman, *Ashraf ʿAli Thanawi: Islam in Modern South Asia* (Oxford: Oneworld Publishers, 2008). For a detailed study of the life and thought of Ḥusayn Aḥmad Madanī, see Barbara Metcalf, *Husain Ahmad Madani: The Jihad for Islam and India's Freedom* (Oxford: Oneworld Publishers, 2008).

[5] Her analysis ends at 1900 as indicated by the title of the book itself. Interestingly, none of the scholars working on Deobandīs including such prominent names as Metcalf and Zaman has looked at *akābir* as a distinct group. Most studies tend to focus on Deobandī *ʿulamā* as a single broad category.

[6] Metcalf, *Islamic Revival in British India*, 140-157.

Alongside their *fatwās,* Deobandīs were also prolific as writers of short and large treatises on various Islamic subjects.[7] These covered all areas of Islamic sciences but the most prominent were Qur'anic studies, *ḥadīth* studies, theology, *fiqh,* and heresiology. In fact, later Deobandīs see these writings as one of the key means through which their *akābir* have served as the revivers of Islam in recent times.[8] Deobandīs were also active as debaters against Christian missionaries, Hindus, Shīʿīs, Barelvīs, Ahl-i ḥadīs, etc. Through these writings and debates, Deobandīs made a name for themselves and also defined the boundaries of their school of thought in terms of what they were not. Besides all this, these Deobandīs were also imams in their local mosques. Through these activities, Deobandīs created concentric circles of followers, as Metcalf puts it, thereby extending their influence in broader society.[9] What was once an upstart *madrasa,* seemingly at odds with the larger body of Indian *ʿulamā* and the Sufi establishment, gradually came to outshine every other religious group among South Asian Muslims. Although Metcalf's analysis ends in 1900, the same pattern has continued to date with some important variations, which I discuss later.

2.1.1: The Deobandī *Akābir* as Key Nodes in Extensive Social Networks

The first *madrasa* of what was to become the Deobandī movement was founded at Deoband. The second one followed six months later at Saharanpur. Together, these two have served as the Oxford and Cambridge of the Deobandī world. The founders, teachers, and administrators of these two institutions in the early period came from these and adjoining towns such as Gangoh, Nānauta,

[7] For an analysis of their role as writers and debaters, see Metcalf, *Islamic Revival in British India,* 198-234.

[8] For a representative list of such works, see the subsection "*ʿUlamā-i Deoband kī taṣnīfī khidmāt*" in the section "*Khidmāt-i Dār al-ʿUlum*" on Dār al-ʿUlūm's Urdu website at http://darululoom-deoband.com/urdu/, accessed March 27th, 2021. The idea of revival (*tajdīd*) is central to Deobandī self-image. For more on how Deobandīs see themselves as being part of a broader Islamic tradition of revival, see Bashir, "*Sharīʿat and Ṭarīqat*," 30-67.

[9] Metcalf, *Islamic Revival in British India,* 235.

Kāndhla, and Thana Bhavan. They were often also related to each other either by way of family relationships or student-teacher or shaykh-*murīd* relationships. Moreover, most of them were also strongly connected to the Naqshbandīs of Delhi (especially the family of Shāḥ Walī Allāh) as well as the Chishtī shaykh Ḥājī Imdād Allāh Muhājir Makkī (1817-1899). In fact, the three early *akābir* of Deoband who were going to have the strongest influence on later generations, Qāsim Nānautvī, Rashīd Gangohī, and Yaʿqūb Nānautvī were all designated successors (*khulafā'*) of Imdād Allāh.[10]

After the Indian defeat in the war of 1857, Imdād Allāh migrated to Makka while these three stayed in India. Rashīd Gangohī stayed in his hometown of Gangoh and revived his ancestral *khanqah* (Sufi lodge) where he also conducted daily *ḥadīth* lessons which attracted students from far and wide. Once a *madrasa* was established at Deoband, Yaʿqūb Nānautvī gave up his government job and joined the *madrasa* within the first year of its founding as the head teacher.[11]

While each of these three had their own large set of followers, Qāsim Nānautvī's network was the least consolidated mainly because he died young, did not establish a *khānqah,* and did not take up a formal teaching position anywhere including at Deoband. Rashīd Gangohī and Yāʿqūb Nānautvī, on the other hand, were active as both teachers and Sufi shaykhs. Yāʿqūb Nānautvī served as the head teacher at Deoband from its very first year (1866/67) and directly trained hundreds of students until his death (1884) including all the second generation of Deobandī elders, namely Shaykh al-Hind Maḥmūd Hasan, Aḥmad Ḥasan Amrohī (d. 1912), Fakhr al-Ḥasan Gangohī (d. 1897), ʿAzīz al-Raḥmān (d. 1928), the later Muftī of Dār al-ʿUlūm 's Dār al-Ifta', and

[10] For more on these individuals and their interconnections, see Bashir, "*Sharīʿat* and *Ṭarīqat*," 79-88.

[11] Yaʿqūb Nānautvī had finished his education at Delhi College at the age of 18 in 1851. He spent a few years in government service as a college lecturer and Deputy Inspector of Schools, before eventually joining the *madrasa* at Deoband. For more details on his life and career, see Anwār al-Ḥasan Shayrkotī, *Sīrat-i Yaʿqūb-o Mamlūk* (Karachi: Maktaba Dār al-ʿUlūm, 1974).

Ashraf ʿAlī Thānvī. Ashraf Thānvī who would go on to become a great scholar and Sufi himself was especially devoted to him.

After Qāsim Nānautvī's death in 1880, Rashīd Gangohī became the main spiritual mentor of most Deobandīs, young and old. His status was further cemented after Yaʿqūb Nānautvī's death in 1884. Officially he was merely the *sarparast* (patron) of the *madrasa* but his influence on the broader movement was so strong that it would not be incorrect to consider him responsible for the crystallization of the Deobandīs as a distinct orientation among north Indian Sunnīs. His biographer lists 30 prominent Deobandīs as his main successors.[12] Among these, those that really stand out include many of the important names from the second and third generation of Deobandī *akābir* including Khalīl Sahāranpūrī, Maḥmūd Ḥasan, ʿAbd al-Raḥim Rāipūrī and Ḥusain Aḥmad Madanī. Each one of these spawned their own often quite extensive networks of *murīds*, students, and general followers. A good illustration of Rashīd Gangohī's influence can be gauged from two episodes in his life which cemented his role as the trendsetter among Deobandīs.

2.1.2: Rashīd Gangohī Defines the Limits of the Law

Ingram has discussed in quite extensive detail how rejection of *shirk* and *bidʿa* was crucial to defining the Deobandī movement.[13] The main role in this regard was played by Rashīd Gangohī. His shaykh, Imdād Allāḥ, tended to take a soft stance on many of the religious practices prevalent in India at that time which did not have clear support in Islamic primary texts (Qur'an and *ḥadīth*). These included *mawlid* (celebration of the birth of the Prophet Muḥammad), *fātiḥa* (reciting *Sūrat*

[12] Muḥammad ʿĀshiq Ilāhī Mīrathī, *Tadhkirat al-Rashīd* (Saharanpur, India: Kutubkhāna Ishāʿat al-ʿUlūm, n.d.), 2:153-160.

[13] Brannon Ingram, *Revival from Below: The Deoband Movement and Global Islam* (Oakland: University of California Press, 2018), 55-91.

al-Fātiḥa on the deceased), *ʿurs* (celebrating the death anniversary of a saint), *samāʿ* (poetic audition, with or without music), etc. Rashīd Ganoghī, on the other hand, was vehemently opposed to such practices. This ended up pitting Rashīd Gangohī against some of the other successors of Imdād Allāh who supported these practices. Eventually, Imdād Allāh, who had already immigrated to Makka by then, penned a short treatise, *Faysla haft mas'ala* [Judgment regarding Seven Issues], analyzing the arguments of both sides and concluded that disagreements on these topics fall under the category of valid juristic disagreements, and therefore should not be allowed to break Muslim unity.

Rashīd Gangohī, however, was unperturbed. In what his biographers/hagiographers see as a delicate balancing act between respect for divine law vs. respect for one's shaykh, Rashīd Gangohī declared his shaykh's views to be irrelevant since his training in Islamic sciences was incomplete. This was a reference to the fact that Imdād Allāh had never finished the typical curriculum current in those times whereas Rashīd Gangohī was known for his juristic acumen. Rashīd Gangohī then declared that while it was incumbent upon him to follow his shaykh in spiritual matters, his shaykh was supposed to follow him (Gangohī) in *fiqhī* (legal) matters since Rashīd Gangohī was a *faqīh* (jurist) and *muftī* while Imdād Allāḥ was not.

Interestingly, most Deobandīs sided with Rashīd Gangohī and not Imdād Allāh. One of those who was sitting on the fence was Ashraf Thānvī, one of the junior most successors of Imdād Allāh. Although Thānvī's approach tended to be in line with Imdād Allāh's, he eventually relented after a detailed correspondence with Rashīd Gangohī over the matter. Part of the reason was Rashīd Gangohī's persuasive arguments, but an equally important dimension was Rashīd Gangohī's spiritual rank in Thānvī's eyes.[14]

[14] See the original correspondence in Mīrathī, *Tadhkirat al-Rashīd*, 1:113-136 and its analysis in Ingram, *Revival from Below*, 65-80.

Despite his formal *bayʿa* and training with Imdād Allāh, Thānvī held Rashīd Gangohī in high esteem and treated him as a shaykh as well.[15] Thus, throughout their correspondence on differed upon matters such as *mawlid*, Thānvī consistently maintained that he would do whatever Rashīd Gangohī commanded him to do. His questions were merely objections of a student (*ṭālib-i ʿilm kay ishkālāt*). In other words, even though the exchange was between two erudite *ʿulamā*, it ended up being that between a shaykh and a *murīd*, and what convinced Thānvī to follow Gangohī was not just the weight of his evidences, but also the spiritual rank of the person making those arguments. This correspondence and its result was to have a major effect on the Deobandī movement because even though Thānvī was one of the *aṣāghir* (juniors) during Rashīd Gangohī's time, he eventually became one of the most influential Deobandīs of all time. Rashīd Gangohī, thus, molded not only his direct students and successors, but also others whose influence further cemented Rashīd Gangohī's legacy.

Another instance of Rashīd Gangohī's influence is also relevant here. Rashīd Gangohī had a strong distaste for Greek/rational sciences especially *falsafa* (Muslim adaptation of Greek philosophy). These were, however, all the rage among northern Indian *ʿulamā* of the time. The Farangī Maḥallīs and the Khayrābādīs, two well-established groups of *ʿulamā* in northern India, were both known for their expertise in these sciences. As such, it was very difficult at that time for any *ʿālim* to be taken seriously if he had not studied *falsafa*. Nevertheless, since Gangohī insisted on excising these texts from the curriculum, the *madrasa* administration at Deoband relented in

[15] Ever since his student days, Thānvī had lionized Rashīd Gangohī and had asked him on numerous occasions to accept him as his *murīd*. Rashīd Gangohī had refused saying that he did not accept students as *murīds*; Thānvī should finish his studies first. In the last year of Thānvī's studies, Rashīd Gangohī decided to go for *ḥajj*, and Thānvī asked him to deliver a letter of his to Rashīd Gangohī's shaykh Imdād Allāh. In the letter, Thānvī had asked Imdād Allāh to persuade Rashīd Gangohī to accept Thānvī as his *murīd*. Upon seeing the letter, Imdād Allāh himself accepted Thānvī as his *murīd*. Although Thānvī's spiritual training via correspondence began right away, he eventually travelled to Makka to receive spiritual training from Imdād Allāh in person as well. See Khawāja ʿAzīz al-Ḥasan Majzūb and ʿAbd al-Ḥaqq, *Ashraf al-sawāniḥ* (Multan: Idāra Tālifāt-i Ashrafiya, 2006), 1:235-237.

1882/83. It seems this situation lasted for some years (perhaps until his death). Eventually, however, the *madrasa* administration reinstated these texts. In fact, even during the time when these texts had been removed, Gangohī suspected that some students were studying these texts in secret with their teachers.[16] The main reason, as alluded to earlier, was that Deobandīs were still a small group, upstarts really, and therefore did not have the power to change the intellectual tastes of the broader Indian *ʿulamā* community. That happened much later in the last quarter of the twentieth century, when Dār al-ʿUlūm Deoband dropped most texts of *falsafa* without much opposition.

This brief episode in Deoband's educational history is quite telling both in terms of *akābir*'s influence and its limits, and the social power of the rank-and-file *ʿulamā* who although individually may not have had much standing, exerted influence as a group. It is these rank-and-file *ʿulamā* who felt that *falsafa* should not be dropped and it was their opinion that finally prevailed. In fact, the whole idea of *akābir* depends on two-way social relationships. The *akābir* might excel in scholarship and/or spiritual pursuits but they become one of the *akābir* only when others recognize them as such. Hence the relative positions and influence of Imdād Allāh and Rashīd Gangohī. The people offering this recognition include senior *and* junior *ʿulamā*. In fact, one can imagine a series of such two-way relationships beginning from the senior most *akābir* and ending with the junior most teacher in *madrasas* whose prestige and rank depends not only on his position as a scholar and teacher but also on acceptance by his students.

[16] See Gangohī's letter dated 1301 AH (1884) in Rashīd Aḥmad Gangohī, *Makātīb-i Rashīdiya*, ed. Muḥammad ʿĀshiq Ilāhī Mīrathī and Maḥmūd Ashraf ʿUsmānī (Lahore: Idāra Islāmiyāt, 1996), 52.

2.1.3: The Deobandīs and the Nadwīs[17]

Direct influence of the Deobandī *akābir* was not confined to Deobandī circles alone. It also extended to another important educational movement in northern India namely Nadwat al-ʿUlamā (henceforth Nadwa). Formed in 1892, Nadwa had emerged in response to the extreme positions Deoband and Aligarh had adopted. In the minds of many, Deoband represented the conservative extreme where modern knowledge was conspicuous by its absence, and Aligarh represented the modern extreme where all things British were exalted and Islam had a mere token presence. Founders of Nadwa felt that the path forward for Muslims was to combine the best of both, i.e., commitment to Islam and grounding in Islamic tradition of the Deobandīs and command of modern knowledge of those from Aligarh.[18] Moreover, Nadwat al-ʿUlamā had, from the start, declared a policy of openness where students and teachers from all Muslim sects were welcome. Thus, Ḥanafīs and Ahl-i Ḥadīs were both to be found in its ranks, and it also received enthusiastic support from those associated with Aligarh.

Muhammad Qasim Zaman and Mashal Saif have examined in some detail how Nadwa evolved over the years from being an open-minded maybe even modernist educational movement to a more conservative movement almost indistinguishable from Deoband.[19] While Zaman and Saif demonstrate the increasing conservatism in Nadwīs' works of historiography as well as their

[17] Nadwī is an attributive noun (*ism al-nisba*) used to indicate a person's association with Nadwat al-ʿUlamā.

[18] For a multi-faceted discussion of the founding of Nadwat al-ʿUlamā especially its social dimensions, see Jamal Malik, "The Making of a Council: The Nadwat al-ʿUlamā," *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 144, no. 1 (1994): 60-91. For a brief discussion of the educational goals of Nadwat al-ʿUlama which distinguished it from Deoband, see Jan-Peter Hartung, "The Nadwat al-ʿUlamā: Chief Patron of *Madrasa* Education in India and a Turntable to the Arab World," in *Islamic Education, Diversity, and National Identity: Dīnī Madāris in India Post 9/11,* eds. Jan-Peter Hartung and Helmut Reifeld (New Delhi: SAGE Publications, 2006), 138-143.

[19] See Muhammad Qasim Zaman, "A Venture in Critical Islamic Historiography and the Significance of Its Failure," *Numen* 41 (1994): 26-50; and Mashal Saif, "The Nadwat al-ʿUlama's Romance with Iqbal: Narrative Construction and Historiography," *Modern Asian Studies* 53, no. 6 (2019): 1762-1796.

portrayals of the famous poet Muḥammad Iqbal (d. 1938), they do not explain why this happened. For that, we must look at the relationship between Nadwīs and Deobandīs.

Although some Deobandīs had been present at the founding of Nadwa, their relationship with Nadwa tended to be problematic.[20] Perhaps, the biggest reason was the presence and influence of people like Shiblī Nuʿmānī (1857-1914) at Nadwa. An erudite scholar and litterateur known for his prowess in Arabic & Persian literature as well as theology and history, and a longtime associate of Sir Sayyid Aḥmad Khān, the founder of Indian Muslim modernism, Shiblī was a controversial figure. His views on matters of theology had caused significant disconcertment among Deobandīs some of whom had even gone on to label him a disbeliever.[21]

One of his most prominent students at Nadwa was Sayyid Sulaymān Nadwī (1884-1953) who would later emerge as one of the leading Indian *ʿulamā* of his era. Like his mentor, Sulaymān Nadwī also posed a problem for Deobandīs. Although he eventually transitioned to Salafism in theology, he had once been a Muʿtazilī, and in matters of law, he never considered himself bound to one *madhhab*.[22] His approach to theology resulted in him adopting positions that ran counter to mainstream Sunnism. For example, he had once declared that the Prophetic ascension to the heavens (*miʿrāj*) had been non-corporeal, and that hellfire would eventually cease to exist (*fanā'*

[20] Interestingly, some of the *ʿulamā* who lent support to Nadwa in its early years included people who would later emerge as important figures in the Deobandī movement, namely Thānvī and Maḥmūd Ḥasan. See Muḥammad Isḥāq Jalīs Nadwī, *Tārīkh-i Nadwat al-ʿUlamā'* (Lucknow: Majlis-i Ṣaḥāfat-o Nashriyāt, 2017), 1:96.

[21] Shiblī was declared a disbeliever twice, once towards the end of his life, and another time posthumously. On both occasions, some of his statements in his work on Islamic theology titled *ʿIlm al-Kalām aur al-Kalām* were cited as evidence. Perhaps, the most important of these was his allowance for the belief in eternity of matter (*qidam al-mādda*). It also seems likely that the main cause at both times was politics, once among the various parties jockeying for power within Nadwa, and the other time against Madrasat al-Iṣlāḥ in Sarāi Mīr. For more, see Shiblī Nuʿmānī, *Makātīb-i Shiblī*, ed. Sayyid Sulaymān Nadwī (Lucknow: Maṭbaʿ Shāhī, n.d.), 1:222-223; Sayyid Sulaymān Nadwī, *Ḥayāt-i Shiblī* (Azamgarh, India: Dār al-Muṣannifīn Shiblī Academy, 2008), 505; and Ghulām Muḥammad, *Tazkira-i Sulaymān* (Karachi: Idāra Nashr al-Maʿārif, 1984), 111-119.

[22] In a letter dated January 1930, Sulaymān Nadvī confessed to Thānvī that he had transitioned from Muʿtazilīsm to Salafism, and that although he respected all the Imams of *fiqh*, he did not consider himself bound by the opinions of the later jurists (*muta'akhkhirīn*). See Ghulām Muḥammad, *Tazkira-i Sulaymān*, 99.

al-nār), both positions at odds with mainstream Sunnī opinion. Moreover, in matters of law, he had taken stances more in line with non-Deobandīs such as non-obligation of *zakāt* (obligatory charity) on jewelry and the permissibility of photography.

But Nadwat al-ʿUlamā and Sulaymān Nadwī did not operate in an uncontested terrain. There was constant pressure from multiple quarters (including Deobandīs) on Nadwīs to conform to mainstream Sunnī positions on issues of theology, law, etc.[23] Even before he pledged allegiance to Thānvī for spiritual training in 1938, Sulaymān Nadwī had changed his earlier take on Prophetic ascension (*miʿrāj*) and brought it in line with the mainstream Sunnī position that the Prophet had physically ascended to the heavens. In 1942, a year before Thānvī's death and after Sulaymān Nadwī had already been declared a successor (*khalīfa*) by Thānvī, Sulaymān Nadwī issued a formal retraction of some of his other earlier views.[24] These included his takes on *zakāt* and photography as well as the end of hellfire. Sulaymān Nadwī's biographer/hagiographer sees this change as being the direct result of Thānvī's influence who took notice and profusely praised Sulaymān Nadwī for his retraction.[25] Sulaymān Nadwī's biography of Shiblī, *Ḥayāt-i Shiblī* (published in 1943) can also be seen as an expression of Sulaymān Nadwī's increasing conservatism since he chose to highlight only those aspects of Shiblī's life that aligned with conservative ideals of Islamic piety.[26]

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[23] I use mainstream in the meaning of *jumhūr* (majority), a term often used by Islamic scholars to identify whether the majority or minority of scholars endorses or opposes a position. Sulaymān Nadwī also uses this expression. See the reference to his retraction below in f.n. 24.

[24] This was published in the January 1943 issue of *Maʿārif*, the monthly journal of Dār al-Muṣannifīn. See Sayyid Sulaymān Nadvī, "Shadharāt," *Maʿārif* (January 1943): 2-4.

[25] Ghulām Muḥammad, *Tazkira-i Sulaymān*, 158-165.

[26] See S.M. Ikram's scathing critique of this biography in Shaykh Muḥammad Ikrām, *Mauj-i kausar* (Lahore: Idāra Saqāfat-i Islāmiya, 1979), 230-247. Ikrām sees Sulaymān Nadwī as being too conservative to be a true successor to the cosmopolitan Shiblī.

Although Thānvī's influence on Sulaymān Nadwī came late in latter's life and can easily be seen to be exaggerated by their hagiographers, one cannot completely rule it out. The case of another prominent Nadwī, Abu al-Ḥasan ʿAlī Nadwī (1914-1999), is even more illustrative of Deobandī influence on Nadwīs. Born to a prominent Sayyid family of eastern India, ʿAlī Nadwī was as Nadwī as a person could be. His father and brother had successively served as rectors (*nāẓim*) of the Dār al-ʿUlūm of Nadwat al-ʿUlamā at Lucknow, 1915-1930 and 1931-1961 respectively. After the death of his brother, ʿAlī Nadwī took over and served in the same capacity until his own death in 1999. Whereas Sulaymān Nadwī had spent most of his career outside of the Deobandī orbit and came under Thānvī's influence only in the last twenty years of his life, ʿAlī Nadwī developed links with the Deobandīs early on. His own elder brother ʿAbd al-ʿAlī had been a *murīd* of Ḥusayn Aḥmad Madanī, and ʿAlī Nadwī received spiritual training from two Deobandī Qādirī shaykhs, Aḥmad ʿAlī Lāhorī (1887-1962) the famous Qur'anic exegete and 'Abd al-Qādir Rāipūrī (1878-1962). Of these two, he was especially close to 'Abd al-Qādir Rāipūrī who was the main successor of the above-mentioned ʿAbd al-Raḥim Raipūrī, one of the key successors of Rashīd Gangohī. Having received designations as successor from both Lahorī and 'Abd al-Qādir Rāipūrī, ʿAlī Nadwī also maintained links with other prominent Deobandīs including Ḥusayn Aḥmad Madanī, Thānvī, and the founder of the Tablīghī Jamāʿat, Ilyās Kāndhlavī.[27]

To be sure, ʿAlī Nadwī always maintained his distinct identity as a Nadwī. This is clearly seen in his description of Nadwa's school of thought where he avoids getting bogged down in details of theology and law, and instead focuses on broad adherence to the outlook of the earlier

[27] For an overview of his life, see Sayyid Muḥammad Rābiʿ Ḥasanī Nadwī, *Mawlānā Abu al-Ḥasan ʿAlī Nadwī: Ayk ʿAhd sāz shakhṣiyat, mushāhadāt aur tajrubāt kī roshnī main* (Lucknow: Majlis Taḥqīqāt-o Nashriyāt-i Islām, 2007) esp. 33-54 & 92-106.

generations of Muslims (*salaf*) and to broader Muslim unity in the present.[28] Nevertheless, under ʿAlī Nadwī and through him and others like him, Nadwa and Nadwīs moved closer to the Deobandī camp especially in their social relationships and similar stances on key social and political issues.

2.2: Deobandī Institutions

Moving now to the institutional dimension of the Deobandī movement, three kinds of institutions stand out as having been critical to the development, consolidation, and propagation of the movement. These are the *madrasas*, the Sufi *khānqāhs*, and the *dār al-iftā'*s (place for giving *fatwās*) that are often located within *madrasas* but sometimes also exist independently of them.

2.2.1: *Madrasas*

The Deobandī movement started with the founding of a *madrasa* in Deoband, and to this day, *madrasas* are the quintessential Deobandī institution. They number in the tens of thousands in each of the three main South Asian countries of India, Pakistan, and Bangladesh. Dozens of Deobandī *madrasas* also exist outside South Asia in places as far apart as Iran, Malaysia, Southern Africa, Europe, and the Americas.[29] These *madrasas* can be divided into two main categories, those dedicated to Qur'an memorization (*madāris taḥfīẓ al-Qurān*) and those dedicated to offering various levels of instruction in traditional Islamic sciences. Many times, a single institution offers multiple programs of study such as *ḥifẓ* and *dars-i niẓāmī*. Moreover, some *madrasas* call

[28] See Abu al-Ḥasan ʿAlī Nadwī, *Kārwān-i zindagī* (Lucknow: Maktaba-i Islām, 2000), 1:141-143. Moreover, he holds on to the distinctive Nadwī emphasis on knowledge as a singular unity which should not be divided into old vs. new; rather, should be divided into useful vs. harmful.

[29] While accurate figures are hard to come by, in 2002, the Pakistani federal minister for religious affairs put the total number of *madrasas* in Pakistan at 10,000 with a million to 1.7 million students enrolled for at least short periods of time. Perhaps a similar number could be estimated for India and Bangladesh. See Jamal Malik, *Madrasas in South Asia: Teaching Terror?* (New York: Routledge, 2008), 101, f.n.4. Interestingly, Deobandī-style *madrasas* can now also be found in Malaysia where there exist a significant number of Malays who have studied at Deobandī institutions in South Asia and/or are affiliated with the Tablīghī Jamāʿat.

themselves *dār al-ʿulūm* such as Dār al-ʿUlūm Deoband, or *jāmiʿa* such as Jāmiʿa Ashrafiyya (Lahore). In some cases, madrasas refer to the broader institution by one name such as *dār al-ʿulūm* and use *jāmiʿa* before it to refer to the section dealing with *dars-i niẓāmī*. Hence, Jāmiʿa Dār al-ʿUlum Karachi.[30]

Deobandī *madrasas* grew at a steady rate since the founding of the first madrasa in Deoband. By 1900, dozens of Deobandī *madrasas* dotted northern India and could be found in places as far apart as what is now Bangladesh and what is now Pakistan. Many of these had been founded by Qāsim Nānautvī himself or by his colleagues, and they were often staffed by graduates of Dār al-ʿUlūm Deoband and Maẓāhir al-ʿUlūm. In many instances, students would finish most or all of their studies elsewhere, and then would travel to Deoband for a repeat study of the main works of *ḥadīth*. This was because the *ḥadīth* teachers at Deoband tended to be the most prominent in India.

This pattern continued with the bulk of *madrasas* situated in northern India and only very few in what later became Pakistan and Bangladesh. Things changed after the creation of Pakistan in 1947. Many prominent Deobandīs especially those who had been affiliated with Thānvī had been active in the Pakistan movement and decided to move to Pakistan. Some of the prominent contemporary Pakistani *madrasas* were founded by these individuals right after the creation of Pakistan. These include Jāmiʿa Ashrafiyya in Lahore, which was founded by Muftī Muḥammad Ḥasan (d. 1961), Dār al-ʿUlum Karachi which was founded by Muftī Muḥammad Shafīʿ, Jāmiʿa Khayr al-Madāris in Multan which was founded by Khayr Muḥammad Jālandharī (d. 1970), and Dār al-ʿUlūm al-Islāmiyya in Tando Allah Yar which was founded by Ẓafar Aḥmad ʿUsmānī (d.

[30] For the first decade or so of its existence, Dār al-ʿUlūm Deoband was simply referred to as Madrasa ʿArabiyya Deoband. The first recorded instance of it being called a *dār al-ʿulūm* is from 1879. See Sayyid Maḥbūb Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband: Barr-i ṣaghīr kay Musalmānon kā sab say barā kārnāma* (Lahore: Al-Mīzān, 2005), 1:187-188.

1974). Each of the above mentioned was a designated successor of Thānvī. But successors of Thānvī were not the only ones. Another prominent Deobandī to move to Pakistan was Muḥammad Yūsuf Banūrī, a native Pashtun from the northwestern frontier who established a *madrasa* in New Town (later called Banurī Town by his followers), a locality in Karachi.

The number of Deobandī *madrasas* in Pakistan continued to grow at a slow but steady rate for the first 30 years of Pakistan's existence. Things changed dramatically in the 1980s when Pakistan embarked on a process of Islamization under the military government. Coupled with this was Pakistan's regional foreign policy which disproportionately relied on religious groups to further Pakistani state's interests in Afghanistan and the disputed region of Jammu & Kashmir. Alongside these developments, Pakistan also became a proxy battleground between two Middle Eastern rivals, the Sunnī Saudi Arabia and the newly emerged revolutionary Shīʿī Iran. As part of this proxy struggle, both the Saudis and the Iranians sent money to their compatriots in Pakistan to set up new *madrasas* and organizations. On the Sunni side, the bulk of Saudi funding went to the Ahl-i Ḥadīs and the Deobandīs. The result, total number of *madrasas* of all denominations is today more than 30,000, almost one-third of which belong to the Deobandīs.[31]

There have been efforts since the emergence of a network of Deobandī *madrasas* in the last quarter of the nineteenth century to bring all these *madrasas* together in some kind of a formal arrangement. Initially, these efforts took the form of inviting prominent professors from Deoband, Saharanpur or other places to inspect smaller *madrasas* or even serve as external examiners. As the numbers of *madrasas* grew and calls for educational standardization as well as reforms grew, there were more initiatives to create a single network. One such attempt was made by Dār al-'Ulūm

[31] For more on the growth of *madrasas* in Pakistan including estimates about their numbers over the years, see Saleem H. Ali, *Islam and Education: Conflict and Conformity in Pakistan's Madrassahs* (Karachi: Oxford University Press, 2009), 26-34. Also see Ali Riaz, *Faithful Education: Madrassahs in South Asia* (New Brunswick, NJ: Rutgers University Press, 2008), 90-115.

Nadwat al-ʿUlamā in the first quarter of the twentieth century but was rebuffed by Deoband on the grounds that any such network must have Deoband as its center.[32] To date, all such efforts have failed in India although at some moments, *madrasas* have been able to come together such as a 1994 conference as a result of which thousands of Indian *madrasas* updated and standardized their curricula (for more details, see Appendix A).

The case of Pakistani *madrasas* has been different. There is no single *madrasa* of the same stature as Dār al-ʿUlūm Deoband and no alternative claimant to centrality like Nadwat al-ʿUlamā. Perhaps for this and other reasons, Pakistani Deobandī *madrasas* were able to form an educational board in 1959 called Wifāq al-Madāris al-ʿArabiyya (henceforth the Wifāq). Over time, the Wifāq has been able to bring most Deobandī *madrasas* into its orbit. It regulates exams at various levels of the Deobandī educational system and also serves as the central platform for *madrasa* representatives to decide important matters related to *madrasas* such as curricula and negotiating with the Pakistani government regarding registration of *madrasas* and recognition of their degrees.[33]

2.2.2: *Dār al-Iftā*'s

The story of Deobandī *fatwās* precedes the founding of the madrasa at Deoband. In fact, Rashīd Gangohī started giving *fatwās* as soon as he finished his studies in Delhi. However, this was very informal and organic, which was in line with how the majority of the *ʿulamā* gave *fatwās* back then. They would often give verbal answers to people's questions about matters of law or religion

[32] According to Sulaymān Nadwī, Shiblī had discussed the matter with Maḥmūd Ḥasan who informed him that senior Deobandī *ʿulamā* were not in favor of having any other *madrasa* as the center of this network besides Deoband. See Sulaymān Nadwī, *Ḥayāt-i Shiblī*, 411-413.

[33] A detailed history of the origins and growth of the Wifāq is given in Ibn al-Ḥasan ʿAbbāsī, *Wifāq al-Madāris al-ʿArabiyya: Sāth sāla tārīkh* (Multan: Markazī Daftar Wifāq al-Madāris al-ʿArabiyya Pakistan, 2017).

more broadly. Only in some cases would they write down the answers if requested. The case of state-appointed *muftīs* was, of course, different. They carried the official title of a *muftī* and were often appended to a court.

In the second half of the nineteenth century, Muslim states were on the decline in India. The heart of the future Deobandī movement, the current Uttar Pradesh state of India and northern India more broadly, had barely any princely states run by Muslims. Most of the area was under direct British control and they had recently changed Anglo-Muhammadan law in a way that freed them of the need to rely on Muslim *ʿulamā*. A vacuum had thus emerged in northern India at the time of the founding of the Deoband madrasa. Religion had been pushed into a private sphere and Muslims lacked political authority. In this context, Deobandī *ʿulamā* continued the earlier individual and organic practice of guiding the Muslim masses by giving *fatwās* as and when asked. Many of the major Deobandī collections from the early period such as *Fatāwā Rashīdiya* of Rashīd Gangohī, *Imdād al-fatāwā* of Thānvī, and *Kifāyat al-muftī* of Muftī Kifāyat Allāh are compilations of such organic *fatwās*.

In the early years of the madrasa at Deoband, members of the faculty would variably provide answers to the public in the same organic manner. Towards the end of Yaʿqūb Nānautvī's life (d. 1884), the *madrasa* administration had designated him as the *muftī* of the *madrasa*. However, since he died within a year or two of this appointment, the situation reverted to the earlier pattern. The *madrasa* administration had been cognizant of the need to establish a separate department for giving *fatwās*, and this finally materialized in 1892 with the official founding of Dār al-ʿUlūm's *dār al-Iftā'* under the leadership of Muftī ʿAzīz al-Raḥmān ʿUsmānī (d. 1928).[34] ʿAzīz al-Raḥmān who had been personally chosen by Rashīd Gangohī served as the head *muftī* at

[34] Muḥammad Ẓafīr al-Dīn, "*Muqaddama*," in *Fatāwā Dār al-ʿUlūm Deoband*, eds. ʿAzīz al-Raḥmān and Ẓafīr al-Dīn (Karachi: Dār al-Ishāʿat, 2009), 1:96.

Deoband for the next forty years. Himself a Naqshbandī shaykh, he had thousands of *murīds*,[35] but his more well-known and perhaps more enduring legacy is his collection of *fatwās* published posthumously as the 13-volume *Fatāwā Dār al-ʿUlūm Deoband*. Among his students and protégé was Muftī Muḥammad Shafī', the late father of Muftī Taqī ʿUsmānī.[36]

The idea of setting up *dār al-iftā*'s within *madrasas* was slow to catch on. Dār al-ʿUlūm Deoband's *dār al-iftā'* had been established twenty-six years after its founding. The second oldest Deobandī madrasa, Maẓāhir al-ʿUlūm at Saharanpur, which was founded only six months after Deoband, did not establish its *dār al-iftā'* until 1919, that is, almost forty-three years after its founding.[37] The third most prominent Deobandī madrasa namely Jāmiʿa Qāsimiyya aka Madrasa Shāhī at Moradabad, which had been established by Qāsim Nānautvī himself in 1879, also did not establish a *dār al-iftā'* until 1923.[38]

By the time of India's partition, *dār al-iftā*'s had begun to be established across the country. Even in places that later became Pakistan, a few *dār al-iftā*'s could be found.[39] Later, when Deobandī *ʿulamā* established new *madrasas* in Pakistan, *dār al-iftā*'s were also soon established. This practice of creating a *madrasa* and later a *dār al-iftā* has become quite standard and now *dār*

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[35] One of his successors was Qārī Muḥammad Isḥāq, one of whose successors was Badr-i ʿĀlam Mīrathī. Mīrathī was also a student of Anwar Shāḥ Kashmīrī and was responsible for collecting and editing Kashmīrī's commentary of *Ṣaḥīḥ al-Bukhārī* titled *Fayḍ al-Bārī*. For a brief biography of ʿAzīz al-Raḥmān and his legacy, see Qārī Muḥammad Ṭayyib, introduction to *Fatāwā Dār al-ʿUlūm Deoband*, eds., ʿAzīz al-Raḥmān and Ẓafīr al-Dīn (Karachi: Dār al-Ishāʿat, 2009), 1:34-49.

[36] Shafīʿ is an important figure in the field of Deobandī *fatwā*-giving. He was the one who first compiled ʿAzīz al-Raḥmān's *fatwās* as *ʿAzīz al-fatāwā*. *Fatāwā Dār al-ʿUlūm Deoband* is the expanded and edited version of this earlier collection. Shafīʿ also compiled the *fatwās* of his Sufi shaykh Thānvī as *Imdād al-fatāwa*. Both *Fatāwā Dār al-ʿUlūm Deoband* and *Imdād al-fatāwa* are key collections of Deobandī *fatwās*.

[37] Sayyid Muḥammad Shāhid Sahāranpūrī, *ʿUlamā-i Maẓāhir al-ʿUlūm Sahāranpūr aur un kī ʿilmī-o taṣnīfī khidmāt* (Saharanpur: Kutubkhāna Ishāʿat al-ʿulūm, 1980), 340.

[38] Shabbīr Aḥmad Qāsimī, introduction to *Fatāwa Qāsimia*, ed. Shabbīr Aḥmad Qāsimī (Deoband: Maktaba Ashrafiya, 1437 AH), 1:354.

[39] See Iḥtishām al-Ḥaqq, introduction to *Aḥsan al-fatāwā* by Rashīd Aḥmad Ludhyānvī (Karachi: H.M. Saʿīd Company, 1435 AH), 14-15.

al-iftā's can be found all over the globe where Deobandī *madrasas* are located.[40] Quite often these *dār al-iftā*'s have a head *muftī* (*ṣadr muftī*) and a number of deputy *muftīs* (*nāib muftī*). One of the key features of these *dār al-iftā*'s is that they are often also the site of training of new *muftīs*, i.e., those students who are enrolled in the *Takhaṣṣuṣ fi al-iftā'* (specialization in *fatwā*-giving) programs. In the case of Dār al-ʿUlum Karachi which was established in 1947, its *dār al-iftā* was already operating by the late 1950s, and it started offering a *Takhaṣṣuṣ fi al-iftā'* program in 1961/62.[41]

2.2.3: Sufi *Khānqāhs*

As mentioned earlier, the vast majority of early Deobandīs were Sufis. In fact, an oft-repeated anecdote of Muḥammad Yāsīn, one of the second generation Deobandīs and Taqī ʿUsmānī's grandfather is worth quoting in full here. Muḥammad Shafī's writes in his biography of Yāsīn, that he used to say:

> "I have seen a period in Dār alʿUlūm's history when everyone (of its employees) from the head teacher to the lowest ranking teacher, from the rector to the peon, everyone was a true friend of Allah (*ṣāḥib-i nisbat bazurg* and *walī*). At that time, the Dār al-ʿUlūm seemed like a *dār al-ʿulūm* during the day and a *khanqāh* at night. One could hear recitation of the Qur'an and *dhikr* from most of the rooms late in the night."[42]

[40] Chicago itself has three Deobandī *dār al-iftā*'s.

[41] Iḥtishām al-Ḥaqq, introduction to *Aḥsan al-fatāwā*, 16.

[42] Muḥammad Shafīʿ, *Mayray wālid mājid aur un kay mujarrab ʿamaliyāt* (Karachi: Idārat al-Maʿārif, 2005), 62. The words *ṣāḥib-i nisbat bazurg* refers to a Sufi who has reached a certain milestone in his spiritual pursuits. Similarly, a *walī* of Allah is a common Sufi term used for those deemed especially close to Allah.

The quote above is quite instructive in understanding the nature of Sufism in general and that of Deobandī Sufism in particular. A *khanqāh* is a Sufi lodge or a place where Sufis gather and engage in spiritual activities under the guidance of a shaykh. However, Sufis and their activities are not limited to these *khānqāhs*. Just as a Muslim can perform ritual prayer and other acts of worship anywhere, similarly Sufi activities can be performed anywhere. In fact, most of them are not distinctly Sufi practices to begin with. Reciting the Qur'an or repeating certain formulas are common to all Muslims. Thus, what Yāsīn is suggesting is that because everyone would be engaged in worship late in the night, it would appear as if Dār al-ʿUlūm Deoband was a *khanqāh* where people only engaged in spiritual pursuits.

Deobandī shaykhs also ran actual *khānqāhs*. Among them, perhaps the most important was the one located in Thāna Bhawan. Before the failed war of independence of 1857, this *khānqāh* was called *dokān-i maʿrifat* because of the presence of three Chishtī shaykhs, one of whom was Ḥajī Imdād Allāh. The *khānqāh* became dormant after the war because one of the three shaykhs was killed during the war, Imdād Allāh migrated to Makka, and the third shaykh passed away soon thereafter. It stayed dormant for many years until Thānvī moved back to his hometown of Thāna Bhawan in 1897 and reactivated the *khānqāh* under orders from Imdād Allāḥ.

In the intervening years, Rashīd Gangohī had re-activated his ancestral *khānqāh* in Gangoh.[43] His *khānqāh* attracted not just those seeking the Sufi path but also students of *ḥadīth* since he would teach *dawra-i ḥadīs* (yearlong study of major works of *ḥadīth*) throughout the year. His various designated successors who numbered at least 30 also established their own *khānqāhs*. One of these was at Raipur that was established by ʿAbd al-Raḥīm Rāipūrī and after his death in

[43] This was the *khānqāh* of the famous Chishtī shaykh ʿAbd al-Quddūs Gangohī (d. 1537). Rashīd Gangohī was related to him via his grandmother's family. The *khānqāh* had fallen into disrepair over the years. Rashīd Gangohī repaired it and reactivated it. For more on that, see Asīr Adravī, *Mawlānā Rashīd Aḥmad Gangohī: Ḥayāt aur kārnāmay* (Deoband: Shaykh al-Hind Academy, 1997), 66-70.

1919, was run by his main successor, ʿAbd al-Qādir Raipūrī. Since ʿAbd al-Qādir Raipūrī originally hailed from what is now Punjab in Pakistan, his network of *murīds*, successors and their *khānqāhs* tended to extend westward from the Doāba region (north of Delhi) into the Punjab, spanning both West and East Punjab. During the partition of India, Indian Punjab was almost completely emptied of Muslims. Most of those who were able to make across the border settled in Pakistani Punjab. ʿAbd al-Qādir's network thus became concentrated in Pakistani Punjab. Although, he continued to remain in his shaykh's *khānqāh* in Raipur, he would often tour Pakistan to give a chance to his *murīds* to directly connect with him.[44]

The case of Thānvī's network ended up being somewhat similar. During his own lifetime, Thānvī's network of *murīds*, successors, and their *khānqāhs* was primarily concentrated in the United Provinces (modern day Indian state of Uttar Pradesh).[45] After the partition of India, many of these migrated to Pakistan (primarily West Pakistan) and established both *madrasas* and *khānqāhs*. Another influential contemporary of Thānvī's, Ḥusayn Aḥmad Madanī had his own extensive network of followers which was also spread all over India. However, unlike Thānvī's network, the bulk of Madanī's network was concentrated in eastern India (modern day Bangladesh and the Indian state of Assam).[46] After the creation of Pakistan, while many of Madanī's students

[44] For more on ʿAbd al-Qādir Rāipūrī's network in Pakistan and his focus on it, see Abu al-Ḥasan ʿAlī Nadwī, *Sawāniḥ Ḥazrat Mawlānā ʿAbd al-Qādir Rāipūrī* (Karachi: Majlis Nashriyāt-i Islām, n.d.), 183-231.

[45] Thānvī maintained two lists of successors, those who were authorized to train murīds (*mujāz-i bayʿat*) and those who were authorized to merely be pious company (*mujāz-i ṣuḥbat*). According to the list published posthumously in his biography, there were 70 *mujāz-i bayʿat* and 59 *mujāz-i ṣuḥbat* at the time of his death. Of these, only a few were based in what is today Pakistan, perhaps around 10. See Majzūb and ʿAbd al-Ḥaqq, *Ashraf al-sawāniḥ*, 3:174-180. Ali Mian has reproduced this list in English along with brief biographical sketches of many of them. See Mian, "Surviving Modernity," 311-319.

[46] One of Madanī's biographies published in 1958 and certified by one of his successors provides a list of 167 successors. Out of a total of 167, the bulk were to be found in the eastern regions, i.e., 50 in what is now Bangladesh, and another 64 in Assam. Other regions of India had very few of his successors and this was also true of what is today Pakistan. The list contains only six names from the region that constitutes Pakistan's Punjab province. See "*Ḥazrāt khulafa mujāzīn*," in *Roznāma al-Jamʿiyya Shaykh al-Islām Number* 43 (1958): 15-18. The list of successors ends with a statement by one of them namely Qārī Aṣghar ʿAlī Sahanspūrī of Dār al-ʿUlūm Deoband that the list is accurate.

were to be found all over Pakistan, most of his Sufi successors and their *khānqāhs* remained in Eastern Pakistan (present day Bangladesh).

Besides the above, other Deobandī Sufi shaykhs also established their networks and *khānqāhs*. Prominent among them in the later years was Muḥammad Zakariyyā Kāndhlavī, the nephew of the afore-mentioned Ismāʿīl Kāndhlavī. After the deaths of Madanī and ʿAbd al-Qādir Raipūrī in 1957 and 1962 respectively, he emerged as the most prominent Deobandī Sufi shaykh. Himself a successor of Khalīl Sahāranpūrī, one of the main successors of Rashīd Gangohī, Zakariyyā Kāndhlavī was acutely aware of declining spirituality among Deobandīs. He sought to change that by proactively spreading Sufi ideas and gradually built a network of *murīds*, successors and their *khānqāhs* that spanned the globe.

However, despite his efforts, Deobandī Sufism did not recover. This was especially true of Pakistan. To begin with, there was no one there of the caliber of Thānvī or Madanī or ʿAbd al-Qādir or even Zakariyyā Kāndhlavī himself. Thus, whatever *khānqāhs* existed there attracted small numbers of followers. Moreover, most of the Deobandīs who had moved to Pakistan from India tended to focus on building *madrasas*. Even when urged by Zakariyyā Kāndhlavī to establish *khānqāhs* and focus on Sufi activities, some of them felt that regular madrasa activities were sufficient as acts of worship.[47] Consequently, no major Deobandī *khānqāh* emerged in all of Pakistan that could match Gangoh, Thāna Bhawan or Raipur. The only exception to this was a network of Naqshbandī *khānqāhs*, whose shaykhs were Deobandī but whose chain did not pass through anyone in Deoband itself.[48] Even these Naqshbandī shaykhs and their *khānqāhs* dwarf in

[47] See the correspondence between Zakariyyā Kandhlavī and Yūsuf Banūrī, the founder of Banūrī Town *madrasa* in Sayyid Muḥammad Yūsuf Banūrī, *Dīnī madāris kī zarūrat aur jadīd taqāzon kay muṭābiq niṣāb-o niẓām-i taʿlīm*, ed. Muḥammad Anwar Badakhshānī (Karachi: Bayt al-ʿIlm, 2000), 172-184.

[48] Prominent names among these include Khawāja Khān Muḥammad (d. 2010) of Kundian near Mianwali in Punjab.

comparison to the overall number of Deobandīs and their *madrasas* in Pakistan. As such, a major shift has occurred in the Deobandī movement in Pakistan.

2.2.4: The Tablīghī Jamāʿat

Alongside the decline of the Sufis and their *khānqāhs*, there has been the concomitant rise of the Tablīghī Jamāʿat (henceforth TJ). Started in the 1920s by Ismāʿil Kāndhlavī in Delhi, TJ started out as a very small local affair. Soon it expanded and now has come to eclipse every other group spawned by the Deobandī movement.[49] Its members number in the tens of millions and although still mostly South Asian, whether in South Asia itself or in the diaspora, it literally has spread all over the globe. Some of its members are Sufis, many are *ʿulamā*, but the vast majority consists of common Muslims who only have rudimentary knowledge of Islam. Its membership is drawn from all walks of life, from the rich and the poor, the highly educated and the uneducated, politically powerful as well as the marginalized.

TJ's model of operation makes it a unique phenomenon. Its members go out on preaching missions of various lengths (3 days, 10 days, 40 days, 4 months, a year). During these missions, members visit mosques in different localities and using them as a base, preach to the local Muslim population. This happens through lectures (*bayāns*) in the mosque or through reading circles (*taʿlīm*) in which an Islamic text is read out loud, or through visiting the houses of local Muslims.[50]

The focus of all these activities are the six points (*chhay number*) that cover basics of Islamic belief and practice. TJ's main goal is two-fold, to get common Muslims to correct their basic beliefs and practice through these six points, and to connect as many of them as possible to

[49] For a detailed study of the growth and development of TJ, see Muhammad Khalid Masud, *Travellers in Faith: Studies in Tablīghī Jamāʿat as a Transnational Islamic Movement for Faith Renewal* (Leiden: Brill, 2000).

[50] These visitations are called *gasht* (lit. patrol) in Urdu, *jawla* in Arabic.

the preaching effort. Through its activities, TJ serves as a vehicle for the gradual dissemination of Deobandī ideas and practices in broader society on par with other Deobandī activities directed at the general public. At the same time, TJ serves as a mobile *khānqāh*. In fact, its founder Ismāʿil Kāndhlavī conceived it as such. Thus, members of the TJ who go out on missions of various lengths receive intensive spiritual training during the course of their preaching activity. The key difference between Sufi *khānqāhs* and the TJ is that TJ members generally do not engage in Sufi *dhikr* or other Sufi practices like *murāqaba* or *shughl* (two different types of meditation). Rather, the focus is solely on voluntary acts proven from the Sunna such as voluntary prayers (*nawāfil*), recitation of the Qur'an, *tasbīḥāt* (repetition of a formula transmitted from the Prophet Muḥammad such as *lā ilāha illa Allāh*, *subḥān Allāh, al-ḥamd li Allāh,* etc.), etc.

TJ members who have been on longer missions tend to form social bonds among themselves and because they come from all walks of life, these social networks radiate throughout Muslim communities around the world. Important nodes in these networks are those TJ members who have spent most time in the movement. Thus, TJ spawns its own large body of *akābir* who fall in an informal hierarchy and also overlap with the larger Deobandī movement.

2.3. The Deobandī Movement

Having looked at the significant role that the elders of the Deobandī movement play in it and the key institutions that they established, it is now time for us to discuss at some length the main ideas that animate the movement, its history in Pakistan, and how it relates to the analysis that follows. All of this is underpinned by a few key terms, and I begin with a discussion of their meanings and nuances.

2.3.1: Key Analytical Concepts

Deoband has often been defined as a movement that is partially traditional and partially modern. Recently, Ingram has argued that this is too simplistic. Rather, for him, "tradition and modernity are so co-constitutive of Deoband that Deobandī traditionalism *is* what makes Deoband modern,"[51] i.e., colonial modernity heavily impacted Deobandīs' approach to and representation of the Islamic tradition. At the same time, Ingram does not see modernity as "a reified thing that traveled from Europe to India."[52] Rather, like many other scholars, he sees modernity as "a global and conjunctural phenomenon" in which non-Westerners were as much participants as Westerners.[53] Kapil Raj has argued the same with regards to even modern science.[54] While it is true that non-Westerners played a role in creating modernity and modernity wasn't just something which came from Europe to India. Nevertheless, it is also true that most of the power in this project of modernity was in the hands of the Westerners, which in the case of India were the British. In other words, key concepts, intellectual frameworks, and institutions were all decidedly Western. Yes, many times adaptations were made in response to local pressures, but the dominant Western stamp cannot be minimized or even equated to whatever little power non-Westerners possessed. This is especially true of what happened to Deoband.

But what exactly is modern? Ingram uses modernity in two senses. The first is "the sum total of new ideas, practices, institutions, and socialities that scholars often call "colonial

[51] Ingram, *Revival from Below*, 33.

[52] Ingram, *Revival from Below*, 33.

[53] See, for example, Sanjay Subrahmanyam, "Hearing Voices: Vignettes of Early Modernity in South Asia, 1400-1750," *Daedalus* 127, no. 3 (1998): 75-104.

[54] Kapil Raj, *Relocating Modern Science: Circulation and the Construction of Knowledge in South Asia and Europe, 1650-1900* (London: Palgrave Macmillan, 2007).

modernity.""[55] The second is that of modernity as "a reflexive attitude, a self-conscious distanciation between past and present, especially insofar as it values the present over the past."[56] He sees Deoband as having been deeply shaped by the first while they consciously and staunchly rejected the second."[57] While I agree with Ingram's characterization of these two senses of modernity, I think the second sense deserves to be expanded. For Deobandīs, as we will see later, the modernity that they rejected was not just something that creates distance from the past and gives more value to the present. It was also a rejection of Western power and civilization which was not a Muslim one and which Deobandīs believed was essentially an enemy of Islam and Muslims.

Closely connected with modernity is the term "secular." Scholarly understanding of the secular has evolved over time, from merely decline of religion to privatization of religion, and most recently, as "a form of power that distinguishes religion from its various others—whether superstition, culture, politics, or something else."[58] This is exactly where the unequal power of the British and Indians was at full display. Despite the extreme religiosity of Indian masses which infused all aspects of their lives, the British imposed a new legal and political regime where religion was identified and reduced to certain domains leaving the rest in the hands of the state. This was true of law, of employment, and even of education. Hence, the emergence of an educational duality that still haunts South Asian Muslims including those living in independent Pakistan, an ostensibly Islamic state.

[55] Ingram, *Revival from Below*, 33-34.

[56] Ingram, *Revival from Below*, 34.

[57] Ingram, *Revival from Below*, 34.

[58] For a brief overview of these evolving understandings, see Ingram, *Revival from Below*, 32.

But if we talk about the modern and the secular, we must also discuss tradition and especially a knowledge tradition. Talal Asad famously invoked McIntyre's idea of tradition as "an argument extended through time" to define tradition as a set of "discourses that seek to instruct practitioners regarding the correct form and purpose of a given practice" that has a history.[59] As such, he defines "Islamic discursive tradition as a tradition of Muslim discourse that addresses itself to conceptions of the Islamic past and future, with reference to an Islamic practice in the present."[60] Commenting on this, Zaman elaborates that "a discursive tradition is constituted and reconstituted not only by an ongoing interaction between the present and the past, but also by the manner in which relations of power and other forms of contestation and conflict impinge on any definition of what it is to be Muslim."[61] As such, socio-political contexts not only affect construction of religious authority but also the substance of religious thought.[62]

Zaman went on to argue that not only Islam but certain aspects of it can also be seen as discursive traditions. Thus, Islamic law, Islamic historiography (especially of the early period), institutionalized Sufism, career of Hellenic philosophy in Islamic lands, transmission of knowledge (education) could all be seen as discursive traditions in their own right.[63] While Zaman's focus is mostly on the written word, Ingram defines tradition as "an imagined, affective bond between scholars and students, Sufi masters and disciples, one traversing borders and

[59] Talal Asad, *The Idea of an Anthropology of Islam* (Washington, D.C.: Center for Contemporary Arab Studies, Georgetown University, 1986), 14. Also see Alisdair MacIntyre, *After Virtue: A Study in Moral Theory*, 3rd edition (Notre Dame: University of Notre Dame Press, 2007), 204-225; and Alisdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University of Notre Dame Press, 1988), 12.

[60] Asad, *Idea of an Anthropology of Islam*, 14.

[61] Zaman, *The Ulama in Contemporary Islam*, 6.

[62] Zaman, *The Ulama in Contemporary Islam*, 493.

[63] For Zaman's discussion of tradition, see Zaman, *The Ulama in Contemporary Islam*, 3-11.

boundaries, linking books and bodies."[64] Building on Zaman's and others' ideas, Ingram also labels Deoband as a tradition within the larger tradition of Islam,[65] which is where the term *maslak* comes into the picture.

Maslak

For almost a century now, this word has been gaining currency among South Asian Muslims. Literally, it means a path or way (from the root s-l-k meaning "to traverse"), a meaning it shares with the word *madhhab* (from the root dh-h-b meaning "to go"). However, *madhhab* acquired a technical meaning in the broader Islamic intellectual tradition many centuries ago and is now almost exclusively used to refer to one of the schools of legal or theological thought (such as Ḥanafī, Shāfiʿī', etc. or Ashʿarī, Māturīdī, etc. respectively), i.e., it is used with reference to only one Islamic science (most commonly law) and is not a comprehensive term for all aspects of thought and practice.[66] *Maslak*, on the other hand, is used in the South Asian context to denote a set of ideas and practices that transcends one Islamic science. It is, thus, somewhat similar to the word *firqa* (sect) except that *firqa* is primarily defined on the basis of theology and other Islamic

[64] Ingram, *Revival from Below*, 5.

[65] Ingram, *Revival from Below*, 5.

[66] *Encyclopaedia of Islam* (Second Edition) defines *madhhab* as "a doctrine, tenet, opinion, with regard to a particular case." There have been extensive debates among Western scholars as to what exactly constitutes a *madhhab*. Is it just doctrine or does it also include practice? And what position, if any, should be assigned to social institutions and texts associated with a particular *madhhab*. For more discussions of *madhhab* especially as it relates to law, see Peri Bearman, Rudolph Peters, Frank Vogel, eds. *The Islamic School of Law: Evolution, Devolution, and Progress* (Cambridge, MA: Harvard Law School, 2005). Also see the EI[2] entry on *madhhab* for a brief list of works discussing *madhhab*. For a discussion of the word *madhhab* from both linguistic and technical aspects by a contemporary Islamic scholar, see Aḥmad b. Muḥammad Naṣīr al-Dīn al-Naqīb, *al-Madhhab al-Ḥanafī: Marāḥiluhu wa ṭabaqātuhu, ḍawābiṭuhu wa muṣṭalaḥātuhu, khasā'iṣuhu wa mu'allafātuhu* (Riyad: Maktabat al-Rushd, 1998), 1:32-37. According to al-Naqīb, *madhhab* refers to either just "the set of Islamic rulings derived from probabilistic evidences that are unique to a single *mujtahid*" or it refers to these rulings as well as the methodology used to derive them. See al-Naqīb, *al-Madhhab al-Ḥanafī*, 1:35. It is this second meaning, i.e., "derivative rulings *and* the methodology used to derive them" that is commonly used by contemporary Islamic scholars especially those who are the subject of this study.

sciences play only a secondary role. Moreover, the differences have to be severe, i.e., in fundamental issues (*uṣūl*) such as divine attributes (*ṣifāt*), *imāma*, etc. for a group to be labelled as *firqa*. It is because of this that the Sunnīs, Shīʿīs, Muʿtazilīs, etc. each are a distinct *firqa* whereas Ashʿārīs and Māturīdīs are *madhhabs* within a single *firqa*, the Sunnīs.[67] The term *firqa* also crystallized early on and appears in the titles of such medieval works such as ʿAbd al-Qāhir al-Baghdādī's (d. 1037) *al-Farq bayna al-firaq* which classifies Islamic groups on the basis of theology.

While *madhhab* and *firqa* are well-established technical terms, *maslak* is relatively new, and it continues to be used interchangeably in South Asian Islamic Urdu literature with other terms such as *mashrab* (lit. place to drink but technically "a specific approach to different aspects of Islamic thought and practice"), *dīnī rukh* (religious orientation/outlook), *andāz-i fikr* (way of thinking), *zawq* (preference), *rujḥān* (inclination), *dabistān-i fikr* (school of thought), *maktab-i khayal* (school of thought), etc.[68] This obviously begs the question, why come up with a new term like *maslak* when an older term like *firqa* or even *madhhab* could be deployed to refer to the modern South Asian groups, Deobandīs, Barelvīs, and Ahl-i Ḥadīs? This question becomes even more relevant when we consider that diehard members of each of the above-mentioned three groups refuse to see others as Sunnīs.

The answer seems to be that moderate figures from all of these groups want to downplay the severity of their mutual differences. Calling each other *firqa* would harden intra-Sunnī

[67] It should be noted that these definitions and usages are not uncontested. There continue to be disagreements among Muslim scholars regarding the proper boundaries of each *firqa*. Thus, for some diehard Ashʿarīs, many Ḥanbalīs and Salafīs are not Sunnī, and vice versa. These disagreements have been around for centuries and show no sign of abating.

[68] See, for example, Qārī Muḥammad Tayyib, *ʿUlamā-i Deoband kā dīnī rukh aur maslakī mizāj* (Lahore: Idāra Islāmiyāt, 1988), 20; and Abu al-Ḥasan ʿAlī Nadwī, "*Nadwat al-ʿUlamā: Ayk jāmiʿ dabistān-i fikr-o maktab-i khayal*," in *Nadwat al-ʿUlamā: Ayk dabistān-i fikr, ayk rehnumā ʿilmī teḥrīk*, eds. Abu al-Ḥasan ʿAlī Nadwī and Muḥammad Wāziḥ Rashīd Nadwī, trans. Shams Tabrayz Khān (Lucknow: Nadwat al-ʿUlamā, n.d.), 3.

differences whereas using the term *maslak* preserves the notion of a larger Sunnī body under which *maslaks* like Barelvīs, Deobandīs, and Ahl-i Ḥadīs can fit. This certainly seems to be the intention of Qārī Ṭayyib (d. 1983), the late rector (*muhtamim*) of Dār al-ʿUlūm Deoband as he makes the case in his *ʿUlamā-i Deoband kā dīnī rukh aur maslakī mizāj* that Deobandīs are nothing other than Sunnīs but simultaneously insists on unique aspects of Deobandī approach to matters of theology, law, and the larger Islamic tradition.[69] Interestingly, similar dynamics can be observed in the Arab world today, where staunch Ashʿārīs or staunch Salafīs consider only themselves to be Sunnīs and the other as a deviant group whereas moderate figures from each camp consider these to be *madhhabs* within the broader Sunnī *firqa*.[70]

Having discussed the usage of *maslak* at some length, it would now be useful to try to unpack the term itself. Brannon Ingram has theorized *maslak* as "a comprehensive juro-ethical discourse, a discipline oriented around the cultivation of specific affects."[71] Ingram's definition focuses on doctrine and practice, an idea echoed by Jawad Qureshi who describes *maslak* as characterized by a variety of practices that its particular discursive constellation authorizes that fashion and shape the adherent. But Qureshi also goes beyond doctrine and practices to define *maslak* as organizing "a spiritual genealogy to which an adherent belongs, while also providing a hierarchy of authorities and teachings through which one engages [with] the Islamic tradition."[72]

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[69] The classifications that I have outlined above generally hold in the South Asian context, but sometimes actual usage can differ. Thus, while the common usage of *maslak* is for the three Sunnī sub-groupings in South Asia, viz. Deobandīs, Barelvīs and Ahl-i Ḥadīs, it sometimes transcends these boundaries and can be used to refer to the Shīʿīs in such expressions as *maslak-i ahl-i tashayyuʿ* (path of those who are Shīʿīs) or *maslak-i ahl-i bayt* (path of the Prophetic household).

[70] It is instructive to note here that labelling a group as a *firqa* or a *madhhab* is a normative act, and even an academic cannot really escape this.

[71] Ingram, *Revival from Below*, 141.

[72] For Qureshi's ideas, see footnote no. 35 in Usha Sanyal and Sumbul Farah, "Discipline and Nurture: Living in a Girls' Madrasa, Living in Community." *Modern Asian Studies* 53, no. 2 (2019): 421.

The usage of *maslak* by contemporary South Asian groups confirms what Qureshi points out, i.e., *maslak* governs not only doctrines and practices, but also one's relationship with the broader Islamic tradition as mediated through a hierarchy of authorities.

2.3.2: The Deobandī *Maslak*

As alluded to earlier, Deobandīs rose as a reform movement that sought to purge Indian Muslim society of what it considered to be un-Islamic influences and deviant ideas and practices. This mission continues to this day. A key aspect of this reform effort has been to remove all those things from Muslim thought and practice that constitute polytheism or *bidʿa*. But opposition to polytheism or *bidʿa* is just one part of the Deobandī mission. Their larger project of reform and renewal (*tajdīd*) encompasses much more.[73]

Although various Deobandī *ʿulamā* have been writing works to clarify Deobandī stances on various important theological and legal themes, the most comprehensive works are those authored by the late rector of Dār al-ʿUlūm Deoband, the previously mentioned Qārī Ṭayyib, prior to his death in 1982. These are *Maslak-i ʿUlamā-i Deoband*, published in 1975, and *ʿUlamā-i Deoband kā dīnī rukh aur maslakī mizāj*, completed just before his death and published posthumously.[74] These texts are thus the closest we have to an official policy statement. The Pakistani editions of both of these works were endorsed by top Deobandīs in the country and since

[73] According to Sunnī understanding of Islamic history based on various Prophet reports, renewal refers to a periodic attempt by an individual or group of individuals to rectify the decay that is bound to set in over time. In one such report, the Prophet Muḥammad is reported to have said that God will raise someone from this nation (*umma*) every hundred years who will renew for it its religion. For more on Sunnī understandings of reform and renewal, see Bashir, "*Sharīʿat* and *Ṭarīqat*," 30-34; and Ingram, *Revival from Below*, 16-20.

[74] Like other Deobandīs, Ṭayyib had been writing on the subject since 1932. Ṭayyib describes these previous works in Ṭayyib, *ʿUlamā'-i Deoband kā dīnī rukh*, 27-29.

the publication of *ʿUlamā-i Deoband kā dīnī rukh aur maslakī mizāj*, it seems to have become the standard reference text on the subject for Deobandīs.[75]

Ṭayyib insists in these works that Deobandīs are merely *ahl-sunna wa al-jamāʿa* (henceforth Sunnī) and nothing else, a standard Deobandī refrain spread across many of their works.[76] Giving a detailed description of *ahl al-sunna*, Ṭayyib explains that *sunna* refers to the totality of Islamic rulings, while *jamāʿa* indicates the importance of being connected with the living embodiments of this *sunna* whose companionship is crucial to one's personal transformation and continued adherence to the straight path. As we will see later, these twin dimensions of the Islamic tradition, as identified by Ṭayyib, namely written (bibliocentric) and embodied (anthropocentric) Islam are crucial to the Deobandī understanding and practice of Islam.[77]

Ṭayyib goes on to explain that adherence to *sunna* means recognizing that Islam is a comprehensive way of life which brings together all aspects of theology, law, and spirituality. This comprehensiveness (*jāmiʿiyyat*), in Ṭayyib's articulation, also includes *iʿlā kalimat Allāh* (raising the word of Allah), which in turn means striving to promote Islam in private and public life. Holding on to the *jamāʿa* means that one respects all of the major figures of Islam especially the early generations and that one upholds a middle path between extremes in each area of Islamic thought and practice. For Ṭayyib, this middle path means following early Muslims in primary matters of theology and reconciling between the Ashʿarīs and Māturidīs in secondary theological issues, upholding *taqlīd* (adherence to past precedent) over independent ijtihād with respect to

[75] The 1975 edition of *Maslak-i ʿUlamā-i* Deoband is preceded by a foreword by Yūsuf Banūri while the 1988 edition of *ʿUlamā-i Deoband kā dīnī rukh aur maslakī mizāj* is preceded by a foreword by Taqī ʿUsmānī. Both of these individuals were among the senior most Deobandī *akābir* in Pakistan.

[76] Ṭayyib, *ʿUlamā'-i Deoband*, 22. Also see Muḥammad Taqī ʿUsmānī, introduction to *ʿUlamā'-i Deoband kā dīnī rukh* by Qārī Muḥamamd Ṭayyib, 7.

[77] See Ingram's discussion of the same in Ingram, *Revival from Below*, 141-148.

law,[78] following sober Sufism while rejecting *Sharīʿa*-indifferent spirituality and maintaining respect for both Ibn Taymiyya and Ibn ʿArabī.

A key concept here is that of *taqlīd* which although introduced earlier is worth another look. Often portrayed negatively in modern Muslim discourse, *taqlīd* can mean a number of things. While modernist Muslims dismissively define it as blind imitation, traditional scholars in the Arab world today often define it as merely following qualified scholarship. In that sense, *taqlīd* or more precisely, *taqlīd muṭlaq* is no different than following experts in any field of knowledge. It is an acknowledgement by the untrained of the limit of their knowledge. Deobandīs, however, adhere to a much stricter version called *taqlīd shakhṣī* which refers to adhering to a single school of fiqh in all matters and not leaving it unless absolute necessary (*ḍarūra shadīda*). Although both *taqlīd muṭlaq* and *taqlīd shakhṣī* imply a disciplined engagement with the Islamic scholarly tradition, *taqlīd shakhṣī* raises the intensity of this disciplined engagement to such a level that it can be very limiting especially when dealing with policy and lawmaking issues in nation states, as we shall see in the fifth chapter.

Descriptions of the Deobandī *maslak* similar to the one given above by Ṭayyib can also be found in the writings of non-Deobandīs such as Abū al-Ḥasan ʿAlī Nadvī, the previously mentioned late rector of Nadwat al-ʿUlamā. He described the Deobandī approach to Islam as comprising four things, viz. avoiding divisive issues, focusing on *tawḥīd* and *sunna*, maintaining a personal link with Allah, and striving to raise the word of Allah while possessing religious

[78] On the role of *taqlīd* in medieval Islamic legal scholarship, see the previously cited Fadel, "The Social Logic of *Taqlīd* and the Rise of the *Mukhtaṣar*" and Sherman Jackson, "*Taqlīd*, Legal Scaffolding and the Scope of Legal Injunctions in Post-Formative Theory." For an example of a modernist justification of rejecting *taqlīd*, see Ṭāhā J. al-Alwānī, "Taqlid and Ijtihād," *American Journal of Islamic Social Sciences* 8, no. 1 (1991): 129-142. For a traditionalist defense of *taqlīd* by a modern Arab scholar, see Muḥammad Saʿīd Ramaḍān al-Būṭī, *al-Lāmadhhabiyya: Akhṭar bidʿa tuḥaddidu al-sharīʿa al-islamiyya* (Damascus: Dār al-Fārābī, 2005). For a briefer rendition of the same ideas, see Nūḥ Ḥā Mīm Keller, *Reliance of the Traveller*, Revised Edition (Beltsville, MD: Amana Publications, 2008), 15-26.

honor/jealousy (*dīnī ḥamiyyat aur ghayrat*).[79] As we will see below, this understanding of *ahl al-sunna* as combining the outward and the inward, the written and the embodied, and a reformist attitude that seeks to change the social and political condition of Muslims is crucial to understanding how Deobandīs operate in Pakistan today and how it has helped change the nature of this movement.

2.3.3: Deobandīs in Colonial India

As indicated in the previous chapter, the emergence of the Deobandī *maslak* as a distinct Sunnī orientation was the result of internal intra-Muslim dynamics of northern India in the modern period, namely the crystallization of distinctive tendencies within the broader reform movement of Shāh Walī Allāh's followers. But this process did not take place in a vacuum. The first three to four generations of Deobandīs lived under colonial rule which radically affected their lives, careers, and ideas in at least four different ways.

To begin with, the arrival of the British heralded a new politico-legal dispensation which took many decades to manifest itself. This new dispensation meant that Muslims no longer had political sovereignty, that Islamic law was no longer applied by the state except in limited areas of family law, and that religion was gradually pushed out of the public sphere. The result, as Ingram and Zaman have pointed out, was the emergence of a dedicated space for religion where the British did not intervene. It was thus a safe space for *ʿulamā* to monopolize as best as they could. It also laid the grounds for a psychology of protectiveness among *ʿulamā*. Protection of the religious space now was so important that the politically activist agenda of the Deobandī movement could be suspended for its sake. This is what drove the political attitudes of the *madrasa* administration

[79] Abū al-Ḥasan ʿAlī Nadwī, *Karwān-i zindagī* (Lucknow: Maktaba-i Islām, 2005), 2:310.

at Deoband. They maintained cordial relations with British officials and took pains to convince them of their loyalty to the British crown.

Secondly, colonial rule created the conditions for the emergence of a dual educational system for Indian Muslims. Their old educational institutions were destroyed or shut down at the hands of the British who replaced them with non-religious public educational institutions for all Indians. Unlike the indigenous educational institutions that the British had shut down, these new public institutions were not sufficient to meet Indians' needs. Various religious communities created their own schools and colleges patterned on the British model to help open career opportunities for their children. This led to the emergence of Aligarh-style Muslim schools and colleges that were no different from British schools except that they catered to Muslims and offered a token Islamic studies subject. Alongside these developments, traditional *ʿulamā* built *madrasas* that sought to preserve traditional Islamic learning. The resulting duality created two different kinds of social classes with different tastes and orientations, and at times, even theologies.

The third development during this period was the emergence of counter-cultural tendencies among Indian *ʿulamā* especially Deobandī ones. These were driven by a few important factors. To begin with, Deobandīs' reform effort which targeted popular understanding and practice of Islam had alienated them from large parts of the Muslim masses. Secondly, modern-educated Muslims increasingly came from the upper classes while ranks of *ʿulamā* were increasingly filled by the poor. The resulting class tensions between these different socio-economic groups increased Deobandīs' distance from the modern-educated classes. This was further compounded by the number disparity between the *ʿulamā* and the modern-educated Muslims. The latter were more numerous than those connected to the *madrasas* whether as students, teachers, or staff. These modern-educated Muslims were the ones who dominated social and political life among Indian

Muslims except for that distinct religious space which the British had created. The resulting siege mentality that affected Deobandīs broadly was going to have significant consequences for the movement in Pakistan.

The fourth development during the colonial period was the growing Deobandī disdain for many things British/Western. While they had adopted British bureaucratic structures for their *madrasas* and they also actively used modern inventions, Deobandīs were extremely suspicious of British/Western culture as well as motivations behind any British action that impacted Muslims. Although it is still unproven that Deobandī *ʿulamā* ever declared learning English to be forbidden, as many of their detractors allege, it is nevertheless true that Deobandīs strongly urged Muslims to stay away from modern education. This was a result of the changes Deobandīs had observed in graduates of modern schools and colleges. Such graduates often either did not have any structured training in Islamic theology and/or they held deviant beliefs. Moreover, these graduates often developed an inferiority complex vis-à-vis their indigenous (Islamic and Indian) culture and looked up to all things British/Western.

2.3.4: Deobandī Emphasis on Islamic Identity

One of the ways all of these developments manifested in Deobandī thought was their strong emphasis on maintaining Islamic identity best achieved by conforming to a *sharʿī ḥulya* (*sharīʿa*-compliant appearance). For men and women, besides covering their respective bodies properly (*satr al-ʿawra*), this also meant not wearing anything that resembled the clothing of the disbelievers or of those who sinned openly (*fussāq-o fujjār*). Deobandīs relied on the Prophetic report "*man tashabbaha bi qawm*^{in} *fa huwa minhum* (whoever imitates a people is one of them)" to argue that adopting the clothing and appearance of non-Muslims and/or open sinners was

impermissible (*nā jā'iz*/*makrūḥ taḥrīmī*).[80] In the colonial Indian context, that meant Western clothing as well as Hindu clothing. Deobandīs, thus, often invoked the impermissibility of *tashabbuh bi al-ghayr* (imitating others) to exhort men to not wear Western pants and shirt, to not wear shirts with a collar, to not shave or trim their beards to less than a fist-length (men), and to cover their heads with a skullcap or turban. Women, who mostly never adopted Western clothing, were exhorted to not wear a saree (an Indian dress which leaves some skin exposed) and to cover their hair and faces in line with the Deobandī *fatwā* of the obligation (*wujūb*) of the face veil (*niqāb*).

In fact, Deobandī emphasis on Islamic identity was not only about rejecting Western or Hindu culture. It was also derived from their emphasis on following the Prophetic Sunna. Thus, while Deobandī preachers talked about all kinds of Prophetic Sunna such as in acts of worship, in one's character, etc., oftentimes their focus tended to be on conforming one's appearance to that of the Prophet. Besides the aspects mentioned above, this also included not wearing garments that went below the ankles (*isbāl al-izār*). What all of this meant was that anyone wearing Western clothing as opposed to an ethnic Muslim dress like *shalwar qamīṣ* (baggy trousers and long shirt), or hanging his pants below the ankles, or having no beard or only a short beard, or not covering their head with a cap or turban was automatically deemed suspect. In a society, where increasing numbers of people wore Western clothing, and shaved or trimmed their beards to less than a fist

[80] The *ḥadith* is reported in Abū Dāwūd al-Sijistānī, *Sunan Abī Dāwūd*, eds. Shuʿayb al-Arna'ūṭ and Muḥammad Kāmil Qara Balalī (Damascus: Dār al-Risāla al-ʿĀlamiyya, 2009), 6:142. [Chapter on wearing fancy clothing, *ḥadīth* no. 4031]. For representative Deobandī *fatwās* from the colonial period on the subject of men's clothing, see Rashīd Aḥmad Gangohī, *Fatāwā Rashīdiya*, in *Tālīfāt-i Rashīdiya* (Lahore: Idāra Islāmiyāt, 1992), 78-79; Muḥammad Kifāyat Allāh Dehlavī, *Kifāyat al-muftī*, ed. Dār al-Iftā' Jāmiʿa Fārūqiya (Karachi: Idārat al-Fārūq, 2013), 12:281-283; Thānvī, *Imdād al-aḥkām*, ed. Muḥammad Shafīʿ (Karachi: Maktaba Dār alʿUlūm Karachi, 2007), 4:121-124. For representative *fatwās* and treatises from Pakistani Deobandīs, see Rashīd Ludhyānvī, *Aḥsan al-fatāwā* (Karachi: H.M. Saʿīd Company, 1418 AH), 28-29 & 64-65; *Fatāwā Bayyināt*, (Karachi: Maktaba Bayyināt, 2017), 4:373-375; and Yūsuf Ludhyānvī, *Āp kay masā'il aur unkā ḥall*, annotated edition (Karachi: Maktaba Ludhyānvī, 2011), 8:370-371. For a more detailed and recent discussion of the Islamic rulings of clothing by a Deobandī, see Muḥammad Taqī ʿUsmānī, *Discourses on Islamic Way of Life*, trans. Iqbal Hussain Ansari (Karachi: Darul Ishaʿat, n.d.), 5:261-298.

length, Deobandīs stood apart as a separate class of people. This further increased their alienation from society.

2.3.5: Fault Lines Among Deobandīs

For the first fifty years or so of their existence as a group, Deobandīs remained united focused on religious reform in the narrow sense, i.e., theology and *fiqh*. Thus, they battled popular ideas and customs that they considered deviant and preached what they considered to be orthodox ideas and practices. They also focused on training their students and disciples. Things changed dramatically with the emergence of Deobandī political activism. This caused fractures twice in the movement in colonial India, once towards the end of Maḥmūd Ḥasan'a life (d. 1920) and secondly during the years just preceding India's partition in 1947.

Maḥmūd Ḥasan was among the first students of the madrasa at Deoband and was the direct student of Qāsim Nānautvī and Rashīd Gangohī. He was also one of the main successors (*khulafā'*) of the latter. In the early twentieth century, when Maḥmūd Ḥasan had emerged as the most pre-eminent Deobandī scholar (he was the head teacher at Deoband and had a large following among the *ʿulamā*), he started arguing for a more politically active role for Deoband. This put him in conflict with the Dār al-ʿUlūm administration which felt that his rhetoric and actions might give the British an excuse to shut down the Dār al-ʿUlūm. After a failed attempt (1915) to create an Islamic state in the northwestern region bordering Afghanistan with help from the Ottomans, Maḥmūd Ḥasan was exiled by the British to Malta where he remained until 1920.[81] Upon his return to India, he again became active in politics. However, unlike his previous approach of primarily

[81] For more on Maḥmūḍ Ḥasan's project, see Ziya-ul-Hasan Faruqi, *The Deoband School and the Demand for Pakistan* (Bombay: Asia Publishing House, 1963), 55-62; and Muhammad Moj, *The Deoband Madrassah Movement: Countercultural Trends and Tendencies* (India: Anthem Press India, 2015), 61-69.

working with the *ʿulamā* from amongst Indian Muslims, this time he stressed the importance of working with modern-educated Muslims and Hindus. Eventually, he was crowned as the first president of the newly formed *Jamʿiyyat ʿUlamā-i Hind* (JUH), a recently formed organization of Indian *ʿulamā*.

Maḥmūd Ḥasan died soon thereafter and the rupture that had emerged between the Dār al-ʿUlūm administration and his followers did not last long either. Both sides seem to have settled on a division of labor where the Dār al-ʿUlūm officially remained apolitical and even emphasized its loyalty to the British while individual Deobandī *ʿulamā* became active in the freedom struggle against the British. Soon these Deobandī *ʿulamā* came to dominate JUH and sought to achieve leadership of Muslims as opposed to the All-India Muslim League which had been established in 1906 by a broad cross section of Indian Muslim elite comprising primarily of pro-British and modern-educated Muslims. For most of its history in colonial India, JUH continued to oppose the Muslim League.[82]

In his analysis of the Deobandī movement from a countercultural perspective, Moj demonstrates that the Deobandī opposition to the Muslim League was driven by, among other things, their countercultural tendencies vis-à-vis modern-educated Muslims whom they saw as even more problematic than non-Muslims.[83] In fact, as early as 1891, Rashīd Gangohī had given a *fatwā* forbidding cooperation with Sir Sayyid Aḥmad Khan, the founder of Aligarh Muslim College while permitting cooperation with Hindus. His logic was that modernist Muslims like Sir

[82] For more on JUH and its politics vis-à-vis the Muslim League, see Faruqi, *The Deoband School*, 67-91; and Moj, *The Deoband Madrassah Movement*, 69-90.

[83] Although his analysis sometimes tends to go overboard, his broader argument is sound. For Moj's analysis of Deobandī political activism in colonial India, see Moj, *The Deoband Madrassah Movement*, 61-90. One of his unconvincing positions is his claim, contrary to most academics, that the Deobandī movement was not a reform movement (p. 78). Similarly, he sees the emergence of the Tablīghī Jamāʿat as an act of resistance by the broader Deobandī movement against Maḥmūd Ḥasan's political activism (p. 74). To my knowledge, there is no evidence to substantiate this claim.

Sayyid were a threat to one's sound understanding and practice of Islam because they offered a dangerous alternative to mainstream Islam. There was no such danger in working with non-Muslims because their disbelief was obvious.

Deobandīs were not a monolith though. In the decade preceding India's partition and emergence of Pakistan, two Deobandī *akābir*, Ashraf ʿAlī Thānvī and Ḥusayn Aḥmad Madanī, had emerged as foci of two different approaches to political matters. Already during the Khilafat Movement (1917-20), Thānvī had earned a negative reputation among fellow Deobandīs due to his apolitical stance while Maḥmūd Ḥasan was the spiritual leader of those *ʿulamā* who were most actively involved in this movement. By the 1930s, Madanī had emerged as the main successor to the politically active Maḥmūd Ḥasan and was the most important figure in the Deobandī-dominated *Jamʿiyyat ʿUlamā-i Hind* (JUH). Moreover, he was also one of the top teachers at Dār al-ʿUlūm Deoband. Because of all these credentials, he wielded immense influence among the Deobandī rank and file. Thānvī, on the other hand, was busy with spiritual and scholarly pursuits. His network of disciples was as numerous as Madanī's, maybe even more, and his intellectual output in the form of self-authored and directed research outshone every other Deobandī. The two were, thus, central nodes in two very powerful and large networks.

The differences between the two came to a head when the demand for Pakistan emerged in the late 1930s and early 1940s. Madanī was in favor of a united nationalism in which Muslims cooperated with the Hindus to help oust the British and then live together as Indians in a secular state. Thānvī, on the other hand, favored the creation of a separate state for Muslims where they could potentially implement Islamic law. Two of his prominent disciples and relatives, Shabbīr

Aḥmad ʿUsmanī and Ẓafar Aḥmad ʿUsmānī, became quite active in the Pakistan movement, and established the *Jamʿiyyat ʿUlamā-i Islām* (JUI) as a counter to Madanī's JUH.[84]

After the partition of India in August 1947, Madanī became the undisputed leader of Deobandīs as well as the larger Muslim community in India. Until his death in 1957, he continued to teach in Dār al-ʿUlūm Deoband and oversaw the adjustment of the now greatly diminished Muslim minority in a Hindu-dominated but secular India. Thānvī had died much earlier in 1943 but his successors and disciples became increasingly active in the newly created Pakistan post-1947. Apart from those who were involved at the national level in such critical matters as constitution-making (prominent among these were the above-mentioned two ʿUsmānīs and Sulaymān Nadvi), many of Thānvī's followers established *madrasas* in the new state as mentioned earlier. Many of these continue to be the largest and most important *madrasas* in Pakistan.

While the followers of Thānvī were busy establishing *madrasas* and *khānqāhs* in the new state, many of Madanī's followers did the same. His former students and disciples were especially found in large numbers in the northwestern regions of the new state, the same region where Maḥmūd Ḥasan's emissaries had been active in late nineteenth and early twentieth centuries. Among these was ʿAbdul Ḥaq, a native of Akora Khattak. Like the followers of Thānvī, he also established a madrasa in 1947 in his hometown called Dār al-ʿUlūm Ḥaqqania. This madrasa would later serve as the spiritual base for thousands of Ṭālibān including their leader Mullā ʿUmar. In an interesting twist, JUI which had been established by Thānvī's followers gradually came under the influence of Madanī's followers. Over time though, the apolitical and political factions amongst Pakistani Deobandīs settled on a division of labor. JUI became the main political party

[84] In a testament to their role in the Pakistan movement, both Shabbīr ʿUsmānī and Ẓafar ʿUsmānī were given the honor of hoisting Pakistan's flag for the first-time post-independence in Karachi and Dhaka respectively, the capitals of the Western and Eastern wings, respectively.

of Deobandīs with broad support from the *madrasas* while the majority of Deobandīs busied themselves with their main vocation, teaching.

2.3.6: Deobandīs in Pakistan

Deobandīs got off to a mixed start in the new state. Some of them who had been in the forefront of demands for Pakistan were given some high-level access by the new ruling elites. Thus, Shabbīr ʿUsmānī was made a member of the constitutional assembly. Other successors of Thānvī were also given prominent positions in matters concerning religious affairs. However, it soon became clear to these Deobandīs that the new Pakistani elites were in no mood to implement any Islamic system. The modern-educated rulers of the new state could not imagine any form of politico-legal dispensation different from the then dominant Western model of a liberal secular democracy albeit with a symbolic veneer of Islam. The *ʿulamā,* on the other hand, did not have a detailed alternative plan either. They had assumed, perhaps naively, that they would be able to get Muslim League to establish some kind of a *khilāfa* or at least appoint a shaykh al-islām thereby confirming *ʿulamā*'s authority over everything Islamic. The two sides were thus talking past each other.

Nevertheless, there was a positive development from the perspective of the religious classes. That was the Objectives Resolution (*qarārdād-i maqāṣid*) passed by the constitutional assembly in 1949 which declared that sovereignty belongs to God and the people of Pakistan hold it as a trust. This novel conception of sovereignty was more a brainchild of Abu al-Aʿlā Mawdūdī (d. 1979), the founder of Jamāʿat-i Islāmī, than of the Deobandī *ʿulamā*.[85] But the Objectives

[85] For more on Mawdudi's thought especially how it relates to the state, see Seyyed Vali Reza Nasr, *Mawdudi and the Making of Islamic Revivalism*, (New York: Oxford University Press, 1996), 80-106. Even though many *ʿulamā* (Deobandīs and others) did not see eye to eye with Mawdūdī, the Objectives Resolution succeeded in bringing together these diverse *ʿulamā* and it continues to serve as a useful reference point for the religious classes in their demands to implement Islam in Pakistan.

Resolution did not go far enough. For one, it was too short and vague. One of the provisions stated: "Wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed." This seemed to be a deliberate attempt to pander to both the traditional *ʿulamā* and the modern-educated classes.

A second provision stated: "Wherein the Muslims shall be enabled to organize their lives in the individual and the collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Qur'an and the Sunnah."[86] This seemed quite ambitious. However, there were a couple of factors that limited its effectiveness. Firstly, it was non-binding. Secondly, the constitution-making process was itself quite delayed. The first constitution of the new state was promulgated only in 1956, seven years after Pakistan's independence. The slightly modified Objectives Resolution was a part of it but only as a non-binding preamble. The constitution did declare Pakistan to be an Islamic Republic and also stated: "No law shall be enacted which is repugnant to the injunctions of Islam as laid down in the Holy Qur'an and the Sunnah" and that the existing laws would be brought "into conformity with the injunctions of Islam." However, since this was all left to the national assembly where the *ʿulamā* were not present, not much came of it. The constitution did mandate the creation of a Commission for making recommendations for Islamization of laws. However, these recommendations were also to be non-binding.

Only two years later, the military chief Ayub Khan staged a coup, and imposed a new constitution in 1962. In the meantime, JUI had already become somewhat irrelevant. Shabbīr ʿUsmānī had died in 1949 and other members of JUI, recent immigrants from India with no established base in Pakistan, could not muster enough political will to make JUI relevant vis-à-vis the Muslim League and the entrenched British-era civil bureaucracy. With the coming to power of

[86] For more on the Objectives Resolution, see Hamid Khan, *Constitutional and Political History of Pakistan* (Karachi: Oxford University Press, 2005), 59-66 & 115-116.

the military dictator Ayub Khan, a new pattern of govt.–*ʿulamā* relations began to emerge. To begin with, Ayub Khan sought to use his political power to implement a modern interpretation of Islam which *ʿulamā* felt was no more than cheap imitation of the West.[87] This included new family laws that the *ʿulamā* found to be a violation of traditional Islamic law. Secondly, and perhaps more ominously for the *ʿulamā* and their *madrasas*, Ayub Khan sought to bring *madrasas* into the national mainstream either by changing their curriculum and/or registering them with the government and/or taking control of them. Most of these attempts failed in achieving their desired results but they did succeed in convincing the *ʿulamā* that the new state was not friendly to them and was a threat to their independence. This pattern of almost continuous govt.–*ʿulamā* tension has continued till this day.[88]

2.4: Conclusion

This chapter has sought to provide an overview of the key ideological, social, and political dimensions of the Deobandī movement. Although Deobandīs are defined by their particular orientation within the larger framework of *ahl al-sunna wa al-jamāʿa*, what also distinguishes them from other Sunnīs is their devotion to their *akābir*. These *akābir* serve as key nodes in multiple interlinked networks of teachers and students as well as shaykhs and *murīds*. Their role is crucial in keeping these networks together, and they also act as custodians of change thereby determining the direction that the movement takes. In the foregoing, I discussed a few cases of

[87] An important initiative in this regard from the Ayub Khan regime was the creation of a Central Institute of Islamic Research in 1961 headed by Dr. Fazlur Rahman. The *ʿulamā* found his views to be noxious and waged a successful campaign to oust him from his position there. For Rahman's biography, see Tamara Sonn, "Rahman, Fazlur," in *The Oxford Encyclopedia of Islam and Law, Oxford Islamic Studies Online*, http://www.oxfordislamicstudies.com/article/opr/t349/e0188 (accessed Apr 7, 2022).

[88] For a more detailed overview of the history of the Deobandī movement in Pakistan albeit from a countercultural perspective, see Moj, *The Doeband Madrassah Movement*, 91-118. I discuss in further detail govt.–*ʿulamā* relations in the following chapters.

how a specific Deobandī elder's preference for a legal position influenced countless other *ʿulamā*. An important such figure is Rashid Aḥmad Gangohī whose particular approach to matters theological, legal, and spiritual has had a lasting impact on Deobandīs. He may even be considered as someone most responsible for the crystallization of Deobandīs as a unique school of thought among South Asian Sunnīs. I also discussed other important Deobandī *akābir* such as Ashraf ʿAlī Thānvī, Ḥusayn Aḥmad Madanī and Muḥammad Ismāʿīl Kāndhlavī whose variegated approaches to issues of religious and many times political matters spread far and wide through their respective social networks which often overlapped with one another.

Underlying all of this in the first half of Deoband's history were the twin engines of *madrasas* and Sufi *khānqāhs*. As *khānqāhs* declined, the *Tablīghī Jamāʿat* came to fill the vacuum on the spiritual side. On the whole, there have been at least four different sites of knowledge transmission among the Deobandīs, namely *madrasas, khānqāhs*, mosques, and the Tablīghī Jamāʿat. In these spaces, Deobandī elders have molded generations of rank-and-file Muslims through their teaching and practice of Islamic sciences including Sufism, and basic preaching of Islam. Students, *murīds*, Tablīgh members, and common Muslims all form extensive networks that often overlap and strengthen the reach and influence of the Deobandī movement. The average Deobandī also builds his social networks in these institutions where the fusion of *fatwā* and *taqwā* (piety or God-consciousness) that the early Deobandī *akābir* engendered is transmitted to the younger generations. This fusion of law and spirituality often reflects itself in tough stances vis-à-vis many modern issues, be it something as mundane as dress or as complicated as Islamic banking, as we shall see later.

We have also seen the Deobandī movement as a multi-dimensional enterprise that is characterized by its focus on its multiple missions, combatting what they consider to be deviant

ideas and practices, transmitting Islamic knowledge through *madrasas* and preaching, and calling for implementation of Islam in Pakistan in line with their understanding of Islam as a comprehensive way of life. To complicate matters further, Deobandīs also developed strong counter-cultural tendencies during the colonial period that have continued to affect (mostly negatively) their interactions with the general public in Pakistan as well as its political elite.

It is Deobandī understanding of seeing Islam as a comprehensive way of life and of *ʿulamā*'s role as guides of the Muslim community that can serve as a useful reference point or even yardstick with which to understand and evaluate the intra-Deobandī debate on Islamic banking. The goal here is not to provide a value judgment but to see whether the Deobandīs are actually prepared to undertake what they consider to be their mission. It is in light of this that instead of diving straight away into the intra-Deobandī debate on Islamic banking, I divide this dissertation into three main parts which examine in detail the Deobandī approach to knowledge and education, economics and finance, and *fatwā*-giving. In the process, I also look closely at Deobandī interactions with the Pakistani state regarding these matters.

CHAPTER THREE

KNOWLEDGE AND EDUCATION

That Deobandīs should be associated with knowledge is a given. Their main identity is as traditional *ʿulamā* who have studied in *madrasas* and often continue to teach there. But how did these *madrasas* come to be the way they are and how does this impact the Deobandīs' approach to modern issues and *fatwā*-giving? The first two sections of this chapter help to set the stage, so to speak, for the analysis that follows in the later sections. I start by providing an historical overview of knowledge and education in the premodern Islamic civilization. This is followed by an analysis of how Muslim educational systems were transformed during the modern period (colonial and postcolonial). My goal in both these sections is to understand the kinds of forces that eventually shaped the Deobandī educational enterprise, or more precisely its academic complex.

I use academic complex to refer to a set of institutions, associated pedagogical practices, and literary genres involved in the transmission and production of knowledge.[1] As such, it can be seen as a subset of a knowledge tradition which also encompasses ideas/discourses and people involved in the transmission and production of knowledge in a culture or civilization. Following the discussion of the premodern Islamic knowledge tradition and its concomitant academic complex as well as its evolution in the modern period, I analyze the Deobandī academic complex. Here, my focus is on the educational system in Deobandī *madrasas,* the curricula and pedagogy followed there, the kinds of skills and sensibilities that result from this training, and Deobandī literary output. Finally, I evaluate the strengths and limitations of the Deobandī academic complex

[1] Admittedly, the term "academic complex" is rarely used in modern scholarship, if at all.

in light of the ambitions of Deoband as a religious movement. This last section also includes my analysis of the socio-political context of Pakistani Deobandīs.

3.1: Knowledge and Education in the Premodern Islamic Civilization

Knowledge is at the very heart of the Islamic civilization.[2] This is well-attested in the Islamic primary texts (Qur'an and *ḥadīth*). In the Qur'an, we find verses like "Are those who know and those who do not know alike?" (39:9), the first revelation "Read in the name of your Lord who created" (96:1), and the prayer taught to the Prophet Muḥammad, "Say, My Lord! Increase me in knowledge" (20:114). Similarly, there are multiple verbal statements reported from the Prophet Muḥammad himself extolling the virtues of those seeking knowledge such as when he is reported to have said: "And whoever follows a path to seek knowledge in it, Allah will make easy for him a path to Paradise. No people gather together in one of the Houses of Allah, reciting the Book of Allah and studying it among themselves, except that tranquility descends upon them, and mercy envelops them, and the angels surround them, and Allah mentions them amongst those who are with Him,"[3] or that "the excellence of a scholar upon the worshipper is like my excellence over the lowest one amongst you."[4] Celebrating the virtue of knowledge and of those who possess it is

[2] This is a common observation by insiders and outsiders alike. Franz Rosenthal, for example, states in his *Knowledge Triumphant* that knowledge or "ʿ*ilm* is one of those concepts that have dominated Islam and given Muslim civilization its distinctive shape and complexion." See Franz Rosenthal, *Knowledge Triumphant: The Concept of Knowledge in Medieval Islam* (Leiden: Brill, 2007), 2.

[3] Muslim b. al-Ḥajjāj al-Naysābūrī, *Ṣaḥīḥ Muslim*, ed. Fu'ād ʿAbd al-Bāqī (Beirut: Dār Iḥyā' al-Turāth al-ʿArabī, 1431 AH), 4:2074. [Book of Knowledge, Chapter on the virtue of gathering for recitation of the Qur'an and remembrance, *ḥadīth* No. 2699]

[4] Abū ʿIsā al-Tirmidhī, *al-Jāmiʿ al-Kabīr Sunan al-Tirmidhī*, ed. Bashshār ʿAwwād Maʿrūf (Beirut: Dār al-Gharb al-Islāmī, 1998), 4:347. [Chapter on the superiority of jurisprudence over worship, *ḥadīth* no. 2685]

a constant in Islamic thought and Deobandīs are no exception. Their discussion of the same often involves texts like those quoted above as well as the stories of the pious.[5]

At this stage, it is also important to explore the related question, what is the main purpose of knowledge in Islam? The Qur'an (51:56) states that God created humans and *jinns* to worship Him, i.e., to devote themselves fully to Him. This idea is repeated in different ways throughout the Qur'an and is affirmed by the Prophetic example. Beyond the individual's personal responsibility to God, Qur'an (33:45-46) also describes the Prophet Muḥammad as a *shāhid* (witness), a *bashīr* (giver of glad tidings) and a *nadhīr* (warner), a caller towards God, and a role model for all believers. Moreover, the Prophet Muḥammad is also described in the Qur'an in four places (2:129 & 151; 3:164; and 62:2) as having been sent to perform four specific tasks, namely reciting Qur'anic verses to the believers, purifying their souls, and teaching them the Book and Wisdom.

Sunnī *ʿulamā* have historically understood themselves to be the inheritors of the prophets and thus see their job to be a continuation of the Prophetic mission as described above.[6] The Qur'an (9:122) also indicates as much in the famous verse where the believers are told that some of them should dedicate themselves to understanding religion so that when their people return to them, they may warn them. In short, while the primary purpose of knowledge for every Muslim is to worship God with everything that it entails, the additional task of *ʿulamā* is to remind people of this.

Like their earlier predecessors in the broader Islamic tradition, Deobandīs variably describe the primarily goal of seeking knowledge to be seeking the pleasure of God (*razā-i ilāhī*) and

[5] For a sampling of Deobandī discussions of the virtues of knowledge and scholars, see Muḥammad Isḥāq Multānī, ed., *Tūḥfat al-ʿulamā* (Multan: Idāra Tālīfāt-i Ashrafiya, 1429 AH), 1:295-331. He brings together statements from the works of Thānvī, Ṭayyib, Zakariyyā Kāndhlavī and other Deobandī *akābir*.

[6] This is based on the famous *ḥadīth*: "*al-ʿUlamā' warathat al-anbiyā'* (Scholars are inheritors of the prophets)" narrated by Abu al-Dardā'. For more on this *ḥadīth* and its common understanding among medieval *ʿulamā*, see Ibn Rajab al-Ḥanbalī, "*Warathat al-anbiyā': Sharḥ Ḥadīth Abi al-Dardā'*," in *Majmūʿ rasā'il Ibn Rajab al-Ḥanbalī*, ed. Abū Muṣʿab Ṭalʿat b. Fu'ād al-Ḥulwānī (Cairo: al-Fārūq al-Ḥadītha, 2003), 1:5-60.

success in the hereafter.[7] Thus, Banūrī says that this is directly achieved in the case of religious sciences (*dīnī ʿulūm*) and can also be achieved indirectly in the case of worldly sciences (*dunyāwī ʿulūm*) as long as one's intention in both cases is to seek the pleasure of God. If, however, one pursues religious sciences for any other intention then even they become a kind of worldly science.[8] Before Banūrī, Thānvī had used the same logic to argue that useful knowledge is that which helps one in the hereafter and harmful knowledge is that which does not help one in the hereafter.[9]

This begs the question? What do all the various Islamic, Arabic, and Greek sciences that have been studied by *ʿulamā* since medieval times have to do with worshipping God and seeking His pleasure? The short answer is that these sciences were developed to preserve and understand the divine revelation *as well as* to operationalize it in one's life. Thus, even though the Prophet did not engage in the study of Arabic grammar or literature, nor did he engage in the study of mathematics or astronomy, these sciences ended up being accepted into the Islamic civilization as useful knowledge which helps humans carry out divine commands and achieve success in this world and the hereafter. To understand how this happened and why it is relevant to our study of Deobandīs, we must take a brief history tour of the various classifications of knowledge in the premodern Sunnī tradition as well as the evolution of Islamic education across the centuries.

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[7] See Banūrī, *Dīnī madāris kī zarūrat*, 40; and Ashraf ʿAlī Thānvī, "*Taʿmīm al-taʿlīm*," in *Khuṭbāt-i Ḥakīm al-Ummat*, ed. Munshī ʿAbd al-Raḥmān, Ṣūfī Muḥammad Iqbāl Qurayshī and Zāhid Maḥmūd Qāsimī (Multan: Idāra Tālifāt-i Ashrafiya, 1427 AH), 2:159. Similar statements or implied sentiments are to be found in the works of medieval Islamic scholars like al-Ghazālī (d. 1111), Ibn Jamāʿa (d. 1333), and others. See, for example, Abū Ḥāmid al-Ghazālī, *Iḥyā' ʿulūm al-dīn* (Jeddah: Dār al-Minhāj, 2011), 1:48; and Badr al-Dīn Ibn Jamāʿa, *Tadhkirat al-sāmiʿ wa al-mutakallim fi adab al-ʿālim wa al-mutaʿallim* (Beirut: Dār al-Bashā'ir al-Islāmiyya, 2014), 43-44.

[8] Banūrī, *Dīnī madāris kī zarūrat*, 38-40.

[9] Thānvī, "*Taʿmīm al-taʿlīm*," 2:159.

3.1.1: Sources and Classifications of Knowledge

It goes without saying that the primary sources of Islamic thought and practice are the Qur'ān and the Sunna of the Prophet Muḥammad primarily documented in *ḥadīths*. However, Islamic civilization, as it developed in the early period, also interacted with foreign cultures and knowledge traditions especially Judeo-Christian, Hellenic and Persian, and to a lesser extent Indian. As a result of these interactions, four major groups of scholars/intellectuals emerged during the first two centuries. These were all heterogeneous and there was, at times, significant overlap between two or more groups, i.e., a single person could be said to have belonged to more than one group because of his engagements. To begin with, there were those engaged in what is today called humanistic pursuits, i.e., study of language and human culture. This group has often been characterized by modern academic scholars as bearers of a worldly Islam.[10] Then, there were the Muʿtazila and the *falāsifa* (Muslim philosophers) who primarily emerged as a result of Muslim engagement with Greek thought.[11] Finally, there were the traditionalist scholars whose main focus was one or more of the Islamic sciences, namely Qur'an, *ḥadīth*, Islamic creed, and law.[12] The Arabic sciences seem to have been a common area of interest for all the groups from very early.[13]

[10] For a brief overview of the influence of the secretarial class in spawning Arab belles-lettres in the early centuries of Islamic history, see Ira Lapidus, *Islamic Societies to the Nineteenth Century: A Global History* (New York: Cambridge University Press, 2012), 114-125. Also see Ebrahim Moosa, *What is a Madrasa?* (Chapel Hill, NC: University of North Carolina, 2015), 48-50.

[11] For a brief overview of rationalist strands of thought in the first seven centuries of Islam, see Mohammad Ali Amir-Moezzi and Sabine Schmidtke, "Rationalism and Theology in the Medieval Muslim World: A Brief Overview," *Revue de l'histoire des religions* 226, no. 4 (2009): 613-638. For a dated but more comprehensive work, see Montgomery Watt, *Islamic Philosophy and Theology: An Extended Survey* (Edinburgh: Edinburgh University Press, 1985).

[12] For a brief overview of the development of Sunnīs as a distinct Islamic group, see Jonathan Berkey, *The Formation of Islam, Religion and Society in the Near East, 600-1800* (New York: Cambridge University Press, 2003), 141-158 & 224-230.

[13] An excellent account of the history of Arab linguistics is given in Kees Versteegh, *Landmarks in Linguistic Thought III: The Arabic Linguistic Tradition* (London: Routledge, 1997).

Over the next few centuries, significant intellectual exchange took place among these groups of scholars. The most important developments with respect to the evolution of the traditionalist or proto-Sunnī camp were the emergence of the Ashʿarī and Māturīdī schools of theology among the Sunnīs,[14] partial Islamization of Greek philosophy,[15] the eventual acceptance of various Greek sciences by Sunnīs as useful sciences, and the integration of Sufism into the Sunnī intellectual tradition.[16] Consequently, a composite intellectual tradition emerged among the Sunnīs that was grounded in divine revelation, and in which the Islamic sciences served as the core, but which also accommodated other useful sciences, even if of foreign origin. For the next few centuries up to the modern period, all or most intellectual developments among Sunnīs took place within this composite.[17]

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[14] See Watt, *Islamic Philosophy and Theology*, 64-68 & 75-111.

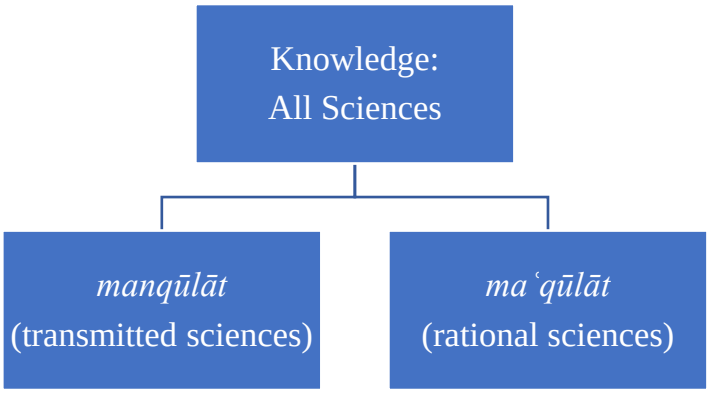
[15] Although a long line of Muslim *falāsifa* was involved in this process, it reached its climax in the work of Ibn Sīnā (d. 1037). For a brief overview of the career of philosophy in early and medieval Islamic civilization, see Richard Taylor, "Philosophy," in *The New Cambridge History of Islam*, ed. Robert Irwin, vol. 4, *Islamic Cultures and Societies to the End of the Eighteenth Century* (Cambridge: Cambridge University Press, 2010), 532-563.

[16] A key role in this regard was played by Abū Ḥāmid al-Ghazālī (d. 1111) who helped integrate not only Sufism into the Sunnī intellectual tradition but also made multiple branches of Greek philosophy acceptable to Sunnīs. In modern Western scholarship as well as popular imagination, Ghazālī has often been considered responsible for the death of philosophy in the Sunnī intellectual tradition. However, recent research on his writings suggests otherwise. For a brief overview of academic literature on the subject, see Frank Griffel, *Al-Ghazālī's Philosophical Theology* (New York: Oxford University Press, 2009), 3-7. Griffel considers Ghazālī to be the first Muslim theologian who actively sought to naturalize philosophy into Islamic theology. For a brief discussion of Ghazālī's role in revitalizing Sunnī orthodoxy through integration of Sufism and *Sharīʿa*-compliant aspects of philosophy, see Marshall Hodgson, *The Venture of Islam: Conscience and History in a World Civilization*, vol. 2, *The Expansion of Islam in the Middle Periods* (Chicago: The University of Chicago Press, 1974), 2:180-192. Fazlur Rahman (d. 1988), who sides with the *falāsifa* as opposed to Sunni orthodoxy, tends to agree with Hodgson but bemoans Ghazālī's curtailment of the philosophers' free-thinking spirit. See Fazlur Rahman, *Islam*, 2nd ed. (Chicago: University of Chicago Press, 1979), 120-121 & 137-140.

[17] Toby Huff argues that even after the Greek sciences were accepted by the Sunnī *ʿulamā*, natural philosophy was not fully adopted. The subjects that were included such as logic, philosophy, mathematics, astronomy, and medicine did not cover the whole gambit of natural philosophy contained in Aristotle's works. Moreover, even between medicine and astronomy, Muslims stopped producing anything new after the 14th century, and thus even these effectively became transmitted sciences. See Toby Huff, *Intellectual Curiosity and the Scientific Revolution: A Global Perspective* (New York: Cambridge University Press, 2011), 153-159. For a somewhat skeptical view of Huff's thesis, see A. I. Sabra, "The Appropriation and Subsequent Naturalization of Greek Science in Medieval Islam: A Preliminary Statement," *History of Science* 25 (1987): 223–43. Muzaffar Iqbal does not dispute the decline thesis but argues for a more nuanced approach to dating it especially since research into the history of science in the Islamicate civilization is still underdeveloped. See Muzaffar Iqbal, *Science and Islam* (Westport, CT: Greenwood Press, 2007), 103-129.

Among the various classifications of knowledge that emerged in the medieval Islamic civilization, two schemes have tended to dominate. According to one of these, the various sciences can be divided into two categories, transmitted (*manqūlāt*) and rational (*maʿqūlāt*). This scheme is depicted below.

Fig. 3.1: Division of Sciences

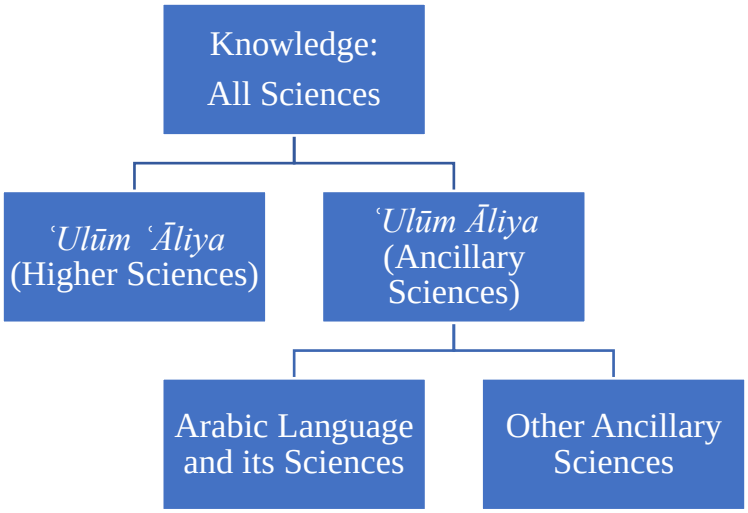


In this scheme, Qur'ān, *ḥadīth*, *ʿaqīda*, and the sciences of the Arabic language are seen as transmitted sciences, while logic, philosophy, medicine, and other natural sciences are seen as rational sciences. *Fiqh*, *uṣūl al-fiqh* and *kalām* are mostly included among the rational ones, and sometimes among the transmitted ones depending on which aspect of theirs is being emphasized.[18] In this dissertation, I will not be using this scheme except where necessary. This is mainly because of the way Deobandī curricula have evolved. Moreover, even in medieval sources, this scheme is not consistently applied with respect to Islamic law and theology, and rational sciences are often used as a by-word for "foreign sciences," i.e., those inherited mainly from the Greeks.

[18] For more on this binary, see Osman Bakar, *Classification of Knowledge in Islam* (Cambridge: Islamic Texts Society, 1998), 203-226; George Makdisi, *The Rise of Humanism in Classical Islam and the Christian West* (Edinburgh: Edinburgh University Press, 1990), 88; and Francis Robinson, "Education," in *The New Cambridge History of Islam, vol. 4, Islamic Cultures and Societies to the End of the Eighteenth Century*, ed. Robert Irwin (Cambridge: Cambridge University Press, 2010), 500-505.

According to another scheme, the various sciences can be divided into: *ʿulūm ʿāliya* (higher sciences) and *ʿulūm āliya* (ancillary sciences). In this scheme, Qur'ān, *ḥadīth*, *ʿaqīda*, *kalām*, *fiqh*, *uṣūl al-fiqh*, and *tazkiyat al-nafs*/*akhklāq* are included in *ʿulūm ʿāliya* while everything else falls under the category of ancillary sciences. A modified version of this second scheme would label *ʿulūm ʿāliya* as *ʿulūm sharʿiyya* (religious sciences), and the ancillary sciences would be divided into two categories, one comprising all those sciences related to the Arabic language, and the other comprising all the other ancillary sciences. This is depicted below.

Fig 3.2: Another Division of Sciences



Further details of this second classification of knowledge are given below:

1. Islamic Sciences (*ʿulūm sharʿiyya*): These sciences are the core of the Sunni intellectual tradition. They can be further divided into five broad categories, each of which contains multiple sciences:
    a. Qur'an and its sciences such as those pertaining to its transmission and recitation (*ʿilm al-riwāyāt wa al-qirā'āt/tajwid*), exegesis (*Tafsīr*), reasons for revelation (*asbāb al-nuzūl*), etc.

b. *Ḥadīth* and its sciences such as its transmission (*riwāyat al-ḥadīth*), interpretation (*dirāyat al-ḥadīth*), terminology (*muṣṭalaḥ*), narrator criticism (*al-jarḥ wa al-taʿdīl*), etc.

c. Islamic theology encompassing creed (*ʿaqīda*), speculative/dialectic theology (*kalām*), heresiology, etc.

d. Islamic law such as substantive law (*fiqh*), legal theory (*uṣūl al-fiqh* & *qawāʿid fiqhiyya*), principles of *fatwā*-giving (*uṣūl al-iftā'* aka *rasm al-muftī*), etc.

e. Islamic spirituality, which is often referred to as *tazkiya, iḥsān, zuhd* or *taṣawwuf*.

2. Arabic Sciences: Just as the desire to preserve the Qur'an and the Prophetic Sunna spawned Islamic sciences, it also encouraged the development of various sciences dedicated to the Arabic language which was the key to understanding the divine revelation. These Arabic sciences served as tools (*ālāt*) for the Islamic sciences which were the intended goal. These Arabic sciences include syntax (*naḥw*), etymology (*ṣarf*), rhetoric (*balāgha*), writing (*kitāba*), composition (*inshā'*), literature (*adab*), poetry (*ʿarūḍ* & *qawāfī*), etc.

3. Other Ancillary Sciences: Lastly, there were those sciences that were not strictly Islamic but were useful and many educated Muslims including religious scholars acquired them. Many of these had been acquired from the Greeks, Persians, and Indians. Some of these sciences also served as tools for the Arabic and Islamic sciences given above. Others were needed to implement Islamic rulings. This third category of sciences include logic (*manṭiq*), philosophy (*falsafa*), mathematics (*ḥisāb*), medicine (*ṭibb*), astronomy (*hay'a*), etc.

3.1.2: History of Islamic Education[19]

Having looked briefly at the classification of sciences, it is now time to examine the history of Islamic education and a key institution that emerged in medieval times, namely the *madrasa*. Literally referring to any place where studying or teaching takes place, it would be fair to say that the first *madrasas* in Islamic history appeared during the time of the Prophet Muḥammad. That is to say, places like Dār al-Arqam in Makka or the *ṣuffa* (platform) in the Prophet's Mosque at Madīna were the earliest *madrasas*. However, it is also true that the Prophet Muḥammad or his Companions never used the term *madrasa*. If anything, they used terms like *ḥalaqa, ḥalaqat al-ʿilm* (knowledge circle), or *majlis* (sitting). In fact, during early Islamic history, most gatherings of knowledge took place in mosques and some in the houses of *ʿulamā* in the form of study circles.

The use of mosques as the main site for the transmission of Islamic knowledge continued well into the fourth/tenth century. Famous ancient Islamic educational institutions such as al-Azhar and al-Qarawiyyīn were built as mosques and were also used as teaching spaces. Since the mosques could not be used for lodging of students, eventually *khāns* (hostels) began to be built adjacent to mosques. The *masjid-khān* complexes soon evolved into purpose-built *madrasas* with a single endowment that provided studying/teaching space and lodging under one roof, and also provided stipends to students and staff. Often these *madrasas* were built adjacent to mosques.[20]

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[19] For a detailed study of the history of Islamic education especially from a social perspective, see Amjad M. Hussain, *A Social History of Education in the Muslim World: From the Prophetic Era to Ottoman Times* (London: Ta-Ha Publishers, 2011).

[20] For a brief overview of the evolution of mosques into *masjid-khāns* and then *madrasas*, see George Makdisi, "On the Origin and Development of the College in Islam and the West," in *Islam and the Medieval West*, ed. Khalil Semaan (Albany: State University of New York Press, 1980), 30-38; and George Makdisi, *The Rise of Colleges: Institutions of Learning in Islam and the West* (Edinburgh: Edinburgh University Press, 1981), 9-34. Arjomand points out a fourth stage in the development of *madrasas*. He calls it the educational charitable complex which comprised a mosque, a *madrasa*, a public bath, a soup kitchen, and the tomb of the founder. According to him, this started in thirteenth century Iran but soon spread to Muslim India as well as the Ottoman Empire. See Said Amir Arjomand, "The Law, Agency, and Policy in Medieval Islamic Society: Development of the Institutions of Learning from the Tenth to the Fifteenth Century," *Comparative Studies in Society and History* 41, no. 2 (1999): 271-279; and Said Amir Arjomand, "Islam and the Path to Modernity: Institutions of Higher Learning and Secular and Political Culture," in *Islam in Process:*

The new institution of the *madrasa* was heavily promoted by the famous Seljuk *vizīr* Niẓām al-Mulk (d. 1092) who established *madrasas* all over the Seljuk Empire, generously funded them, and used them as means of propagating Sunnīsm in general and Ashʿarī theology and Shāfiʿī *fiqh* in particular.[21] Later, the Ayyubids and Mamluks in Egypt & Syria, the Ottomans in the Middle East, Europe & Africa, the various Islamic dynasties in South Asia, and Muslim elites all over the Muslim world adopted the *madrasa* model and supported it through official and private endowments. As such, *madrasas* became important vehicles for the transmission of Islamic knowledge.

But what exactly changed in the switch from informal study circles to *madrasas*? For this, we have to examine the nature of Islamic learning and teaching. For most of its history, Islamic education has been heavily focused on the person of the teacher and the student, starting with the Prophet Muḥammad and his Companions which was based on the idea of *ṣuḥba* (companionship).[22] This system was individualistic and organic in nature allowing for the varying speeds at which students would learn from their teachers. A person could spend as little as a few weeks or months with a teacher and as much as twenty years or so. Hence the proliferation of

Historical and Civilizational Perspectives, ed. J. P. Arnason, A. Salvatore and G. Stauth (Bielefeld, Transcript Verlag, 2006), 245.

[21] See Makdisi, "On the Origin and Development of the College in Islam and the West," 38; Arjomand, "The Law, Agency, and Policy in Medieval Islamic Society," 269–270 & 284; and Omid Safi, *The Politics of Knowledge in Premodern Islam: Negotiating Ideology and Religious Inquiry* (Chapel Hill: The University of North Carolina Press, 2006). Although this understanding of Niẓām al-Mulk's motives in building *madrasas* seems justified, some recent research has argued that Saljūq policies as a whole were not always consistent and the use of *madrasas* as a policy tool was not always conscious on the part of Saljūq rulers and their viziers. See Jonathan Berkey, "Madrasas Medieval and Modern: Politics, Education, and the Problem of Muslim identity," in *Schooling Islam: The Culture and Politics of Modern Muslim Education*, ed. Robert Hefner and Muhammad Qasim Zaman (Princeton, Princeton University Press, 2007), 44-45; and Andrew Peacock, *Early Seljūq History: A New Interpretation* (London: Routledge, 2010), 99-127.

[22] A. L. Tibawi, "Origin and Character of "al-Madrasa"," *Bulletin of the School of Oriental and African Studies* 25 (1962): 225-238.

expressions like *lāzamahu sinīn* (the student constantly accompanied his teacher for years) in Islamic biographical literature.

Although it is not easy to put a date on this, available research suggests that the idea of a formal *ijāza* developed early on, perhaps spurred by developments among scholars and narrators of *ḥadīth*. Students received different kinds of *ijāzas*, of narration (*riwāya*), of teaching (*tadrīs*), and of *fatwā* (giving legal opinions).[23] The idea of the *ijāza* was based on the premise that the student had mastered the text and was qualified to transmit it or teach it to others. In such a model, the teacher and the student were the key components of the educational system. *Ṣuḥba* was important for both *ʿilm* and *ʿamal* (practice). It especially had an important role to play in Sufi circles but was also a requirement in *fiqh* and *ḥadīth* as well as other branches of Islamic learning.

Later on, when *madrasas* were set up, they did cause some systematization of teaching but did not disturb the *ṣuḥba* and the *ijāza* system. *Madrasas*' main contribution was financial and logistical. The curriculum evolved primarily at the hands of the *ʿulamā* and to a lesser extent through the conditions imposed by those setting up endowments. In other words, the *madrasa* remained in the background, meant only to facilitate what was still an individualistic and organic system centering on the student and the teacher.[24]

From the Seljuks in the fifth/eleventh century to the Ottomans in the tenth/sixteenth century and beyond, one can discern an increasing degree of bureaucratization and centralization. The *madrasa* as an institution became more important at the expense of the individual standing of the teacher. This was especially true of the *madrasas* located in Istanbul where the highest levels of

[23] Makdisi, *Rise of Colleges*, 140-152.

[24] Tibawi, "Origin and Character of "al-Madrasa"," 225-238; and Jonathan Berkey, *The Transmission of Knowledge in Medieval Cairo: A Social History of Islamic Education* (Princeton: Princeton University Press, 1992), 20-27, 43-45 & 216-218.

Ottoman Islamic bureaucracy were tied to teaching positions in a hierarchy of *madrasas*, at the top of which was the Suleymaniye madrasa.[25] Nevertheless, the teachers were not completely overshadowed since it was still they who gave the *ijāza* to the student.

Madrasas in precolonial Muslim India did not undergo the same level of centralization and bureaucratization as experienced by Ottoman *madrasas* and *ʿulamā*. Rather, it seems that the teachers retained their primacy in South Asian *madrasas*, with the *madrasa* lurking in the background as a mere facilitator in financial and logistical terms. Nevertheless, there did emerge an informal hierarchy based on the nature of study or the specific text(s) being studied. Already before the Mughals, three stages of education had emerged in Indian Muslim education, namely basic schooling, *dānishmand* or *mawlawī*, and *fāzil*/*fāḍil*.[26] Basic schooling remained mostly unchanged over the next centuries with a focus on reading the Qur'an, fundamentals of Islam, and basic training in Persian and even some Arabic. The second and the third stages, however, did undergo some changes during the Mughal period. This primarily had to do with the inclusion of more advanced texts of logic, philosophy, and *kalām* as will be discussed later.

The primary purpose of in-person teaching was transmission of knowledge. But the broader medieval Islamic civilization was also active in production of new knowledge. This happened primarily through the written word. Medieval Muslims had developed a broad range of literary genres such as compendia (*mukhtaṣars*) which served as primers or summarized longer works, glosses (*ḥawāshī*) that helped add helpful annotations to a text, and commentaries (*shurūḥ*) which

[25] For a brief overview of Ottoman *madrasas*, their hierarchy, and curricula, see Ekmeleddin İhsanoğlu, "Ottoman Educational Institutions," in *Ottoman Civilization*, ed. Halil İnalcık and Günsel Renda, trans. Ellen Yazar and Mary Işin (Ankara: Ministry of Culture, 2002), 345-385; and Halil İnalcık, "Chapter XVI: Learning, The Medrese and the Ulema," in *The Ottoman Empire: The Classical Age, 1300-1600* (New York: Praeger Publishers, 1973), 165-172.

[26] For more details of these stages especially the texts studied, see Al-Nadvi & Moinuddin, *Survey of Muslim Education: India*, (Cambridge: The Islamic Academy, 1985), 4-10; and Munāẓir Aḥsan Gīlānī, *Hindustān mayn Musalmānon kā niẓām-i taʿlīm-o tarbiyyat* (Delhi: Maḥbūb al-Maṭābiʿ, 1944), 1:137-144.

served to elucidate briefer works. Each one of these genres served dual purposes, transmission of older knowledge as well as production of new knowledge. Moreover, ever since the introduction of paper in the Muslim lands, book production had increased extensively, and this was sustained by a thriving industry of professional copyists.

This system comprising mosques, *madrasas*, teachers, students, copyists, and the various literary genres was sustained through a set of interlocking factors. The most important of these was the personal commitment of individual Muslims to studying their religion and to teaching it to others. This was bolstered by the high regard that the average Muslim including the political elite had for Islamic knowledge and its seekers and possessors. This high regard often led to the creation of large endowments as well as other forms of support that helped the Islamic scholarly tradition flourish.

However, Muslims did not develop during the medieval period the idea of an academic society or association or an academic journal. Rather, the main avenues for knowledge exchange were either private communication, formal *ḥalaqas*, informal gatherings of people of knowledge, or the independently composed treatise/book. Besides these, royal courts or courts associated with the lower nobility also provided a space for exchange of ideas. However, this tended to be mostly competitive and looked down upon by pious scholars. For the most part, if someone had an issue with someone else's work, they would write a gloss or a commentary on it or an outright refutation. It was this academic complex, let us call it the Premodern Islamic Academic Complex (PIAC), with its institutions, associated pedagogical practices and literary genres involved in the transmission and production of knowledge that modern Muslims inherited from their premodern ancestors.

3.2: The West in Muslim Lands

Deobandī authors often use binaries like old (*qadīm*) vs. new (*jadīd*) or Islamic (*Islāmī*) vs. contemporary (*ʿaṣrī*) to contrast the knowledge that they inherited from the premodern Islamic scholarly tradition and the new knowledge that the British introduced in India. Thus, terms like modern sciences (*jadīd ʿulūm*) or contemporary sciences (*ʿaṣrī ʿulūm*) basically refer to modern Western knowledge first introduced by the British in India. But it was not just new knowledge that the British introduced in India. This new knowledge was associated with a certain academic complex and a broader European/Western knowledge tradition which had itself been in flux for quite some time.

Ever since the Europeans rediscovered the ancient sciences of the Greeks in the eleventh and twelfth centuries, the nature of European intellectual tradition had begun to change. There was an increasing emphasis on studying the world including humans.[27] Although Christian theology continued to occupy central place in Western institutions, it was increasingly being challenged by natural philosophy. Then came the scientific revolution (sixteenth and seventeenth centuries) and its emphasis on data collection. The Europeans further increased their focus on the world and their distance from religion grew. The Enlightenment that followed in the eighteenth century sealed the deal in many ways. The vast European intellectual enterprise that had once been grounded in Christian tradition was now nearing a complete divorce from it and humanism and natural sciences were the new linchpins of this transformed knowledge tradition.[28]

[27] Huff, *Intellectual Curiosity and the Scientific Revolution*, 150-152.

[28] For a contrast between the early modern European situation and that of Muslims and China, see the previously mentioned work by Toby Huff titled *Intellectual Curiosity and the Scientific Revolution: A Global Perspective.* Huff's work has been criticized for being lopsided since he relies on extensive primary sources for European history and a few secondary sources for Islamic and Chinese history. Nevertheless, his larger argument seems correct in that natural sciences never occupied center stage in the Sunnī intellectual tradition.

Alongside the unique nature of the knowledge that the British brought with them to India, they also brought a new set of institutions and mechanisms for knowledge transmission and production. To begin with, there was the printing press which had radically transformed Europe ever since its invention in 1440. Perhaps, equally important were the academic associations/societies, where scholars or members of the elite interested in various intellectual subjects would gather to discuss issues of interest to them.[29] Along with holding periodic meetings/conferences, these societies also sponsored research and established academic journals where scholars' research was published. What made these academic societies/associations different from Muslim gatherings of knowledge was their institutional character. Some of the earliest such societies in Europe are still operating today. Examples include the Académie Française (founded 1635), the Royal Society of London (founded 1660) and the French Academy of Sciences (founded 1666). Among the earliest academic journals in continuous publication is *Philosophical Transactions of the Royal Society* (started publishing in 1665).[30]

But this was not all. Europeans had also developed a multi-tiered system of education that included primary, middle, and high schools as well as colleges and universities. Although England was one of the last European states to accept responsibility for public education – it did so only in the 1860s – other European states had begun moving towards compulsory primary education much earlier. Denmark started as early as 1721, and Prussia and Austria did so in 1763 and 1774, respectively. With respect to higher education, a system of colleges and universities had already emerged in Europe of the eighteenth century anchored by long-established and prestigious

[29] Modern academic conferences are a continuation of the meetings held by these earlier academic societies.

[30] For a broader survey of the various kinds of institutions involved in the development of science especially in the West, see Lewis Pyenson and Susan Sheets-Pyenson, *Servants of Nature: A History of Scientific Institutions, Enterprises and Sensibilities* (New York: W. W. Norton, 1999).

universities such as those of Oxford (est. 1096), Paris/Sorbonne (est. 1150), Cambridge (est. 1209), Heidelberg (est. 1386), Leiden (est. 1575), etc. To be sure, this system was itself evolving. The academic programs at these universities were to undergo many more changes in the nineteenth and twentieth centuries especially the introduction of the PhD degree with emphasis on original research. Moreover, the faculties at these institutions which had been just four throughout the Middle Ages and the early modern period, i.e., arts, theology, law, and medicine, would also increase.

With the arrival of Western colonialists in Muslim lands, Western scholars and their evolving academic complex also arrived in the Muslim world. The printing press had already reached the Muslim lands earlier. In the late fifteenth century, Jewish refugees in Istanbul had set up a printing press there and the Portuguese did the same in Goa in western India in the sixteenth century. However, the printing press did not catch on in Muslim lands until the nineteenth century. It was then that the Ottoman and Egyptian governments sought to harness the power of the press for their modernization programs. In the case of India, it was private Indian Muslims who adopted the press to counter the growing power of Christian missionaries in India.[31]

Like the printing press, Westerners also introduced their academic societies in Muslim lands. Among the earliest such societies was Asiatick Society which was established by the British in Calcutta, India in 1784.[32] This was followed in 1800 by the establishment of Fort William College, also in Calcutta. When the Dutch conquered what is today Indonesia, they also brought

[31] On the adoption of print by Muslims, see Francis Robinson, "Technology and Religious Change: Islam and the Impact of Print," *Modern Asian Studies* 27, no. 1 (1993): 229-251. Also see its updated version with a focus on India in Francis Robinson, "Islam and the Impact of Print in South Asia," in *Islam and Muslim History in South Asia* (New Delhi: Oxford University Press, 2000), 66-104.

[32] Originally called Asiatick Society, its name was changed to The Asiatic Society in 1825, The Asiatic Society of Bengal in 1832 and then The Royal Asiatic Society of Bengal in 1936. In 1951, the name was changed back to The Asiatic Society.

with them their scholars who studied Islam and Muslims. The French who conquered North and West Africa also exported their academic complex there as well. Alongside colonialists, Western missionaries also arrived in Muslim lands, and established colleges, universities, and presses as part of their larger missionary enterprise. Among the earliest such colleges/universities in the Middle East are the Roberts College of Istanbul (established in 1863) and the American University of Beirut (established 1866).

Taking their cue from the Europeans, Muslims also began to build new educational systems on Western lines. This process first started in the Ottoman Empire including its de facto independent province Egypt.[33] Muslims of India were initially slow to join the movement to mimic Western education. Eventually, however, they joined the fray with full force. The resultant system that emerged across the Muslim world in the late nineteenth and then the twentieth century not only included primary, middle, and high schools but also colleges, universities, presses, and academic associations with their academic journals. With the forced modernization of traditional Islamic educational institutions in the Middle East in the twentieth century, many *ʿulamā* there had no choice but to become part of this modern Muslim Academic complex complete with its academic associations and journals.[34] The same process was also repeated in South Asia but the *ʿulamā* there by and large succeeded in keeping their distance from this new academic complex, as we shall see below.

[33] A dated but very detailed account of the modernization of Egypt's educational system in the nineteenth century is given in J. Heyworth-Dunne, *An Introduction to the History of Education in Modern Egypt* (London: Luzac, 1938). For a detailed discussion of the first modernization of al-Azhar at the end of the nineteenth century, see Indira Gesink, *Islamic Reform and Conservatism: Al-Azhar and the Evolution of Modern Sunni Islam* (London: I. B. Tauris, 2010). For the Tanzimat era education reforms in Turkey, see Wyoma VanDuinkerken, "Educational Reforms in the Tanzimat Era (1839-1876): Secular Reforms in Tanzimat" (master's thesis, McGill University, 1998).

[34] For a detailed account of the modernization of education in the Arab world in the twentieth century, see A.L. Tibawi, *Islamic Education: Its Traditions and Modernization into the Arab National Systems* (London: Luzac, 1972). Also see Donald M. Reid, *Cairo University and the Making of Modern Egypt* (Cambridge: Cambridge University Press, 1990).

3.2.1: The British in India

The British had arrived in India as traders in the early seventeenth century and continued thus until 1765 when they first acquired political power over large areas of India. During the first sixty years of British rule, i.e., 1765-1835, the official British policy leaned towards patronizing local knowledge. This was driven both by political expediency as well as a genuine admiration for Indian knowledge traditions, both Hindu and Islamic.[35] Dubbed the Orientalist School of Education Policy, it led to the establishment of institutions like Calcutta Madrasa in 1781, Banaras Sanskrit College in 1791/2, and the Delhi College in 1825. At the same time, British need for trained administrators led to the founding of Fort William College in 1800 where a range of local languages were also taught. The idea of "civilizing" Indians or of promoting European civilization in India was not yet dominant in British policies.

However, as early as 1792,[36] and definitely, since the rise of Utilitarian influence in Indian affairs from 1813 onwards, many influential British officials came to subscribe to the idea that since European civilization was inherently superior to anything India had to offer, and a civilization as great as British could not possibly be in India solely for monetary purposes, the British must have a civilizing mission. Another Utilitarian influence was the employment of a binary between useful and practical knowledge on the one hand, and non-useful or impractical knowledge on the other hand. In this binary, European knowledge, was considered useful and indigenous Indian knowledge traditions which were steeped in religion were deemed non-useful.

[35] Among the British officials who especially held a very positive view of Indian knowledge traditions were the governors-general Warren Hastings (d. 1818) and Minto (d. 1814).

[36] An example of a strong disdain for local knowledge traditions with a simultaneous forceful articulation of the superiority of Western knowledge as well as Europeans' civilizing mission was a treatise titled *Observations on the State of Society among the Asiatic Subjects of Great Britain, Particularly with Respect to Morals; and on the Means of Improving it*, published in 1792 by Charles Grant, a former East India Company official. For more on the debates among British stakeholders during this period, see Syed Nurullah and J. P. Naik, *A Students' History of Education in India (1800-1973)*, Sixth Revised Edition (Madras: Macmillan India, 1992), 33-57.

These sentiments eventually crystallized in the form of the infamous Minute on education presented by Macaulay in 1835 and endorsed by the then Governor-General of India Bentinck.[37]

Macaulay represented the Anglicist wing among British officials. Joining them were the missionaries and those Indians who considered European knowledge to be the key to the reform and rejuvenation of Indian society such as the Bengali Hindu reformer Raja Rammohan Roy (d. 1833). In a manner typical of Anglicists, Macaulay announced in his Minute that "a single shelf of a good European library was worth the whole native literature of India and Arabia."[38] Moreover, in what has now become notoriously associated with Macaulay, he also declared: "We must at present do our best to form a class who may be interpreters between us and the millions whom we govern, a class of persons Indian in blood and colour, but English in tastes, in opinions, in morals and in intellect."[39] Macaulay's Minute and subsequent replacement of Persian by English as the official language of British India a few years later settled the debate on the primacy of English language in British India. However, the processes set in motion by the Orientalists did not die away immediately. One such important initiative was the Delhi College.

Starting out initially as an Oriental studies institute in 1825, Delhi College soon grew to also include an English branch focusing on English language, literature, and modern European sciences. Over time, the Anglicist side became more dominant, and eventually, a dual policy was adopted. The two branches continued to operate while a Vernacular Translation Society was set up in the Oriental branch whose translation activity helped to popularize European knowledge and also contributed to the development of Urdu prose. In the meantime, i.e., in 1842, the curricula of

[37] See Suresh Chandra, "Bentinck, Macaulay and the Introduction of English Education in India," *History of Education* 24, no. 1 (1995): 17-24.

[38] Thomas Babington Macaulay, "Minute, dated the 2nd February 1835," *Islamic Studies* 54, nos. 3 & 4 (2015): 240.

[39] Macaulay, "Minute," 247.

the two branches were also integrated with emphasis on useful knowledge i.e., natural sciences, mathematics, natural philosophy, economics, morals, and history. As a result, religion no longer remained the binding force between the various areas of knowledge as it had been in the Sunnī intellectual tradition.[40]

In that period, Delhi College was an important liminal space where representatives of two proud knowledge traditions, Islamic and European, engaged and learnt from each other. However, the very nature of power relations meant that more than the Europeans learning from the Muslims, it was the Muslims learning from the Europeans. The translators, all Indians and mostly Muslim, did have some agency but the direction of knowledge dissemination was obvious. It was European knowledge being propagated and not Islamic knowledge.

As British educational policies gradually became more focused in favor of English, Wood's Despatch of 1854 settled the debate over the future of education in India. Prepared by Sir Charles Wood (d. 1885), a British politician, the Despatch declared the aim of British educational policy in India to confer "upon the natives of India those vast moral and material blessings which flow from the general diffusion of useful knowledge, and which India may, under Providence, derive from her connexion with England."[41] Lest there be any doubt what this useful knowledge was, the Despatch also declared that "the education which we desire to see extended in India is that which

[40] The Delhi College continued to function till 1857 when it had to be shut down due to wartime disturbances. It was revived in 1864 and stayed operational till 1877 when it was merged with Government College Lahore. For a very brief overview of Delhi College and its educational efforts, see Anu Kumar, "New Lamps for Old: Colonial Experiments with Vernacular Education, Pre- and Post-1857," *Economic and Political Weekly* 42, no. 19 (2007): 1712-1713. For a more detailed analysis of Delhi College especially its translation activities, see Margrit Pernau, ed., *The Delhi College: Traditional Elites, the Colonial State, and Education before 1857* (New Delhi: Oxford University Press, 2006).

[41] Cited in Nurullah and Naik, *A Students' History of Education in India*, 133.

has for its object the diffusion of the improved arts, science, philosophy and literature of Europe; in short of European knowledge."[42]

Nevertheless, the Despatch recognized the utility of local languages and called for the creation of an integrated system of primary, secondary, and collegiate education in which modern Indian languages (dubbed vernaculars) were to be used for teaching at the lower levels of education and English at the higher levels of education. Moreover, it also stipulated the creation of universities on the pattern of the University of London.[43] Finally, Wood's Despatch also called for the creation of an education department in each province with Directors and Inspectors of Public Instruction who would ensure that the new system would be smoothly implemented.[44]

Alongside the promotion of European knowledge, the British also created a certain politico-legal regime which was very different from the previous Muslim regimes they replaced.[45] Conscious of the multi-religious character of Indian society, the British adopted the same strategy of disestablishment of religion that they had implemented in their other colonies. Moreover, they deployed the idea of religion and religious as a distinct sphere of human activity, public and private, to remove religious teaching from the mass education system that they were imposing in

[42] Cited in Nurullah and Naik, *A Students' History of Education in India*, 134-135.

[43] This led to the creation of three universities in 1857, one each in Bombay, Madras, and Calcutta. The fourth one was the University of the Punjab which was established later in 1882.

[44] Wood's Despatch was actually building on a model that a British official Lt. Gov. Thomason had been implementing in the areas north and east of Delhi. For more on Wood's Despatch, see Nurullah and Naik, *A Students' History of Education in India*, 132-146.

[45] There is a close connection between the modern knowledge that British introduced in India and the politico-legal regime they established there. An excellent study of colonial forms of knowledge and how they impacted India and Indians is given in Bernard Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton: Princeton University Press, 1996). For a more focused study on religion and science in British India, see Peter Gottschalk, *Religion, Science, and Empire: Classifying Hinduism and Islam in British India* (New York: Oxford University Press, 2013). A key element of British colonial administration was its emphasis on detailed information gathering. This comes across in full force in the censuses that the British conducted every ten years in India as well as the district gazettes that were also prepared for every district every ten years.

India.[46] This allowed a private religious domain to emerge which both Muslims and Hindus came to cherish and sought to preserve. The discussion of what was religious and what was not was thus a modern debate which even shaped the *ʿulama'*s ideas about knowledge.[47] It is a testament to British power that as much as the *ʿulamā* detested the British and their culture, it was this British defined "religious" learning that the new *madrasas* undertook to impart.

3.2.2: Indian Muslims' Responses to the British Academic Complex

We have already seen above how the medieval Islamic madrasa was merely a facilitator in financial and logistical terms while educational activities revolved around the teachers and their students. This began to change in a significant manner with the founding of the *madrasa* at Deoband in 1866. The primacy of the teacher and his *ijāza* began to give way to that of the *madrasa* as an institution. This is why, in today's Deobandī *madrasas*, students do not generally receive *ijāza* after completing a text except for the major works of *ḥadīth* such as the *Ṣiḥāḥ Sitta*.[48] The main "*ijāza*" that students now receive is the degree called *shahadat al-ʿālimiyya*. The first identification of many *madrasa* graduates today is not only with their teachers but also with their institution.

So, what caused the *madrasa* at Deoband to change the older system? The answer is to be found in the changes that occurred in the indigenous Muslim education system in India in the first

[46] Talal Asad has argued that Western modernity sought to make religious sphere a private one, anchored in personal experience and practiced in one's spare time, while the public sphere was left for what was important for the state. See Talal Asad, *Genealogies of Religion: Disciplines and Reason of Power in Christianity and Islam* (Baltimore: The Johns Hopkins University Press, 1993), 207.

[47] See Muhammad Qasim Zaman, "Religious Education and the Rhetoric of Reform: The Madrasa in British India and Pakistan," *Comparative Studies in Society and History* 41.2 (1999): 295-301; and its updated version in Zaman, *The ʿUlama in Contemporary Islam*, 62-68. Also see Ingram, *Revival from Below*, 31-32.

[48] The *Ṣiḥāh Sitta* refer to the two *Ṣaḥīḥ* collections of Muḥammad b. Ismāʿīl al-Bukhārī (d. 870) and Muslim b. al-Ḥajjāj (d. 875), the *Jāmiʿ* of Muḥammad b. ʿĪsā al-Tirmidhī (d. 892), and the three *Sunan* collections of Abū Dāwūd al-Sijistānī (d. 888), Abu ʿAbd al-Raḥmān al-Nasā'ī (d. 915) and Ibn Mājah al-Qazwīnī (d. 887).

half of the 19th century. The individualistic and organic system of Islamic education in precolonial India had relied heavily on social and economic support from the Muslim community, especially its elite.[49] While Muslim society in India had been under severe strain during the first half of the 19th century, things came to a head with the failed war of independence of 1857. Severe repression at the hands of the British in the wake of the war took a particularly heavy toll on the Islamic educational system. Thousands of *ʿulamā* were murdered, many were jailed or exiled to the Andaman Islands (*kāley pānī kī sazā*).[50] Moreover, the remaining endowments that supported Muslim institutions including educational ones were taken over by the British.[51] To make matters worse, the British had already introduced their own mass education system, as mentioned above, and were actively trying to sideline indigenous religious educational systems including Muslim *maktabs* and *madrasas*.[52]

Most of the founders of Dār al-ʿUlūm Deoband and the six-month younger Maẓāhir al-ʿUlūm at Sahāranpūr were students at the time when the British governor Thomason was

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[49] For an in-depth study of this phenomenon, see Munāẓir Aḥsan Gīlānī's previously cited work *Hindustān mayn Musalmānon kā niẓām-i taʿlim-o-tarbiyyat*. One only has to compare the mass scale of the system adopted by Deobandīs and the limited scope of the one used at Farangī Maḥall, the original home of *dars-i niẓāmī*, to understand the limitations of the old individualistic system. For a detailed study of the school at Farangī Maḥall, see Francis Robinson, *The ʿUlama of Farangi Mahall and Islamic Culture in South Asia* (Delhi: Permanent Black, 2001).

[50] For more on these reprisals, see Christopher Hibbert, *The Great Mutiny: India 1857* (New York: The Viking Press, 1978), 327-346. Also see Barbara Metcalf and Thomas Metcalf, *A Concise History of Modern India* (New York: Cambridge University Press, 2006), 106; and Douglas Peers, *India Under Colonial Rule: 1700-1885* (Harlow: Pearson Education, 2006), 71.

[51] For a discussion of how the British dealt with Muslim endowments during this period, see Gregory Kozlowski, *Muslim Endowments and Society in British India* (Cambridge: Cambridge University Press, 1985), 32-40.

[52] There were two main reasons for the shutting down of the indigenous educational systems. One was the drying up of their revenue sources such as courtly patronage and/or endowments which were confiscated by the British. The other reason was direct British intervention in shutting down religious schools as happened in the Punjab, where British authorities forcibly shut down all elementary schools (*maktab*, *pāthshāla*, etc.) attached to mosques and temples. G.W. Leitner was a British official involved in educational efforts in the newly annexed Punjab province in the 1860s and 1870s. His eyewitness account (originally published in 1882) of the state of indigenous education in the Punjab is given in Leitner, *A History of Indigenous Education in the Panjab*, 1-16.

experimenting with vernacular education in the Northwest Provinces in the 1840s and when Delhi College was engaged in its translation activities. Some of them including Aḥmad ʿAlī Sahāranpūrī (d. 1880), Qāsim Nānautvi, Rashīd Gangohī, Maẓhar Nānautvī (d. 1886), Yaʿqūb Nānautvī, and Shaykh al-Hind Maḥmud Ḥasan's father Zulfiqār ʿAlī (d. 1904) had privately studied with Yaʿqūb Nānautvī's father Mamlūk al-ʿAlī Nānautvī (d. 1851), the head of the Oriental branch of Delhi College. Later, some of them such as Yaʿqūb Nānautvī and Zulfiqār ʿAlī also worked in the Department of Public Instruction set up by the British in line with Wood's Despatch. These early Deobandīs who were fully aware of and familiar with the mass education system introduced by the British in India decided to appropriate it for their own purposes.[53]

Thus was founded the *madrasa* at Deoband, a formal institution with a multi-year *ʿĀlimiyya* program, clear division of grade levels (*darajāt*), standard textbooks to be completed in a year, official examinations at year's end, salaried staff, dedicated buildings and so on, things that at that time were associated with the British educational system. The degree of standardization achieved at Deoband allowed its system to be easily replicated elsewhere, provided teachers and students were available, and the Muslim community could provide some financial support. This franchise model gradually caught on and has played a large part in the growth of *madrasas* in South Asia and outside it.

As mentioned above, the institutional structure of Dār al-ʿUlūm Deoband was more British than indigenous Indian/Islamic. What also made it modern was at least two other features. One was public fundraising, a practice introduced in India by the British and which the founders of Deoband felt was most suitable in the face of loss of Muslim political power and its patronage of

[53] For more on Qāsim Nānautvi and his colleagues' exposure to the British educational system and their appropriation of this system for Islamic mass education, see Munāẓir Aḥsan Gīlānī, *Sawāniḥ Qāsimī* (Deoband: Dār al-ʿUlūm Deoband, n.d.), 2:233-235.

Islamic institutions.[54] The other feature, as mentioned earlier, was the new politico-legal context. This not only meant that the madrasa was now operating in a distinct religious sphere, it also meant that its graduates would no longer be qualified for most jobs. Jobs in the British-run administration as well as many new professions such as engineering, medicine, and law required knowledge of English and degrees from schools and colleges.

The new British-instituted and inspired educational system was now the mainstream because most of the indigenous institutions had shut down. Only some teaching positions in the new mainstream educational system remained open to *madrasa* graduates but these also required them to sit for exams with British established universities. Deobandī countercultural tendencies got the better of them, and many Deobandīs considered it against Islamic honor (*ghayrat-i dīnī*) to seek validation of their Islamic knowledge from modern universities merely for the sake of jobs. The Deobandī decision to focus only on religion and their countercultural tendency to not even join colleges and universities as Islamic studies lecturers was going to have far-reaching consequences for Indian Muslims as we shall see later.

Besides the Deobandīs and other groups of *ʿulamā* who set up *madrasas*, other Muslims were also active in the field of education in the second half of the nineteenth century. Foremost among them was Sir Sayyid Aḥmad Khān (henceforth Sir Sayyid), the father of Muslim modernism in India.[55] A government official, Sir Sayyid had been close to the British since the

[54] Ingram sees this public fundraising as the most important element making Deoband modern. See Ingram, *Revival from Below*, 39. Pernau sees this public fundraising as evidence that Deoband was a project of the emerging middle classes as opposed to the erstwhile Mughal elites, and that the *ʿulama* were now privatized, i.e., they were no longer under government control and thus were creating a private public sphere. See Margrit Pernau, *Ashraf into Middle Classes: Muslims in Nineteenth-Century Delhi* (New Delhi: Oxford University Press, 2013), 273; and Margrit Pernau, "From a 'Private' Public to a 'Public' Private Sphere: Old Delhi and the North Indian Muslims in Comparative Perspective," in *The Public and the Private: Issues of Democratic Citizenship,* ed. Gurpreet Mahajan (New Delhi: Sage Publications, 2003), 110.

[55] For a detailed and classic study of Islamic modernism in South Asia in which Aligarh played a central role, see Ahmad, *Islamic Modernism in India and Pakistan, 1857-1964*.

second quarter of the nineteenth century. However, his religious beliefs were in line with those of Walī Allāh's family with whom he had close relations. His religious ideas began to change considerably post-1857 when it became clear to him that British rule would be firmly established in India and that Muslims would be at a disadvantage if they continued to maintain their opposition to British rule. It was during this period that he started promoting European knowledge among Muslims through setting up of schools and academic societies.[56] After his visit to England in 1869/70, Sir Sayyid was a completely changed man. His religious ideas had become extremely Westernized, and he was convinced that the future of Indian Muslims depended on them creating something on the lines of Cambridge University. His aspirations finally crystallized in the form of the Muhammadan Anglo-Oriental (MAO) College which he established in Aligarh in 1875 with full support from the British.[57]

Not content with just one college, Sir Sayyid established the Muhammadan Educational Conference in 1886 with the aim of promoting Western education among Muslims in all of India. It led to the formation of many local conferences among Muslims in different parts of India which undertook to establish schools and colleges on the pattern of Aligarh.[58] The Muhammadan

[56] Sir Sayyid established a printing press in 1862 for his publications, an English-medium school in 1863, and an academic association called Scientific Society in 1864. One of the main goals of Scientific Society was to translate educational and technical literature from English and other European languages to Indian languages. After his return from England in 1870, he also established a reformist Urdu journal called *Tahdhīb al-Akhlāq* which sought to reform Muslim society through improving their morals while also decreasing their hostility to British introduced modernity. For more on Sir Sayyid's religious ideas and reform activities including educational ones, see J. M. S. Baljon, *The Reforms and Religious Ideas of Sir Sayyid Ahmad Khan* (Lahore: Orientalia, 1958).

[57] Sir Sayyid had originally established a school called Madrasat al-ʿUlūm in Aligarh in 1875 which had a primary section and a senior section. Two years later, the school was converted into MAO College. This is why the founding date of MAO College is sometimes mentioned as 1875 and sometimes as 1877.

[58] For more on the Muhammadan Educational Conference, which was later renamed All-India Muslim Educational Conference, see Akhtarul Wasey, *Education of Indian Muslims: A Study of the All-India Muslim Educational Conference (1886-1947)* (New Delhi: Press Asia International, 1977) and Abdul Rashid Khan, *The All India Muslim Educational Conference: Its Contribution to the Cultural Development of Indian Muslims, 1886-1947* (Karachi: Oxford University Press, 2001).

Educational Conference also served as the main national political platform for Muslims in the last years of the nineteenth century and thus brought together Muslim elites from all over India. In that capacity, it also spawned the All-India Muslim League in 1906 which was to later emerge as the main champion for the creation of a separate Muslim country, Pakistan (more on this later).

Recently, an Indian Deobandī *ʿālim* remarked that Deobandīs and Sir Sayyid made a crucial mistake: they did not differentiate between Western science and Western thought. Deoband rejected both and Aligarh adopted both.[59] This remark seems to contradict reality at least with respect to Aligarh for the MAO College that Sir Sayyid established in Aligarh was not focused on science; its main emphasis was making British gentlemen out of Muslim youth from noble families. Consequently, Aligarh came to be known not so much for scientific inventions or even social and religious thinkers of the same national prominence as many Deobandī *ʿulamā*; rather, most of its graduates went on to join the British administration or the new professions.[60] Soon most of the new Muslim middle class in northern India was imprinted with Aligarh's culture through the network of schools and colleges that were established on the pattern of Aligarh. The distinguishing features of this Aligarh culture were a strong sense of Muslim identity vis-à-vis Hindus with whom they competed for jobs. Another important feature which many *ʿulamā* found distasteful was the marked deference shown by this new middle class towards all things British/European/Western.[61] This was to be expected since Sir Sayyid and his colleagues were

[59] See Khālid Sayf Allāh Raḥmānī, "*Bāni Alīgarh teḥrīk Sir Sayyid Aḥmad Khān*," in *Woh jo bechtay thay dawā-i dil* (Deoband: Kutubkhāna Naʿīmiya, 2015), 84-85.

[60] This is not to deny the many distinguished scholars that Aligarh produced in many fields of knowledge. However, natural sciences were never Aligarh's forte and its connection with Sir Sayyid's modernism always limited its reach among practicing Muslims who were more likely to gravitate towards traditional *ʿulamā*. Aligarh did, however, produce a large number of political activists many of whom played leading roles in the political movements of the first half of the twentieth century. The Pakistan movement is a prime example of such a political movement.

[61] See Shiblī's extremely low view of Aligarh's graduates' slavish attitude towards Western culture in Sayyid Sulaymān Nadwī, *Musalmānon kī āinda taʿlīm* (Delhi: Maktaba Jamia Millia Islamia, 1933), 3. Also see Sulaymān

singularly focused on making Muslims learn and admire Western knowledge *and* culture.[62] Moreover, Muslim graduates of these colleges tended to have serious doubts about the Sunnī intellectual tradition and saw the *ʿulamā* as relics of the past.

Having looked at the genesis of the *madrasa* at Deoband and its many modern and traditional features, it is now time for us to examine the Deobandī academic complex in more detail. My focus here will be four things, the Deobandī educational system, curriculum of the 8-year *ʿĀlimiyya* program as well as specialization programs, pedagogy, and the Deobandī literary output.

3.3: The Deobandī Educational System

3.3.1: The Educational System at Dār al-ʿUlūm Deoband

Over the course of its more than 150 years of existence, the educational system at Dār al-ʿUlūm Deoband has undergone many changes. I have documented in detail the historical evolution of Deoband's educational system as well as its curricula in Appendix A. Here, I will only provide a brief summary of my findings.

In the beginning, the *Dār al-ʿUlūm* was effectively a primary/elementary school, middle school, high school, and college all rolled into one. The early Deobandīs, of course, did not use these names of educational stages. They just called their institution *Madrasa ʿArabiyya* since its primary focus was Arabic and Islamic texts. Over time, various components of the program began to separate and became distinct stages in a longer educational program. At Dār al-ʿUlūm Deoband

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Nadwī's critique of modern education pursued by Indian Muslims in colleges patterned after Aligarh in Sulaymān Nadwī, *Musalmānon kī āinda taʿlīm,* 52-55.

[62] Besides the many writings of Sir Sayyid and his colleagues that helped create this attitude, it can also be traced to Sir Sayyid's deliberate choice of English principals and lecturers at MAO College in Aligarh. In that environment, the token Islamic studies lecturer was often seen as a representative of the "backward" *molvīs*.

today, the primary/elementary stage (*ibtidā'ī darajāt*) is five years long and is preceded by an optional year-long kindergarten. Then comes the 8-year *ʿĀlimiyya* program (henceforth *ʿĀlimiyya*) in which the last year is dedicated to the study of the major works of *ḥadīth* and is therefore called *dawra-i ḥadīs*. Upon completing *dawra-i ḥadīs*, students receive their degrees (*shahadat al-ʿĀlimiyya*) and are considered to be qualified *ʿulamā*.[63]

For those interested in further study, there are multiple specializations (*takmīl*/*takhaṣṣuṣ*) on offer such as in *fiqh* and *fatwā*-giving, in *ḥadīth*, in Qur'anic exegesis and Arabic language. There are also provisions for a post-graduate diploma in English language and literature as well as Information Technology. Dār al-ʿUlūm Deoband also offers programs for training in refuting what it considers to be false religions or deviant ideologies such as Christianity, Aḥmadīs, Shīʿīs, Barelvīs, etc. Besides these programs, there is also a department for memorization of the Qur'an where students spend anywhere from one to five years. Students enrolling in this department often tend to skip a few years of the primary stage because of the significant overlap between the two. There is also a department for Qur'anic recitation which provides training in ten different recitations (*qirā'āt*).

The current system in place at Dār al-ʿUlūm Deoband was adopted in 1994 in a national conference which was attended by representatives of thousands of *madrasas* from all over India.[64]

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[63] There are various labels used for the *ʿĀlimiyya* program. The most common is *dars-i niẓāmī* and I also use it in this dissertation when needed. At Dār al-ʿUlūm Deoband, this program is officially called *darajāt-i ʿarabiyya* (Arabic classes). I use the term *ʿĀlimiyya* as the main term for this program because both *darajāt-i ʿarabiyya* and *dars-i niẓāmī* can be confusing. *Darajāt-i ʿarabiyya* was initially used to distinguish study of texts in Arabic from that of Persian ones. But now the *ʿĀlimiyya* program also has Urdu texts. As for *dars-i niẓāmī*, the current Deobandī curriculum has undergone so many changes that to call it *dars-i niẓāmī* is extremely anachronistic and feeds into the misunderstanding of Deobandī *madrasa* curricula as merely a repetition of something old. The term *ʿĀlimiyya* is more accurate because it appears in the degree (*shahadat al-ʿĀlimiyya*) awarded to those who complete the program and is also used in the case of most Deobandī *madrasas* in South Asia and elsewhere thereby making comparisons easier.

[64] Ḥabīb al-Raḥmān Qāsimī, *Dār al-ʿUlūm Deoband: Ayk ijmāli taʿāruf* (Deoband: Markazī Daftar Rabiṭa Madāris-i ʿArabiyya, 1994), 69-83, as cited in Muhammad Hanif Ahmad, "A Study of the Secular Content of the Educational Programmes of Prominent Madrasas of Uttar Pradesh" (PhD diss., Aligarh Muslim University, 2002), appendix A, http://shodhganga.inflibnet.ac.in/handle/10603/52798.

It thus represents an attempt at standardization at the national level. Although there are some Deobandīs who present Dār al-ʿUlūm Deoband's *ʿĀlimiyya* program to be the equivalent of a BA, this has not gained traction in India. The main reason seems to be that the overall number of years of education completed at the end of the *ʿĀlimiyya* program is thirteen, while the number of years an average Indian takes to complete a humanities BA is at least fifteen and that at an Arab university is sixteen. This is why, even Jamia Millia Islamia, one of the few Muslim universities in India, considers the *ʿĀlimiyya* degree to be the equivalent of Secondary School Certificate (12th grade). However, to be eligible for admission into Jamia Millia's BA program, madrasa graduates still have to pass the English exam for the Secondary School Certificate.[65]

The obvious question here is, why is the Dār al-ʿUlūm administration content with madrasa graduates' degrees being considered equivalent to a high school diploma/certificate? The answer lies in the early history of Dār al-ʿUlūm Deoband. According to the Deobandī scholar Munāẓir Gīlānī, Qāsim Nānautvī's original goal was merely to create a basic educational system throughout India that would provide Muslim children with necessary Islamic learning. This was to be an alternative to the public school system. He did not envision a higher education system that would be an alternative to the newly established colleges. Rather, he felt that Muslim children would finish their basic schooling at a Deoband-like *madrasas* and then could go on to join modern schools or colleges if they so desired.[66] This was the reason that the duration of the educational program at Dār al-ʿUlūm was initially set at six years.

This soon changed in response to the demands of the various segments of the Muslim educated classes. To begin with, there were the traditional class of *ʿulamā* who were heavily

[65] See pp. 25-26 in https://www.jmi.ac.in/upload/advertisement/guideline_private_2014.pdf.

[66] A good overview of some of the early debates about the goals of the *ʿĀlimiyya* program is given in Gīlānī, *Sawāniḥ Qāsimī*, 2:275-330.

inclined towards rational sciences. They considered a six-year curriculum with reduced number of texts of logic and philosophy to be insufficient training. Secondly, there were the erstwhile Muslim educated classes who prized training in Persian. Thirdly, there were the newly educated classes who had received training in English. Of the three groups, the madrasa authorities felt it was important to placate the *ʿulamā* class first and then the old Muslim educated classes. Thus, gradually all the works of Aristotelean logic and philosophy which had been excised came back into the program, and so did Persian. What was sacrificed was the student's ability to join secular schools and colleges at an early age.[67]

Furthermore, the early attitude of guarded cooperation towards modern educational institutions also changed rather quickly. This was mainly because of the challenge posed by the new Muslim elites, educated in secular institutions set up by the British or by Muslims, but dedicated to education in the British way. The bastion of this non-religious elite, as discussed earlier, was the Muhammadan Anglo-Oriental College at Aligarh. MAO College had grown to be the vanguard of a distinct educational and intellectual movement, called Aligarh movement which academics were to later label Islamic modernism. As modernists, i.e., proponents of modernity, members of this amorphous movement were not just modern in the sense of being active during the modern period. Rather, they were *modernists* in that they accepted certain modern values as central to their worldview and sought to find Islamic bases for them. Thus, humanism, rationality, science, human equality especially with regards to women's rights, separation of religion and state, etc. all became important for this movement. For the conservative *ʿulamā* of the Deobandī school

[67] See Gīlānī, *Sawāniḥ Qāsimī*, 2:289-291. The removal of texts of logic and philosophy happened twice. Once during Qāsim Nānautvī's lifetime and then after his death, upon the insistence of Rashīd Gangohī. I have already discussed the second episode in the previous chapter.

of thought, this modernism was nothing more than a capitulation to the imperial British modernity imposed from above and having its roots in other than divine revelation.

As a result, Deobandī approach to *madrasa* education changed. What had initially been envisaged as a basic schooling institution expanded to also become a higher education/specialized institution, with the duration of the overall educational program increased from the initial six years to thirteen years (five years for primary education and eight years for the *ʿĀlimiyya* program). The result was a division of labor between conservative Muslims on the one hand and modernist Muslims and the government on the other hand. Thus, religious sciences and their associated ancillary sciences came to be the preserve of *madrasas* while modern knowledge would be taken up by modern institutions set up by other Muslims and the government. The growing gap between modernist Muslims and conservative Deobandīs was thus cemented at both ideological and institutional levels.

This division of labor has often been referred to by Deobandī *ʿulamā* as that between *dīnī* (religious) and *dunyāwī* (worldly) knowledge.[68] Although this idea can be found in premodern Islamic civilization as well, it became crystallized to such a degree only in the modern period. As discussed earlier, it was the idea of religion as private and distinct from the affairs of the state that the British imposed in India, and the *ʿulamā* and their *madrasas* came to occupy this restricted but distinct religious space that the British had left for them.[69] Moreover, out of a desire to preserve their independence, the *ʿulamā* used rhetoric and adopted political stances that reinforced their

[68] One can find traces of this acceptance of division of labor early on. Qāsim Nānautvī had himself invoked this idea when challenged as to why modern knowledge had not been included in Deoband's curriculum. See Gīlānī, *Sawānih Qāsimī,* 2:278-279. For a later articulation of the same idea in explicit terms by a senior Deobandī scholar, see Muḥammad Idrīs Kāndhlavī, *Masʾala-i taʿlīm* (Lahore: Maktaba Usmāniya, 1977). For a more recent expression of this division of labor, see Yoginder Sikand, *Bastions of the Believers: Madrasas and Islamic Education in India* (New Delhi: Penguin Books, 2005), 146-148.

[69] See Zaman, *The Ulama in Contemporary Islam*, 60-74; and Ingram, *Revival from Below*, 31-35 & 40-54.

separate status. This was despite their paradoxical claim that Islam was a complete way of life and had as much a role to play in public life as in private. Zaman and Metcalf have both documented how this idea of religion as private and distinct from public life was inherited by both the Indian and Pakistani states and has continued to affect not only state policies towards *ʿulamā* and *madrasas* but also their reactions to it.[70]

3.3.2: The Educational System in Pakistani Deobandī *Madrasas*

Despite the common colonial inheritance of Indian and Pakistani states, the situation of Deobandī *madrasas* in Pakistan is somewhat different. Most of them are affiliated with the Wifāq al-Madāris al-ʿArabiyya which was discussed in the previous chapter. The Wifāq requires students to complete eight years of regular schooling beyond kindergarten before starting the 8-year *ʿĀlimiyya* program,[71] which is itself divided into four stages of two years each, each corresponding to a stage in the modern educational system prevalent in Pakistan. These are: *Thānawiyya ʿĀmma* (9th and 10th grades aka Matriculation/Secondary), *Thānawiyya Khāṣṣa* (11th and 12th grades aka Intermediate/Higher Secondary), *ʿĀliya* (2-year BA), and *ʿĀlimiyya* (2-year MA).[72] Like in the case of Dār al-ʿUlūm Deoband, the 8-year program is followed by non-mandatory post-graduate/specialization courses (*darajāt-i takhaṣṣuṣ*) in various sciences. The Wifāq also conducts annual examinations every two years corresponding to the end of every stage given above. Hence,

[70] Zaman, *The Ulama in Contemporary Islam*, 74-86; and Barbara Metcalf, "Madrasas and Minorities in Secular India," in *Schooling Islam: The Culture and Politics of Modern Muslim Education*, ed. Robert Hefner and Muhammad Qasim Zaman (Princeton: Princeton University Press, 2007), 87-106.

[71] These first 8 years are divided into two stages in line with the official Pakistani school system: five years of primary school (*ibdtidāʾī*) followed by three years of middle school (*mutawassiṭ*). Many *madrasas* also offer these basic stages in-house. See Wifāq al-Madāris al-ʿArabiyya Pakistan, "*Niṣāb-i taʿlīm li al-banīn*" [Boys Curriculum], accessed June 7, 2016, http://www.wifaqulmadaris.org/downloads/NisabBnin1436.pdf.

[72] For most of its history, a BA in the humanities has been a 2-year degree in Pakistan, a legacy of colonial times.

its curriculum for the second year of every stage becomes mandatory for all *madrasas* registered with it. As for the first year of every stage, these *madrasas* are free to follow *Wifāq*'s prescribed curriculum and many do, but are also free to design their own, and some do. Interestingly, the Wifāq also recommends adding a third year to the *Thānawiyya ʿĀmma* stage so that the students can also complete 9th and 10th grades of the mainstream educational system.

Table 3.1: The Educational System of Wifāq al-Madaris al-ʿArabiyya

Madrasa Stage	**Duration**	**Equivalent Stage in the Mainstream System**	
Ibtidā'iyya	5 years	Primary School	
Mutawassiṭa	3 years	Middle School	
Thānawiyya ʿĀmma	3 years	1st year	9th & 10th grades
		2nd & 3rd year	first two years of *dars-i niẓāmī*
Thānawiyya Khāṣṣa	2 years	Equivalent to 11th and 12th grades	
ʿĀliya	2 years	Equivalent to a 2-year BA	
ʿĀlimiyya	2 years	Equivalent to a 2-year MA	

In the case of Dār al-ʿUlum Karachi, the educational system has an extra year. This is to give more time to the mainstream educational system. Thus, eligibility requirements for entry into DUK's *ʿĀlimiyya* program is 10 years of basic schooling instead of 8, and instead of rushing students through two years of schooling (9th and 10th grades) in one year as the Wifāq suggests, DUK sets aside two full years for these grades. The resultant system is as follows:

Table 3.2: The Educational System at Dār al-ʿUlum Karachi

Madrasa Stage	**Duration**	**Equivalent Stage in the Mainstream System**	
Ibtidā'iyya	5 years	Primary School	
Mutawassiṭa	3 years	Middle School	
Thānawiyya ʿĀmma	4 years	1st & 2nd year	9th & 10th grades
		3rd & 4th year	first two years of *dars-i niẓāmī*
Thānawiyya Khāṣṣa	2 years	Equivalent to 11th and 12th grades	
ʿĀliya	2 years	Equivalent to a 2-year BA	
ʿĀlimiyya	2 years	Equivalent to a 2-year MA	

As is obvious from this table, there are two redundant years in DUK's system. Students are doing 9th and 10th grades of the mainstream educational system and then go on to do the first two years of *ʿĀlimiyya* which are also equivalent to 9th and 10th grades. However, this redundancy has turned out to be a potential blessing for DUK. The reason is that the Pakistani Higher Education Commission (HEC) which is the main accreditation body for higher education in the country has been gradually moving Pakistani higher education in the direction of the American system. In the American system, the BA degree is 4-years long and is preceded by 12 years of basic schooling, i.e., one receives a BA after 16 years of education. The educational system followed by Wifāq which currently equates the *ʿAlimiyya* degree to an MA would then become a BA in the new system. DUK, on the other hand, is in a position to argue that their *ʿAlimiyya* degree should still be equivalent to an MA because their students spend 18 years to achieve this degree. The potential problem, and it might turn out to be a big one, is that the *ʿĀlimiyya* program is effectively the same at DUK and the *Wifāq*. So, how can DUK expect the HEC to recognize the same program as the equivalent of a BA in one case (the Wifāq) and an MA in the other case (DUK)? It seems most

likely that Wifāq will have to add two more years of basic schooling before *ʿĀlimiyya*. Otherwise, DUK will not be able to do much on its own.

A couple of questions should be obvious at this stage, why did the Wifāq require eight years of basic schooling and why did DUK increase it to 10 years? The answers to these questions lie in the particular history of Deobandī *madrasas* in Pakistan, but before I get to that, I must first discuss a few other aspects of the Deobandī academic complex.

3.4: Deobandī *Madrasa* Curricula[73]

3.4.1: *Madrasa* Curricula in Northern India Prior to 1866[74]

In the 18th century, two distinct curricula had emerged in northern India. On the one hand, was the famous *dars-i niẓāmī* attributed to Mullā Niẓām al-Dīn Sihālvī (d. 1748). Based at Farangī Maḥall in Lucknow, Sihālvī had developed a broad based curriculum (*dars-i niẓāmī*) which leaned more towards the rational sciences including Islamic law, jurisprudence, and theology than towards the transmitted sciences such as Qur'an and *ḥadīth*.[75] An examination of this curriculum shows that it included eleven books on logic, three on philosophy, and four on dialectical theology, while only a portion from two works of Qur'ānic exegesis (*al-Jalālayn* and *Tafsīr al-Bayḍāwī*) and one book

[73] It should be kept in mind that curriculum here refers merely to a set of texts that students would study with one or more teachers. It did not necessarily require the existence of an institution like a *madrasa*.

[74] For a broader overview of the history of *madrasa* curricula in India up to the modern period, see ʿAbd al-Ḥayy al-Ḥasanī, *al-Thaqāfa al-Islāmiyya fī al-Hind*, ed. Abu al-Ḥasan ʿAlī al-Nadwī (Damascus: Majmaʿ al-Lugha al-ʿArabiyya, 1983), 9-17.

[75] Nūr al-Ḥasan Rāshid Kāndhlavī has questioned the attribution of this curriculum to Sihālvī alone and thus the title *dars-i niẓāmī*. He prefers to refer to it as the curriculum of the Farangī Mahallī *ʿulamā*. See Nūr al-Ḥasan Rāshid Kāndhlavī, "*Dār al-ʿUlūm Deoband aur Maẓāhir-i ʿUlūm Sahāranpūr kā sab say pehlā niṣāb-i taʿlīm: Is kī maʿnawiyyat wa jāmiʿiyyat aur dūr ras natā'ij wa samarāt*" *Aḥwāl o Āsār* (Muḥarram, Ṣafar, Rabīʿ al-Awwal 1429 AH): 93. I have retained the name *dars-i niẓāmī* since it is used by Deobandi *madrasas* themselves.

of *ḥadīth* (*Mishkāt al-maṣābīḥ*) were studied.[76] On the other hand, Walī Allāh's curriculum followed at Madrasa Raḥīmiyya in Delhi, emphasized an extensive study of *ḥadīth* in addition to the subjects taught at Farangī Maḥall. Besides the above-mentioned single work of *ḥadīth, Mishkāt al-maṣābīḥ* of Walī al-Dīn al-Tabrīzī (d. 1340), it also included *al-Muwaṭṭa'* of Mālik b. Anas (d. 795) and the *Ṣiḥāḥ Sitta*, the six major collections of *ḥadīth*.[77]

By the late 18th and early 19th century, the *ʿulamā* of Khayrabad had also emerged as flagbearers of a distinct school with an even greater emphasis on rational sciences. In addition to the texts taught at Farangi Maḥall, the Khayrābādī curriculum included advanced works of *falsafa* such as *al-Shifā* of Ibn Sīna (d. 1037), *al-Ḥikma al-mutaʿāliya fi al-asfār al-ʿaqliyya al-arbaʿa* (aka *Asfār arbaʿa*) of Mullā Ṣadrā (d. 1640), *Sharḥ al-Ishārāt* of Naṣīr al-Dīn al-Ṭūsī (d. 1274), etc. In the second quarter of the 19th century, Delhi College also emerged as another important center of learning, albeit under the direction and supervision of the British. Unlike others, it also gave attention to Arabic literature and poetry through works such as *al-Sabʿa al-muʿallaqāt, Dīwān al-ḥamāsa*, *Dīwān al-Mutanabbi*, etc.

The main founder of Dār al-ʿUlūm Deoband, Muḥammad Qāsim Nānautvi (d. 1880), and his colleagues had studied in Delhi in the second quarter of the 19th century. Their main teachers included Mamlūk Nānautvī and Shāh ʿAbd al-Ghanī (d. 1878), both of whom had studied with members of Walī Allāh's family. Moreover, Mamlūk Nānautvī also served as the head of the Vernacular/Oriental Studies department at Delhi College. When the madrasa at Deoband was

[76] Details given in appendix A.

[77] For a comparison between Sihālvī's and Walī Allāh's curricula, see Robinson, *The ʿUlama of Farangi Mahall*, 46-47.

founded in 1866, it incorporated influences from all four of the above-mentioned curricula prevalent in north India.[78]

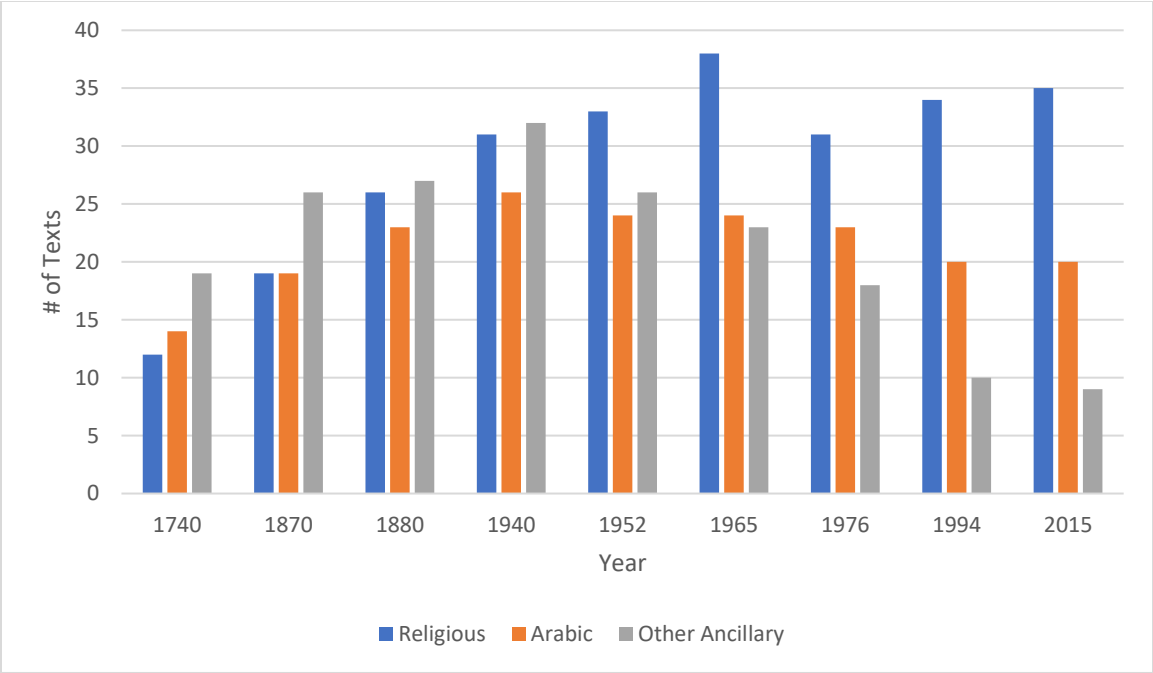
3.4.2: Dār al-ʿUlūm Deoband's *ʿĀlimiyya* Curriculum

In Appendix A, I have documented in detail the evolution of the curriculum followed in Dār al-ʿUlūm Deoband's *ʿĀlimiyya* program. Using eight curricula from various moments in Dār al-ʿUlūm 's history (1870, 1880, 1940, 1952, 1965, 1976, 1994, and 2015), I track how the relative emphases given to various categories of sciences have changed over the years. I provide a summary of its conclusions below.

1. From the very beginning, the overall number of texts used in Dār al-ʿUlūm Deoband's curriculum has been much greater than the original *dars-i niẓāmī* (see fig. 3.1). This is because while the original *dars-i niẓāmī* leaned more towards *maʿqūlāt* and gave only limited attention to other sciences, Dār al-ʿUlūm sought to combine all the four previously mentioned curricula.

[78] It should be noted that official histories of Dār al-ʿUlūm Deoband only mention three main sources for its curriculum, namely *dars-i niẓāmī*, Madrasa Raḥīmiyya, and the *ʿulamā* of Khayrabad. See, for example, Sayyid Maḥbūb Rizvī, *Tārīkh-i Deoband: Deoband kī tārīkh, qadāmat, wajh-i tasmiya aur Dār al-ʿUlūm Deoband ka nash-o irtiqā' aur us kay ʿamalī o tārīkhī ḥālāt* (Deoband: Idāra-i Tārīkh-i Deoband, 1952), 104. He repeats the same assertion in his larger 1977-78 work. See Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband*, 2: 268-269. Nūr al-Ḥasan Kāndhlavī is the only one who has pointed out what should have been obvious, i.e., the inclusion of texts of Arabic literature and poetry was the influence of Delhi College and not of the other three. See Nūr al-Ḥasan Kāndhlavī, "*Dār al-ʿUlūm Deoband*," 93.

Fig 3.3:[79] Number of Texts for Each Category of Sciences in the Original *Dars-i Niẓāmī* (c. 1740) and Dār al-ʿUlūm Deoband's *ʿĀlimiyya* Program, 1870 – 2015

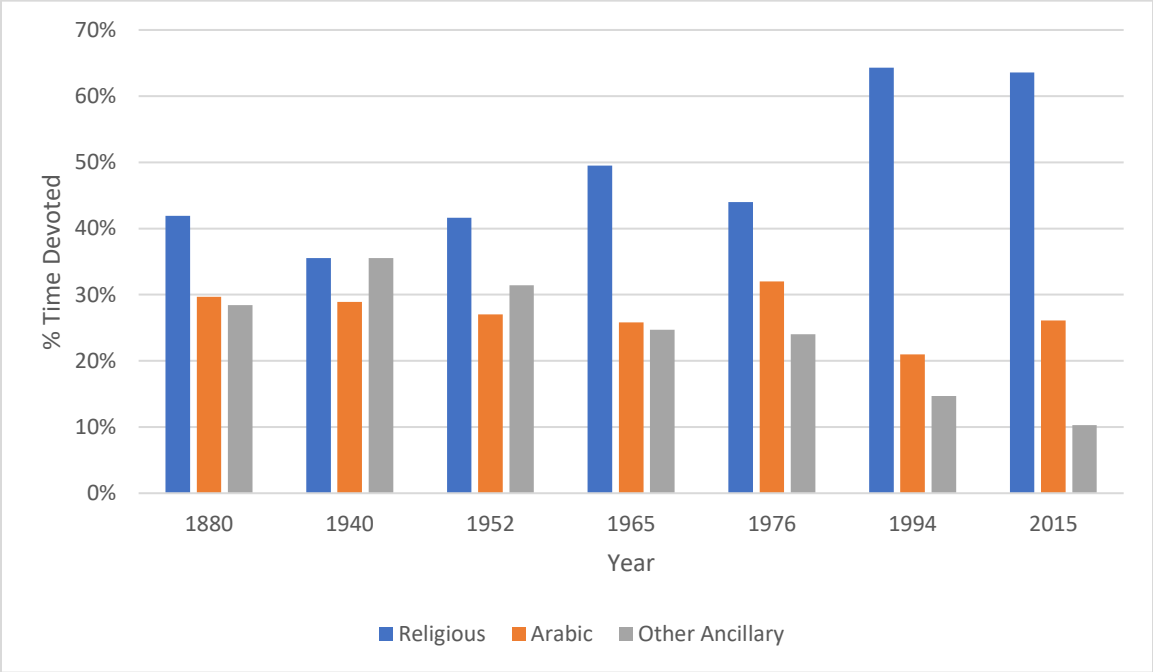


2. The relative attention given to each category of sciences has been constantly changing (see fig. 3.4). In the beginning, the other ancillary sciences tended to take most attention, but the religious and Arabic sciences were not far behind thereby creating a kind of a three-way balance. However, since 1952, the share of religious sciences has continued to grow with a corresponding decline in the share of other ancillary sciences. Arabic sciences have maintained their place. The net result is that now the curriculum gives most attention to religious sciences, then Arabic sciences, and the least to other ancillary sciences. [80]

[79] Fig 3.3 is a reproduction of Fig. A1 in Appendix A.

[80] In Appendix A, I discuss two methods of determining relative attention given to each category of sciences. One is merely counting the number of texts in each category. The other looks at the actual time given to each category.

Fig 3.4:[81] Time Devoted to Each Science at Dār al-ʿUlūm Deoband, 1870 – 2015



3. Among religious sciences, there is a fairly balanced distribution of attention given to Qur'an, *ḥadīth*, and Islamic law (substantive law and legal theory). However, Islamic theology now receives minimal attention. This seems to be the result of eliminating most texts of *falsafa* which means students are now not prepared enough to tackle advanced *kalām*.
4. Despite all the changes in the curriculum over the years, there has been a stable core of medieval texts in religious sciences and to a lesser extent in Arabic sciences which provide continuity with the premodern Sunni scholarly tradition. These texts include *Tafsīr al-Jalālayn* for Qur'anic exegesis, major collections of *ḥadīth* i.e., the *Ṣiḥāḥ Sitta*, the two *Muwaṭṭa*'s of Mālik and Muḥammad, *Sharḥ maʿāni al-āthār* of Abū Jaʿfar al-Ṭaḥāwī, *al-*

[81] Fig 3.4 is a reproduction of Fig. A2 in Appendix A.

Shāmā'il al-Muḥammadiyya of al-Tirmidhī, and *Mishkāt al-maṣābīḥ*. In Islamic theology, the stable texts are *al-ʿĀqīda al-taḥāwiyya* and al-Taftāzānī's *Sharḥ al-ʿAqā'id al-nasafiyya*. For Islamic legal theory, the texts are *Uṣūl al-Shāshī* and *Nūr al-anwār,* and for substantive law, the texts are *Mukhtaṣar al-Qudūri*, *Sharḥ al-Wiqāya*, and *al-Hidāya*.

5. Among other ancillary sciences, now there are five texts for *manṭiq* and only two brief texts for *falsafa*, one in Arabic and the other in Urdu. Although this is a very small number compared to the earlier curricula, most of the texts remaining in the curriculum have been there in most previous curricula. These include *al-Mirqāt, Sharḥ al-Tahdhīb*, *al-Quṭbī,* and *Sullam al-ʿulūm* for *manṭiq* and *al-Maybudhī* for *falsafa*.
6. For a little over a century, Dār al-ʿUlūm utilized medieval texts to teach students mathematics, medicine, astronomy, and *falsafa*. It was in the 1970s that Dār al-ʿUlūm decided to replace these medieval texts with modern ones. This was a tacit acknowledgement that medieval natural sciences are no longer relevant or sufficient in today's world. However, this change of texts was accompanied by a downgrading of these subjects from advanced to beginner levels, i.e., from the *ʿĀlimiyya* program to the primary education stage. Moreover, social sciences were never part of the curriculum, and have still not been included. Students' only exposure to the natural and social sciences takes place in the primary stage before the *ʿĀlimiyya* program. Even with regards to humanities besides religious studies, the *ʿĀlimiyya* program only has a single text on world geography and another for Islamic history.
7. Most of the new texts added to the curriculum are introductory texts and most of them were authored by Indian scholars (mostly Deobandī). The continuous production of new textbooks suggests a vibrant Deobandī scholarly culture at work that responds to students'

needs. Moreover, the inclusion of modern texts from non-Deobandī Indian scholars as well as from the Middle East also suggests inter-*maslak* and transregional connections of Deobandīs.

3.4.3: Pakistani Deobandī *Madrasas*' Curricula

Since the focus of this dissertation is Pakistan, we must now take a look at the *ʿĀlimiyya* curriculum prescribed by the Wifāq in Pakistan and followed by most *madrasas* there.[82] Moreover, since *muftīs* from Dār al-ʿUlum Karachi and Jāmiʿat al-ʿUlūm al-Islāmiyya Banūrī Town were at the forefront of the debate on Islamic finance, I will also be looking at the curricula for the *ʿĀlimiyya* and *Takhaṣṣuṣ fi al-Iftā'* programs offered at those two *madrasas*. It should be noted that the Wifāq does not as yet prescribe any curriculum for *Takhaṣṣuṣ fi al-Iftā'* programs. Rather, each madrasa decides on its own. Nevertheless, there is quite a bit of overlap there as we shall see below.

Comparing Wifāq's current curriculum (table B1 in Appendix B) with that of Dār al-ʿUlūm Deoband's 2015 curriculum (table A9 in Appendix A), one can see broad similarities. Whether we use the number of texts studied or the actual time devoted to each science, the share of religious sciences is very high (59% and 64% for the Wifāq and Dār al-ʿUlūm Deoband respectively), almost double that of Arabic sciences (32% and 26%) while the share of the other ancillary sciences is the smallest (9% and 10%). Dār al-ʿUlūm Deoband's curriculum also includes one text each for Islamic history and world geography whereas the Wifāq does not have any for either. This is understandable since students will have studied these subjects in the first 8 years of basic schooling that the Wifāq requires compared to the five that Dār al-ʿUlūm Deoband requires.

[82] In the latter half of 2021, new Deobandī *madrasa* boards also emerged. However, it remains to be seen what impact, if any, will they have on Deobandī *madrasas* at large and whether their curricula will be substantively different from Wifāq-affiliated *madrasas*.

With respect to the religious sciences, Wifāq's curriculum is also fairly balanced, but it is more comprehensive than that of Dār al-ʿUlūm Deoband. The key differences pertain to theology and *uṣūl al-fiqh*. While Dār al-ʿUlūm Deoband has only two texts for theology, viz. *al-ʿAqīda al-ṭaḥāwiyya* and *Sharḥ al-ʿAqā'id al-nasafiyya*, the Wifāq has these two as well as two modern texts authored by Deobandīs, namely *al-Intibāhāt al-mufīda* of Ashraf ʿAlī Thānvī and *Āina-i Qādiyāniyat* of the Pakistani scholar Yūsuf Ludhyānvī. With respect to *uṣūl al-fiqh*, both have three common texts dedicated to Ḥanafī *uṣūl al-fiqh*, namely *Uṣūl al-Shāshī, Nūr al-anwār,* and *Muntakhab al-Ḥusāmī*. Prior to these three, students also study an introductory text, *Tashīl al-uṣūl* in the case of Dār al-ʿUlūm Deoband and *Āsān uṣūl al-fiqh* in the case of the Wifāq. The key difference here is with regards to the advanced comparative work titled *al-Tawḍīḥ wa al-Talwīḥ* which has been taught in South Asian *madrasas* for centuries. While Dār al-ʿUlūm Deoband has dropped this work as part of its attempt to make the *Ālimiyya* program easier for students, the Wifāq still retains it.

I have also documented the curricula followed at Dār al-ʿUlum Karachi (DUK) and the Banūrī Town *madrasa* (BT) (tables B2 and B3 respectively in Appendix B). Comparing those to that of the Wifāq, one sees that for the most part the curricula are the same. The few key differences are as follows:

1. There are a few additional texts for the other ancillary sciences at both DUK and BT. At DUK, these pertain to astronomy, history, and economics. Whereas at BT, they pertain to history and Persian.
2. With respect to Islamic law, DUK has an additional text on the principles of *fatwā*-giving. Neither the Wifāq nor BT has this text.

3. Overall, the number of texts studied at DUK and BT is slightly more than in the Wifāq's curriculum. However, the relative attention given to the three categories of sciences is almost the same.

With regards to the curricula of the *Takhaṣṣuṣ fi al-Iftā'* programs at DUK and BT, one big difference that immediately stands out is the duration of the program. It is two years at BT but three years at DUK. DUK is, in fact, an oddity in this regard among Deobandī *madrasas* because most *madrasas* offer either a one-year or a two-year *Takhaṣṣuṣ fi al-Iftā'* program. Looking at the contents of the two programs, we see that both programs provide practical training in *fatwā*-giving along with theoretical training in a number of subjects. These include principles of *fatwā*-giving (*uṣūl al-iftā'* aka *rasm al-muftī*), legal maxims (*qawāʿid fiqhiyya*), *fatwā* works, and general works of Islamic law and legal history. On the practical side, each student is expected to write a large number of *fatwās* (a few hundred) under the supervision of their teachers. Each *fatwā* is comparable to a research project, most of which are very small akin to a weekly written assignment in a college course, but some can be quite substantive as well. Between the theoretical training and the research done as practical *fatwā*-writing, it is easy to see why some Pakistani *madrasas* label their *Takhaṣṣuṣ fi al-Iftā'* programs as the equivalent of a PhD even though no accreditation body in Pakistan recognizes them as such.

Looking closely at the texts studied for each subject, we see many commonalities. The works of the Syrian jurist Ibn ʿĀbidīn (d. 1836) have been popular in Deobandī *madrasas* ever since the inception of Dār al-ʿUlūm Deoband. His *Sharḥ ʿUqūd rasm al-muftī* as well as his detailed introduction to his larger work *Radd al-muḥtār* serve as textbooks for teaching principles of *fatwā*-giving. This is indeed the case in BT. In the case of DUK, however, while they use Ibn ʿĀbidīn's introduction to *Radd al-muḥtār*, they teach his *Sharḥ ʿUqūd rasm al-muftī* in the

ʿ*Ālimiyya* program, and use a more recent work, namely Taqī ʿUsmānī's *Uṣūl al-iftā' wa ādābuhu* for the *Takhaṣṣuṣ fi al-Iftā'* program. Taqī ʿUsmānī's *Uṣūl al-iftā'* builds on Ibn ʿĀbidīn's *Sharḥ ʿUqūd rasm al-muftī* but is more detailed, better structured, and deals with many new issues. Many other Deobandī *madrasas* have also begun to use this work, either alongside or instead of Ibn ʿĀbidīn's *Sharḥ ʿUqūd rasm al-muftī* but BT is not one of them.

For teaching legal maxims, both DUK uses two texts while BT uses three. The only common text is Ibn Nujaym's (d. 1562/3) *al-Ashbāh wa al-naẓā'ir*. Beyond that, DUK uses an early codification of Ḥanafī legal maxims titled *Uṣūl al-Karkhī* attributed to ʿĀbd-Allāh b. Ḥusayn al-Karkhī (d. 951). BT uses two other texts that provide a more comparative knowledge of legal maxims. These are *Ta'sīs al-naẓar* of another Ḥanafī jurist Abū Zayd al-Dabūsī (d. c. 1040) and *al-Asbhāh* of the Shāfiʿī jurist al-Jalāl al-Dīn al-Suyūṭī (d. 1505). Besides these, BT also prescribes a section of *al-Muwāfaqāt* by the Andalusian jurist Abū Isḥāq al-Shāṭibī (d. 1388) for *maqāṣid al-sharīʿa* (purposes of Islamic law). DUK has no text for this subject. Moreover, DUK's *Takhaṣṣuṣ fi al-Iftā* program also does not have any text for *uṣūl al-fiqh*. It seems students' training in the subject in the ʿ*Ālimiyya* program is considered to be sufficient. BT, however, has two texts, the classical *Uṣūl al-Sarakhsī* by the famous medieval Ḥanafī jurist Shams al-A'imma al-Sarakhsī (d. 1090) as well as the modern comparative text *Uṣūl al-fiqh al-Islāmī* by the late Syrian jurist Wahba al-Zuḥaylī (d. 2015).

Looking at the *fatwā* works used by DUK and BT, the main common denominator is Ibn ʿAbidīn's detailed work mentioned earlier, namely *Radd al-muḥtār*. Secondly, both DUK and BT include a large number of Deobandī *fatwā* collections. These include three works that are common to both, viz. Asharf ʿAlī Thānvī's *al-Ḥīlā al-nājiza*, Ẓafar Aḥmad ʿUsmānī's *Imdād al-aḥkām*, and Muḥammad Shafīʿ's *Jawāhir al-fiqh*. Beyond these, DUK is heavily focused on works by its own

scholars, namely Muḥammad Shafīʿ, Taqī ʿUsmānī and Rafīʿ ʿUsmānī. BT, however, has a broader range (across time) of authors and works including such works as *Badāʾiʿ al-ṣanāʾiʿ* of the Central Asian Ḥanafī jurist Badr al-Dīn al-Kāsānī (d. 1191), *Sharḥ al-Ziyādāt* by another Central Asian Ḥanafī jurist Qāḍīkhān (d. 1196), *al-Baḥr al-rāʾiq* of the previously mentioned Ibn Nujaym, *Sharḥ al-Nuqāya* of Mullā ʿAlī al-Qārī (d. 1605) and *Kifāyat al-muftī* of the Deobandī scholar Muftī Kifāyat Allāh (d. 1952).

Beyond these, DUK includes two modern texts for the history of Islamic law, one from the Middle East (*Taʾrīkh al-tashrīʿ al-islāmī*) and one Deobandī (*Muqaddama-i Tadwīn-i fiqh*). BT does not have any text on the history of Islamic law but has a number of works dealing with the Ḥanafī *madhhab* as well as proofs for various schools' positions. These include the biography of Abū Ḥanīfa by the Egyptian jurist Muḥammad Abū Zahra (d. 1974), *Fiqh ahl al-ʿIrāq wa ḥadīthihim* by the Ottoman scholar Muḥammad Zāhid al-Kawtharī (d. 1952), *al-Mughnī* of the medieval Ḥanbalī jurist Ibn Qudāma (d. 1223), *al-Fiqh al-islāmī wa adillatuhu* by the previously mentioned Wahba al-Zuḥaylī and *al-Fiqh al-Ḥanafī wa adillatuhu* by another modern Syrian jurist Asʿad al-Ṣāgharjī (d. 2015). Interestingly, neither DUK nor BT use Aḥmad al-Naqīb's recently published detailed introduction to the Ḥanafī *madhhab* titled *al-Madhhab al-Ḥanafī: Marāḥiluhu wa ṭabaqātuhu, ḍawābiṭuhu wa muṣṭalḥātuhu, khaṣāʾisuhu wa muʾallafātuhu*. This work has begun to gain traction in some Deobandī *madrasas*, but this is not the case with DUK or BT.

Looking at the above description, it is easy to conclude that despite its shorter duration, BT's *Iftāʾ* program has a far more comprehensive curriculum, both in terms of its engagement with the Ḥanafī *madhhab* as well as with the broader Islamic legal tradition. DUK seems too focused on its own scholars. However, there is another dimension of DUK's *Takhaṣṣuṣ fi al-Iftāʾ* curriculum which renders it more effective for *fatwā*-giving than BT. To begin with, DUK includes

a couple of texts on astronomy which come in handy when dealing with issues of moonsighting. More substantively, DUK also includes a number of subjects dealing with modern law, politics, and finance. Thus, the constitution of Pakistan including its Islamic provisions are included, as well as Taqī ʿUsmānī's judicial decisions from the time when he served as a judge (for almost nineteen years) in Pakistan's Federal Shariat Court. Moreover, Sharīʿa Standards (*al-maʿāyīr al-sharʿiyya)* of Accounting and Auditing Organization for Islamic Financial Institutions (AAOFI) based in Bahrain are also included. This is in addition to Taqī ʿUsmānī's work on Islamic economics (*Islām aur jadīd maʿīshat-o tijārat*) that is included in DUK's *ʿAlimiyya* program. BT does not provide training in any of these modern subjects.

Besides all of the above, students in DUK's *Takhaṣṣuṣ fi al-Iftā'* program also receive training in Urdu composition, English, and computer use. BT does not have any formal provision for these. These additional aspects of DUK's *Takhaṣṣuṣ fi al-Iftā'* program along with its longer duration mean that DUK *Takhaṣṣuṣ fi al-Iftā'* students end up developing a strong knowledge base for dealing with modern issues. BT *Takhaṣṣuṣ fi al-Iftā'* students are not far behind considering their otherwise formidable training in Islamic law. However, for modern issues, they seem to be at a disadvantage.

3.5: Deobandī Pedagogy and Sensibilities

Hodgson and Robinson have described Islamic education in pre-modern times as conservationist, its primary focus being "to pass on the cultural heritage from one generation to another."[83] This is understandable considering that knowledge in Islam begins with what Muslims consider to be

[83] Marshall Hodgson, *The Venture of Islam: Conscience and History in a World Civilization, vol. 2, The Expansion of Islam in the Middle Periods* (Chicago: The University of Chicago Press, 1974), 2:437-444; and Robinson, "Education," 530-531.

divine revelation transmitted from God to the Prophet Muḥammad via the angel Jibrīl. Moreover, as mentioned earlier, the Qur'an (2:129 & 151; 3:164; and 62:2) defines four main tasks of the Prophet viz., reciting Qur'an's verses to the believers, teaching them the Book and wisdom, and purifying them. All of this is transmission of knowledge from God to Jibrīl to the Prophet to his Companions.

Starting with the Companions, this process of knowledge transmission from one generation to another has continued till today. However, since every generation has also had to deal with new issues, this inevitably led to the production of new knowledge. Already by the end of the first Islamic century, Islamic scholars had begun to develop new sciences to preserve, understand, and operationalize the Qur'an and the Sunna, thereby producing a broad range of new knowledge in various fields. Thus, each generation performed two tasks with respect to knowledge. It transmitted the knowledge it had received from the previous generations, and it also produced new knowledge. The key distinguishing feature in all of this is the relative proportion of transmitted and newly produced knowledge.

Based on the above, one can see how transmission of knowledge is at the very heart of Islamic education. Moreover, Deobandīs, like other *ʿulamā*, consider practice (*ʿamal*) to be closely connected to knowledge (*ʿilm*). That is, knowledge without practice can become a proof against oneself (*ḥujja ʿalayhi wa lā lahu*). Moreover, preaching has also been central to the Deobandī movement from its very inception. The creation of Tablīghī Jamāʿat almost a hundred years ago and its phenomenal success in Deobandī circles has only reinforced this. Combined with all of this is the Sufi ethos of the Deobandī movement.

We have already seen how the Deobandī *akābir* played multiple roles. Most important of these were their roles as teachers and Sufi shaykhs. Thus, from the beginning, teaching and Sufism

were closely intertwined in Deobandī *madrasas*. Despite this, Deobandī manuals of *ādāb al-taʿallum* (etiquettes of seeking knowledge) often emphasize the difference between a *murīd* and a student. The proper etiquette for the *murīd* is complete submission (*inqiyād tām*) to the Sufi shaykh and he is thus not supposed to question any of his shaykh's decisions. The student, on the other hand, is supposed to question teachers because that is the best way to learn, as is also mentioned in the Prophetic statement *shifā' al-ʿayy al-su'āl* (the treatment of ignorance is to question)."[84] Similarly, Rashīd Gangohī's personal engagement with his shaykh, as we saw in the previous chapter, is a good example of separating spiritual guidance received from a shaykh from *fatwās* given by a *muftī*.

The theoretical differences between ones' attitude towards a Sufi shaykh vs. a teacher notwithstanding, actual practice among Deobandīs has changed significantly over time. As the earlier era has passed, the culture of questioning the teacher has declined considerably. It still persists but because of lack of emphasis on it, the actual practice tends to be quite varied. Part of the reason for this is the packed schedule that students have which does not leave much room for open-ended or even longer discussions. Similarly, as the Deobandī tradition of Sufism has weakened, especially in Pakistan, teachers or more precisely one's favorite teachers are often treated the same way as one would a shaykh. That is to say, even though there is no formal pledge of allegiance, students often devote all of their deference to one or few of their teachers. In this way, such teachers are able to inspire almost the same kind of intense devotion that Sufi shaykhs do.[85] Interestingly, instances of this behavior can be found as far back as Thānvī's time who

[84] Abū Dāwūd al-Sijistānī, *Sunan Abī Dāwūd,* ed. Muḥammad ʿAwwāma (Beirut: Mu'assasat al-Rayyān, 1998), 1:316. [Book of purification, chapter on the excused performing dry ablution, *ḥadīth* no. 340]

[85] Personal observation in various *madrasas*. A good source in this regard is also the various social media conversations around contentious issues among *madrasa* students and graduates. For earlier examples of this behavior, see Munāẓir Ahsan Gīlānī's description of his teachers Anwar Shāh Kashmīrī (d. 1933) and Maḥmūd Ḥasan in

described his teacher's Yaʿqūb Nānautvī's lectures as being a gathering of spiritual transfer from the shaykh to the *murīds* (*ḥalaqa* of *tawajjuh*).[86]

A few other factors also play a crucial role in Deobandī pedagogy thereby shaping students' personalities in a distinctive way. As we have seen earlier, Deobandīs are staunch Ḥanafīs, adhering to a very strict understanding of *taqlīd* i.e., *taqlīd* of a single *madhhab* (*taqlīd shakhṣī*) as opposed to qualified scholarship in general (*taqlīd muṭlaq*).[87] This has been further amplified by the constant exaltation of and devotion to Deobandī *akābir*. A result of this strong emphasis on *taqlīd* is an environment with limited intellectual freedom. This is not to say that students and junior *ʿulamā* are not allowed to question. Rather, what I mean is that there is a limit to what can be questioned. Raising questions to better understand Deobandī positions on various issues is one thing. Questioning the validity of those positions is quite another. This can easily lead to a person being labelled as being *khud rāy* (having personal opinion) which is a pejorative term implying that the person is arrogant and holds an opinion different from the elders. Repeated over time, such statements have a dampening effect on intellectual curiosity among students and junior *ʿulamā*. They get conditioned to hold their "dangerous" opinions to themselves.

Alongside their strong emphasis on *taqlīd*, Deobandīs are also characterized by their strong counter cultural tendencies as discussed in the previous chapter. The target of these counter cultural tendencies is what Deobandīs consider to be modernism (*jadīdiyat*) which is represented by modern education and what it entails including the English language and Western culture. Even though Deobandīs have been at pains to explain to their critics that they do not consider it

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Munāẓir Ahsan Gīlānī, *Ihāṭa Dār al-ʿUlūm mayn bītay din*, ed. Iʿjāz Aḥmad Aʿẓamī (Deoband: Maktaba Ṭayyiba, n.d.), 78-171.

[86] Muḥammad ʿAbd al-Ḥayy, *Ma'āsir Ḥakīm al-Ummat*, ed. Masʿud Aḥsan ʿAlwī (Karachi: H. M. Saʿīd Company, 1985), 36.

[87] I discuss this in some more detail in the fifth chapter.

impermissible to learn English, their practice suggests it might as well be the case.[88] Sometimes this rejection can also entail rejecting even terms for modern institutions like school, college, university, or for modern degrees like BA, MA, etc.

The combined result of all of the above-mentioned factors is that Deobandī pedagogy places a very high emphasis on transmission of knowledge as opposed to production of new knowledge, on conformity as opposed to difference, on preaching as opposed to intellectual innovation, and on one's group identity as a Deobandī as opposed to *ghayr muqallids*, Shīʿīs, modernists, etc.[89] These emphases have had a direct bearing on what Deobandīs are and are not able to accomplish in Pakistan, as we shall see later.

Another aspect connected to Deobandīs' lack of intellectualism can be traced to their emphasis on spirituality as opposed to intellectual speculation.[90] Ashraf Thānvī is reported to have mentioned once how a person loses spirituality by being away from one's own group (*jamāʿat*).[91] Similar statements are often repeated in sermons and talks given to students. This idea is rooted in the Sufi admonition against keeping the company of those different from one's spiritual brothers (*ṣuḥbat-i ghayr jins*). These attitudes are coupled with a constant rhetoric about the successful *ʿĀlimiyya* graduate being the one who stays in touch with his teachers and elders and follows their

[88] I have yet to come across any *fatwā* by a Deobandī declaring learning English to be impermissible. However, the accusation has been in the air for more than a century. This is why, when addressing modern educated audiences, Deobandī *ʿulamā* often feel compelled to state it for the record that they do not oppose learning English per se.

[89] Unfortunately, there are no comprehensive surveys available on Deobandī education and pedagogy, or even on Deobandī cultural attitudes. Similarly, there are no ethnographic studies of Pakistani Deobandīs. All of the above observations are thus based on anecdotal research, i.e., my personal observations, conversations with Deobandīs from across the globe, and readings of Deobandī literature. As such, it would be unwise to assume that every Deobandī individual or *madrasa* fits this profile. My point from all these observations is merely that these attitudes *seem* to dominate Deobandī culture.

[90] See for example, Multānī, *Tūhfat al-madāris*, 1:62-65, 79, 93-94; and Muḥammad Zayd Maẓahirī Nadvī, *al-ʿIlm wa al-ʿulamā* (Lucknow: Idāra Ifādāt-i Ashrafiya, 1438AH), 61-63.

[91] Ashraf ʿAlī Thānvī, *Malfūẓāt-i Ḥakīm al-Ummat*, ed. Maḥmūd Ashraf ʿUsmānī (Multan: Idāra Tālifāt-i Ashrafiya, 1423 AH), 1:25-26.

path. These kinds of exhortations generally lead to Deobandīs not venturing far from their teachers and elders. When they do venture far, such as attending college or university, they often become objects of suspicion. This then creates an environment where the majority learns to toe the party line, so to speak.

The result of all this is that the Deobandī movement regularly throws out "deviants" in its mix. The few times this has not fully played out include the case of Taqī ʿUsmānī who faced severe criticism for his support of Islamic finance but has still managed to retain his position as a Deobandī elder. This will be discussed in more detail in the fifth chapter. Another such case is that of Gujranwala-based Zāhid al-Rāshidī who continues to face severe criticism for his support of his son ʿAmmār Khān Nāṣir (an intellectual considered a deviant by many Deobandīs) and their journal *al-Sharīʿa* (more on that below) but has still been able to maintain his position as a Deobandī elder albeit with a diminished following.

3.6: Intellectual Exchange Among Deobandīs and Their Scholarly Output

Beyond pedagogy, another factor that limits intellectual activity among Deobandīs is the issue of not having a forum for public exchange of ideas among Deobandī *ʿulamā*. We have already seen how academic societies/associations played a crucial role in the development of Western knowledge especially science. In the case of Deobandīs, the only such large association is the Indian Fiqh Academy (IFA) which was established in 1989. Since its inception, IFA has been very active in organizing international academic conferences dedicated to discussions of specific issues. Its findings are regularly published and are well-received in Deobandī circles. However, IFA is an exception that proves the rule. No such comparable Fiqh Academy exists in Pakistan. Only at the

local level in Karachi was a *Majlis ʿIlmī* established in the 1960s and while it has achieved significant milestones, it has never grown to encompass all of Pakistan.

Deobandīs have been more active with respect to journals. However, the contents of most such journals tend to be mixed. To begin with, they are designed for transmission of knowledge, i.e., promoting the truth as understood by Deobandī elders. Intellectual discussions therefore always take a back seat. Moreover, these journals also serve as mouthpieces of specific *madrasas*, i.e., as their newsletters. Their contents thus comprise reprints of excerpts from *akābir*'s works, news updates about a specific madrasa, very brief book reviews, and an occasional new scholarly article. Prominent journals in Pakistan with a higher percentage of new scholarly content include *al-Balāgh* (Dār al-ʿUlum Karachi) and *Bayyināt* (Jāmiʿat al-ʿUlūm al-Islāmiyya Banūrī Town). A relatively recent new addition is *al-Sharīʿa* (based in Gujranwala) which actually outshines all others because of its singular focus on academic quality and intellectual conversations. However, since it does not limit itself to Deobandī viewpoints and allows free exchange among Islamic scholars of all backgrounds, reactions from other Deobandīs have been quite severe with strident accusations of promoting deviancy. Consequently, even this journal has turned out to be an exception that proves the significant limits on intellectual inquiry and exchange among Pakistani Deobandīs.

The primary venue, then, for an intellectual exchange of ideas among Pakistani Deobandīs is informal conversations. Considering the geographic spread of *madrasas* and the busy schedules of students and *ʿulamā* inside and outside of *madrasas,* such informal moments are few and limited in the number of people involved. Often these occur in *dār al-iftā*'s but their frequency varies from place to place. Outside of such venues, any debate if occurring somewhere does not invite participation unless it reaches the level of what is considered deviant. This, then engenders a

response either through letters or treatises, and these days even audio and video clips. The driving force here often tends to be not so much intellectual exchange as it is distinguishing truth from falsehood (*iḥqāq al-ḥaqq wa ibṭal al-bāṭil*).

Reading the foregoing, one would be tempted to think that Deobandīs have not produced much literature. That is obviously not true. Anyone familiar with South Asian Islam knows that the vast literary output of Deobandīs far outstrips any other Muslim group in South Asia. They have written on all kinds of topics pertaining to Islam. Although most of their writings tend to be in Urdu, a sizeable number is in Arabic. For a sampling of major works, one can look at Dār al-ʿUlūm Deoband's website which indicates that the main genres of Deobandī literary output have been Qur'an, *ḥadīth*, Islamic law and Prophetic biography with 81, 95, 93, and 68 works listed for each genre respectively.[92] But looking at this list or its numbers is not enough. First of all, the overall number is much greater. Secondly, many Deobandī works tend to be multi-volume and some have had a huge impact on Deobandīs as well as other *ʿulamā*. These include the many multi-volume commentaries on major works of *ḥadīth*, which constitute a very distinct sub-genre of Ḥanafī fiqh-based *ḥadīth* commentary.[93]

So, how did this vast oeuvre come about? To begin with, the formal training that students receive in Deobandī *madrasas* in the *ʿĀlimiyya* and *Iftā'* programs is quite formidable, at least on paper. This was especially true for the first hundred years or so of the movement when *falsafa* was an integral part of the Deobandī curriculum, and because of its inherent speculative nature served to balance Deobandī non-intellectualism. Despite *falsafa* being phased out, the current *ʿĀlimiyya*

[92] A somewhat smaller number of works are listed for theology, spirituality, language, and refutations of deviant religions and sects. See the section "*Khidmāt-i Dār al-ʿUlūm*" at http://www.darululoom-deoband.com/urdu/. The website does not list all the textbooks and translations Deobandīs have produced which are also quite numerous.

[93] Some of these have been analyzed in Zaman, *The Ulama in Contemporary Islam*, 38-59; and Joel Blecher, *Said the Prophet: Hadith Commentary across a Millenium* (Oakland: University of California Press, 2018), 148-157.

and *Iftā'* programs are still quite robust and if a student completes these programs properly then it is quite likely that he will develop a taste for scholarly research. The end product could be a translation, annotated or not, a textbook, a summary of some larger work, a commentary, etc. Since the overall number of Deobandī *madrasa* graduates is very high, even if only a small percentage turns out to be scholarship-inclined, the results can be quite impressive. Quite a few Deobandī works are thus products of individual efforts.

Moreover, many prominent Deobandīs are also able to lean on a decent number of research assistants in the form of junior *ʿulamā*, senior students, or *murīds*. This was indeed the case with Ashraf ʿĀlī Thānvī who utilized his vast *murīd* network comprising accomplished *ʿulamā* as research assistants for producing new works. Another example is that of a *madrasa* creating a dedicated department for producing written works (*shuʿba-i taṣnīf-o ta'līf*). Many publications are the products of such departments.

This still leaves one question unanswered. What is the nature of this vast literature? Earlier, I had talked of two modes of engaging with knowledge, namely transmission of old knowledge and production of new knowledge. It is now time to examine these two in a bit more detail. In one way, every act of transmission of old knowledge is also an act of production of new knowledge. This is because when a person translates a previous work, summarizes it, or writes a commentary on it, they are making choices. Why was this book chosen, which sections were translated and which were not translated? The same logic applies to writing summaries or compendia of longer works. An annotated translation and/or a commentary provide even more room for the translator/author to include their input. Seen from this perspective, even though the vast majority

of Deobandī works fall under transmission of knowledge, they also constitute varying levels of new knowledge.[94]

Then there are the *fatwā* collections. Although I will discuss Deobandī *fatwā*-giving in detail in the fifth chapter, a few words are in order here. It is true that Deobandīs are strictly bound by *taqlīd* and many *Takhaṣṣuṣ fi al-Iftā'* students are primarily trained in narration of *fatwā* (*naql-i fatwā*) as opposed to writing original *fatwās* of their own. However, what was true of translations, compendia, and commentaries, is also applicable here. Which *fatwā* should be narrated and which should not is a choice, no matter how insignificant, that renders the muftī as a producer of new knowledge. Moreover, the various Deobandī *fatwā* collections that are published are compilations of *fatwās* given by senior *ʿulamā, akābir* really, and quite a large percentage of these *fatwās* are original responses to new situations.

In short, although majority of Deobandī scholarly works can be broadly characterized as falling under transmission of knowledge, quite a few of them also entail production of new knowledge and thus represent a robust scholarly tradition at work.

3.7: Deobandī Ambitions, Limitations, and *Madrasa* Reform

In an earlier section, I had discussed the various ways of classifying knowledge. Those classifications are quite useful in understanding the evolution of Islamic education in general and of the evolution of Deobandī *madrasa* curricula in particular. However, there is also another way of classifying knowledge which will be quite helpful in analyzing the Deobandī academic complex and the Deobandī movement as a whole. For this, we can use the famous *ḥadīth* of Jibril as our

[94] Zaman and Fadel have discussed the role these various literary genres play in producing new knowledge despite the presence of *taqlīd*. See Zaman, *Ulama in Contemporary Islam*, 38-59; and Fadel, "The Social Logic of *Taqlīd*."

starting point.[95] That is to say, the totality of divine commands, i.e., *sharīʿa* has three main components, viz., beliefs (*īmāniyyāt*), actions (*aʿmāl*) and spirituality (*rūḥāniyya*). Actions can be divided into two main categories namely *ʿibādāt* (worships) and *muʿāmalāt* (transactions), where *ʿibādāt* refer to those actions wherein the focus is God while *muʿāmalāt* refer to those actions wherein the focus is other than God. The *muʿāmalāt* can then be further divided into *muʿāsharat* (social transactions), *muʿāmalāt* (economic transactions), *ʿuqūbāt* (punishments), and *siyāsa* (politics). When the basic categorization derived from the *ḥadīth* of Jibril is combined with this categorization of actions, one arrives at the following breakdown of Islamic knowledge: (1) beliefs/theology, (2) spirituality, (3) worships, (4) social issues, (5) economics, (6) punishments, and (7) politics. This is given in tabular form below.

Table 3.3: Another Classification of Knowledge

Internal (*Aʿmāl al-qalb*)	**External (*Aʿmāl al-jawāriḥ*)**
1. Beliefs/Theology	1. Worships
2. Spirituality	2. Social (marriage, divorce, etc.)
	3. Economy (incl. finance)
	4. Punishments
	5. Politics

We have already seen in the previous chapter that Deobandīs consider Islam to be a comprehensive way of life and have consistently demanded from successive Pakistani governments to implement Islam (*nafāz-i sharīʿat*) in the country. This entails creating laws, as

[95] The famous *ḥadīth* of Jibrīl talks of three main dimensions of Islam, namely *īmān*, *islām*, and *iḥsān*. The *ḥadīth* is agreed upon, i.e., cited by both al-Bukhāri and Muslim. See *Ṣaḥīḥ Muslim*, 1:36. [chapter on *īmān*, *ḥadīth* no. 1/8]

well as economic and political systems that are Islamic.[96] While Deobandīs continue to make these demands, they are also very skeptical of the intentions of Pakistani elites. This is based on Deobandī experience with the Muslim League prior to the creation of Pakistan and with successive Pakistani governments which have often paid lip service to Islam but done very little to create an Islamic system of governance in any area of national activity, be it education, laws, economics, or politics.

The disconnect between what the Deobandīs want the Pakistani state to do and what it actually does means that Deobandīs have no option but to try to fill the vacuum themselves. We have already seen in the previous chapter how the emergence of Deobandī *dār al-iftā'*s was a response to the vacuum created by the absence of Muslim political power in colonial India. For Pakistani Deobandīs, the situation has not changed much. Deobandī *muftīs* are still being trained as private *muftīs* but often find themselves having to respond to all kinds of issues including those concerning national policies.

Pakistan is a nation state and is thus a product of modernity. Its laws, economic, and political systems; in fact, the very essence of the state is modern. For anyone to put forward concrete proposals for Islamization (in any sense of the word) of the state, they would have to be aware of both the relevant Islamic scholarly tradition as well as modernity. Without such comprehensive knowledge, it is highly likely that either not all issues will be addressed or there will be contradictions between one set of policy proposals and another. When we look at the curricula of Pakistani Deobandī *madrasas* from this perspective, we realize that Deobandīs are not well-positioned for success. They are well-trained in multiple areas of the Islamic scholarly heritage but have minimal exposure to premodern Islamic economic, political, and social thought.

[96] For a good overview of Deobandī demands and their struggle for the implementation of Islam in Pakistan, see Muḥammad Taqī ʿUsmānī, *Nafāz-i sharīʿat aur us kay masā'il* (Karachi: Maktaba Dār al-ʿUlūm Karachi, 1430AH).

Moreover, they are often also not exposed to the discourse among contemporary Muslim thinkers regarding issues of modernity.

ʿUlamā can, of course, make up for some of these deficiencies if they so desire since they already possess the main tools, viz. knowledge of classical Arabic and training in religious sciences. However, the other key component, namely knowledge of modernity is a different matter altogether. The vast majority of Pakistani Deobandī *madrasas* provide no training in any of the social sciences or modern law which is crucial to understanding the modern condition especially from the perspective of law and policymaking. Moreover, not knowing English or not knowing it well enough means the vast majority of the *ʿulamā* cannot make up for this deficiency on their own, as we shall see in the next two chapters. In fact, DUK seems to be the only madrasa in the country that actually teaches the constitution of Pakistan, and provides some training in economics, finance, and politics. However, even this training is not at an advanced level.

What explains this disconnect between Deobandī aspirations and the limitations of their curriculum? There seem to be multiple reasons for this. One of these is that even though Pakistani Deobandī *madrasas* have officially declared the equivalence of their educational degrees to modern degrees, they have not done so internally. That is to say, for most students and teachers, the *ʿĀlimiyya* is still one comprehensive package standing apart from whatever modern schools and colleges teach. In this conception, *ʿĀlimiyya* is solely focused on transmission of knowledge and there is no room for research. Even though the *ʿĀlimiyya* program's recognition as an MA by the Pakistani accreditation agency HEC hinges on students writing a thesis, this does not always happen and even when it does, it is not always taken seriously by students or teachers. In any case, the packed schedule of *dawra-i ḥadīs* does not leave much time for original research.

One would imagine that the *Takhaṣṣuṣ fi al-Iftā'* programs as the equivalent of a graduate research program would encourage new research. After all, every *fatwā* is an instance of production of new knowledge. However, as discussed earlier, strict emphasis on *taqlīd* and highly variable standards means that most students' *fatwās* are merely transmissions of a *fatwā* (*naql-i fatwā*) and not an original *fatwā*. Moreover, Islamic law that developed in the medieval period takes for granted certain socio-economic and political environment. To give *fatwās* on issues when that socio-economic and political environment no longer exists, requires one to not only possess a very high level of jurisprudential knowledge but also to understand the new situation well. This is what many Ḥanafī scholars refer to when they say, "*man lam yaʿrif bi ahl zamānihī fa huwa jāhil* (whoever does not know the people of his time is an ignorant)." That is, such a person is not qualified to give *fatwā*.

Deobandīs are, of course, aware of this dictum.[97] This is discussed at length in Ibn ʿĀbidīn's works studied by Deobandīs.[98] Moreover, if one were to ask any Deobandī *muftī*, they would say that rulings change with changed circumstances (*al-ḥukm yataghayyaru bi taghayyur al-ashkhāṣ wa al-aḥwāl*). But how does one know what the new circumstances are? For many Deobandī *muftīs*, living among people and interacting with them is sufficient to gain this knowledge. However, in a fragmented society like Pakistan's with divisions on the basis of ethnicity, socio-economic status, urban vs. rural context, presence or absence of modern education, etc., moving around one's regular circle is not enough to gain knowledge of all segments of society. Governments, on the other hand, have access to data at the national level. Moreover, modern

[97] Muḥammad Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat* (Karachi: Maktaba Maʿārif al-Qur'ān, 2003), 17. Also see Yusuf Shabbir, "Knowledge of Contemporary Affairs and Customs," Islamic Portal, https://islamicportal.co.uk/knowledge-of-contemporary-affairs-and-customs/. Accessed May 27th 2021.

[98] See Muḥammad Amīn b. ʿUmar Ibn ʿĀbidīn, *Sharḥ ʿUqūd rasm al-muftī* (Karachi: Maktabat al-Bushrā, 2009), 75-84. Ibn ʿAbidīn also has a dedicated treatise on the subject titled *Nashr al-ʿarf fī binā' baʿḍ al-aḥkām ʿala al-ʿurf* published as part of his *Majmū'at Rasā'il Ibn ʿAbidīn*.

academics and NGO's (non-governmental organizations) can deploy social sciences to undertake ethnographic research as well as large scale surveys. Deobandī *ʿulamā* and *muftīs* have none of these options, and they do not seem aware of the difference such kind of data-gathering can make.

3.7.1: Calls for Curricular Reforms in *Madrasas*

Does the foregoing mean that the Deobandīs are oblivious to any need for updating their *ʿĀlimiyya* and *Takhaṣṣuṣ fi al-Iftā'* curricula? The answer is no. In fact, the question of curricular reform has been a prominent one since the last quarter of the nineteenth century, and it is to this that I now turn.

Many Muslim scholars and commentators of late nineteenth century were not satisfied with the curriculum followed at Dār al-ʿUlūm Deoband. In fact, as we have already seen, the founding of Nadwat al-ʿUlamā in 1892 was an attempt to rectify the weaknesses of the curriculum at Dār al-ʿUlūm Deoband. Interestingly, as late as the early 2000s, people associated with Nadwa were complaining how the educational system there was not up to par.[99] On the whole, there have been three main issues that critics have identified since the very early years of the founding of Dār al-ʿUlūm Deoband.[100]

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[99] See Sayyid Salmān Ḥusaynī Nadwī's discussion of *madrasa* curricula including that of Dār al-ʿUlūm Deoband's and Nadwat al-ʿUlamā's in Sayyid Salmān Ḥusaynī Nadwī, *Hamāra taʿlīmī niṣāb kiyā ho?* (Lucknow: Jāmiʿa Sayyid Aḥmad Shahīd, 2004). This work received praise from a cross-section of Indian Muslim intelligentsia including prominent Nadwīs as well as Deobandīs of the time as evidenced by their endorsements given in the beginning of the book.

[100] For a sampling of calls for reform of Indian *madrasas* which is also applicable to Pakistani *madrasas*, see Yoginder Sikand, "Voices for Reform in the Indian Madrasas," in *Madrasas in India: Trying to be Relevant*, ed. Akhtarul Wasey (New Delhi: Global Media Publications, 2005), 51-82. Also see the proceedings of two conferences held in 1968 and 1990 in India on the subject in ʿĀbid Razā Bedār, ed., *ʿArbi Islāmī madāris kā niṣāb-o niẓām-i taʿlīm aur ʿaṣrī taqāzay, 2 vols.* (Patna: Khudā Bakhsh Oriental Library, 1968 & 1990). Among Pakistani Deobandīs, Yūsuf Banūrī, Taqī ʿUsmānī and Ibn al-Ḥasan ʿĀbbāsī, have also raised the issue of curricular reform but this has yet to lead to concrete results. See Banūrī, *Dīnī madāris kī zarūrat*, 93-111; Muḥammad Taqī ʿUsmānī, *Hamāra taʿlīmī niẓām* (Karachi: Maktaba Dār al-ʿUlūm Karachi, 1998), 28-30 & 91-92; and ʿAbbāsī, Ibn al-Ḥasan. *Dīnī madāris: Māzī, ḥāl, mustaqbil* (Deoband: Maktaba Ṭayyiba, 2001), 79-115.

The first issue is that of the value of the *maʿqūlāt* component of *dars-i niẓāmī* which critics allege has outlived its utility. This issue is often raised in conjunction with arguments for *taysīr* (making easy) and *takhfīf* (making lighter). Critics argue that in the modern age, there is no reason for students to waste years trying to make sense of convoluted medieval texts to understand what ancient Greeks or medieval deviant groups had said. Rather, students' time would be better spent learning modern philosophy and science, and the issues they have raised. We saw earlier that Dār al-ʿUlūm Deoband held on to this *maʿqūlāt* tradition because of the social strength of old-style *ʿulamā* who were unwilling to accept Deoband graduates as *ʿulamā* unless they had received training in this *maʿqūlāt* tradition. By the end of the nineteenth century, however, graduates of Deobandī *madrasas* had come to dominate the ranks of *ʿulamā* through their sheer numbers. Nevertheless, the study of ancient *maʿqūlāt* continued. It was not until the 1960s and the 1970s that the *ʿĀlimiyya* curriculum at Dār al-ʿUlūm Deoband saw a significant reduction in texts associated with *manṭiq*, *falsafa* and *kalām*.

The second issue is the inclusion of modern knowledge including the English language. Interestingly, Deobandīs themselves have been conscious of the need for this. As early as 1903, the administration at Dār al-ʿUlūm Deoband discussed adding English classes to the curriculum.[101] It, however, did not come to fruition. It was only in the 1970s that some modern subjects such as science, economics, modern philosophy, etc. were added to the curriculum. However, as was noted earlier, these subjects were taught at a very basic level and this has done nothing to assuage the critics, be they internal or external.

The third issue is that of teaching those skills to students that would help them earn their livelihood and make them independent of people's largesse. This was the motivation for the

[101] Rizvī, *Tārīkh Dār al-ʿUlūm Deoband*, 1:208-209.

introduction of medicine in the curriculum all the way back in 1878, a little over a decade after the founding of Dār al-ʿUlūm Deoband.[102] Much later, a vocational training center was added in 1945 which was also motivated by the desire to equip students with job skills.[103] However, two problems have persisted in this regard. One is that such initiatives have taken place only in a few *madrasas* most notably Dār al-ʿUlūm Deoband. Secondly, even when students have the option of acquiring job skills either inside the *madrasa* or outside it, the constant rhetoric from their teachers and elders discourages them. That is, they are constantly reminded that they have been chosen by God for the work of *dīn* and any attempt to engage in other activities means one is rejecting God's gift of religious knowledge.[104]

The obvious question here is, why has the pace of change been so slow in Deobandī *madrasas* especially considering their awareness of the needs of students. There are a number of factors at play here, one of which I have already hinted at, namely *taqlīd*. I will discuss all of these factors later in this chapter. However, before I get to that, let me bring an external factor into the mix which will help us better understand Deobandī behavior. This is the socio-political context in which Deobandīs operate. Since my focus here is Pakistani Deobandīs, I will limit my discussion to Pakistan.

3.7.2: Pakistani Society and the *ʿUlamā*

Earlier, I had discussed the social divisions that had emerged in Indian Muslim society during the colonial period. The new middle and upper middle classes were increasingly products of modern

[102] Rizvī, *Tārīkh Dār al-ʿUlūm Deoband*, 1:197.

[103] Rizvī, *Tārīkh Dār al-ʿUlūm Deoband*, 1:312-313.

[104] For a recent example of a Pakistani Deobandī struggling with these conflicting emotions and ideas, see https://www.facebook.com/mateen.ahmad2010/posts/4274751892583302, accessed June 12th, 2021.

education while the *ʿulamā* and those associated with them were increasingly coming from the poor sections of society. This social divide has only increased in post-independence Pakistan. The mainstream educational system is essentially a modern one with varying levels of token presence of Islam, while *madrasas* occupy a distinct space separate from the mainstream.[105]

Mulla-bashing is thus quite common among the middle and upper classes many of whom consider the *ʿulamā* to be no more than semi-literate obscurantists. Pakistani society has undergone further polarization since 2001. First, it was the decision by the Pakistani military led by Gen. Musharraf which ruled the country at the time to side with the Americans in their invasion of Afghanistan. This decision led to massive protests by religious groups but was supported by many modern educated sections of society. The same military regime soon also announced two interconnected policies that were to have major consequences for the country. On the one hand, Musharraf declared his plan to rid the country of extremism by promoting his idea of Enlightened Moderation.[106] Consequently, the military cut its support to all those militant groups which it had previously nurtured for its proxy wars in Afghanistan and Kashmir. Deobandī *madrasas* also became a target of this new policy and all foreigners studying there were forced to leave the country.

The same year, the Musharraf regime also announced a policy of media liberalization. This had two major consequences. On the one hand, a very large number of for-profit news and media outlets emerged in the country thereby giving voices to people and ideas that may have been fringe

[105] There are a number of excellent studies dealing with the state of education in Pakistan, how educational experiences and opportunities relate to social divisions, and how all this affects *madrasa* students and *ʿulamā*. See, for example, Tariq Rahman, *Denizens of Alien Worlds: A Study of Education, Inequality and Polarization in Pakistan*, (Karachi: Oxford University Press, 2004); Shahid Siddiqui, *Education, Inequalities, and Freedom: A Sociopolitical Critique* (Islamabad: Narrative, 2012); and Sanaa Riaz, *New Islamic Schools: Tradition, Modernity, and Class in Urban Pakistan* (New York: Palgrave Macmillan, 2014).

[106] See Musharraf's own statement on the subject at https://yaleglobal.yale.edu/content/islam-and-west-time-enlightened-moderation.

earlier on. Secondly, an ever-larger segment of the population got access to Western media and entertainment either through cable television or through increased internet connectivity. Questioning the truth claims of Islam, promoting atheism or just secularism which had once been taboo in Pakistan's conservative society began to gain traction. Similarly, cultural attitudes also shifted most notably seen in the changed sartorial choices of women.[107]

The combined effect of these policies, political and media-related, was an increase in polarization in Pakistani society. *ʿUlamā* and *madrasas* that were already seen as fringe came to be seen as even more fringe and extremist in the national imaginary. This has engendered a similar reaction from the *ʿulamā* and their supporters. I discussed earlier the countercultural tendencies that the Deobandīs developed in colonial India as a way to preserve and defend Islamic teachings. These tendencies have further hardened in the last twenty years as a result of the changed social dynamics in Pakistan.

3.7.3: Pakistani State's Educational Policies and the *ʿUlamā*

As I have discussed earlier, Pakistan was in fact the creation of modernist Muslims. They led the movement to create it, and they have been at the helm of affairs since its founding.[108] While modernists and the traditionalist *ʿulamā* have had much to disagree about, the two sides had agreed until recently that Pakistan was created in the name of Islam and that Islam should play a central role in its ideology. The disagreement was on the nature of this Islam. Thus, all the various

[107] These are my observations of the changes in Pakistani society in the last twenty years. For a different perspective which looks at media liberalization as a threat to democracy, see Mehnaz Gul, Zia Obaid, and Shaid Ali, "Liberalization of Media in Pakistan: A Challenge to Democracy," *The Journal of Humanities and Social Sciences* 25, no. 1 (2017): 37-54.

[108] This is something that the *ʿulamā* have often alleged and many academic observers agree. For a recent example of a Deobandī scholar stating this, see Zāhid al-Rāshidī, "*Sarkārī khuṭba qābil-i qabūl kiyūn nahīn*?" Facebook, December 14, 2018, https://www.facebook.com/mufakireislam/videos/1186203474863513. This is also one of the main arguments of Muhammad Qasim Zaman's recent work *Islam in Pakistan: A History*.

education commissions and the educational policies promulgated by various governments adopted *Islāmiyāt* (term used for Islamic studies in Pakistani state curricula) as a compulsory subject for school children.[109] The Sharif Commission of 1959 recommended *Islāmiyāt* as a compulsory subject for Muslim students up to and including grade 8th. The 1970 educational policy recommended *Islāmiyāt* as a compulsory subject for Muslim students up to and including grade 10th. Later, during the Zia era (1977-1988), *Islāmiyāt* was made compulsory up to and including undergraduate programs. This has continued till today.[110]

While the Ayyub (1959-1969) and Bhutto (1971-1977) eras were dominated by a liberal and modernist approach to Islam, the Zia era saw an overt attempt at Islamization of the country somewhat more in line with the *ʿulamā*'s understanding albeit not fully conforming to it. Even earlier, some government commissions had argued that *Islāmiyāt* should not be treated as an isolated and token subject, and that Islam should be woven throughout the curriculum.[111] Similarly, as early as 1969, the Nur Khan Commission had argued for the creation of a single educational system that would end the *madrasa* vs. school/college binary.[112] The same sentiment was repeated in 1979.[113] While each successive government pushed for national integration, they faced stiff resistance from the *ʿulamā*, Deobandīs and others, who were not willing to give up their freedom for the sake of national integration. These *ʿulamā* had already seen how the elite's promises of creating an Islamic state had been nothing but empty rhetoric. The modernist and liberal ideals of

[109] For a detailed documentation of government education commission reports as well as educational policy proposals, see Mumtaz Ahmad and Husnul Amin, eds., *A Documentary History of Islamic Education in Pakistan*, 2 vols. (Islamabad: Emel Publications and Iqbal International Institute for Research and Dialogue, 2016).
[110] Ahmad and Amin, *A Documentary History of Islamic Education in Pakistan*, 1:122; 1:306; 2:30; 2:65; and 2:117.

[111] See the 1972 educational policy in Ahmad and Amin, *A Documentary History of Islamic Education in Pakistan*, 2:4.

[112] Ahmad and Amin, *A Documentary History of Islamic Education in Pakistan*, 1:298.

[113] Ahmad and Amin, *A Documentary History of Islamic Education in Pakistan*, 2:19.

the country's elite were not hidden from view either. Consequently, whatever cooperation any government received from the *ʿulamā* was quite limited.

Things looked very different during the Zia era. For one, he had taken more concrete steps towards Islamization of the whole country than any previous government. Moreover, his government went further in not only recognizing *madrasa* degrees but also providing government aid to many *madrasas*. Similarly, he also implemented a program to Islamize the national curriculum beyond the token subject of *Islāmiyāt*. Thus, even natural sciences textbooks saw the addition of introductions detailing the history of science among Muslims as well as Islamic primary texts (Qur'an and *ḥadith*) relevant to each subject. These measures, however, did not bridge the divide between the *madrasas* and the modern schools and colleges that still comprised the national education system. Adding an introductory chapter on Islam to every textbook did little to change the overall character of education. There was still a huge gap between the worldviews of a *madrasa* student and a college student mostly the result of the specific approaches to pedagogy and more broadly *tarbiyya* as understood and practiced in *madrasas*.

Furthermore, government bureaucracy remained in the hands of people with modernist views, and the overall government structure was still unaffected by Islamic values. Two key issues in this regard were the economic and the legal systems. Despite the introduction of a national *zakāt* system, *ribā* continued to play a central role in the national economy. Similarly, despite the creation of a Federal Shariat Court in which some *ʿulamā* also became judges, it never became mainstream and the national legal system including the judiciary remained firmly on the lines of the inherited colonial system. *ʿUlamā*'s lukewarm attitude of guarded cooperation continued into the 1990s but during the Musharraf era, whatever little credibility Pakistani governments had with the *ʿulamā* finally evaporated for the reasons discussed earlier.

For the most part, Deobandī *ʿulamā*'s response to any government policy proposal has been characterized by various levels of defensiveness and insecurity. On the one hand, they have insisted on defending their independence from the state. To them, this is one of the most important reasons for *madrasas*' continued success. Nevertheless, the power of the state is immense, and therefore, as much as *ʿulamā,* Deobandīs or otherwise, would like the government to leave them alone, this has never happened. In fact, one of the main reasons that the Deobandī *madrasa* board as well as those of other *maslaks* were founded in the 1950s and the 1960s was to negotiate with the government.

The *ʿulamā* eventually did recognize the authority of the state and now most *madrasas* are registered with the government. Similarly, all *madrasa* boards have sought and received recognition of their degrees by the state. One of the key government requirements that they had to agree on was requiring eight years of basic schooling before the start of the *ʿĀlimiyya* program. However, any government attempt to take over a *madrasa* or even dictate their curriculum has been met with fierce resistance. Similarly, offers of government aid have been mostly rejected. Only during the Zia era this was not considered taboo among *madrasas* mainly because of Zia's Islamic reputation. However, during Musharraf's time, this again became problematic. The few *madrasas* that did accept government aid during this time or even hosted government officials ended up earning a negative reputation among other *madrasas*.

3.7.4: Deobandīs and *Madrasa* Curricular Reform

As mentioned earlier, one of the main issues with respect to curricular reform in *madrasas* has been the inclusion of modern knowledge, i.e., knowledge introduced in India by the British such as natural sciences, social sciences, as well as the modern humanities. This issue came up even at

the founding of Dār al-ʿUlūm Deoband, and Qāsim Nānautvī's response was that since the colonial government and the private sector were all focused on modern education, the *ʿulamā* should focus on what is being neglected, namely religious education. The same sentiment has been expressed by many other Deobandī *akābir* such as Yaʿqūb Nānautvī (d. 1884), Ahsraf ʿAlī Thānvī (d. 1943),[114] Muḥammad Yūsuf Banūrī (d. 1977),[115] ʿAbd al-Ḥaqq Ḥaqqānī (d. 1988),[116] Yūsuf Ludhyānvī (d. 2000),[117] Rashīd Aḥmad Ludhyānvī (d. 2002),[118] right up till today.[119] Zaman analyzes some of these reactions through the lens of authority. Thus, in his analysis, *ʿulamā*'s resistance to government intervention is primarily due to their desire to maintain their freedom.[120] While this is true, there are other factors at play as well.

At the very basic level, many *ʿulamā* feel that the primary task of *madrasas* is to produce religious functionaries. Thus, for some, the founders of these *madrasas* consciously chose to exclude modern knowledge so that their graduates would only be eligible for strict religious roles like Imams and *madrasa* and *maktab* teachers. The fear was that if students had other skills, they would end up leaving religious vocations for more lucrative jobs.[121] Other *ʿulamā* feel that the inclusion of modern subjects would dilute the religious character of *madrasas*. They see this as

[114] For Yaʿqūb Nānautvī's and Thānvī's views, see Nadwī, *al-ʿIlm wa al-ʿulamā*, 157-158.

[115] Banūrī, *Dīnī madāris kī zarūrat*, 41 & 68-70.

[116] As cited in Muhammad Khalid Masud, "Madrasas Promoting Social Harmony? Debates over the Role of Madrasa Education in Pakistan," in *Knowledge, Authority and Change in Islamic Societies: Studies in Honor of Dale F. Eickelman*, ed. Allen James Fromherz and Nadav Samin (Leiden: Brill, 2021), 251.

[117] Muḥammad Yūsuf Ludhyānvī, Editorial, *Bayyināt* 38, no. 2 (1981):2-28. As cited in Zaman, *The Ulama in Contemporary Islam*, 78-86.

[118] Rashīd Ludhyānvī, *Aḥsan al-fatāwā*, 1:423-428.

[119] Personal conversations with multiple Deobandī elders.

[120] Zaman, *The Ulama in Contemporary Islam*, 78-86.

[121] Zāhid al-Rāshidī, *Dīnī madāris kā niṣāb o niẓām: Naqd o naẓar kay ā'inay mayn* (Gujranwala: Al-Sharīʿa Academy, 2007), 25 & 33-38.

being different from the Greek sciences (*manṭiq* and *falsafa*) which have been taught in the curriculum for centuries. Those were thoroughly Islamized before being accepted. Modern knowledge, as it stands today, is a product of Western thought, and importing it wholesale would mean accepting Western philosophy and values.[122] Moreover, they also feel concerned that inclusion of modern subjects would mean induction of non-*ʿulamā* (most likely also non-religious or at least unreliable in their religious understanding) individuals as *madrasa* teachers. Since *madrasa* students place teachers at a very high pedestal, inclusion of modern subjects would inevitably lead to having bad role models for *madrasa* students.[123]

This still leaves a crucial question unanswered, viz. do Deobandīs actually consider modern knowledge to be useful for *ʿulamā*? The answer is yes and no. On the one hand, the Wifāq requires eight years of basic schooling which often takes place in the mainstream educational system. Then there are some *madrasas* who are actually running schools *and* colleges on their premises or under their supervision. These schools and colleges also follow the mainstream educational system which tends to provide a broad education exposing students to all areas of knowledge including modern natural and social sciences as well as humanities. When *madrasas* run these schools and colleges, they increase the Islamic component in the curriculum and in school regulations. Moreover, some *madrasas* even offer training for bankers and for *ʿulamā* in Islamic economics and finance.

On the other hand, Deobandī defensiveness regarding any suggestion of curricular reform suggests that they see modern knowledge as a threat or a challenge.[124] They want to engage with it but not at the potential cost of compromising their *ʿAlimiyya* programs. Hence, the oft-repeated

[122] Rashīd Ludhyānvī, *Aḥsan al-fatāwā*, 1:425 and Taqī ʿUsmānī, *Hamāra taʿlīmī niẓām*, 82-83.

[123] Rashīd Ludhyānvī, *Aḥsan al-fatāwā*, 1:425-426 and Taqī ʿUsmānī, *Hamāra taʿlīmī niẓām*, 82-83.

[124] See Rashīd Ludhyānvī, *Aḥsan al-fatāwā*, 1:425-428; Banūrī, *Dīnī madāris kī zarūrat*, 42-44; and ʿAbbāsī, *Dīnī madāris*, 25-27 & 110-112. For a very recent expression of the same sentiment by Taqī ʿUsmānī, see https://www.facebook.com/JamiyaDarulUloomKarachi/posts/5911092318915742.

reference to previous failed experiments where traditional and modern knowledge was combined but it led to a system which produced neither experts in Islamic sciences nor in modern knowledge.[125] Even when a few openly acknowledge the importance and relevance of modern knowledge, they are keen to shift the responsibility to governments. That is, they feel that the *madrasas* do not have enough resources to undertake the project of Islamization on their own.[126] While this seems like a legitimate reason, a closer look indicates otherwise.

After all, no *madrasa* was created using a single *ʿālim*'s personal wealth. All Deobandī *madrasas* run on public fundraising. Thus, while smaller *madrasas* can claim lack of funding, this is not true of larger *madrasas*. They have thousands of students, hundreds of faculty and staff, and their annual budgets rival those of any government supported college. If these *madrasas* really wanted to prepare specialist *ʿulamā* well-versed in modern knowledge, they could have done so. The real reason then seems to be something else.

One possible explanation is that the Deobandīs are so focused on their original mission of mass education and preaching that intellectual activities of any kind are very low on the priority list. We have already seen how the vast Deobandī literary output is actually the work of a small percentage of Deobandīs. This is why not all *madrasas* have schools or colleges on the mainstream pattern. Another possible reason is the social structure of the Deobandī movement and its *madrasas*. In this social structure, the *akābir* act as custodians of change. For any innovative intellectual initiative to take place, it must have some elder's support. Such an elder will not lend support unless he is himself intellectually inclined. This seems to have been the case with Taqī

[125] A common example is that of Jamia Islamia Bahawalpur which eventually turned into a regular university. See Banūrī, *Dīnī madāris kī zarūrat*, 85-89; and ʿAbbāsī, *Dīnī madāris*, 25-27. Banūrī also places Nadwa in the same category, i.e., a failed experiment that sought to combine traditional and modern knowledge.

[126] Taqī ʿUsmānī, *Hamāra taʿlīmī niẓām*, 82-83.

ʿUsmānī. His father, Muḥammad Shafīʿ, a prominent Deobandī elder and senior jurist, encouraged Taqī ʿUsmānī to pursue further studies on his own. Thus, Taqī ʿUsmānī ended up studying modern law (LLB), economics and finance. Later, he served in the Federal Shariat Court and also became a leading global expert in Islamic finance.

Shafīʿ was not alone in recognizing the importance of modern knowledge and of modern institutions. The head of Banūrī Town, ʿAbd al-Razzāq Iskandar himself has a PhD and so does the head of *ḥadīth* specialization program at Banūrī Town, ʿAbd al-Ḥalīm Chishtī.[127] Similarly, the late head of Jāmiʿa Fārūqiyya, another prominent Karachi *madrasa*, Adil Khan also had a PhD in Islamic studies and before his appointment at Jāmiʿa Fārūqiyya, had been a professor at the International Islamic University Malaysia. These are just some names. Many others from these and other *madrasas* have gone on to get advanced degrees in Islamic studies, and now staff the many departments of Islamic studies at Pakistani colleges and universities.[128]

However, despite all the prominent names listed above, the overall percentage of Deobandī *ʿĀlimiyya* graduates who pursue advanced degrees is small. The main obstacles in this regard are two. One is the official status of the *ʿĀlimiyya* degree. The Wifāq only moved to get this degree recognized by the state as the equivalent of an MA in the 1980s. Without the *ʿĀlimiyya* being recognized, students seeking advanced degrees had no option but to start in a BA program. Considering the number of years they had already spent in the *ʿĀlimiyya* and in some cases *Iftā* programs, it was very discouraging for the vast majority of students to start with a BA. Nevertheless, once the path opened, many students began to take advantage of this opportunity.

[127] Iskandar is in fact among the earliest students of Banūrī Town's *ʿĀlimiyya* program. He received a PhD from al-Azhar in Islamic studies in the 1970s. See "*Mawlāna ʿAbd al-Razzāq Iskandar kon hayn*?" Alert News, https://alert.com.pk/archives/7842. ʿAbd al-Ḥalīm Chishtī's PhD is in library science.

[128] In some cases, these students are even sponsored by some *madrasas* such as is the case at Jāmiʿa Ashrafiyya Lahore.

However, another issue has almost always bedeviled them. This is the dominant rhetoric in Deobandī circles which sees advanced degrees as nothing more than seeking *dunyā* and thus blameworthy. This is why, the number of people going for higher education is still quite small considering the number of students graduating from *ʿĀlimiyya* programs every year.[129]

Moreover, receiving an M.Phil. or a Ph.D. in Islamic studies only indicates an engagement with the modern institution of the university and modern methods of research. The subject matter remains unchanged. The number of Deobandīs who actually consider pursuing modern knowledge such as the social sciences to be important is even smaller.[130] Among them are Taqī ʿUsmānī and his older brother Rafīʿ ʿUsmānī, who is on record having identified five main areas of modern knowledge, viz., philosophy, economics, politics, medicine, and law where work needs to be done by *ʿulamā*.[131] Nevertheless, even though these two brothers run Dār al-ʿUlūm Karachi (DUK), there has been no major change in the *ʿĀlimiyya* program. The changes that have taken place are outside of it. Thus, DUK requires ten years of basic schooling before the start of the *ʿĀlimiyya*, two more years than what the Wifāq requires. The idea is that first students gain broad-based knowledge in all fields thereby also developing common bonds with broader society, and then they

[129] A good resource for the number of *ʿĀlimiyya* graduates is the Wifāq. Although most Deobandī *madrasas* are affiliated with the Wifāq today, this was not always the case, especially before 1980. Thus, the actual number of *ʿĀlimiyya* graduates is always going to be a little higher than what the Wifāq's record indicates. According to the Wifāq's official history, the average number of male students participating in the final exam for the *ʿĀlimiyya* program every year tended to be a little over 200 in the 1960s, 300-400 in the 1970s, 1,500 in the 1980s, and around 2,000 in the 1990s. Since 2000, there has been a massive increase, going from 1,976 in 2000 to 9,061 in 2016. See ʿĀbbāsī, *Wifāq al-Madāris al-ʿArabiyya Pākistān*, 430-437. Overall, the number of male students who have successfully taken Wifāq's *ʿĀlimiyya* exam from its inception in 1960 till 2020 is 174,540, and that of female students is 223,523. See "*Taʿāruf*," Wifāq al-Madāris al-ʿArabiyya Pakistan, http://www.wifaqulmadaris.org/pages/introduction.php. There is no reliable data for the number of *ʿĀlimiyya* graduates who pursue advanced degrees. As such, my conclusions are based on my personal impressions of the current situation in Pakistan.

[130] A very insightful account of Deobandī elders' attitude toward *ʿĀlimiyya* degree recognition, modern knowledge and advanced degrees in various fields is given in Muḥammad Tufayl Hashimi, "*Dīnī madāris kay wifāqon ko darpaysh naya marḥala*," *al-Sharīʿa* 32, no. 6 (2021): 27-29. Hashimi recounts his personal experience and frustrations trying to convince Deobandī elders to agree to a partnership with a major Pakistani university.

[131] See Muḥammad Rafīʿ ʿUsmānī, "*Tamhīdī khiṭāb*," in Muḥammad Taqī ʿUsmānī, *Islām aur siyāsī naẓariyāt* (Karachi: Maktaba Maʿārif al-Qur'ān, 2011), 3-5.

dedicate themselves to Islamic sciences. Secondly, DUK offers a number of programs that help train its *ʿĀlimiyya* graduates as Islamic finance professionals. Many other DUK students go on to pursue further studies in various fields. In fact, Taqī ʿUsmānī's own son completed a PhD in economics from the University of Karachi. However, there does not seem to be any formal guidance provided to students in this regard. Moreover, there seems to be a very conscious attempt to safeguard the "religious" character of the *ʿĀlimiyya* program.

Interestingly, DUK's policy or even Wifāq's policy of requiring eight years of basic schooling, show the contradictions of Deobandī thought. On the one hand, they are unwilling to integrate modern subjects into the *ʿĀlimiyya* program because they are not Islamized and the teachers are most likely not properly religious. On the other hand, Deobandīs are themselves requiring their students to spend the formative years of their lives in the mainstream educational system studying un-Islamized modern knowledge, often at the hands of unreliable people thereby imbibing all those ideas that Deobandīs consider to be problematic. Furthermore, even though Islamic texts studied in the *ʿĀlimiyya* program contain discussions on all aspects of human existence, the distance between modern education and religious education leads to an overemphasis on matters of worships. Consequently, Deobandīs themselves end up reinforcing narrow definitions of religion as pertaining to matters of belief and worship only.

3.8: Conclusion

In the foregoing I have charted the historical evolution of the premodern Islamic academic complex (PIAC) and its interactions with the modern Western academic complex. Among the key distinguishing features and strengths of the PIAC were its organic nature allowing it to cater to the needs of the individual, special position of the teacher vis-à-vis the institution of the *madrasa*, and

the composite nature of the curriculum followed. This composite curriculum comprised three main areas of study, namely religious sciences, Arabic sciences, and other ancillary sciences. The last-mentioned sciences included logic and philosophy as well as medicine, mathematics, and astronomy. Moreover, medieval Muslim philosophy aka *falsafa* contained within it among other things the precursors to many modern social sciences such as economics and politics. The benefit of such training was that graduates of this premodern curriculum called *dars-i niẓāmī* in early modern India were well-rounded individuals capable of holding diverse positions such as those of religious functionaries, teachers, scribes, and even administrators.

The holistic nature of Muslim education in India was broken with the arrival of the British whose policies and Muslim reactions to them resulted in the emergence of two rival educational systems among Muslims, one patterned on the British model with merely a veneer of Islam and the other in the form of religious seminaries aka *madrasas*. This bifurcation which has persisted to this day in Pakistan and in which modern schools and colleges are the mainstream while *madrasas* are the fringe has been one of the key factors for the growth of countercultural tendencies among Deobandīs which in turn, limits the impact of their ideas on broader Pakistani society.

At the same time, as we saw above, these *madrasas* have also been evolving since the first one was established at Deoband in 1866. Thus, even though the educational system at Dār al-ʿUlūm Deoband was initially an elementary school, middle school, high school, and college rolled into one, it today comprises multiple stages, namely kindergarten (one year), primary schooling in Urdu and Persian (five years), the main *ʿĀlimiyya* program (eight years), and various postgraduate programs (one to two years). The result is an educational system that may not fully correspond to the modern educational system prevalent in India but is not very different either. The case of Pakistani *madrasas* is somewhat different since they require eight or ten years of basic schooling

before the eight-year *ʿĀlimiyya* program. Consequently, their *ʿĀlimiyya* degree is considered the equivalent of an MA in Arabic & Islamic studies in Pakistan.

With respect to curriculum, Deobandīs *madrasas* have been undergoing constant change as well. While the pace of change is not as quick as many critics would like, it still means that Deobandī *madrasas* now have a very different curriculum. In the case of Dār al-ʿUlūm Deoband, its *ʿAlimiyya* curriculum is less comprehensive than before whereas Pakistani *madrasas* have a slightly more comprehensive curriculum. In any case, the *ʿĀlimiyya* program when combined with the *Iftā'* program provides formidable training in Islamic sciences including *fiqh* and *fatwā*-giving.

Despite the above, Pakistani Deobandī *madrasas* face significant structural weaknesses which limit what their graduates can and cannot do. One of these is that even though the curriculum is quite comprehensive, it is so only with reference to the religious sciences. Premodern *falsafa* and other ancillary sciences that constituted almost one-third of the *ʿĀlimiyya* program until the middle of the twentieth century have been almost completely phased out without being replaced by their modern equivalents. As such, Deobandī engagement with modern knowledge is minimal. Moreover, their approach to modern knowledge is characterized by defensiveness and insecurity which results in contradictory stances. On the one hand, students are required to study un-Islamized modern sciences in regular schools at the hands of teachers with unreliable religious beliefs before joining the *ʿĀlimiyya* program. On the other hand, students are not given the training needed to Islamize these modern sciences. The main reason for this contradiction is that most Deobandīs see modern knowledge more as a threat than a useful tool.

Another key element that can potentially limit Deobandis' ability to affect change in Pakistani state policies is the general Deobandī attitude of preferring transmission of knowledge to production of new knowledge. This is reflected in their emphasis on preaching, on mass

education, and the significantly less attention given to producing researchers and intellectuals. Hence the limited attention given to formal intellectual exchange among Deobandī *ʿulamā'* and limited training given in research methods. Consequently, there have been only few attempts at setting up academic societies and journals. The first nationwide venue for scholarly exchange among Indian Deobandīs, i.e., Indian Fiqh Academy (IFA) emerged only in 1989 and Pakistan still does not have any comparable national-level body. Although there is a growing number of Deobandī *madrasa* graduates pursuing advanced research degrees in Islamic studies at Pakistani universities, their impact on *madrasa* education seems to be minimal. This is the result of their small numbers as well as Deobandī pedagogy which leaves little room for innovation.

Lastly, as we saw in the previous chapter and this one as well, the *akābir* serve as custodians of change in Deobandī institutions and organizations. Unless a Deobandī elder is convinced of the need to engage with modern knowledge, not much will happen on that front. Most Deobandī *akābir* prioritize transmission of knowledge and spiritual training over intellectual pursuits. Thus, only a small number of them are responsible for the bulk of the vast Deobandi scholarly output over the past century and a half. Moreover, as I discussed earlier, most of this scholarly output is geared towards transmission of knowledge while most production of new knowledge takes place within the domain of *fatwās*.

All of these factors cited above play a role in determining how well or poorly Deobandīs articulate and seek to implement an Islamic economic policy in Pakistan, and it is to this I now turn.

CHAPTER FOUR

ECONOMICS AND FINANCE

Among the many areas of modern life that have been irrevocably transformed, economics and finance is an important one. Deobandīs are conscious of this, and their writings show it. Significant portions of their *fatwā* collections whether from the nineteenth century or later deal with issues pertaining to contract law in the context of new situations that have arisen since the arrival of the British in India. Moreover, despite their otherwise homogenous appearance, Deobandī writings display a certain degree of diversity on various matters including those concerning modern economics and finance.

This chapter has three main parts. The first part comprising two sections serves as an introduction. One section provides a brief overview of Western economic thought and the second does the same for Islamic economic thought. The second part is dedicated to an exposition of Deobandī economic thought. For this, I focus on three sets of works, the earliest works on Islamic economics by Ḥifẓ al-Raḥmān Seohārvī (d. 1962) and Munāẓir Aḥsan Gīlānī (d. 1956), the various works that appeared in the late 1960s that offered concrete policy proposals, and lastly more recent works authored by Taqī ʿUsmānī that suggest a significant shift in Deobandī attitudes towards economics and towards economic policymaking in Pakistan. The third part of the chapter discusses Deobandī views on banking with a special focus on Islamic banking and the intra-Deobandī debate surrounding it.

I begin by briefly examining the history of Western economic thought.

PART I: INTRODUCTION

4.1: Western Economic Thought

The modern discipline of economics deals with a range of issues such as money, work, trade, taxes, distribution/allocation of resources, consumption, etc.[1] Among these, the most important area has been finance, or the art and science of money management. While the discipline of economics is of recent vintage, its roots can be traced all the way back to the ancient Greeks. The Greeks had developed a science called *oikonomikos* meaning management of a household. From this basic level of economic thinking, Greek philosophers extrapolated ideas relevant to the management of a city-state, the *polis*.

Some of the economic issues discussed by Greeks included efficient management of the means of production, private property vs. collective ownership, division of labor, social stratification, etc.[2] These ideas including the two kinds of sciences dealing with the household and the city-state were later adopted by both Christian and Muslim thinkers. Thus, emerged *ḥikma ʿamaliyya* (practical philosophy) among medieval Muslim thinkers with separate categories of *tadbīr al-manzīl* (management of household) and *siyāsa madaniyya* (political management/economics).[3] The most important characteristic of this *oikonomikos* as practiced by the Greeks and the Romans, and then the Christians and the Muslims, was its integrated nature.

[1] In contemporary usage, the word "economy" is defined in a myriad of ways with most definitions focusing either on methodology or a particular theoretical approach. A simpler approach might be to define economics in terms of its subject matter, which is what I follow here, inspired by the work of Ha-Joon Chang. See Ha-Joon Chang, *Economics: The User's Guide* (New York: Bloomsbury Press, 2014), 15-22.

[2] For a brief overview of economic thought among the Greeks, see Alessandro Roncaglia, *A Brief History of Economic Thought* (Cambridge: Cambridge University Press, 2017), 14-16. An important text regarding household management was the *Oikonomikos* of Xenophon (430-355 BC), and economic ideas in the context of political institutions were discussed in both the *Republic* of Plato (427-347 BC) and the *Politics* of Aristotle (384-322 BC).

[3] For a brief overview of the development of economic thought in early Islamic history including its absorption of Greek thought and then transmission of this thought to Europe, see Abdul Azim Islahi, *History of Islamic Economic Thought: Contributions of Muslim Scholars to Economic Thought and Analysis* (Cheltenham, UK: Edward Elgar, 2014), 7-19.

Economic issues were never looked at in isolation. They were examined in relationship with ethical and political issues, and in the case of Christians and Muslims, also in the light of theological doctrines.[4]

This method of integrated evaluation of economic issues continued throughout the medieval period. However, some new developments in early modern Europe began to change the nature of economic thought there.[5] Broadly speaking, these developments can be divided into two categories, theoretical and practical. On the theoretical side, the Renaissance, the Reformation, and the Scientific Revolution created an environment where the idea of material gain/profit which had been strongly despised in Christian thought became more widely acceptable.[6] Moreover, the emergence of a materialistic-mechanical view of the physical world encouraged quantitative thinking about economic issues that was thought to be objective and value-neutral, and hence in no need of theological or ethical input. With respect to the practical developments, early modern Europe underwent a massive transformation from the thirteenth to the eighteenth centuries. This period was characterized by the growing demise of feudalism, emergence of national identities and then nation-states, increased power of the merchant classes, the industrial revolution, and eventually the emergence of a market economy in which factors of production such as land, labor

[4] For a brief overview of Christian economic thought in the medieval period, see Roncaglia, *A Brief History of Economic Thought*, 16-22.

[5] My description of these developments primarily relies on Robert Heilbroner, *The Worldly Philosophers: The Lives, Times, and Ideas of the Great Economic Thinkers* (New York: Touchstone, 1995), 18-38; and Roncaglia, *A Brief History of Economic Thought*, 22-57.

[6] Covetous and greedy people have, of course, always existed in human society, and that was true of Europe as well. However, as Heilbroner points out, overt greed and covetousness often tended to be confined to the elites. Beginning with the Renaissance, and then the discovery of the New World, profit-seeking achieved a level of popular acceptance that was unprecedented. See Heilbroner, *The Worldly Philosophers*, 18-38.

and capital were significantly more mobile (available for sale/purchase/exchange) than they had ever been in European history.[7]

Thus, was born the system that we today call capitalism. Besides its focus on the market economy, capitalism's key ingredient is capital as a process and not merely as money or tools. Capital in the meaning of wealth or even tools for producing wealth (capital goods) has existed from time immemorial. However, capital in the case of capitalism refers to the idea of using capital-as-money to produce capital-as-commodity which is then again used to produce capital-as-more-money. This MCM process, as Karl Marx (d. 1883) called it,[8] is also not unique to the modern world. Merchants throughout history have used money to acquire wealth in various forms and used that to make more money. What makes it unique is the extent to which capitalist enterprise dominates society. Capitalist enterprise in pre-capitalist societies tended to occupy a marginal position whereas in modern western societies, capitalism occupies center stage.[9] Now, the market is not just a place for exchanging goods and services, it has become "a mechanism for sustaining and maintaining an entire society."[10]

As alluded to earlier, practical developments in western Europe and North America were accompanied by theoretical developments. The theoretical justification for free markets and the desire to accumulate came most prominently from the works of Adam Smith (d. 1790). As the

[7] Heilbroner, *The Worldly Philosophers*, 27-33. Heilbroner calls land, labor, and capital as the agents of production. Others such as Bruce Scott call these factors of production. See Bruce R. Scott, *The Concept of Capitalism* (Berlin: Springer, 2009).

[8] Karl Marx, *Capital: A Critique of Political Economy*, trans. Ben Fowkes (London: Penguin Books, 1982), 1:247-257.

[9] Robert Heilbroner, *The Nature and Logic of Capital* (New York: W. W. Norton, 1985), 33-38.

[10] Some scholars such as Braudel and Friedman have tried to trace capitalism all the way back to the ancient times since markets and trade have existed for millennia. Others such as Heilbroner and Bruce Scott counter that the market system that emerged in eighteenth century Western Europe and North America was unique in that it governed all or most of society. See Heilbroner, *The Worldly Philosophers*, 26-27, and Bruce R. Scott, *Capitalism: Its Origins and Evolution as a System of Governance* (New York: Springer, 2011), 140-144.

founder of what is now called the Classical School of economics, Smith's primary contribution lay in explaining how the market system worked despite the absence of any central planning authority. His explanation was the invisible hand of the market, i.e., the opposing but complementary forces of individual self-interest and market competition lead to the provision of goods that a society wants, in the quantity that it wants, and at the prices which it is willing to pay. In other words, the market is a miraculously "self-regulating system for society's orderly provisioning."[11]

Perhaps even more important than his description of the invisible hand and the role that division of labor played in enhancing productivity and hence profits, was Smith's approval and justification of accumulation. Smith believed that accumulation of capital was good for society because accumulation meant more investments into machinery which meant more profit.[12] Although Smith's thought was more complex than what the above would suggest, his works ended up providing a theoretical justification for an acquisitive attitude that was already quite prevalent in Western societies but still often had to face stiff resistance from ascetic Christian tendencies.[13]

A little after Smith, the nineteenth century saw the emergence of an ethical philosophy which was also to have profound consequences for Western thought and by extension for the world. This was Utilitarianism as espoused by Jeremy Bentham (d. 1832), John Stuart Mill (d. 1873) and others. Basically, utilitarianism is an approach within normative ethics which defines acts as good or bad in terms of their utility. That is to say, an act is morally right if it produces the

[11] Heilbroner, *The Worldly Philosophers*, 57.

[12] Accumulation of capital does pose the problem of higher wages and thus eventual loss of profits. Smith's answer is that higher wages would lead to a higher population which would then lead to lower wages. For more on this, see Heilbroner, *The Worldly Philosophers*, 65-67.

[13] Heilbroner gives anecdotal evidence of these kinds of tendencies among European Christians. See Heilbroner, *The Worldly Philosophers*, 21-27. On the role of Adam Smith, see Heilbroner, *The Worldly Philosophers*, 38-74, and Roncaglia, *A Brief History of Economic Thought*, 58-77.

most good for most people. While there are many variations among utilitarianists, they tend to agree in defining utility in terms of pleasure vs. pain. Its main implication for economics was further justification of the desire to amass capital. The concept of utility ended up being borrowed by economists and came to be influential in not just the Classical but the later Neoclassical school as well.

The nineteenth century also witnessed the emergence of a strong reaction to the rise of capitalism from those who felt that capitalism had only increased the suffering of the poor masses. Socialists, as they came to be called, were focused on reducing income inequality and improving the condition of the labor class. Among these socialists or critics of capitalism was Karl Marx who considered economics to be fundamental to the organization of a society. For him, society comprised two broad classes engaged in conflict. These were the owners of the means of production (the bourgeoisie) and the laborers (the proletariat). His solution was a dictatorship of the proletariat that would do away with private property and create an equal society. His ideas and those of other socialist thinkers were quite influential in the nineteenth and the twentieth centuries, until the collapse of the Soviet Union in 1991. Many of the Deobandī authors considered here wrote in the shadow of the global conflict between capitalism and socialism, as we will see below.

4.2: Islamic Economic Thought

Commercial issues are dealt with quite extensively in Islamic primary texts (Qur'an and *ḥadīth*) and there is a vast body of literature on contract law in the larger context of *fiqh*.[14] Similarly, there is a long list of premodern Islamic scholars who dealt with economic issues. Some of the prominent

[14] For an excellent overview of economic ideas found in the Qur'an and *ḥadīth* literature, see Ahmed El-Ashker and Rodney Wilson, *Islamic Economics: A Short History* (Leiden: Brill, 2006), 30-91. For a discussion of major authors and works on economic topics in the premodern period, from Abū Yūsuf to Ibn Khaldūn, see El-Ashker and Wilson, *Islamic Economics: A Short History*, 155-283.

names include Abū Yūsuf (d. 798), Abū Ḥāmid al-Ghazālī (d. 1111), Ibn Taymiyya (d. 1328), Ibn Khaldūn (d. 1406), al-Maqrīzī (d. 1442), Jalāl al-Dīn al-Suyūṭī (d. 1506), al-Tumurtāshī (d. 1598), Shāh Walī Allāh (d. 1762), etc. Similarly, some of the key themes they discussed include theories of value, market and pricing, production and distribution of wealth, monetary theory, role of governments in economic affairs, etc.[15]

Nevertheless, it is also true that economics never emerged as a distinct discipline in the Islamic scholarly tradition.[16] It, therefore, seems highly likely that the emergence of Islamic economics in the second quarter of the twentieth century was not driven by internal factors. Rather, it was a response to what was seen as attacks on Islam. Early proponents of Islamic economics were driven primarily by a desire to demonstrate the comprehensive nature of Islam, i.e., Islam is not merely a religion in the modern sense which is a private affair of individuals but that it also governs communal affairs such as politics, economics, law, etc. Among the early writers on the

[15] Western historians of economic thought often tend to ignore Islamic economic thought. Thus, Joseph Schumpeter famously put forth the great-gap thesis which postulated that there was a gap of 500 years in economic thought between the Greeks and the Renaissance-era theologian Thomas Aquinas (d. 1274). See Joseph Schumpeter, *History of Economic Analysis*, ed. Elizabeth Schumpeter (London: Routledge, 2006), 2-30. Modern Muslim scholars have sought to counter such omissions. See, for example, the previously cited Islahi, *History of Islamic Economic Thought*. This work deals with Islamic economic thought up to the 15th century. His other works deal with early modern thinkers. See Abdul Azim Islahi, *A Study of Muslim Economic Thinking in the 11th AH/17th CE Century* (Jeddah: King Abdulaziz University Press, 2011); Abdul Azim Islahi, *Islamic Economic Thinking in the 12th AH/18th CE Century: With Special Reference to Shah Wali-Allah al-Dihlawi* (Jeddah: King Abdulaziz University Press, 2011); and Abdul Azim Islahi, *Economic Thinking of Arab Muslim Writers during the Nineteenth Century* (Hampshire, UK: Palgrave Macmillian, 2015).

[16] Although it is beyond the scope of this dissertation to discuss why economics did not emerge as a distinct science in the Islamic civilization, I can offer a few possible reasons here. One possibility is that this was because Muslims considered Islam to be an organic whole whose various parts should not be looked at in isolation. This is indeed the reason put forward by the Indian Deobandī scholar Ḥifẓ al-Raḥmān Seohārvī whose ideas I discuss later in this chapter. See Ḥifẓ al-Raḥmān Seohārvī, *Islām kā iqtiṣādī niẓām* (Lahore: Mushtāq Book Corner, 2006), 25-27. However, this is countered by the very clear separation between theology, law, and spirituality that emerged early in the Islamic scholarly tradition. Another possible explanation could be that Muslims could not conceive of economic activity as separate from other areas of *fiqh* and so kept it within the larger domain of *fiqh*. This seems more plausible but requires further research and substantiation. Another possible explanation could be that the extent to which economic activity or the desire to seek profit came to dominate Europe never happened in Muslim lands, and so there was no need to develop a separate science of economics. This explanation obviously is connected to the hotly debated question of why capitalism (and industrialization) first emerged only in the West and nowhere else, which is beyond the scope of this work.

subject were traditional *ʿulamā* as well as reformist activists such as people who later came to be associated with the *Jamāʿat-i Islāmī* and *al-Ikhwān al-Muslimūn*.[17] Prominent scholars from the Arab world as well as India took an early lead in this project.

What had started as a trickle became a burgeoning field in the 1960s and 70s. Already in late 1970s when the first international conference on Islamic economics was held in Saudi Arabia, hundreds, if not thousands, of books and articles had been written on the topic in multiple languages including Arabic, English, Urdu and Turkish.[18] Most of the people involved in this explosive growth in literature on Islamic economics were Muslim academics, trained in modern universities but with extensive knowledge of Islamic sciences. Since the 1970s, however, there has been a gradual financialization of Islamic economics.[19] That is, scholars' attention has turned from larger theories about economics to the more mundane task of creating practical financial products. Thus, the Islamic Development Bank (IDB) was established in Jeddah in 1975 as a multilateral development finance institution with a focus on Islamic finance. This period also saw the emergence of several Islamic banks. In the meantime, there was also a push to train Islamic finance professionals. Thus, IDB established the Islamic Research and Training Institute (IRTI) in Jeddah

[17] Among *Jamāʿat-i Islāmī* circles, its founder Sayyid Abu al-Aʿlā Mawdūdī is often presented as the founder of Islamic economics. It is not clear whether he is the earliest person to have written on it. Nevertheless, he is one of the earlier authors on the topic. For a critical look at Mawdūdī's role in the rise of Islamic economics by an economist, see Arshad Zaman, "Mawlānā Mawdūdī and the Genesis of Islamic Economics," presented at the Ninth International Conference on Islamic Economics and Finance (ICIEF) titled *Growth, Equity and Stability: An Islamic Perspective*, held on 9-11 September 2013, Istanbul Turkey. https://www.academia.edu/2762176/Mawlana_Mawdudi_and_the_Genesis_of_Islamic_Economics, accessed July 10th, 2019.

[18] See Nejatullah Siddiqi, "Muslim Economic Thinking: A Survey of Contemporary Literature," in *Studies in Islamic Economics: A Selection of Papers Presented to the First International Conference on Islamic Economics, Held at Makka, Under the Auspices of King Abdul Aziz University, Jeddah, February 21-26, 1976 (Safar 21-26, 1396 H.)*, ed. Khurshid Ahmed, (Jeddah and Leicester: International Center for Research in Islamic Economics King Abdul Aziz University and The Islamic Foundation, 1980), 191-315.

[19] Taha Eğri and Necmettin Kizilkaya, eds., *Islamic Economics: Basic Concepts, New Thinking and Future Directions* (Newcastle, UK: Cambridge Scholars Publishing, 2015), vii.

in 1981. Later, when the International Islamic University Malaysia was established in 1983, it emerged as a major training center for Islamic finance. With the increased focus on Islamic finance, the role of *ʿulamā* in the field also increased. One possible reason is that this was because of their extensive training in the minutiae of law especially contract law which is extremely relevant to finance.

Despite all this work, there is still no consensus on what counts as Islamic economics. In a recent article, Hafas Furqani collected twenty-one definitions of Islamic economics.[20] Broadly speaking, there are two main approaches to Islamic economics. Some scholars adopt a pragmatic approach, i.e., they maintain the subject-matter of conventional economics and merely approach it from an Islamic perspective. Thus, Rafīq Yūnus al-Maṣrī defines Islamic economics as the study of scarce resources and their development in order to fulfil human needs in accordance with Islamic ruling.[21] This, however, entails endorsing the secular foundations of modern economics. Therefore, other Islamic economists argue that the economic question is different in Islam and that is why the Islamic solutions are also different.[22] They use Islamic texts especially the Qur'an and Sunna as their starting point. Thus, M. Akram Khan defines Islamic economics as "the study of human *falāḥ* achieved by organizing the resources of the earth on the basis of cooperation and participation."[23] More recently, Asad Zaman used more explicit language to define Islamic economics as "the effort/struggle to implement the orders of Allah pertaining to economic affairs

[20] Hafas Furqani, "Defining Islamic Economics: Scholars' Approach, Clarifying the Nature, Scope and Subject-Matter of the Discipline," *TUJISE Turkish Journal of Islamic Economics* 5.2 (2018): 76-84.

[21] Rafīq Yūnus al-Maṣrī, *Buḥūth fi al-iqtiṣād al-Islāmī* (Damascus: Dār al-Maktabī, 2009), 22.

[22] Furqani, "Defining Islamic Economics," 73-76.

[23] Muhammad Akram Khan, *An Introduction to Islamic Economics* (Islamabad: The International Institute of Islamic Thought and Institute of Policy Studies, 1994), 33.

in our individual lives (micro), in our communities (meso), and at the level of the Ummah (macro)."[24]

The various themes that Islamic economists explore in their exposition of Islamic economics include theology, human nature, consumer behavior, private property, poverty, role of government in economic affairs, and the role of money especially with regards to interest, debts, and banking. It is beyond the scope of this dissertation to engage with the whole field of Islamic economics. However, since Deobandī economic thought is a small subset of the broader Islamic economics discourse, I will be referring to these broader discussions as and when needed.

PART II: DEOBANDĪ ECONOMIC THOUGHT

4.3: Deobandī Scholarship on Economics

The starting point of this dissertation was the recent debate among Pakistani Deobandīs regarding Islamic banking, and I will examine it in more detail later in this chapter. However, one can draw better conclusions from it when Deobandī scholarship on economics is kept in view. Quite a few Deobandī *ʿulamā* have written on economic issues, but the ones considered here are six, namely Munāẓir Aḥsan Gīlānī (d. 1956), Ḥifẓ al-Raḥmān Seohārvī (d. 1962), Sayyid Muḥammad Miyān (d. 1975), Muḥammad Shafīʿ (d. 1976), Muḥammad Idrīs Mīrathī (d. unknown), and Muḥammad Taqī ʿUsmānī (b. 1943). On the whole, there is considerable agreement among these authors regarding economic issues. The main change over time, besides the variation in writing styles, is the relative emphasis that various issues receive. This will become clear as this chapter proceeds.

Seohārvī and Gīlānī are among the earliest Indian authors on Islamic economics. Although both were prominent graduates of Dār al-ʿUlūm Deoband, their public roles could not be further

[24] Asad Zaman, "Re-defining Islamic Economics," in *Islamic Economics: Basic Concepts, New Thinking and Future Directions*, ed. Taha Eğri and Necmettin Kizilkaya (Newcastle, UK: Cambridge Scholars Publishing, 2015), 59.

apart. Seohārvī was a senior member of the politically active *Jamʿiyyat ʿUlamā-i Hind* (JUH) while Gīlānī was a professor of Islamic studies at the Osmania University in the princely state of Hyderabad in central India. Both were prolific authors, but it is their respective works on Islamic economics that I will discuss here. These are Seohārvī's *Islām kā iqtiṣādī niẓām* [The Economic System of Islam] and Gīlānī's *Islāmī maʿāshiyāt* [Islamic Economics].

Seohārvī's *Islām kā iqtiṣādī niẓām* is the earliest. First published in 1939 and then in 1942 and 1946, the work is comprehensive.[25] Although Seohārvī was responding to a need in his time, namely, to articulate an Islamic vision of economics, his approach is not reactionary. Rather, he appears to be writing firmly within the premodern Islamic tradition of *ḥikma ʿamaliyya*. Nevertheless, he shows remarkable familiarity with the latest economic theories of his time from Adam Smith to John Maynard Keynes (d. 1946). Starting with various definitions of economics, the author goes on to explain what Islamic economics means theologically and practically. His discussion of the practical dimensions of Islamic economics proceeds from the individual to the collective, somewhat like microeconomics and macroeconomics, although it seems more likely that his inspiration is drawn from premodern Muslim thinkers, i.e., *tadbir al-manzil* and *siyāsa madaniyya*. In the process, he weaves together theology, psychology, politics & policymaking, law, economics, and spirituality. The book serves as the first systematic articulation of Deobandī theory of economics, as well as the first book-length work on Islamic economics in Urdu. The book continues to be read today as demonstrated by its continued reprinting as well as the recent publication of an annotated edition.[26]

[25] All subsequent printings have been based on the third edition.

[26] See Ḥifẓ al-Raḥmān Seohārvī, *Islām kā iqtiṣādī niẓām*, ed. Nur Muḥammad Ghaffārī (Karachi: Shaykh al-Hind Academy, 2010). This edition is heavily annotated which can be distracting at times. I have, therefore, chosen to use the 2006 reprint of the third edition as the main reference in this dissertation.

Published in 1945, Gīlānī's *Islāmī maʿāshiyāt* is also comprehensive like Seohārvī's but the author comes across as less familiar with modern economic theories. Moreover, his long-winded writing style with extensive tangential discussions limits its utility. Thus, even though the book continues to be published today, pervasive typing errors especially with respect to Arabic and Persian quotations suggest limited engagement from readers with the text. Originally written as a series of shorter articles in various journals such as *Maʿārif* of Azamgarh, these were later compiled to form this book. Interestingly, Gīlānī writes in his foreword that his work is the first book in Urdu on the topic.[27] It seems that he had no idea that Seohārvī had written his work a few years earlier. This further suggests that the two did not move in the same circles.

Broadly speaking, this work has two main parts. The first which spans three-fifths of the book is a single chapter and deals with the key assumptions that are necessary to construct an economic theory. These assumptions pertain to theology, human nature and spirituality, monasticism vs. pursuing economic activities, etc. These discussions are the most extensive among all Deobandī authors considered here and will be discussed at some length below. Moreover, more than any other Deobandī, Gīlānī's presentation is filled with extensive quotations from the Qur'an. Only Seohārvī comes close in this regard. The second part of the book has one very short and two long chapters. These deal with larger theoretical and practical issues of economics and finance, and thus will be drawn upon in my discussion of meso and micro level issues.[28] What is interesting about Gīlānī is that he comes across as acutely self-aware of his lack of any formal or informal

[27] Munāẓir Aḥsan Gīlānī, *Islāmī maʿāshiyāt* (Lahore: Sang-e-Meel Publications, 2007), 27-28.

[28] Gīlānī has titled the second part as *Islāmī maʿīshat kay qānūnī abwab*, i.e., legal dimensions of Islamic economics. Despite the title, this part does not deal with the minutiae of Islamic contract law pertaining to economics and finance. Rather, the author seeks to find general principles governing these details of Islamic contract law.

training in economics. Nevertheless, he chose to write this work to make people aware of the details of the Islamic economic system.[29]

The third author considered here, Sayyid Muḥammad Miyān, was also Indian like Seohārvī and Gīlānī. His work *Daur-i ḥāzir kay siyāsī aur iqtiṣādī masāʾil aur Islāmī taʿlīmāt-o ishārat* [Contemporary Political and Economic Issues and Islamic Teachings] is basically a collection of short articles that were probably written over an extended period of time including some in the late 1960s. Like Seohārvī, Miyān was a senior member of *Jamʿiyyat ʿUlamā-i Hind,* and his work references Seohārvī's in a number of places. However, unlike Seohārvī's or Gīlānī's, this work is not comprehensive, and more a response to specific issues current in his time, primarily socialism. One of the constant themes in this book is the importance of private property to civilization as Islam conceives it. Moreover, like Seohārvī and Gīlānī, this work also weaves theology, psychology, law, economics, and spirituality into a somewhat comprehensive view of Islamic economics.

Moving now to Pakistan, the late 1960's saw the publication of a number of works by Deobandī *ʿulama* based there. Two of these were authored by Muḥammad Shafīʿ (d. 1976), Taqī ʿUsmānī's father, and the third was the result of a conclave of *ʿulamā* held in Karachi. All three of these works were responding to the situation in Pakistan at the time. During the 1960's, Ayyub Khan's economic policies had caused rapid industrialization in Pakistan, but this had come at the cost of extreme income inequality, and there were growing calls for socialism. Some, like Zulfiqār ʿAlī Bhutto (d. 1979), the future prime minister of Pakistan, and the head of the populist Pakistan People's Party was promoting what he called Islamic socialism.

[29] Gīlānī, *Islāmī maʿāshiyāt*, 27.

In this context, Shafīʿ wrote two short treatises, one titled *Islām kā niẓām-i taqsīm-i daulat* [The Islamic System of Distribution/Circulation of Wealth], and the other titled *Islāmī niẓām kay teḥat maʿāshī iṣlāḥāt* [Economic Reforms Under an Islamic System].[30] In the first one, he sought to critique capitalism and socialism and provide an Islamic alternative. Although all Deobandīs engage in critiquing capitalism and socialism to a certain extent, Shafīʿ's critique is the most concise and lucid. Later works like Taqī ʿUsmānī's build on this.[31] Moreover, as the name of the work suggests, it is not meant as a comprehensive presentation of Islamic political economy. Rather, it is focused on production and distribution of wealth. Moreover, it is a theoretical work devoid of concrete policy recommendations. Shafīʿ did that in his other work discussed below.

Shafīʿ's *Islāmī niẓām kay teḥat maʿāshī iṣlāḥāt* was a response to the economic conditions in Pakistan at the time (late 1960s) and sought to present Islam as the third and better option than either capitalism or socialism. The work contains recommendations pertaining to economic, administrative, and social issues as well as general suggestions. The recommendations of this work were later presented to the government by a group of *ʿulamā* as their agreed upon recommendations. These *ʿulama* included Deobandīs, Barelvīs, *Ahl-i Ḥadīs*, and Shīʿīs.

In May 1969, a year or so after these publications, Yūsuf Banūrī called a gathering of senior Deobandī *ʿulamā*, most of them based in Karachi, to discuss the economic situation in Pakistan and to articulate an Islamic solution. Held at Banūrī Town Madrasa, those attending included the following besides Yūsuf Banūrī:

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[30] The first of these was initially a conference paper that was eventually published as a book in 1968. See Muḥammad Shafīʿ, *Islām kā niẓām-i taqsīm-i daulat* (Karachi: Dār al-Ishāʿat, 1969). The other was written around the same time, but I was unable to locate an original edition. It is currently printed as part of a larger multi-volume work on Islamic economics titled *Islām aur jadīd maʿāshī masā'il*. See Muḥammad Shafīʿ, "*Islāmī niẓām kay teḥat maʿāshī iṣlāḥāt*," in Muḥammad Taqī ʿUsmānī, *Islām aur jadīd maʿāshī masā'il*, ed. Maḥmūd Aḥmad (Lahore: Idāra Islāmiyāt, 2008), 81-102.

[31] The first third of Taqī ʿUsmānī's *Islam aur jadīd maʿīshat* is dedicated to a critique of capitalism and socialism. On close inspection it becomes clear that this section is basically a slightly modified version of Shafīʿ's discussion.

1. Muftī Maḥmūd from the *madrasa* Qāsim al-ʿUlūm in Multan.[32] He later became the head of *Jamʿiyyat ʿUlama-i Islām* (JUI) which is currently headed by his son Mawlānā Fazlur Raḥmān.
2. Muftī Walī Ḥasan Tonkī, a senior muftī based at Banūrī Town madrasa.
3. Muftī Rashīd Aḥmad from Madrasa Ashraf al-Madāris. Muftī Rashīd later founded Dār al-Iftā wa al-Irshād and al-Rashīd Trust. His students later established Jāmiʿat al-Rashīd, also in Karachi. Madrasa Ashraf al-Madāris was under the supervision of Thānvī affiliates including the late Ḥakīm Akhtar, a successor of a successor of Ashraf Thānvī.
4. Muftī Shafīʿ was also invited. He could not attend because of his ill health, and his two sons Taqī ʿUsmānī and Rafīʿ ʿUsmānī attended in his stead.

Findings of the conclave which lasted for ten days, were first written as a series of short articles in Banūrī Town Madrasa's monthly magazine *Bayyināt* by a senior lecturer at the madrasa, Muḥammad Idrīs Mīrathī.[33] This work remained buried in *Bayyināt* until 2011 when it was published as a single book by the same *madrasa* as an intervention in the ongoing intra-Deobandī debate on Islamic banking and finance. Although the original articles had often been titled *Maujūda maʿāshī buḥran* [The Current Economic Crisis], the collected work was published as *Islāmī maʿāshiyāt: Bunyādī khāka* [Islamic Economics: The Basic Framework].

Much shorter than Seohārvī's and Gīlānī's, this work was also a response to the particular situation obtaining in Pakistan in the late 1960s, namely the rise of Bhutto's Islamic socialism, which itself was a response to the excesses of capitalism. However, unlike Miyān's work, which was not as well stitched together, Mīrathī produced a very systematic and methodical piece that

[32] His *fatwās* were later collected in a multi-volume work titled *Fatāwā Muftī Maḥmūd*.

[33] The original articles were published starting in *Bayyināt* starting in June 1969 and lasted until December 1969.

sought to provide a practical framework for achieving the basic goal of Islamic economics, i.e., equitable economic growth while avoiding the excesses of either capitalism or socialism. Although the author did not reference any other work on economics, the content and organization suggest that this work heavily drew from Seohārvī's framework.

While many other works on economics have been published by individual Deobandīs since then, the most important next work is Taqī ʿUsmanī's *Islām aur jadīd maʿīshat-o tijārat* [Islam and Modern Economics and Trade]. This is basically an edited transcription of a series of lectures he gave at a workshop for *madrasa* graduates in 1992. Once published, these lectures became extremely popular in Deobandī circles and are now part of the curriculum of many Deobandī *madrasas*.

Taqī ʿUsmānī's work is also highly methodical and includes multiple original discussions in the Deobandī context. This would explain its current popularity as a standard Deobandī reference work on economics. The book can be said to comprise three roughly equivalent parts. The first is a description and critique of socialism and capitalism, and their comparison with the Islamic economic system. The second section deals with how companies and stock exchanges work and their respective Islamic rulings, and the third section deals with financial institutions such as banking and insurance and their Islamic alternatives.

When compared with previous Deobandī works on economics, Taqī ʿUsmānī's *Islam aur jadīd maʿīshat* comes across as significantly different. For one, it represents a growing specialization somewhat akin to how *fiqh* came to be codified in early Islamic history without reference to the spiritual dimension.[34] Taqī ʿUsmānī's presentation of Islamic economics is not

[34] I have in mind here the almost complete absence of discussions of spirituality in many works of *fiqh*. Thus, if someone untrained in Islamic sciences were to pick up any medieval work of *fiqh*, they might think that ritual prayer merely comprises motions and statements, that fasting is only about abstaining from food, drink, and sexual intercourse, and so on.

quite that devoid of Islamic theology and spirituality, and he does ground his ideas in the Qur'an and Sunna. Moreover, his other writings and lectures quite clearly elucidate that he is not attempting to divorce Islamic economics from Islamic theology and spirituality. Nevertheless, his *Islam aur jadīd maʿīshat* does indicate a growing formalism compared to earlier Deobandī works on economics. In this work, one can clearly see that the letter of the law has become more important than the spirit of the law. This is most likely a consequence of his heavier focus on finance contract law.

Besides the Deobandī authors mentioned above, I also consider the works of two Pakistani economists and one law professor, who although religiously conservative, are not products of any Deobandī *madrasa*, and therefore provide a useful contrast to the Deobandī discourse on economic issues. These are Drs. Javed Akbar Ansari, Ansari's student Zahid Mughal, and Imran Ahsan Nyazee. Javed Ansari, an economist trained in the UK and currently based in Karachi, has authored a number of works that seem to be transcriptions of his lectures and thus lack proper citations or references, but his assertions are very ably elucidated by his student Zahid Mughal whose various articles and books provide a more scholarly critique of Islamic economics and banking especially as espoused by Muftī Taqi Usmānī. Imran Nyazee is a senior law professor at the International Islamic University Islamabad. Author of several works on Islamic law as well as modern Pakistani law, Nyazee's two books are relevant here, namely *Islamic Law of Business Organizations: Partnerships* and *Islamic Law of Business Organizations: Corporations*. Unlike most *ʿulamā* who uncritically tend to accept the modern corporation as a type of partnership, Nyazee rejects this and argues for the Islamization of the modern corporation before any discussion of Islamic banking can take place. I refer to each of these during the course of the analysis that follows.

4.4: Foundational Issues

To say that Islamic economic thought is grounded in Islamic scripture and theology is to state the obvious. Belief in one God (*tawḥīd*) and submission to His commands (*islām*) as understood from the Qur'an and Sunna is the very essence of Islam. It is, therefore, no surprise that the main driving force for those writing on Islamic economics and finance has been to find an alternative to conventional economics and finance that does not contradict the commands of Qur'an and Sunna. But is there more to Islamic economics than making it compliant with Islamic law, i.e., *sharīʿa*-compliant?

For most Deobandī authors, the two most important foundational issues for Islamic economics are theological and psycho-spiritual, i.e., the relationship between God and all creation, and the nature of human beings respectively. All of the Deobandī authors considered here engage with these issues to varying degrees, but the most extensive discussions are found in Gilānī's work, and therefore, it will serve as the main reference for this section unless otherwise noted.

Gīlānī's argument is quite straightforward. According to him, God is the Creator of everything, and He placed humans on earth as a test. To survive on earth, humans need *rizq* (provision), which God has made available to them,[35] and encouraged them to seek it.[36] Since humans are created weak and are prone to greed and oppression, and God does not apportion *rizq* to people in equal amounts, this *rizq* itself becomes a test.[37] People fail in this test when they choose impermissible means to amass wealth, when the wealthy becoming arrogant and look down

[35] As stated in the Qur'an (50:9-11, 41:10, 11:6 and 15:20).

[36] As stated in the Qur'an (62:10).

[37] As stated in the Qur'an (67:2 and 6:165).

on the poor, and when the poor take the rich as their role models and vie with each other to amass as much wealth as they can.

The medieval Europeans and modern Westerners responded to these human weaknesses incorrectly. Medieval Europeans who were Christians sought to deny human nature in their attempt to turn humans into angels. They, thus, tried to eliminate human greed altogether even though it was placed in humans by God Himself. This failed miserably. As for modern Westerners, they went to the other extreme by declaring humans to be no more than mere animals thereby justifying all human instincts. This initially led to capitalism which only increased human suffering. Socialism sought to remedy capitalism's excesses, but it misdiagnosed the problem as private property instead of human greed. When socialists nationalized all wealth in their respective countries, they eliminated private property and hence the hated capitalist elites. However, state control of all wealth meant a new elite emerged, namely the communist party leadership which suffered from the same problem as capitalists before them, namely greed.[38]

The solution, according to Gīlānī and other Deobandīs, is to focus not on private property but on human nature. God made humans the way they are as a test. He also taught humans how to deal with their weaknesses. Thus, the correct solution is *tahdhīb al-nafs* (purification of the soul) which in the Islamic scheme of things relies on *imāla* (turning away from one thing and towards another) and not *izāla* (elimination) as medieval Christians had believed. That is, since greed is a part of human nature, it cannot be eliminated but it can be contained and redirected. Thus, the best course of action is to allow some greed to drive one's actions in this world, while directing most

[38] For these discussions, see Gīlānī, *Islāmī maʿāshiyāt*, 144-149 and Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 32-34. The issue of private property and socialism's folly in focusing on it instead of human greed is a constant theme in Miyān's work as well, especially the first half. For a representative discussion, see Sayyid Muḥammad Miyān, *Daur-i ḥāzir kay siyāsī aur iqtiṣādī masā'il aur Islāmī taʿlīmāt-o ishārat* (Lahore: Jamʿiyyat Publications, 2002), 17-21.

of this greed towards the hereafter. This way, one strives to acquire *rizq* in this world but not at the expense of breaking God's laws. At the same time, one strives even harder to seek God's pleasure because it leads to even greater rewards in the hereafter.[39]

Moreover, since the ultimate source of *rizq* is God, worshipping Him means accepting Him not only as *ilāh al-maʿād* (God of the Hereafter) but also as *ilāh al-maʿāsh* (God of livelihood/provision). That is, just as a person seeks God's help for success in the hereafter, a person should also seek God's help in securing *rizq*. Since the world is *dār al-asbāb* (abode of causes), and it is disrespectful for a person to demand miracles, he must follow the normal material causes of generating wealth. However, accepting God as *ilāh al-maʿāsh* means that he must also seek God's help in seeking this *rizq*. Moreover, recognizing God as *ilāh al-maʿād* means that one must consciously obey God's commands in seeking this *rizq*.[40]

Gīlānī also differentiates between two types of laws, *sulṭānī* and *ghayr sulṭānī*, where *sulṭāni* laws are the immutable chains of cause and effect such as fire causing things to burn, gravity causing things to fall down, etc., which permeate the world. These can also be called *sunnat Allāh*. Opposing these or asking God to undo them amounts to transgressing one's limits. *Ghayr sulṭānī* laws are the various economic theories that humans have come up with. These do not provide certain knowledge and violating any of these is not at the same level as violating God's *sulṭānī* laws. In fact, raising them to the same level as that of *sulṭānī* laws is itself a transgression.[41]

Recognition of God's control over *rizq* means that one recognizes that even more than one's effort, wealth and poverty are in the hands of God. This is the basic idea behind the Qur'anic

[39] The discussion of *tahdhīb al-nafs* is found in all of these Deobandī works such as Seohārvī, *Islām kā iqtiṣādī niẓām*, 26-34; and Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 40-44. However, the discussion of *imāla* vs. *izāla* is only found in Gīlānī's work. See Gīlānī, *Islāmī maʿāshiyāt*, 149-171.

[40] For more on making God *ilāh al-maʿād* as well as *ilāh al-maʿāsh*, see Gīlānī, *Islāmī maʿāshiyāt*, 77-109.

[41] Gīlānī, *Islāmī maʿāshiyāt*, 109-113.

concepts of *basṭ* and *qadr*, i.e., abundant vs. limited *rizq* as stated in numerous verses of the Qur'an.[42] Gīlānī discusses at length the responsibilities that come with *basṭ* and *qadr*. Wealth requires that the rich demonstrate gratitude (*shukr*) while poverty requires that the poor remain patient (do *ṣabr*). These are their respective tests. Moreover, as Gilānī points out, gratitude is not merely a spiritual exercise, it also entails giving in charity beyond the basic requirement of *zakāt* (obligatory charity). With respect to the poor, not only are they required to be patient, but they are also commanded to not look at others' wealth with envy and focus on remembering the bounties of Allah that they possess. In other words, instead of the world, their focus should be God.[43]

Not fulfilling the responsibilities associated with *basṭ* and *qadr* leads to severe consequences. These severe consequences are not only in the hereafter but also in this world, which makes it a double loss. The consequence in this world, common to both the rich and the poor when they do not fulfill their respective responsibilities, is a difficult life. This is the import of the Qur'anic verse 20:124 "*man aʿraḍa ʿan dhikrī fa inna lahu maʿīshat^{an} ḍank^{an}* (whoever turns away from My remembrance, he will have a constricted life). This is based on the idea that since inner peace and tranquility come from God, He can grant it as well as remove it. Thus, the poor could potentially have been content and happy with little but not being patient and not turning towards God makes them suffer their poverty even more, and the rich despite their wealth are unable to be at peace. This idea of inner peace and tranquility being in the hands of God and not being

[42] See, for example, Qur'an (13:26, 43:32, 16:71).

[43] Gīlānī derives the responsibilities of *basṭ* from the Qur'anic verses (36:47, 89:17, 28:77, 18:39, 46:15, 14:7, 22:28, 2:271, and 2:245) and several *ḥadīths* which will be too many to quote here. He derives the responsibilities of *qadr* from the Qur'anic verses (15:88, 201:131, 4:32, 16:18, 2:177, 20:132, 73:9, 18:28, 11:15-16, 2:153, and 39:10) as well as several *ḥadīths*. For Gīlānī's discussion of *basṭ* and *qadr* and their respective responsibilities, see Gīlānī, *Islāmī maʿāshiyāt*, 172-225.

dependent on wealth is common to all the Deobandīs considered here. Gīlānī's account is just more detailed.[44]

4.4.1: Monasticism vs. Economic Pursuits

Although all of the Deobandī authors affirm in one way or another that monasticism (*rahbāniyya*) is impermissible and that Muslims are encouraged to seek livelihood, it is Gīlānī who has dedicated most space to this discussion.[45] For Gīlānī, monasticism invariably leads to either economic evils or moral failings which he terms *fisq* (transgression). After citing various Qur'anic verses which either condemn monasticism or indicate that possessing material wealth beyond one's needs is permissible,[46] he goes on to build a case for something even more drastic. At the basic level, he argues that earning a livelihood is so important that the Qur'an equated it to Jihad and allowed Muslims to forego *tahajjud* (the late night/early morning prayer) for its sake.[47]

Beyond this, Gīlānī invokes the concepts of *istiʿmār* (development/population) and *iḥsān* (excellence) to argue that not only does God want humans to procure more than what they personally need, but people will be held responsible if they are inefficient in their use of natural resources such as land. His goal here is to argue that economic activities are not just meant for one's personal benefit; rather, they serve a communal function. Hence, the fear of divine

[44] Gīlānī's main evidences with respect to not fulfilling the responsibilities associated with *basṭ* are the Qur'anic verses (20:124, 43:36, 92:4-11, 111:2, 40:82, 69:28-29, 104:1-9, 102:1-8, 2:264, 3:117, 8:36, 26:128, 28:77, 3:180, 63:10, 43:36, 17:64, and 18:104) and several *ḥadīths*. His main evidences with respect to not fulfilling the responsibilities associated with *qadr* are the Qur'anic verses (20:124, 2:268, 89:6-14, 17:31, and 22:15). For the full discussion, see Gīlānī, *Islāmī maʿāshiyāt*, 225-268.

[45] See Seohārvī, *Islām kā iqtiṣādī niẓām*, 72-74; Gīlānī, *Islāmī maʿāshiyāt*, 34-72; Miyān, *Daur-i ḥāzir kay siyāsī aur iqtiṣādī masā'il*, 43-46 and 167-171; Muḥammad Idris Mīrathī, ed., *Islāmī maʿāshiyāt: Bunyādī khāka* (Karachi: Maktaba Bayyināt, 2011), 71-73.

[46] Qur'an (3:14, 7:32, 66:1).

[47] This is based on Qur'an (73:20). See Gīlānī, *Islāmī maʿāshiyāt*, 58-59.

punishment if one is lax in fulfilling communal needs.[48] Seohārvī is not as drastic, but he does declare that the Islamic government should seek to expand economic activities so that all the funds needed to carry out its tasks in service of the public can be generated.[49] Among Deobandīs, Miyān comes across as the most forceful in his emphasis on economic activities. For him, global leadership is an important goal of an Islamic government, and this cannot be achieved except through increase in economic output.[50]

4.4.2: Critique of Capitalism and Socialism

Each of the Deobandī authors being looked at here engage in some critique of capitalism and socialism as we have already seen above. One of them, Seohārvī, sees capitalism as any system built on the desire to accumulate wealth at any cost and which facilitates concentration of wealth. For him, a just economic system and capitalism are two opposites and they have always been at odds since the beginning of time.[51] Other Deobandīs do not view capitalism as an ancient phenomenon. Among them, the most comprehensive critique of capitalism and socialism is by Taqī ʿUsmānī who expanded on the work of his father Shafīʿ. Although their expositions are quite similar, they also have some crucial differences as we shall see below.

Shafīʿ begins his analysis by clarifying at the outset that even though economics/livelihood (*maʿāsh*) is permissible and in some cases obligatory, it is not the core problem of man. Rather,

[48] Gīlānī, *Islāmī maʿāshiyāt*, 48-59. For *iḥsan*, he cites the famous *ḥadīth* narrated in *Ṣaḥīḥ Muslim* in which the Prophet Muḥammad is reported to have said, "*inna Allah kataba al-ihsan ʿalā kull shay'* (God has prescribed excellence on everything)." In an endnote, he goes as far as saying that even those who engage in productive economic activities purely for worldly reasons can expect reward in the hereafter. He bases this on a quote from the Persian Sufi ʿAlā al-Dawlā al-Simnānī (d. 1336). See Gīlānī, *Islāmī maʿāshiyāt*, 50 and endnote 6.

[49] See, for example, Seohārvī, *Islām kā iqtiṣādī niẓām*, 186 & 274-275.

[50] Miyān, *Daur-i ḥāzir*, 179-182.

[51] Seohārvī, *Islām kā iqtiṣādī niẓām*, 300.

his purpose in life is self-rectification and to succeed in the hereafter. Livelihood and economic matters are thus means to an end, and must, therefore, be utilized in a way that it helps the end goal.[52] Taqī ʿUsmānī would, of course, not disagree with him. His other writings and speeches clearly indicate that his focus is also on the hereafter.[53] However, he does not state so clearly in his *Islam aur jadīd maʿīshat-o tijārat*. The closest he comes is to say that Islam is not an economic system; rather it is a *dīn* (way of life) which encompasses everything.

More importantly, Taqī ʿUsmānī uncritically accepts the basic assumption of modern economics, viz. human needs and wants are infinite while economic means are scarce.[54] Furthermore, he also uncritically accepts the four basic questions of modern economics, namely determination of priorities, allocation of resources, distribution of income, and economic development.[55] His analysis of capitalism and socialism and then his exposition of an Islamic economic system revolves around these four issues.[56]

According to Taqī ʿUsmānī, capitalism sees only one answer to the above-mentioned four issues, namely the free market which is underpinned by the law of supply and demand and that of private property. If everyone is free to pursue and retain profit as they please, all the four issues are automatically taken care of. Supply and demand determine the priorities of suppliers and consumers as well as allocation of resources which then affect income as well as economic

[52] Shafīʿ, *Islām kā niẓām-i taqsīm-i daulat,* 8-10. Banūrī says the same thing in his introduction to Mīrathī's work. See Sayyid Muḥammad Yūsuf Banūrī, introduction to *Islāmī maʿāshiyāt: Bunyādi khāka*, by Muḥammad Idrīs Mīrathī (Karachi: Maktaba Bayyināt, 2011), 17-18.

[53] See, for example, Muḥammad Taqī ʿUsmānī, *Causes and Remedies of the Present Financial Crisis from an Islamic Perspective* (London: Turath Publishing, 2014).

[54] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat,* 19.

[55] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat,* 20-21.

[56] His acceptance of these basic assumptions of modern economics will be discussed later.

development.[57] Socialism's response to the four basic issues is to do away with the idea of private property and free enterprise and replace it with collective ownership and central planning. The assumption is that since the central government would own all means of production, it would have a better idea of supply and demand, and the needs of all of society. As such, it would make better priority decisions, allocate resources, and develop a country in an equitable manner.[58]

According to Taqī ʿUsmānī, the problems with socialism are very easy to grasp. Central planning and elimination of the concept of private property usurp natural processes in a way that it ends up doing more damage than capitalism. Thus, while the problem with capitalism is that a small group of people, i.e., the economic/financial elite, can oppress the masses, in the case of socialism, an even smaller group of people controls everything, and they are also susceptible to the same failings as capitalists. As a result, this excessive central control does not mitigate capitalism's problems. Moreover, socialism's excessive control cannot be maintained without an extremely oppressive police state which destroys individual freedoms. Furthermore, the state controlling all aspects of economic production means that people no longer have an incentive to work. That is, absence of the profit motive means inefficiencies increase.[59]

With respect to capitalism, ʿUsmānī states that Islam accepts the ideas of private property, supply and demand and the profit-motive but it places certain limitations on this profit-motive.[60] Some of these limitations are legal and some ethical. Some legal limitations are permanent such as the prohibition of *ribā*, gambling, etc. and some are temporary which the Islamic government has the prerogative to impose. The ethical limitations are born of Islamic teachings which

[57] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 22-27.

[58] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 28-31.

[59] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 32-34.

[60] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 38-44.

emphasize the hereafter over this world, which in turn helps individuals sacrifice their worldly profit for otherworldly gain through acts of charity. The benefit of these limitations is that they limit concentration of wealth and improve its circulation.

With respect to the factors of production, capitalism recognizes four factors of production, namely land, labor, capital, and entrepreneur. Since the entrepreneur is the one putting everyone else to work, profit belongs to him while everyone else should be compensated for their services, i.e., rent for land, wages for labor, and interest for capital. The exact amounts for rent, wages, and interest, are determined by supply and demand. Unlike capitalism, socialism only recognizes labor as a factor of production. Everything else is replaced by the state since it owns the land, the capital and is also the entrepreneur.

According to Shafīʿ and ʿUsmānī, capital and entrepreneur cannot be separated. There is no profit without risk or effort, and just as the entrepreneur takes risk on his effort, the investor should take risk on his capital which may or may not lead to profit.[61] Another key distinction between Islam and capitalism is that because everything belongs to God, it is not just the factors of production who deserve part of the wealth generated; rather, others do too. Thus, the factors of production receive wealth first but secondarily the poor and the needy also receive this wealth. The Islamic system of *zakāt*, *ṣadaqāt*, and other forms of charity exists for this reason.[62]

4.5: The Islamic Economic System

The basic idea common to all of these Deobandī authors is that economics should be seen as part of a larger system of life whose ultimate aim should be moral improvement of humans that would

[61] Shafīʿ, *Islām kā niẓām-i taqsīm-i daulat*, 25-26; and Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 47-49.

[62] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 49.

strengthen their relationship with God and help them succeed in the hereafter. Seeking and possessing wealth is then praiseworthy only when done with good intentions and in moderation, and it becomes blameworthy when taken to excess. Excessive pursuit/love of wealth leads to multiple kinds of evils in the social, economic, and spiritual spheres.

Beyond this basic statement, which can be found variedly stated in each of these works,[63] a coherent theory of Islamic economics is most well-developed in Seohārvī's *Islām kā iqtiṣādī niẓām*, and my discussion in this section is primarily based on it. The works of Gīlānī, Miyān, Shafīʿ, and Mīrathī also contain elements of a coherent economic theory but these are either less comprehensive or are buried under their more specific goals, namely, to respond to the challenge of Western economic ideas and to articulate an alternative Islamic solution to specific economic problems. The case of Taqī ʿUsmānī's *Islām aur jadīd maʿīshat-o tijārat* is totally different. To be sure, he also critiques capitalism and socialism as we have seen above. Nevertheless, the bulk of his attention is focused on identifying those parts of capitalism that are *sharīʿa*-compliant and finding permissible alternatives for those that are not (more on this later).

Seohārvī declares the ideal Islamic economic system to be a *ṣāliḥ māʿāshī niẓām*, i.e., a righteous economic system. Such a system has the following four interconnected foundational principles:

1. Everyone has an equal right to livelihood and fulfillment of needs. Seohārvī calls this *ḥaqq-i maʿīshat*.
2. There is variation in wealth and economic means among people (*darajāt-i maʿīshat*) and this is a test.

[63] See, for example, Seohārvī, *Islām kā iqtiṣādī niẓām*, 20-34; Gīlānī, *Islāmī maʿāshiyāt*, 36-37; Shafīʿ, *Islām kā niẓām-i taqsīm-i daulat*, 8-14; Miyān, *Daur-i ḥāzir*, 11-15; Mīrathī, *Islāmī maʿāshiyāt*, 5; and Taqī ʿUsmānī, *Islām aur jadīd maʿīshat*, 38-44.

3. Concentration of wealth (*iḥtikār wa iktināz*) is prohibited.
4. Those things which lead to a corrupt and oppressive system must be blocked and there should be just balance between labor and capital.

   I elaborate on these principles below primarily with reference to Seohārvī.

4.5.1: Equality of Economic Opportunity but not of Outcome[64]

According to Seohārvī, everyone has the right to have equal access to economic opportunities. However, differences between people in terms of talent, abilities, etc. are natural/divinely ordained (*qudrat-i khudāwandī … nay wadīʿat farmā'i hay*).[65] Any attempt to equalize everyone in this regard is unnatural and ignores these natural differences among people. Letting people actualize their potential allows for gradual increase in standard of living and this is encouraged by God since He clearly prohibits monasticism. This encouragement to grow economically is meant to be pursued with moderation such that one avoids *isrāf* (excessive spending in lawful pursuits) and *tabdhīr* (spending in unlawful pursuits). Thus, a just economy is one in which everyone has the opportunity to realize their potential, and everyone receives just payment for their efforts.

Seohārvī derives the idea of equal opportunity from those Qur'anic verses that talk about God as the Provider (*al-Razzāq*) and that He guarantees *rizq* for all creatures.[66] This, of course, begs the question, how exactly does God provide this *rizq* to people in the world? According to Seohārvī, it is the job of the *khalīfa* (deputy)of Allah – here he uses *khalīfa* in the political as well as cosmological sense, i.e., humans as vicegerents of God – to ensure that everyone in his

[64] Seohārvī, *Islām kā iqtiṣādī niẓām*, 45-56. Mīraṭhī also says the same. See Mīrathī, *Islāmī maʿāshiyāt*, 64-73.

[65] Shafīʿ and Taqī ʿUsmānī state the same citing 43:32. See Shafīʿ, *Islām kā niẓām-i taqsīm-i Daulat*, 18; and Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 38.

[66] See the Qur'anic verses (11:6, 51:22 & 58, 6:151, 27:64, 15:20, 2:29, 41:10, and 16:71).

jurisdiction receives equal access to livelihood. This is so because according to the Qur'an (2:29), everything in the heavens and the earth has been created for humans, which means that everything belongs to humans as a collective. The only reason private property is sanctioned is for removal of disagreement. This, in turn, indicates that in principle, a person only has the right to whatever he needs and whatever excess he possesses really belongs to the poor. Although most Islamic scholars have not considered it mandatory to give away all of one's excess wealth in charity, that was the way of the prophets and the saints. As such, it is at least somewhat disliked (*khilāf al-awlā*) to hold on to wealth beyond one's needs. Furthermore, the basic needs of the poor such as clothing, residence, and food, are the responsibility of the rich and if their *zakāt* is insufficient for the poor, the Muslim ruler can forcibly take their excess wealth to fulfill the needs of the poor.

Seohārvī tackles at some length the possible objection that changing economic realities on the ground might amount to interfering in God's plan since He is the one who made some poor and some rich. Here, Seohārvī invokes the distinction between the two realms (*ʿālams*) of *takwīn* (being) and *tashrīʿ* (legislation). The realm of *takwīn* lies totally with God and no human can interfere in it or ask questions about it. However, the realm of *tashrīʿ* is different. This is where humans are expected to enact God's commands and His commands dictate that the poor be helped. If these needs can be met through regular mandatory charities, that is well and good. Otherwise, the *khalīfa* will have to take surplus wealth from the rich and use it to meet the needs of the poor.

Although Seohārvī recognizes that some might perceive this to be socialism with a superficial veneer of Islamic texts, he is dismissive of such criticism. For him, his presentation is based on the eternal message of Islam which was implemented during the time of the Prophet and the first four caliphs. It is as applicable today as it was before the appearance of modern economic theories.

4.5.2: Private Property

All of the Deobandī authors considered here agree on the permissibility and sanctity of private property. In fact, this is one of the main themes of Miyān's work. We have already seen the theological roots of this concept as explained by Gīlānī. Similar reasoning is found in other works alongside additional arguments. Thus, Seohārvī argues that the Islamic economic system favors circulation of wealth as opposed to concentration of wealth, and this cannot be done without personal spending (*infāq*) which in turn requires that people own something so they can spend from it.[67] In the case of Miyān, he also adds a number of psychological and social arguments.[68]

But what are the limits of private property? Can everything be potentially bought and sold? Seohārvī and Gīlānī respond by differentiating between two kinds of natural resources, those which can be converted to private property and those that cannot.[69] Basic necessities such as water, air, grass, etc. can never be converted into private property except in some exceptional cases such as when a person digs a well on his own land. By the same token, exclusive rights cannot be given in the case of fisheries, those minerals which can be easily acquired without much effort (*maʿdin ẓāhir*) such as salt, dirt, rocks, etc., and certain kinds of land that are of public need. Exclusive rights can be given for some kinds of land (e.g., abandoned) and those minerals which can only be acquired through extensive effort (*maʿdin bāṭin*) such as coal, gems, metals, etc. The basic principle governing these issues is that giving someone exclusive rights to any of these resources can potentially harm the interests of the general public (*mafād-i ʿāmma*). As such, some things like

[67] Seohārvī, *Islām kā iqtiṣādī niẓām*, 350. This is also a running theme in Mīrathī's discussion of *infāq* as a means of circulation of wealth. See Mīrathī, *Islāmī māʿāshiyāt*, 26-41.

[68] See Miyān, *Daur-i ḥāzir*, 29-42 & 145-151.

[69] Seohārvī, *Islām kā iqtiṣādī niẓām*, 351-370; and Gīlānī, *Islāmī maʿāshiyāt*, 322-354.

water, air, etc. should never be privatized while others can potentially be privatized as long as this does not harm *mafād-i ʿāmma*.

While Gīlānī's discussion of private property is more comprehensive with regards to natural resources and Seohārvī only deals with mineral resources, Seohārvī's discussion is more comprehensive in a different way. He applies the idea of public interest (*mafād-i ʿāmma*) not only to mineral resources but also to large factories and mills.[70] For Seohārvī, mineral resources in general and coal and oil, and large industry are of immense importance to any nation. Thus, they are fundamentally public property, and their management is primarily the task of the government. Leaving these in the hands of private capitalists has wreaked havoc around the world causing global conflicts as well as massive exploitation. Moreover, because capitalist industrialists have consistently failed to uphold worker rights, it makes sense for there to be either increased government control or close government monitoring so that the interests of the labor and the industrialist are both properly balanced.

4.5.3: Concentration vs. Circulation of Wealth

All of these Deobandī authors also agree that concentration of wealth is prohibited because it excessively amplifies the divinely sanctioned variation in economic conditions and thus ruins the socio-moral fabric of society. According to Mīrathī, concentration of wealth is the source of all economic evils.[71] For him, socialism and communism are no different from capitalism since they also promote concentration of wealth. The only difference is that instead of various companies,

[70] For Seohārvī's discussion of mineral resources, see Seohārvī, *Islām kā iqtiṣādī niẓām*, 351-370; and for his discussion of large industry and the balance between labor and capital, see Seohārvī, *Islām kā iqtiṣādī niẓām*, 370-378.

[71] Mīrathī, *Islāmī maʿāshiyāt*, 25.

they make the state the sole capitalist in the country.[72] Seohārvī uses two terms to signify this prohibition of concentration of wealth.[73] These are *iḥtikār* and *iktināz*, where *iḥtikār* refers to wealth being concentrated in a single class of people, and *iktināz* refers to huge amounts of wealth staying in the possession of individuals with limited or no means for its circulation. Put another way, when someone does not fulfill his monetary obligations, then his wealth is labeled as *kanz*. Seohārvī lumps hoarding and monopoly together as one type of *iḥtikār*, and identifies two more types, namely, gambling and *ribā* since they also lead to concentration of wealth.[74] In fact, for Seohārvī, *ribā* is the worst kind of *iḥtikār*.

Unlike Seohārvī who has a much more expansive concept of concentration of wealth, Mīrathī identifies three main causes of concentration of wealth, namely *ribā* and *ribā*-based economic institutions such as banking; gambling and gambling-based institutions such as insurance; and invalid sales.[75] His solution is circulation of wealth, for which there are basically three main avenues. namely, *infāq fi sabīl Allāh* (spending in the way of Allah) which includes mandatory charity as well as non-mandatory acts of charity; endowments and bequests; and inheritance.[76] Other Deobandīs agree except for Gīlānī who sees charity as merely a personal act of piety.

If the obligatory spending is carried out, then the wealth ceases to be *kanz*. However, Islamic teachings strongly encourage spending beyond what is required, and severity of general

[72] Mīrathī, *Islāmī maʿāshiyāt*, 27-28.

[73] Seohārvī, *Islām kā iqtiṣādī niẓām*, 59-62 and 296-349.

[74] His evidences against *iḥtikār* and *iktināz* are the following Qur'anic verses: 9:34-35; 59:7; 9:60; 2:43; 21:73; 63:10 and 2:195.

[75] Mīrathī, *Islāmī maʿāshiyāt*, 26.

[76] Mīrathī, *Islāmī maʿāshiyāt*, 25. In fact, Mīrathī's work primarily focuses on circulation of wealth as the solution to the basic problem of concentration of wealth.

economic conditions can justify government seizure of excess wealth from the rich to be given to the poor as long as the wealthy themselves do not become poor.[77]

4.5.4: *Ribā*, Banking, and Modern Finance

There is no disagreement among the Deobandī authors considered here regarding the prohibition of *ribā* and gambling, and they all consider *ribā* and gambling to be the worst forms of economic evil because they lead to concentration of wealth. Moreover, Deobandīs are also critical of modern finance because of the centrality of *ribā* in this system. Among the most comprehensive and concise works in this regard is Shafīʿs *Mas'ala-i sūd* [The Issue of *Ribā*].[78] According to him, *ribā* is of two types, *ribā al-nasī'a* and *ribā al-faḍl*. *Ribā al-nasī'a*, also known as *ribā al-jāhiliyya* because of its prevalence at the time of the Prophet Muḥammad, pertains to *ribā* in loans, and it is further divided into two types, *ribā*-based personal loans vs. *ribā*-based commercial loans. Basically, a *ribā*-based loan means that a person borrows some money from another person and agrees to return the original borrowed amount (the principal) at a fixed later date along with an extra amount, often called interest. If the borrower is unable to pay back the principal and the interest on time, the lender gives them more time in exchange for more interest which is sometimes calculated on the principal as well as the interest due at the time of the first payment. This is called

[77] Mīrathī, *Islāmī maʿāshiyāt*, 40-41.

[78] Muḥammad Shafī' wrote *Mas'ala-i sūd* [The Issue of *Ribā*] in the 1960s. The 1970 edition of the book saw the addition of a large section by Shafīʿ's son Taqī ʿUsmānī. The final work thus has two parts, the first by Shafīʿ and the second by Taqī ʿUsmānī. The first part has three chapters. The first chapter provides an overview of the definition and types of *ribā*, and also deals with some objections to the prohibition of *ribā*. The second chapter comprises commentary on the eight verses that are seen to be prohibiting *ribā*, and the third chapter lists 47 reports from the Prophet and some of his Companions detailing the prohibition of *ribā* and the Companions' understanding of it. The second part of the book which was written by Taqī ʿUsmānī discusses the prohibition of *ribā*-based commercial loans and was written in response to those who considered such commercial loans to not fall under prohibited *ribā*.

compounded interest. The Qur'an forbade this kind of *ribā* in a series of verses, namely 2:275-6, 2:278-9; 3:130, and 4:160-161.[79]

For the Deobandī authors, the evils of *ribā al-nasī'a* are obvious. It entails transfer of wealth without a compensation (*badal*). The lender receives not only his original amount but an extra sum without having given anything in exchange for it. Moreover, since those who seek personal loans are often desperate and unable to make the full payment on time; therefore, they get sucked into a cycle of indebtedness because of which they end up paying far more to the lender than they had originally borrowed. When such loans spread among a nation, national wealth gradually starts accumulating in the hands of the lenders while the borrowers become poorer overall.

The other type of *ribā*, *riba al-faḍl* is something which is not directly addressed in the Qur'an. Rather, this was prohibited by the Prophet who is reported to have said, "gold in exchange for gold, silver for silver, barley for barley, dates for dates, salt for salt, like for like, equal for equal, hand to hand. The one who increases or seeks an increase, he has engaged in *ribā*. The giver

[79] For a detailed commentary on these verses, see Muḥammad Shafīʿ, *Masʾala-i sūd* (Karachi: Maktaba Maʿārif al-Qur'an, 2013), 42-66. He mentions that some *ʿulamā* also consider 30:39 to be relevant to the prohibition of *ribā* but he leans towards it not being so. Translation of the verses in question is given below:
2:275 – "Those who consume interest cannot stand [on the day of judgment] except as someone who has been driven into madness by Satan's touch. This is because they say, "Trade is like *ribā*." But Allah has permitted trade and has forbidden *ribā*. So, whoever has received an admonition from his Lord and desists may have what is past, and his affair rests with Allah. But whoever returns [to dealing in *ribā*], those are the companions of the Fire. They will live in it forever."
2:276 – "Allah destroys *ribā* and gives increase to charities. And Allah does not like every sinning disbeliever."
2:278 – "O you who believe! Fear Allah and give up what remains of *ribā* if you are believers."
2:279 – "And if you do not, then be warned of a war from Allah and His messenger. But if you repent, then you may have your principal. Neither shall you wrong nor shall you be wronged.
3:130 – "O you who believe! Do not consume *ribā*, doubled and multiplied, but fear Allah so that you may be successful."
4:160 – "Because of the wrongdoing of the Jews, We made unlawful for them good things which had been permissible for them, and because of their much hindering from Allah's path."
4:161 – "And because of their taking *ribā* while they had been forbidden from it, and their consuming people's wealth unjustly. And we have prepared for the disbelievers among them a painful punishment."

and the taker are equal in this."[80] This *ḥadīth* prohibits two things with regards to these six categories: exchange of unequal quantities and not exchanging in the same location. For Ḥanafīs, these prohibitions extend beyond these six categories and apply to loans as well as to a broad range of sales. Connected with this prohibition of *riba al-faḍl* is the prohibition of selling something without possessing it (*bayʿ al-mabīʿ qabl al-qabḍ*), selling debt in exchange for debt (*bayʿ al-dayn bi al-dayn*), making profit without taking risk (*al-kharāj bi al-ḍamān*), etc. as well as gambling and excessive risk (*gharar*). Taken together, all of these Islamic rulings as Deobandīs understand them raise fundamental questions about the modern financial system.[81]

Thus, Deobandīs are in unison in rejecting modern banks. They find them to be central to the international capitalist order whose logical result is exploitative concentration of wealth. The key question on which they differ is, can banks ever be Islamic? Based on the texts analyzed here, up until recently Deobandīs tended to think that banks could be Islamized. However, lately, one group, i.e., opponents of Islamic banking have now declared that banks can never be Islamic. Thus, an Islamic bank or a *ghayr sūdī* bank are oxymorons. This is the crux of the intra-Deobandī debate that I analyze later in this chapter.

4.6: Implementing the Islamic Economic System

According to Seohārvī, the principles mentioned above are meant to be executed at both the individual and the collective level. However, because of the communal nature of economic activities, most of them pertain to the collective. This is why the individual receives much less

[80] Naysābūrī, *Ṣaḥīḥ Muslim*, 3:1211. [*Kitāb al-musāqāt, bāb al-ṣarf wa bayʿ al-dhahab bi al-wariq naqdᵃⁿ, ḥadīth* no. 1584.

[81] For a brief exposition of these principles and their implications for the modern financial system, see Muḥammad Rafīʿ ʿUsmānī, *Islāmī maʿīshat kī khuṣūṣiyāt aur ṣanʿatī taʿalluqāt* (Karachi: Idārat al-Maʿārif, 2010), 45-112.

attention from Seohārvī than the collective. I summarize his ideas below starting with the individual followed by the collective.

4.6.1: The Individual

At the individual level,[82] Seohārvī starts by establishing the permissibility, even encouragement to earn a livelihood, and then answers three questions, what to earn, what to spend, and where to spend? In response to the first question, he declares that for a Muslim's earnings to be lawful, not only must they be permissible (*ḥalāl*) in themselves but the means through which they are acquired should also be permissible (*ṭayyib*).[83] That is to say, a person cannot acquire things that are forbidden such as wine, pork, etc. and the process of acquisition of wealth should not entail something forbidden like *ribā*, gambling, fraud, etc.

The basic desirable principle of individual spending is moderation,[84] which means a person spends on himself and his dependents without being too miserly and without excessive spending (*isrāf*). Moreover, one only spends on permissible things and not impermissible ones (*tabdhīr*). If a person possesses wealth equal to *niṣāb* (the threshold for obligation of *zakāt*), then he pays the obligatory taxes such as *zakāt, ʿushr*, etc., as well as non-obligatory charity. Although one is generally encouraged to save for future needs, sometimes he might be called on to sacrifice his and his dependents' needs for a higher cause.

[82] For his discussion of the individual, see Seohārvī, *Islām kā iqtiṣādī niẓām*, 70-89.

[83] He bases this distinction between *ḥalāl* and *ṭayyib* on the following Qur'anic verses: 2:168, 5:88, 23:51, and 7:157.

[84] Seohārvī uses the following Qur'anic verses to derive the principles of personal spending: 7:31, 17:26-27, 17:29, 20:8, and 25:67.

4.6.2: The Collective

With respect to the collective, Seohārvī considers the role of an Islamic government to be crucial. As such, his discussion of the economic system at the collective level begins with a discussion of the nature of Islamic political leadership and its authority, followed by a discussion of the institutions an Islamic government creates for the production and distribution of wealth.[85]

According to Seohārvī, the foundational principle of an Islamic government is the recognition that absolute sovereignty belongs to God. The leader of the Muslims (*amīr*) exercises authority as the *khalīfa* (deputy) of God on earth.[86] He is to be advised by a consultative assembly (*shūra*) and their advice is binding on him. Moreover, both the *khalīfa* and the members of the *shūra* must be God-fearing (*muttaqī*). Muslims owe the *khalīfa* obedience only as long as he upholds the *sharīʿa*. This obedience is required to maintain the unity of all Muslims which is necessary for the realization of various Islamic ideals. The political system that thus emerges is required to ensure justice for all and service for all, Muslims and non-Muslims.

The Islamic economic system at the collective level is closely connected with the socio-political system and can be divided into two parts depending on whether it is directly connected to the government or indirectly connected to it by way of the public.[87] The first category comprises the treasury (*bayt al-māl*), the rules governing land, and the government control of or intervention in the financial system. The second category comprises private means of circulating wealth such as obligatory and non-obligatory charities, inheritance, endowments, etc.; the prohibition of

[85] For his discussion of the Islamic political system, see Seohārvī, *Islām kā iqtiṣādī niẓām*, 95-120.

[86] He alternatively uses the word *ḥukm*, *ḥukūmat-i ilāhiya*, and *ḥākimiyat*. See Seohārvī, *Islām kā iqtiṣādī niẓām*, 95-96 & 126-128. His main evidences for divine sovereignty are the following Qur'anic verses: 12:40, 3:26, 7:128, and 6:62.

[87] His discussion of the collective aspects of the Islamic economic system occupies most of the book. See Seohārvī, *Islām kā iqtiṣādī niẓām*, 121-425. His discussion of those aspects of the economic system that are directly connected to the government forms the bulk of it (pp. 121-410).

hoarding, monopoly, *ribā*, gambling, etc.; and the promotion of permissible livelihoods (*ḥalāl* & *tayyib*).

All the revenue of the government should be collected in a central treasury (*bayt al-māl*) which should also have regional branches.[88] The main sources of this treasury should be divided into four groups which should be kept separate. However, if there is a low amount in one account, the government can borrow from another. These are as follows:

1. War booty, *khumus* (one-fifth of natural resources such as minerals), and *ṣadaqāt* (non-obligatory charities)
2. *Zakāt*, *ʿushr* (obligatory tax on agricultural produce), and *ʿushūr* (tax on cross-border trade) paid by Muslims
3. *Kharāj* (land tax collected from non-Muslims), *jizya*, *ʿushūr* paid by non-Muslim merchants, *fay'* (war indemnity), *kirā' al-arḍ* (rent income), and *ḍarā'ib* (additional taxes)
4. Miscellaneous sources (*amwāl fāḍila*)

The first two of these accounts are to be used for *maṣārif thamāniya*, i.e., the eight categories of recipients defined in the Qur'an (9:60). These are the poor, the needy, those employed to collect *zakāt*, for bringing hearts together (*ta'līf al-qulūb*), for freeing captives or slaves, those in debt, those fighting for the sake of God, and the stranded traveler. The third account is for the running expenditure of the government which includes government employees, those engaged in education and preaching, military expenditures, etc. The fourth account is to be used for miscellaneous projects of public welfare.[89]

[88] Seohārvī, *Islām kā iqtiṣādī niẓām*, 123-150.

[89] For Seohārvī's discussion of government expenses, see Seohārvī, *Islām kā iqtiṣādī niẓām*, 157-184.

At the collective level, Seohārvī identifies three main sectors of an economy, namely, agriculture, trade, and industry.[90] With respect to agriculture he engages in lengthy discussions on the issues hampering agricultural production and policy recommendations for improving it, the relationship between landlords and farmers, sharecropping, etc.[91] A recurring theme in these discussions is Seohārvī's emphasis that the relationship between a landlord and the cultivator should be based on justice and equality. Their relationship is basically that of a *musta'jir* (employer) and *ajīr* (contract labor), i.e., either the landlord hires the cultivator to do a job (cultivation), or the cultivator offers to cultivate someone's land. Either way, this relationship should not lead to feudalism and serfdom.

Although trade does not receive as much attention from Seohārvī as agriculture,[92] he identifies trade as the most important aspect of any economy. According to Seohārvī, it was through their shrewd use of trade that the Europeans were able to dominate the globe. Although he does not provide any guidance on how a country should conduct trade internationally, he does identify sound (*ṣaḥīḥ*) principles of trade vs. unsound (*fāsid*) principles of trade.[93] I summarize these below.

1. There must be equitable cooperation without excessive advantage to one. This means that any wealth or profit-generating contract which does not entail cooperation or entails profit for only one side is invalid. Thus, gambling which entails loss for one side and advantage for the other is forbidden.

[90] Seohārvī, *Islām kā iqtiṣādī niẓām*, 184-295.

[91] His discussion on agriculture and land is spread out over pp. 187-274.

[92] It only covers ten pages, 274-284.

[93] For his discussion of sound and unsound principles of trade, see Seohārvī, *Islām kā iqtiṣādī niẓām*, 277-284.

2. There must be actual consent (*riḍā*) from both sides, and not consent born of desperation. Thus, *ribā* or low salaries for workers are invalid. In both cases, consent is found but it is not valid consent but a result of desperation.
3. The parties contracting an agreement must possess legal capacity (*ahliyat*) to undertake it.
4. There must not be any deception or sin involved in the transaction. Thus, any transaction which involves something forbidden like wine, pork, etc. is forbidden for Muslims.
5. Any contract which leads to mutual disagreement is also invalid (*bāṭil*) or defective (*fāsid*) irrespective of whether this is because of ambiguity in the contract, undue advantage for one side, invalid conditions, or multiple contracts in one, etc.

4.7: Pakistani Governments and Islamic Economics

Deobandīs adopt a dual approach with regards to the role of the government in an economy. On the one hand, they are in favor of free trade at the local and global levels, and minimal interference from the government in the form of taxes or regulations. On the other hand, they advocate a strong role for the government in removing injustice and oppression and preserving inter-class harmony. Thus, Seohārvī categorically states that by default the government is responsible for the basic needs (*jā'iz aur wājib*) of all people, rich and poor. This includes health, education, clothing, etc.[94] Moreover, a running theme through all of the Deobandī works considered here is the recognition that the role of government in public life can increase quite drastically if public interest requires it. In his introduction to his brief treatise on *ribā*, Shafīʿ clearly acknowledges the pivotal role that governments play in forming economic policy. As he puts it, actual change in the economic system including elimination of *ribā* can only happen when executed by governments. In the absence of

[94] Seohārvī, *Islām kā iqtiṣādī niẓām*, 378.

such a change, significant progress can be made to eliminate *ribā* through private efforts provided a critical mass of merchants/businessmen work together to provide alternative to *ribā*-based transactions and institutions.[95]

From the very early years of the creation of Pakistan, successive governments have declared their intention to create an Islamic economic system and to eliminate *ribā* from Pakistan. Thus, the first constitutional draft presented to the constitutional assembly in 1953 categorically declared that *ribā* should be eliminated as soon as possible. Similar statements were repeated in the next constitutional draft of 1954 and then in the actual constitutions of 1956, 1962, and 1973. The last-mentioned constitution is still in force in Pakistan.

As short on detail as these sentiments were, they suggested that the political elites accepted *ʿulamā*'s demands regarding an Islamic economic system. On their part, many amongst the *ʿulamā* such as the Deobandī conclave held in the late 1960s (discussed earlier) gave concrete proposals for the creation of an Islamic economic system. However, not much came of these proposals. In fact, during the 1960s the Pakistani government set up an Islamic Research Institute for rethinking Islam for the modern world. It was headed by Dr. Fazlur Rahman whose bold ideas on topics as diverse as nature of prophethood, value of Prophetic Sunna, and permissibility of interest, provoked a major reaction from the *ʿulamā*. Although they succeeded in getting rid of Fazlur Rahman (he left the country in 1968), they were unable to get the Pakistani government to take any concrete steps towards creating an Islamic economic system.

But the *ʿulamā* are not mere outsiders to the system. The 1962 constitution established the Council of Islamic Ideology (CII) as a constitutional body to give legal advice on Islamic issues to the government and the Parliament. Since its inception, CII members have included top minds

[95] Shafīʿ, *Mas'ala-i sūd*, 11-12 & 15.

in the country in the fields of Islamic and legal studies. Many *ʿulamā* including Deobandīs have served in it. Moreover, CII has been issuing statements and publishing reports regarding the elimination of *ribā* from the economy and the creation of an Islamic economic system in the country.[96]

With the ascendance of Gen. Zia to power in 1977 and his declared intention to Islamize the country, Islamic forces felt galvanized again. It was in this context that the CII published a report in 1980 which provided a detailed framework for the elimination of *ribā* and the creation of an Islamic economic system. The report which was prepared by 15 of the country's leading economists and bankers was approved by the CII whose own 12 members included many leading Deobandī *ʿulamā* such as Taqī ʿUsmānī. This report clearly stated that *ribā*-free banking required either sharing of profit and loss or interest-free loans (*qarḍ ḥasan*). For profit and loss sharing, the dominant modes of financing had to be *shirka* (partnership) and *muḍāraba*. However, since Pakistan's banking system was dominated by *ribā*, it also recommended a few alternative modes of financing that could be used in the interim while the transition from conventional to *ribā*-free banking was completed.

In 1981, the Pakistani government introduced profit-loss sharing (PLS) accounts and opened *ribā*-free counters for this purpose in conventional banks. These *ribā*-free counters were to exist alongside regular *ribā*-based counters. These PLS accounts relied on a *ḥīla* (stratagem) called *bayʿ mu'ajjal* which the CII had suggested in its 1980 report as one of the possible alternative modes of financing for the interim period. *Bayʿ mu'ajjal* literally means to sell something on deferred payment. To use it as a mode of financing, CII suggested that the bank would buy what the borrower needed and sell it to the borrower at a higher price which would be

[96] A list of CII's annual reports as well as many of its recommendations are available for download from CII's website at http://cii.gov.pk/E-Books.aspx.

payable at a later date. This way the bank would make a profit and the contract would be technically (as per *fiqh*) valid since the bank would assume risk (*ḍamān*) that comes from ownership of the said item.

However, when the PLS accounts were introduced, they adopted a modified version of *bayʿ mu'ajjal* which was not well-articulated. Instead of the bank buying the desired items and then selling them to the borrower, they would give the borrower the money, and make a theoretical assumption that the bank had "bought" these items with this money and had sold them to the borrower. Taqī ʿUsmānī authored a scathing critique of this scheme and declared it to be against Islamic law, not just in substance but also in form.[97] According to Taqī ʿUsmānī, this mode of financing was substantively the same as regular loans with interest (in this case called markup) since the bank's profit was guaranteed and there was no sharing of profit and loss. Moreover, Taqī ʿUsmānī declared it to be invalid even in terms of form because it was just assumed that the bank had bought the items even though it was the borrower who had bought the items. Moreover, these *bayʿ mu'ajjal* contracts stipulated in some transactions higher prices depending on whether the loan was returned earlier or later. This was still technically not *ribā* but was so similar to it (*shubhat al-ribā*), that the average person would not know the difference, and this would only reinforce interest-based business attitudes.

Furthermore, Taqī ʿUsmānī argued that the *ribā*-free counters and PLS accounts were solely being run on the basis of markup or *bayʿ mu'ajjal*. *Shirka* and *muḍāraba* which the CII had identified as the real basis of *ribā*-free banking were totally absent. Taqī ʿUsmānī concluded by declaring that Islamic banking should not be conventional banking in the guise of stratagems

[97] See Muḥammad Taqī ʿUsmānī, "*Ghayr sūdī counters*," in *Fiqhī maqālāt* (Karachi: Memon Islamic Publishers, 1996), 2:249-264.

(*ḥiyal*), which are permitted only in exceptional circumstances anyway. For a whole system to be built on stratagems undermines the very essence of Islamic rulings against *ribā*.

While the 1980s turned out to be a disappointment for the *ʿulamā'*, a major milestone in their struggle to establish an Islamic economic system in Pakistan was the 1991 judgement by the Federal Shariat Court (FSC) which ordered the government to eliminate *ribā* from the country's economy. However, the government appealed this decision in the Supreme Court, which delayed hearing it for several years. When the Supreme Court finally did hear it in 2001-02, it nullified the original decision by FSC and sent the case back to FSC for further re-evaluation. The case languished in FSC until 2022 when the FSC reiterated its original decision. This time again, the sitting government found a way to delay implementing the verdict.

Deobandī experience in Pakistan especially the heightened expectations in the 1980s and their complete disappointment changed the nature of Deobandī discourse on economics and finance. Earlier Deobandī authors come across as optimistic in their ability to affect national economic policies. Hence their articulations of either a coherent theory of Islamic economics or providing specific solutions to economic problems. Taqī ʿUsmānī, on the other hand, seems resigned to the fact that capitalism's dominance is established. The main reason for this, in his own words, is the history of failed attempts to convince successive Pakistani governments to take concrete actions to change Pakistan's economy.[98] Taqī ʿUsmānī is thus more focused on identifying those aspects of modern business that are *sharīʿa*-compliant than to create a completely new economic system.[99] This would explain why so much of his work deals with finance than

[98] ʿUsmānī, *Ghayr sūdī bankārī*, 40-41.

[99] This might also be because he feels there is nothing more to add to Seohārvī and Gīlānī, and thus the more important task is to find rulings for specific modern issues in economics and finance.

economics, and there too, his focus is more on contract law than any larger philosophical question about finance.

It is now time for us to examine in some detail the intra-Deobandī debate on Islamic banking which came out in the open in 2008 and which was the starting point of this dissertation. In the remainder of this chapter, I lay out the main claims and counterclaims of the two sides along with their supporting evidences with regards to economics and finance. I examine the aspects pertaining to *uṣūl al-iftā* in the next chapter.

PART III: DEBATES IN PAKISTAN ON ISLAMIC BANKING & FINANCE

As mentioned earlier, economics is a broad area of modern knowledge of which finance is a subset. When talking about the kinds of issues that the larger Islamic public sphere in Pakistan or the Deobandīs themselves discuss, three categories of issues emerge. One is the more abstract theoretical discussion of how the economic dimensions of a society ought to be organized and what value systems should such an economic system adhere too. Such discussions often include a delineation of the ideal Islamic economic system, and its comparison with modern economic systems such as the various versions of capitalism and socialism. We have already seen in the preceding sections what the Deobandīs as a group have to say on these topics.

The second category also comprises theoretical discussions but regarding more concrete ideas such as the concepts of a legal person, limited liability, and the possibility or otherwise of an Islamic bank. The third category comprises those issues that pertain to minutiae of Islamic contract law as it relates to the various products and procedures that proponents of Islamic finance have introduced. From even a cursory perusal of the literature produced in these debates, it becomes clear that the larger debate in the Islamic public sphere in Pakistan primarily pertains to the first

two categories, whereas the intra-Deobandī debate focuses more on the second and to an even greater extent on the third category of issues.[100]

4.8: The Intra-Deobandī Debate

The current intra-Deobandī debate on Islamic banking can be traced to the early 1990s when Deobandīs had begun to lose all hope in Pakistani governments. Although they had been engaged in conversations with private bankers for decades to convince at least some of them to eliminate *ribā* and thus provide an alternative to conventional banking, this now remained the only option open to Deobandīs. To this end, a meeting of the Karachi-based Majlis Taḥqīqāt-i Masā'il-i Ḥāzira was held at Dār al-ʿUlum Karachi in 1992. It was attended by 19 *ʿulamā*, most of them from DUK, but also including top Pakistani Deobandī *ʿulamā* of the time such as Rashīd Ludhyānvī, ʿAbd al-Shukūr Tirmizī (from Sargodha), and Dr. ʿĀbd al-Wāḥid (from Lahore). The meeting was also attended by 2 bankers who were members of the Pakistani Banking Council, an institution then existing for looking after the affairs of national commercial banks. In this meeting, practical recommendations were deliberated for Islamic modes of financing, namely *mushāraka* (partnership) and *murābaḥa mu'ajjala* (credit sale with profit). Although many *ʿulamā* had reservations about some of the recommendations proposed by the bankers present, most *ʿulamā* acquiesced to these demands to pave the way for the emergence of a non-*ribā* bank. However, writing a year later, Rashīd Ludhyānvī lamented that the bankers had still not done anything about it.[101]

[100] To be sure, these discussions of economics and finance involve other aspects of Islamic thought as well such as the principles of giving *fatwā* as well as the jurists' conception of their role in a nation-state. These issues will be discussed in the fifth chapter while those pertaining specifically to economics and finance will be discussed here.

[101] The detailed proceedings of the meeting, as well as ʿAbd al-Wāḥid's dissenting note and Rashīd Ludhyānvī's comments on the lack of progress are given in Rashīd Aḥmad Ludhyānvī, "*Bilā sūd bankārī*," in *Aḥsan al-fatāwā*, 7:111-126.

In 1994, Taqī ʿUsmānī published his *Islām aur jadīd maʿīshat-o tijārat,* which provided Islamic justification for the concepts of a legal person and of limited liability. It also laid out in detail the Islamic rulings on stock exchanges and banking. In 1998, he published *An Introduction to Islamic Finance* in a bid to lay out the details of Islamic finance for those running or planning to create Islamic banks. In the next few years, while most Deobandīs had given up on private bankers, Taqī ʿUsmānī continued to work with them and thus paved the way for the launch of the first such bank in Pakistan namely Meezan Bank in 2002. His son, Imran Ashraf ʿUsmani, published the *Meezan Bank Guide to Islamic Banking* the same year.

In the next few years, a number of such banks opened in Pakistan, many of them extensions of Islamic banks based in the Arabian/Persian Gulf. Nevertheless, Meezan Bank continues to be the largest Islamic bank in Pakistan and its *Sharīʿa* supervisory board is still led by Taqī ʿUsmānī (Chairman) and his son ʿImrān ʿUsmānī (Vice Chairman). Although Taqī ʿUsmānī has been affiliated with only three banks in Pakistan, his global and national profile has meant that Taqī ʿUsmānī's endorsement, implicit or explicit, tends to provide the main justification for Islamic banking in Pakistan.

Interestingly, although Deobandīs had tacitly accepted the idea of a legal person and company for many decades, Taqī ʿUsmānī's detailed articulation of the Islamic justifications for these concepts started a new debate. Moreover, his efforts in the field of Islamic banking and finance which for some Pakistani economists, intellectuals, and *ʿulamā* amounted to nothing more than finding Islamic ways of justifying *ribā*-based capitalism also caused serious misgivings. A reaction was brewing and imminent, and this happened in August 2008 when a group of Deobandī *ʿulamā* held a press conference in Karachi and declared Islamic banking to be un-Islamic and

forbidden. The various books and articles that were written from both sides after this press conference sum up the main aspects of this debate.

The brief summary of objections by Taqī ʿUsmānī's critics that was published immediately after the press conference cited two kinds of objections.[102] The first comprised testimonies from Islamic bankers, economists, and allegedly Taqī ʿUsmānī himself that the Islamic banks were not adhering even to the "questionable" protocols of Islamic finance that Taqī ʿUsmānī and his colleagues had developed. The second set of objections comprised 16 fiqh issues. These two kinds of objections were then elaborated in extensive detail in *Murawwaja Islāmi bankāri: Tajziyāti mutālaʿā, sharʿī jā'iza, fiqhī naqd-o tabṣira* [Conventional Islamic Banking: An Analytical Study, Religious Evaluation, Legal Criticism and Review]. This was a comprehensive critique which focused on the form, as well as the substance of Islamic banking. More than anything else, it focused on nullifying the concept of a legal person which the authors felt was un-Islamic, hence, rendering the very idea of a company or a bank questionable. While raising the issue of public confidence in Islamic banking, the authors targeted Taqī ʿUsmānī and the average Deobandī *ʿulamā* serving as *sharīʿa* advisors, as well as the professional bankers involved in Islamic banking. The most damning piece of evidence was Taqī ʿUsmānī's own criticism of the government launched PLS accounts and *ghayr sūdī* counters in 1981.

Taqī ʿUsmānī penned his rejoinder in the form of *Ghayr sūdī bankārī: Mutaʿalliqa fiqhī masā'il kī taḥqīq aur ishkālāt kā jā'iza* [Non-*Ribā* Banking: Analysis of Related Legal Issues and Objections]. He tackled the question of whether an Islamic bank is possible or not, whether Islamic banking is Islamic or not, and also gave detailed answers to the various fiqh issues raised by his critics. A year later, a counter-response came out in the form of *Ghayr sūdī bankārī: Ayk munṣifāna*

[102] Rafīq Aḥmad Bālākotī, "*Murawwaja Islāmī bankārī aur jumhūr ʿulamā kay mawqaf kā khulāṣa*," *Bayyināt* 71, no. 9 (2008): 85-93.

ʿilmī jā'iza [Non-*Ribā* Banking: A Fair Analysis] by a Karachi-based Deobandī scholar Aḥmad Mumtāz. In their original critique, Banurī Town *muftīs* had built their case primarily on refuting the idea of a legal person and of limited liability. For them, all other issues were secondary in nature. Nevertheless, they had gone into extensive detail raising questions about the various contracts and practices prevalent in Islamic banks. Although the second refutation by Mumtāz again discussed the Islamic legitimacy of a company as a legal person and its limited liability, the bulk of his attention was focused on *fiqh* issues. It seems that Taqī ʿUsmānī's defense in his *Ghayr sūdī bankārī* had weakened the original primary argument of his critics. However, his refutation did not do much to lessen the criticism regarding *fiqh* issues.

As mentioned earlier, this intra-Deobandī debate focused primarily on two kinds of issues: those pertaining to specific questions of economic thought and those pertaining to minutiae of Islamic contract law. A broad summary of these issues has already been given in the first chapter. Although each of these two kinds of issues is important in its own right, details of Islamic contract law are not my main concern in this dissertation and will only be looked at briefly. However, this debate does provide a window into another important and less immediately visible aspect of this debate, namely the methodology of *fatwā*-giving and the question of law and policymaking. This *is* of significant importance to this dissertation and will primarily be discussed in the next chapter. For the remainder of this chapter, I focus on the main issues of debate with regards to economics and finance. As and when relevant, I also cite non-Deobandī Pakistani economists who often side with Taqī ʿUsmānī's detractors in this debate.

4.8.1: Islamic Banking and Capitalism

Perhaps the biggest charge levelled at Taqī ʿUsmānī by his critics was that he was inadvertently helping promote capitalism. Their main justification was that the bank is an inherently capitalist and *ribā*-based institution which can never be Islamic. Thus, any attempt to create an Islamic bank is moot. The only possible Islamic modes of financing are *muḍāraba*, *shirka* and *qarḍ ḥasan* which the so-called Islamic banks circumvent by creating new products such as *mushāraka*, *ijāra*, and *murābaḥa*. *Mushāraka* is a wholly new term that does not conform to any *fiqh* version of *shirka*, while *ijāra* and *murābaḥa* are not meant to be modes of financing.[103] Using them as such entails perpetuation of the capitalist system which only seeks to enrich the rich at the expense of the poor. As further evidence of Islamic finance's culpability in promoting capitalism, the critics also cited the opening of Islamic finance counters by Western banks. The critics asked, why is it that interest-based banks are themselves promoting interest-free banking.[104]

This negation of the very possibility of an Islamic bank was a toughening of the Deobandī position because the agreed upon elders of both sides had been open to the possibility of an Islamic bank since the 1960s to at least 1992. In fact, in his rejoinder, Taqī ʿUsmānī cited this as evidence that his critics were engaged in hyperbole. He also argued that not only is Islamic banking possible, but it is the responsibility of *ʿulamā* to provide such an alternative.[105] He further accused his critics of being confused. Sometimes they said that banks could never be Islamic but then they also said that it is possible but very difficult. Similarly, they said that the alternative to banking is *shirka* and *muḍāraba* but then they also said that it is impractical in current conditions. With regards to

[103] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 57-63 & 81-88.

[104] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 88-94.

[105] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 15-29. See pp. 16-18 where Taqī ʿUsmanī cites statements from Banūrī himself to the effect that international trade is necessary and so some Islamic alternative to banking must be found.

the issue of whether *ʿulamā* are required to provide an alternative to everything, Taqī ʿUsmānī's response was that this depends on whether something fulfills a valid human need or not. Thus, Muslims do not need to find an alternative to gambling or lottery which are merely indulgences (*ʿayyāshī*). However, those things which are needed (*insānī zarūrat*) or have come to be needed but are being fulfilled through impermissible means, then it is recommended (*masnūn*) to find their permissible alternatives. Banks now play an essential role in people's lives, be it the average consumer and his savings or traders and their local and international trade, or national economies which rely on people's savings. Therefore, *ʿulamā* must come up with an Islamic alternative to interest-based banking.

However, systemic change takes time. Interest-based banking has been active for the past 400 years and now encompasses all aspects of our lives. The legal, economic, financial, and tax regimes all favor conventional banking. Fixing this requires a comprehensive struggle. Even accounting methods have to be changed. This has been done at the Bahrain-based AAOIFI (Accounting and Auditing Organization for Islamic Financial Institutions). Since this is all a new effort, there is always a chance of error, and hence the need for standards such as AAOIFI which minimize the possibility of such errors. The details of this system can only be appreciated by those who have been a part of this struggle, and Taqī ʿUsmāni has been engaged in this work for the past 30 years

Taqī ʿUsmānī also explained in *fiqh* terms how non-*ribā* banks operate. According to him, there are two aspects to its operations. On the one hand, the bank takes depositors' money on the basis of *muḍāraba,* and on the other hand, it invests these moneys in any permissible way including but not limited to *shirka* and *muḍāraba*. The ideal approach is that banks should invest depositors' money only through *shirka* and *muḍāraba* so that the Islamic goal of circulation of wealth can be

achieved. However, this is an ideal and not an obligation. The bank as a *muḍārib* has the right to engage in all kinds of trade activities with the permission of its investors (*arbāb al-māl*) that are not limited to *shirka* and *muḍāraba*. *Murābaḥa mu'ajjala* (deferred sale with a profit) which in its essence is a debt contract does not live up to the ideal, but it is still permissible. Moreover, this financing product does not have the same evils that beset conventional banking such as sale of debt (*bayʿ al-dayn*), sale before possession (*bayʿ qabl al-qabḍ*), etc. Thus, while Islamic banks aim for the ideal in the long-term, they have to make do with what is permissible in order to stay afloat.[106]

Taqī ʿUsmānī also used this division between the ideal and the permissible to explain why he had been so tough in his own criticism of the PLS scheme introduced by the government of Pakistan in the 1980s. Since Taqī ʿUsmānī was addressing the government, he insisted on the ideal approach. Moreover, the PLS scheme also engaged in questionable contracts in which the sale was just assumed to exist whereas in the case of *murābaḥa mu'ajjala* used in Islamic banks, the sale actually does take place.[107]

As for the critics' more emotionally charged accusation of helping promote capitalism, Taqī ʿUsmānī's response was that coincidental alignment of some Islamic finance products with capitalist modes of financing does not constitute an endorsement of capitalism. After all, he had himself extensively critiqued capitalism. Moreover, such reasoning would dictate that Muslims give up all those *sharīʿa*-sanctioned activities that align with capitalism. This would amount to giving up significant parts of Islam. Moreover, he argued that all Deobandī *ʿulamā* agree that in the absence of an Islamic bank, a person is allowed to keep his money in a current account in a

[106] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 30-36.

[107] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 36-40.

conventional bank. This permission is based on general need (*ḥāja ʿāmma*). However, this action also leads to directing capital to interest-based bankers and capitalists. Since no one opposes this *fatwā* on the grounds of it being supportive of capitalism, then why oppose Islamic banking on this basis?[108]

Taqī ʿUsmānī also argued that his critics had misunderstood Western response to Islamic banking. He explained that some Western bankers had decided to support Islamic banking because their Muslim customers insisted on it, others had begun to adopt it because they realized it was a better system, and there were others who opposed it because they saw Islamic banking as a threat to conventional banking.[109] As part of his defense, Taqī ʿUsmānī also cited the key differences between *murābaḥa* financing in Islamic banks and interest-based conventional loans. These differences were crucial to avoiding a repeat of the 2009 financial crisis and were the reason why Islamic banks were least affected by this crisis. [110]

Non-Deobandīs on Islamic Banking and Capitalism

Taqī ʿUsmānī faces opposition not only from his fellow Deobandīs but also from some prominent Pakistani economists/intellectuals who are vehemently opposed to capitalism and therefore reject banking per se. Among these are the aforementioned Javed Akbar Ansari and his student Zahid Mughal.

Ansari's main is that capitalism is the essence of the modern Western civilization, and everything in this system is in service of capital. The market is a colonizing force which seeks to

[108] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 358-363.

[109] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 363-365.

[110] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 228-233.

incorporate all of society. When all relations and values become subservient to the idea of increase of capital, then such a society becomes a capitalist society. This is the opposite of the Islamic ideal of *ʿibāda* (worship) which requires one to submit to God.[111] Although Taqī ʿUsmānī is not as harsh as Anṣārī, one can see him agreeing with the general point made by Anṣārī, i.e., capitalism leads to increased materialism and greed,[112] and that the goal of Islam is to make people submit to God completely and comprehensively.[113] However, Anṣārī has gone further and argued on the basis of his (essentialist) reading of capitalism that banking can never be Islamized. It is a quintessentially capitalist institution which can only thrive in an environment of increased consumption driven by the desire to increase pleasure and accumulate wealth. Thus, he lamented those *ʿulamā* who cannot see the bigger picture as he sees it and willingly become tools of capitalist expansionism among Muslims. He especially singled out Taqī ʿUsmānī for falling in this trap, as well as Islamic parties such as Jamʿiyyat ʿUlamā-i Hind, Jamʿiyyat ʿUlama-i Islām, and Jamāʿat-i Islāmī. He called them Islamic revisionists (as opposed to Islamic modernists) who naively believe that making some space for themselves in a capitalist order equates to establishing Islam.[114]

Anṣārī's student, Zahid Mughal, an economist in his own right, built on Anṣārī's ideas to engage in a two-pronged analysis of the issues in this debate.[115] On the one hand, he evaluated the general framework of Islamic economics including the one given by Taqī ʿUsmānī in his *Islām*

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[111] Jāvaid Akbar Anṣārī, *Sarmāyadārāna niẓām: Ayk taʿāruf* (Lahore: Kitāb Maḥal, 2016), 5-38.

[112] See, for example, Taqī ʿUsmānī, *Islam aur jadīḍ maʿīshat*, 49-54.

[113] This is a common theme found in Deobandī works. A good illustration of Taqī ʿUsmānī's restatement of this theme is his collection of Friday sermons titled *Iṣlāḥī khuṭbāt* in which he explains in painstakingly detail how to make one conform to the commands of God in every way possible. See Muḥammad Taqī ʿUsmānī, *Iṣlāḥī khuṭbāt*, vols. 1-23 (Karachi: Memon Publications, 1993-2016).

[114] Jāvaid Akbar Anṣārī, *Sarmāyadārāna ʿaqāʿid-o naẓriyāt* (Lahore: Wirāsat Publications, 2014), 17-19 & 33-36.

[115] Zahid Siddiq Mughal, *Islāmī bankārī: Ghalaṭ sawāl kā ghalaṭ jawāb, Islāmī bankārī kay fikrī pas-i manẓar kā tanqīdī jāʾiza* (n.p., n.d.), 7-46. Mughal received his PhD in economics from Quaid-i-Azam University which is one of the leading public universities in Pakistan.

aur jadīd maʿīshat. On the other hand, he addressed the question of whether banks can ever be Islamized or not. Mughal's conclusion regarding Islamic economics was that since it has the same epistemological framework as modern Western social sciences, it also inevitably leads to capitalism. The modern social sciences assume a certain kind of human being who is independent and whose purpose in life is to maximize pleasure (aka utility) and accumulate capital. Modern social sciences thus deal with a society and politics which emerge as a result of this particular kind of human being and his relationships. These social sciences do not deal with and cannot deal with any other kind of society. In other words, the goal of the social sciences is to provide intellectual justification for a capitalist individual, society, and politics.[116]

For Mughal, the same is true of Taqī ʿUsmānī's approach to economics. Taqī ʿUsmānī uncritically accepts the scarcity principle, i.e., human desires are unlimited and natural resources are limited, hence the need for distribution of resources. In reality, the issue is not scarcity but human greed. Moreover, Taqī ʿUsmānī sees capitalism and socialism as mere economic ideas and not as ways of life. Hence, his focus on making sure that individual ideas or practices conform to Islamic practices while ignoring the larger worldviews at play. Thus, Islamic economics becomes no better than an offshoot of neoclassical economics which comes close to social democracy because of its regard for social welfare. However, it remains subservient to the capitalist worldview which underpins both of those schools of economic thought. As such, any talk of making banking *sharīʿa*-compliant is moot. Even if all of the transactions taking place in a bank were Islamically permissible which they currently are not, it would still remain an un-Islamic institution because of its subservience to the larger goals of a capitalist order.[117]

[116] Mughal, *Islāmī bankārī*, 9-18.

[117] Mughal, *Islāmī bankārī*, 18-41.

Mughal also accused Taqī ʿUsmānī of a lack of proper understanding of Western modernity and capitalism. Thus, Taqī ʿUsmānī naively believes that banks are merely financial intermediaries between people's savings and business/economic projects requiring financing, and that the only problem with banks is that they use loans for this financing. If the loans were to be replaced by Islamically permissible contracts, then the issue would be resolved.[118] For Mughal, this is indicative of a lack of proper knowledge of capitalism and an uncritical acceptance of the propaganda churned out by neoclassical economists. Neoclassical economists claim that money is neutral and that banks operate on the basis of "savings create loans" model whereas in reality, money is active not neutral, banks create money out of nothing, and they rely on the "loans create savings" model. Moreover, Mughal also accused Taqī ʿUsmānī of mistakenly assuming that paper money is merely *thaman ʿurfī* (currency accepted by custom) whereas in reality it is debt money. It is impossible for an Islamic bank to not be a part of the money creation business when the overall banking system is built on fractional reserve banking. Mughal's conclusion: a *muftī* should not be passing *fatwā* on something he does not understand.[119]

An even more important conclusion (or at least more relevant to this dissertation) that Mughal drew from his analysis of Islamic banking was that people like Taqī ʿUsmānī were focused on the *juz'* (part) while ignoring the *kull* (whole). Thus, their analyses did not go beyond the permissible/impermissible binary, whereas they should have been focused on *maqāṣid al-sharīʿa* to fully understand what is wrong with the capitalist order and what a comprehensive Islamic

[118] See Taqī ʿUsmānī's statement in Taqī ʿUsmānī, *Islām aur jadīd maʿishat*, 133-134.

[119] Mughal, *Islāmī bankārī*, 47-51. Mughal cites Post-Keynesian school of thought in support of his assertions. Mughal discusses in more detail the issue of money as credit in Muhammad Zahid Siddique, "Modern Money and Islamic Banking in the Light of Islamic Law of Riba," *International Journal of Finance & Economics* 27, no. 1 (2022): 993-1008.

alternative would look like.[120] Interestingly, Mughal stopped short of articulating such an alternative himself.

It is easy to be convinced by Mughal's rhetoric, and he does have a point that capitalist economic schools of thought are reflective of a larger worldview. But to claim that Islamic economics accepts all of this seems to be a stretch too far especially when it is built on a select few short passages from Taqī ʿUsmānī's vast oeuvre. Mughal seems to be conflating between what is and what ought to be. Is economics, whether classical or neoclassical, normative in nature or just describes the reality of the world around us? Moreover, does Taqī ʿUsmānī endorse neoclassical economics as an accurate description of reality or does he endorse it as normative? Mughal's critique is correct in so far that Taqī ʿUsmānī conceives of capitalism as merely an economic system and does not fully acknowledge its ell-encompassing nature. However, to go from there to say that Taqī ʿUsmānī agrees with neoclassical economics' normative positions is an exaggeration.

It seems Mughal is so keen to argue his point that he refuses to see any nuance in Taqī ʿUsmānī's ideas. As we have seen earlier, Taqī ʿUsmānī also faults capitalism for making the profit-motive the most important goal of business. And while one can argue that taken to its logical conclusion, the scarcity principle can undermine Muslim belief in God as the Provider (al-Razzāq), the issue of resource distribution/allocation for governments and business firms remains valid. No government or business firm will always have all the resources they need. Thus, the most that one can say about Taqī ʿUsmānī is that he has not fully processed the potentially negative consequences of Western modernity.

[120] Mughal, *Islāmī bankārī*, 51-61.

4.8.2: Legal/Juristic/Fictitious Person

A fictitious or legal person is a non-human entity to which the law bestows the status of a person, hence the name legal person. Two key modern institutions, the state and the corporation (company in Pakistani law) are examples of this legal person. Since Taqī ʿUsmānī's project is to provide an alternative to conventional banking and banks are also legal persons, the first thing he had to do was to evaluate the Islamic validity or otherwise of a legal person. Following the ideas enunciated by many modern Arab *ʿulamā*,[121] Taqī ʿUsmānī argued that while the term legal/juristic person (*shakhṣ qānūnī*/*iʿtibārī*/ *maʿnawī*) is new, there are examples/precedents (*naẓā'ir*) in fiqh literature that conceptually align with it. Thus, examples of a legal person include *waqf*, *bayt al-māl* and *tarika mustaghraqa bi al-dayn* (estate encompassed by debt), and *khulṭat al-shuyūʿ* (mixed property). In the case of *waqf*, it can own property (*māl*), can be a creditor (*dā'in*) as well as a debtor (*madyūn*), and be a petitioner (*muddaʿī*) in a court of law and can also be taken to court (*muddaʿā ʿalayhi*). These are all attributes of a legal person. Similarly, even though all Muslims have a right on *bayt al-māl*, each section of the *bayt al-māl* behaves as a distinct legal person. Thus, the section of *ṣadaqa* and that of *kharāj* behave as distinct legal persons, each of which can own property and can lend or borrow from the other. In the case of *tarika mustaghraqa bi al-dayn*, the dead person ceases to be the debtor; rather, his estate becomes the debtor. Similarly, mixed property behaves like a legal person for three Sunnī schools besides the Ḥanafīs, i.e., Mālikīs, Shāfiʿīs, and Ḥanbalīs. According to them, if some people own property together in a way that that ownership pervades the property (*mushāʿ*), then the *zakāt* is owed on the property as a whole and

[121] Taqī ʿUsmānī does not always clearly cite his modern sources. Rather, he ambiguously refers to them as *ʿulamā-i ʿaṣr* (contemporary scholars), which could mean contemporary *ʿulamā* as well as academics. For more on the genealogy of these ideas among modern Muslim scholars, see Imran Ahsan Nyazee, *Islamic Law of Business Organization: Corporations* (Islamabad: Centre for Excellence in Research, 2016), 85-101.

not on its individual shares. This is also an indication that this property is treated like a legal person.[122]

Taqī ʿUsmānī's Deobandī critics took him to task for this "Islamization of an un-Islamic national law," i.e., the Pakistani commercial law which sanctions the creation of companies as legal persons. According to these critics, the very limited scope of a non-human legal person in *fiqh* literature cannot be the basis for the wholesale acceptance of an inherently problematic concept. To begin with, the non-human legal person in *fiqh* literature does not always behave like a human legal person. Secondly, the earlier jurists were aware of the idea of a legal person but chose not to adopt it wholesale into Islamic law. As such, the few cases cited by Taqī ʿUsmānī cannot serve as a basis (*maqīs ʿalayhi*) for his validation of the legal person.[123]

In his rejoinder, Taqī ʿUsmānī distinguished between two issues, viz. can there be a non-human legal person in Islamic law, and if yes, what rulings of a real person can apply to it? With respect to the first issue, he argued that even his opponents cannot deny this. After all, they themselves rely on this concept when a *madrasa*, acting as a non-human legal person, accepts donations, engages in sale and purchase of furniture or buildings, and sometimes has to engage in court litigation. In each of these cases, even though the *madrasa* is represented by a real person, that representative does not assume all the responsibilities and rights of the *madrasa*.

Moreover, he argued that if his critics' logic were to be accepted, i.e., companies are not legal persons, then all contracts involving sale and purchase of products by various companies and the general public in the marketplace would be invalid because each of these companies is a legal person, and if one of the two parties in a contract is not qualified to enter into that contract, then

[122] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 80-81.

[123] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 118-130.

the contract is automatically invalid. Thus, many or most of the people buying and selling products in the market would be engaging in something forbidden. Thus, according to Taqī ʿUsmānī, the issue is not whether there can be such a thing as a legal person; rather, the real issue is what attributes of a real human person can be given to such a legal person. According to Taqī ʿUsmānī, most such attributes apply to a non-human legal person either directly or through its representation by a real human person.[124]

4.8.3: Limited Liability

Closely connect to the question of a legal person is the idea of limited liability which in the context of our discussion refers to the idea that the liability of shareholders of a public company is limited to the value of their shares. If the company incurs loss, owes excessive amounts of debt to its creditors, or goes bankrupt, the shareholders do not lose anything besides their original investment. Similarly, the liability of a modern corporation is also limited to its assets. Hence the use of the word limited in its name so that the creditors are aware that the company cannot owe them more than its assets. The idea of limited liability has been crucial to the rise of the modern corporation, and this is why it is able to raise vast sums of money from the public because the public can rest assured that their personal assets beyond their investment in the company will not be affected in case of company losses or bankruptcy.

Like the concept of a legal person, Taqī ʿUsmānī also fond examples of limited liability in fiqh literature. These include the investor (*rabb al-māl*) in a *muḍāraba* contract, someone declared legally bankrupt (*mufallas*), and a slave given permission to trade (*ʿabd ma'dhūn fi al-tijāra*). The relevant scenario in the case of an investor is that he does not give permission to his active partner

[124] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 335-339.

(*muḍārib*) regarding taking out a loan, but the active partner does so nevertheless. Then, if the active partner ends up becoming indebted, the investor will be liable only for the amount he invested. The remainder will all be owed by the active partner. The case of a shareholder in a company is similar to the investor. Moreover, if a person is declared bankrupt by the court, then his responsibility is limited to his assets and his other debts become insolvent (*kharāb al-dhimma*). In the case of a slave whose master gives him permission to engage in trade, if he ends up becoming indebted, his debts will be limited to his market value. Neither the master nor the slave will be liable for any debts beyond that.[125]

Taqī ʿUsmānī's critics refuted his examples by citing counterexamples in which the investor would still be liable for more than what he had invested in a *muḍāraba* contract. Moreover, they argued that declaring a company's liability to be limited because of a few cases where the debt obligations of an investor in a *muḍāraba* contract are limited amounts to exploitation and injustice towards creditors. This could only work if the company executives were personally made responsible for the company's debts that exceed its assets.[126] With regards to the legally bankrupt person, the critics argued that such a person is absolved of his debts only in a court of law (*qaḍāʾan*) but he is still liable in the court of God (*diyānat^an*) which is why he will be questioned about them in the hereafter. Keeping this in mind, such a case can also not be the basis of a company's limited liability.[127] With respect to Taqī ʿUsmānī's third example, the critics argued that a slave who has been given permission to engage in trade is a human legal person; therefore, using him as a basis for a company's limited liability also does not make sense.[128] In conclusion, Taqī ʿUsmānī's critics

[125] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat-o tijārat*, 81-83.

[126] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 131-137.

[127] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 137-142.

[128] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 142-149.

labelled his reasoning in support of a legal person and limited liability as mere claim without evidence (*taḥakkum*).

Taqī ʿUsmānī's response was three-fold. Firstly, he admitted that some of his critics' objections were valid. However, he lamented that even though he had specifically mentioned in his book that these were his initial thoughts and there was a need for collective decision-making regarding this, no one amongst his critics had bothered to engage in a scholarly conversation with him during all these years (1992-2008).[129] Secondly, he argued that his critics had misapplied the concept of a defective condition (*sharṭ fāsid*) invalidating a contract (*ʿaqd*) to argue that because the concept of limited liability is a defective condition, therefore, establishment of a company (which is a contract between its owners) on its basis would be invalid. Taqī ʿUsmānī argued that *shirka* is a type of contract which is not invalidated by a defective condition; rather, only the condition itself is nullified. Thus, even if the idea of limited liability were to be a defective condition, this still would not nullify the company from coming into existence and for others to enter into a contract with it.[130] Thirdly, he argued that his critics had misunderstood the nature of *shirka* that is at play in a company. They had declared a company to be a case of *shirkat ijāra* even though it was closer to being a case of *shirkat ʿaqd*.[131] Moreover, part of the reason they made this

[129] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 339-341.

[130] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 344-345 & 351-355.

[131] *Shirka* literally means a partnership from which the modern Arabic word for company "*sharika*" is derived. There are two main types of *shirka* in Ḥanafī fiqh, *shirkat al-milk* and *shirkat al-ʿaqd*. *Shirkat al-milk* or co-ownership is the case when two or more people co-own some property which they acquire without a contract, i.e., through such means as inheritance, gift, etc. The other type is *shirkat al-ʿaqd* which refers to a partnership between two or more people based on a contract. *Shirkat al-ʿaqd* is of two further types: *shirkat mufāwaḍa* (equal partnership) and *shirkat ʿinān*. *Shirkat mufāwaḍa* refers to a partnership between two people where investment, rights, obligations, and profits are equal for both partners. In such a partnership, both partners are agents (*wakīl*) and sureties (*kafīl*) of each other. The other type is *shirkat ʿinān* which refers to a partnership between two or more people with unequal investment and with a predetermined unequal profit rate for each partner. For a brief overview of these types, see Nyazee, *Islamic Law of Business Organization: Corporations*, 38-42; and Wahba al-Zuḥaylī, *al-Fiqh al-Islāmī wa adillatuhu* (Damascus: Dār al-Fikr, 1985), 4:793-801.

mistake was because they had misunderstood the rights and obligations of a company as outlined in Pakistani commercial law.[132] Furthermore, they had conveniently ignored the fact that their agreed upon elders had themselves tacitly endorsed the idea of a company with limited liability.[133]

Taqī ʿUsmānī's rejoinders to the issues of a legal person and limited liability get to the heart of the issue in this debate. To begin with, most Deobandī *muftīs* give *fatwās* as a response to a specific situation without considering its broader implications. Hence the contradiction between their rejection of the idea of a legal person in theory vs. applying it in practice with respect to *madrasas*. Very few Deobandī scholars are engaged in a systematic analysis of their *fatwās*. Taqī ʿUsmānī comes across as one of the few who does. However, his work also has its limits as we saw earlier with Mughal's critique of Taqī ʿUsmānī's reasoning. Another example is given below.

4.8.4: Nyazee on Legal Person, Corporation, and Limited Liability

A very useful contrast to the intra-Deobandī debate on legal person and legal liability is provided by the opinions of a prominent Pakistani legal scholar, Imran Ahsan Nyazee, a law professor at the International Islamic University Islamabad. Trained in *sharīʿa* and law but not a graduate of a *madrasa*, Nyazee's works illustrate not only the hitherto ignored aspects of this debate but also the different modes of reasoning at play. Unlike Banūrī Town *muftīs* and Mumtāz, Nyazee looks at this issue from a theological, *uṣūlī* and legal consistency perspectives.[134]

Thus, he argues that premodern Muslim jurists were familiar with the idea of a legal/fictitious person, but they chose to not adopt it in Islamic law because their conception of

[132] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 345-351.

[133] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 341.

[134] Nyazee has written a series of works dealing with the concept of *ribā* and business organizations. The most relevant to our discussion here is the previously cited *Islamic Law of Business Organization: Corporations*.

law revolved around the concept of *dhimma* (responsibility). This *dhimma* is derived from the covenant (*ʿahd*) that humans made with God (Qur'an, 7:172), which renders them addressees (*mukhāṭabīn*) of divine address (*khiṭāb al-Sharīʿ*) which then makes them capable of having and executing rights and responsibilities (*ahliyyat al-wujūb* and *ahliyyat al-adā'*). The basis (*manāṭ*) for *ahliyyat al-wujūb* is humanity, i.e., a person being human, while the basis for *ahliyyat al-adā'* is *ʿaql* (sanity). Because of this, premodern jurists declared that even if one were to accept sanity for a non-material entity, such an entity still does not have *dhimma*. Consequently, the fictitious person was not accepted in Islamic law.[135]

Nevertheless, Nyazee acknowledges that legal persons such as modern corporations are now so pervasive that one cannot really do without this idea. Hence, the real issue for Nyazee is not whether Islamic law can accept the idea of a legal person or not. Like Taqī ʿUsmānī, Nyazee also thinks that even though premodern Muslim jurists did not accept the idea of a legal person for the part of the law that they dealt with, they did not declare that this concept could never be accepted into Islamic law. In fact, this can be easily done by assigning a limited *dhimma* to the corporation which does not include any act of worship.[136] Like legal personality, Nyazee has no problem with accepting limited liability although the path taken will differ from current methods, i.e., reliance on general principles of Islamic law and not a few odd precedents.[137] The more important issue for Nyazee is whether the modern corporation itself can be Islamized or not.

[135] Nyazee, *Islamic Law of Corporations*, 105-113.

[136] Nyazee, *Islamic Law of Corporations*, 128-130.

[137] Nyazee has a detailed critique of the precedents given by Taqī ʿUsmānī to justify the legal person and limited liability. Although there is significant overlap between Nyazee's critique and that of Taqī ʿUsmānī's Deobandī critics, Nyazee's is far more comprehensive. For more, see Nyazee, *Islamic Law of Corporations*, 81-128 & 193-201.

To this end, Nyazee has written two detailed works. One deals with the Islamic law of partnerships and the other with the Islamic law of corporations.[138] For Nyazee, merely assuming a modern corporation to be a form of partnership is indicative of ignorance of the law. After a detailed study which includes examining traditional Islamic modes of business organizations such as *muḍāraba* and various types of partnerships (*shirka*) and how the modern corporation relates to them, Nyazee concludes that the modern corporation does not correspond to any of those.[139] Had the modern corporation fit any of these modes of organization, there would have been no need for modern Muslim scholars to justify the legal person in order to justify the modern corporation. The difference between Nyazee and Taqī ʿUsmānī in this regard is subtle yet profound.

Taqī ʿUsmānī also sees the modern corporation as not exactly fitting any particular type of partnership. However, unlike Nyazee, he considers it to be a form of *shirkat ʿinān* at its core with additional features of an administrative nature which can easily be evaluated for their *sharīʿa*-compliance. For Taqī ʿUsmānī, the new key issues with respect to the modern corporation are only two, namely, Islamic status of the legal person and limited liability.[140]

Nyazee, however, sees things differently. Commenting on the broader community of modern Muslim scholars most notably represented by the Islamic Fiqh Academy in Jeddah, Nyazee contends that modern Muslim scholars contradict themselves when they start the discussion of the modern corporation by justifying a legal person but then go on to the discuss the modern corporation as if it is a partnership and the legal personality is completely non-existent.

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[138] See his *Islamic Law of Business Organization: Partnerships* (Islamabad: Islamic Research Institute, 1999) and the previously cited *Islamic Law of Business Organization: Corporations.*

[139] Nyazee, *Islamic Law of Corporations*, 131-203.

[140] Taqī ʿUsmānī, *Islām aur jadīd maʿīshat*, 79-80. Taqī ʿUsmānī follows Ashaf ʻAlī Thānvī's lead who considered the modern company to be a *shirkat ʿinān* at its core. For more, see Ashraf ʿAlī Thānvī, *Imdād al-fatāwā*, ed. Muḥammad Shafīʿ (Karachi: Maktaba Dār al-ʿUlūm Karachi, 1428 AH), 3:490-491.

Moreover, modern scholars erroneously assume that the corporation is a case of *shirkat al-ʿaqd* but then they turn around and say that a share can be sold by a shareholder because it is governed by co-ownership (*shirkat al-milk*) and not the rules of *shirkat al-ʿaqd* which would not have permitted such a sale. Thus, for Nyazee, their reasoning is haphazard and arbitrary.[141]

According to Nyazee, there is a fundamental difference between partnerships and corporations. Partnerships do not have legal personality except in an accounting sense, and they do not entail limited liability. The modern corporation, on the other hand, is created by an act of the state, itself a fictitious/legal person. Thus, the framers of the modern Egyptian law made a fundamental mistake when they chose to characterize modern corporations as the result of an initial contract (*ʿaqd ibtidā'ī*) for the creation of a *sharika musāhama* in which all founders are partners. According to Nyazee, this legal fiction does not change the reality on the ground because there is no contract between the founders. Rather, the initial permission to set up a corporation/company is merely a Memorandum of Association or charter. Moreover, English law, from which Pakistani commercial law is derived, clearly denies companies as being partnerships.[142]

Nyazee goes on to argue that to evaluate the Islamicness of the modern corporation and to eventually Islamize it, one has to evaluate the underlying contracts that may exist between the various stakeholders, i.e., the contract between the promoters/founders, the contract between the subscribers/shareholders and the corporation, and that between the subscribers/shareholders. As mentioned earlier, Nyazee declares that there is no contract between the founders of the

[141] Nyazee, *Islamic Law of Corporations*, 46-54.

[142] Nyazee, *Islamic Law of Corporations*, 141-156.

corporation despite its labeling as such by Egyptian law. Similarly, there is no contract among the shareholders. The only contract that does exist is between the shareholders and the corporation.[143]

After a detailed analysis, Nyazee concludes that the contract between the shareholders and the corporation although vaguely defined is closer to that between a creditor (shareholders) and a debtor (the corporation). Some modern Muslim scholars conceive of this contract as that of *shirkat al-milk* (co-ownership). However, this is not valid because a shareholder does not own assets of the corporation despite the "fairy tale" being propagated. Moreover, the shareholders can sell their shares without consulting other shareholders or the corporation which goes against the principle of co-ownership.[144]

Some other scholars see the contract between shareholders and the corporation as that of *muḍāraba*. However, according to Nyazee, this does not stand up to scrutiny either because the investor (*rabb al-māl*) in a *muḍāraba* contract owns the capital whereas in the case of a modern corporation, the ownership of shareholders' paid-up capital passes into the ownership of the corporation. Moreover, the *muḍārib* is the agent of the investor in a *muḍāraba* contract whereas the corporation does not act as an agent for the shareholders. Furthermore, the investor has unlimited liability in a *muḍāraba* contract while the shareholders have no liability. Lastly, while the investor shares profits with the *muḍārib* on the basis of an agreed upon ratio, the shareholders take all profits as residuary once all other claims have been paid by the corporation.[145]

Identifying the nature of the contract is one part of Nyazee's analysis. The other part is evaluating this contract on the basis of two fundamental principles of Islamic contract law that he

[143] Nyazee, *Islamic Law of Corporations*, 156-160 & 183-187.

[144] Nyazee, *Islamic Law of Corporations*, 184-187.

[145] Nyazee, *Islamic Law of Corporations*, 188-193.

identifies, namely prohibition of *ribā* and that entitlement to profits is based on assumption of risk (*al-kharāj bi al-ḍamān*). Analyzing the modern corporation, or more precisely the contract between the corporation and its shareholders, Nyazee concludes that the modern corporation fails both of these tests and therefore is not Islamically valid. Nyazee concludes by proposing a *wakāla* and *kafāla*-based model of the modern corporation as opposed to the *sharika*-based model accepted by modern Muslim scholars. Moreover, Nyazee also proposes *shirkat ʿinān* based financing for the modern corporation. Although Nyazee's analysis and critique of the modern corporation is quite detailed, his Islamic solution is quite brief and in his own words, preliminary.

It is beyond the scope of this work to deliver a normative judgment on Nyazee's analysis or his proposed Islamic solution.[146] Moreover, Nyazee seems to be adopting an extreme position that runs counter to not only a large number of modern Muslim scholars represented by the Islamic Fiqh Academy based in Jedda but also the legal codes of several Arab countries. Nevertheless, Nyazee's and Mughal's critiques taken together do demonstrate the limits of applying premodern Islamic law to modern phenomena that might be better handled if approached from a *maqāṣid*/*uṣūlī* perspective as opposed to a piecemeal *fiqhī juz'iyyāt* perspective heavily bound to a *taqlīd*-based understanding of Islamic law.

While Nyazee's primary project is focused on articulating how to Islamize the modern corporation, he also raises questions about other related issues. Thus, for him, the idea of a legal person also extends to those areas of the law where the state is involved. In fact, according to Nyazee, the main reason premodern jurists always talk of the ruler and not the state is because the ruler has *dhimma*. Moreover, in this premodern conception, all resources in Muslim lands are in the co-ownership of Muslims and the ruler acts as the agent of these Muslims. In modern nation

[146] Such an endeavor would take this dissertation in a very different direction involving a detailed study of modern Pakistani and Egyptian commercial laws as well as English and American ones.

state theory, on the other hand, all resources are owned by the state. This, then has a bearing on rulings pertaining to stealing from the treasury as well as those regarding buried treasures and mines. In the premodern conception, *bayt al-māl* is jointly owned by all Muslims, and therefore, *ḥadd* is not applied to anyone stealing from it because of *shubhat al-milk* (doubt about ownership), i.e., a poor Muslim can be excused for thinking that since he has right over *bayt al-māl*, he can take from it without permission. On the other hand, modern public treasury is owned by the state, and this would require *ḥadd* to be implemented on someone who steals from it. Similarly, in the premodern conception, *bayt al-māl* could be used to pay off the blood money (*diya*) for a poor criminal. This would no longer be automatically true in the case of a state-owned treasury. To deal with such issues, modern states rely on the concept of a social contract. Accepting the idea of a fictitious person and consequently the state will thus also require Muslims to accept the idea of a social contract.[147]

4.8.5: *Ribā* and *Shubhat al-ribā*

One of the accusations against Islamic banking by its Deobandī critics was that even if it did not directly engage in *ribā*, it did engage in *shubhat al-ribā* (*ribā* is suspected), and because *shubhat al-ribā* carries the same ruling as *ribā*; therefore, Islamic banking should be impermissible. The authors of *Murawwaja Islāmī bankārī* cited Taqī ʿUsmānī's own writings in this regard. The implication seemed to be that Taqī ʿUsmānī was calling problematic contracts as cases of *shubhat shubhat al-ribā* even though they were in fact cases of *shubhat al-ribā*.[148] Taqī ʿUsmāni's response was that many people mistakenly assume that whenever there is a price increase due to time, it is

[147] Nyazee, *Islamic Law of Corporations*, 122-123.

[148] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 173-174.

either *ribā* or at least *shubhat al-ribā*. He argued that there is a difference between *shubhat al-ribā* and *mushābahat*/*ishtibāh* (similarity) with *ribā*. The critics had conflated the layman's perception of *ribā* taking place (*mushābahat al-ribā*) with the *shubhat al-ribā* of the jurists.

He went on to clarify that *shubhat-ribā* which has the same legal standing as *ribā* takes place when cash is being exchanged for cash or *ribawī* properties for *ribawī* properties.[149] However, when cash is being exchanged for goods (*ʿurūḍ*), then increasing the price due to increase in time period is neither *ribā* nor *shubhat al-ribā*. The case of *bayʿ ʿīnā* is different because even though it also entails an exchange of cash for goods, the reason for prohibition is that goods eventually return to the seller and the whole contract is just a show. Thus, it entails *shubhat al-ribā*.

Citing detailed *fatwās* from Deobandī *akābir*, Taqi ʿUsmānī explained to his critics that there are many cases where Deobandī *ʿulamā* permitted contracts even though common Muslim perception was that they entailed *ribā*. A good example is the provident fund (a kind of a pension scheme prevalent in India and Pakistan) which is not only perceived as *ribā* by common Muslims but also carries the name "interest" in its legal documents. Nevertheless, because it does not fulfill the technical definition of *ribā* or *shubhat al-ribā*, it is not labelled impermissible by the Deobandī *akābir*.[150]

4.8.6: Other *Fiqhī* Issues

The debate between Taqī ʿUsmānī and his Deobandī detractors focused quite heavily on the minutiae of Islamic contract law as it pertains to Islamic banking. The details are too many to

[149] *Ribawī* refers to those kinds of wealth/properties on which rulings of *ribā* apply.

[150] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 98-112.

reproduce here, and a broad summary has already been given earlier in the first chapter. Therefore, I discuss only the main issues here. Taqī ʿUsmānī's critics had questioned a range of contracts used in Islamic banks such as *murābaḥa*, *ijāra*, *muḍāraba*, and *shirka mutanāqiṣa*[151] Some of these disagreements were over the correct *fiqh* regarding valid possession, a contract within a contract (*ṣafaqa fi al-ṣafaqa*), adding defective (*fāsid*) conditions to a contract, and forced charity imposed on defaulters. At the same time, some of these disagreements were on whether Islamic banking contracts were in conformity with agreed upon *fiqh* rulings such as the fair division of profit among depositors and the bank when the bank acts as a *muḍārib* and the depositors acts as investors (*arbāb al-amwāl*). In these cases, the disagreement was in knowing what was actually happening in Islamic banks.

With regards to defective (*fāsid*) contracts, the critics argued that such contracts fall under unlawful consumption (*akl bi al-bāṭil*) which is prohibited in the Qur'an. This is because their widespread use paves the way to economic injustice and exploitation in society. As such, such contracts carry the ruling of *inʿiqād dūna nafādh*, which means if someone engages in such a contract, the contract will be tolerated on the condition that the basis for its defectiveness (*sabab al-fasād*) is removed. Secondly, such contracts also carry the ruling of *nafādh dūna jawāz*, i.e., even when they are allowed to take effect, their original ruling of impermissibility still remains to varying degrees. The implication of these positions is that even if one were to try to justify an existing defective contract in Islamic banking, this would not completely do away with its problematic nature.[152] The critics also went on to say that the jurists have discussed the imperative of validating a contract as long as it is possible (*mā dāma yumkinu taṣḥīḥ ʿaqd yuṣaḥḥaḥu*).

[151] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 221-288.

[152] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 178-179.

However, this should not be taken as an absolute rule. If *fasād* or the potential for *fasād* dominates a contract, it should not be validated.[153]

Taqī ʿUsmānī's response revolved around two main axes. On the one hand, he castigated his critics for misunderstanding Islamic banking contracts and not properly understanding banking procedures, and therefore seeing problems where there were none. He cited various documents and identified places where he alleged his critics had mistranslated them.[154] To be fair to both sides, some of these statements are ambiguous in nature and can be interpreted both ways, and this would explain why even banking professionals acting as outside experts for Taqī ʿUsmānī's opponents "mistranslated" them.[155]

Taqī ʿUsmānī's second defense was to engage in a detailed *fiqh* discussion to explain how his critics were misunderstanding and misapplying *fiqh* rulings. Thus, to respond to the charge about there being a contract within a contract (*ṣafaqa fi al-ṣafaqa*) in *bayʿ bi al-wafā'*, he clarified that if two parties agree on a condition by way of a promise before or after a contract and do not specify it in the contract, then such a contract will not be invalid and the promise can be made binding due to need (*ḥāja*).[156] He cited various jurists especially later Ḥanafīs (*muta'akhkhirūn*) and many Deobandī *akābir* including Thānvī, Ḥusayn Madanī, and Maḥmūd Gangohī, who permitted two contracts that occurred simultaneously but were not dependent on each other. Interestingly, many of the statements cited by Taqī ʿUsmānī in his defense mentioned *ḥāja* without

[153] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 180-182.

[154] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 213-227.

[155] See, for example, the document cited in Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 224.

[156] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 241-257. See Mumtāz's response in Aḥmad Mumtāz, *Ghayr sūdī bankārī: Ayk munṣifāna ʿilmī jā'iza* (Karachi: Jāmiʿa Khulafā'-i Rāshidīn, 2010), 110-140.

defining it, and neither did he.[157] Moreover, in a couple of places even *iḍṭirār* (desperation) and *ḍarūra* (necessity) were invoked even though there is no fear of loss of life or limb.[158] In fact, this is one of the key issues besetting Deobandīs, namely, how to consistently define and apply the concepts of *ḥāja* and *ḍarūra*? (More on this in the next chapter).

Taqī ʿUsmānī also went on the offensive. He argued that his critics also allow LC (Letter of Credit) for international trade, which is a simultaneous occurrence of contracts of *wakāla bi al-ajr* and *kafāla*, and thus a contract within a contract. His critics allow it when there is no alternative available (*ba waqt-i majbūrī*) and while considering it to be impermissible in itself. Taqī ʿUsmānī rhetorically asked that since his critics recognize the need for an LC, then if they were to hypothetically have the power to make commercial laws in the country, how would they structure the LC while avoiding simultaneous occurrence of *wakāla* and *kafāla*?[159] This is, in fact, another fundamental issue facing the Deobandīs. They are behaving as private *muftīs* while competing with the state, and yet many of them refuse to think from the perspective of the state (again, more on this in the next chapter).

The case of forced charity is another example of this dilemma facing Deobandīs. Conventional bank loans tend to have a lower rate of unpaid loans because not paying in time leads to higher interest. In the early years of Islamic banking, many people took advantage of Islamic banks not charging interest. Initially, Islamic banks decided to impose penalties payable to the lending bank. However, this was opposed by many *sharīʿa* scholars including Taqī ʿUsmānī because this amounted to *ribā*. Eventually, Islamic finance scholars came up with the idea of

[157] See invocations of *ḥāja* in Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 243-254.

[158] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 246 & 250 respectively.

[159] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 257.

forcing delinquents to pay charity. This is not permissible in Ḥanafī *fiqh* but there are some Mālikī scholars who have justified it. Interestingly, the issue came up in the 1992 DUK meeting as well, and the senior Deobandī *ʿulamā* present there agreed to the idea in principle. However, this became an issue for Taqī ʿUsmānī's critics who severely criticized him for following an isolated Mālikī opinion.[160]

In response, Taqī ʿUsmānī reminded his critics of the history of the 1992 DUK conclave and also gave them almost a dozen examples where Ḥanafīs leave the *madhhab* and give *fatwā* on other *madhhabs*. The most damning piece of evidence in this regard was the position adopted from the Shāfiʿī school which justifies receiving compensation for teaching the Qur'an and Islamic sciences. All the *madrasas* run on this basis. The other damning evidence was statements and *fatwās* by many Deobandī *akābir* permitting certain things based on non-Ḥanafī opinions. The most important in this regard were the various statements of Banūrī himself justifying this. Finally, Taqī ʿUsmānī also argued that even though his critics claim the legacy of Banūrī and Walī Ḥasan Tonkī (the former head of Dār al-Iftā' at Banūrī Town), Taqī ʿUsmānī had spent more time in the company of these two and understood their approach to *fatwā* better than his critics, many of whom had not even met those two.[161]

A third issue dividing Taqī ʿUsmānī and his critics was what constituted valid possession and how could it be achieved. This is crucial for the validity of the *murābaḥa* contract which Islamic banks use to provide financing to their clients. Basically, when a client approaches the bank to seek financing for some capital goods, the bank buys those goods and sells them to the client at a profit but with deferred payment. However, instead of buying the goods directly, the

[160] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 264-283.

[161] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 277-297.

bank appoints the client as its agent for this purchase, and then sells the same goods which the client had taken possession of on behalf of the bank to the client. While both Taqī ʿUsmānī and his critics agreed that it was forbidden for the bank to sell something that it did not possess (*bayʿ qabl al-qabḍ*), they disagreed over whether the bank had acquired possession of the said goods or not.

According to the critics, the said possession of the goods by the client on behalf of the bank was a possession of trust (*qabḍ amāna*) which is not sufficient as a substitute for possession of liability (*qabḍ ḍamān*). For the bank to be able to sell the goods to the client, the bank had to actually take possession for it to be counted as possession of liability.[162] Taqī ʿUsmānī's response was that although it is better for the bank to directly take possession of the goods, the agent's possession would also be sufficient because the purpose of possession is free access to the goods and the freedom to dispose of them as one deems fit. Since these aspects are already achieved in the case of the agent's possession; therefore, the goods will be considered to be in the liability of the bank. Interestingly, Taqī ʿUsmānī cited an article by an Indian Deobandī scholar in his defense which had been presented at a conference on *murābaḥa* in banks organized by the Indian Fiqh Academy in 1990.[163] The fact that his critics were unaware of this paper or perhaps even of the conference, or the fact that no such nationwide conferences had taken place in Pakistan is also illustrative of the state of the Deobandī academic complex in Pakistan.

Another issue that critics raised was the division of profit and loss among those customers who hold *muḍāraba* accounts in Islamic banks. In the case of such accounts, the Islamic bank acts as a *muḍārib* with respect to its depositors who together constitute *arbāb al-māl*. However, since

[162] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 234-244. Also see Mumtāz, *Ghayr sūdī bankārī*, 215-225.

[163] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 227-234.

people deposit or withdraw cash at different times of the year, this poses a problem in the calculation of profit and loss. Classical *fiqh* assumes that when multiple partners enter into a *muḍāraba* agreement with someone, they all become partners at the same time. If someone were to join later then such a partner is not liable for the loss or deserving of the profit that accrued before his joining. However, in modern banks, people deposit and withdraw money into such accounts all the time. To require depositors to deposit or withdraw only at specific times in the year would impose hardship upon them.

To make Islamic banks' operations as user-friendly as those of conventional banks, Council of Islamic Ideology came up with a system similar to what is used in conventional banks called daily product.[164] Repackaging it as the weightage system, CII proposed that at the end of the *muḍāraba* period, the bank should calculate the daily profit per rupee in the *muḍāraba* account and distribute it among the account holders based on the number of days their money was in the account. Thus, if the total amount was Rs. 300 and there was a profit of Rs. 30 over a 30-day period, this would result in a daily profit per rupee of (30/30)/300 = Rs. 0.00333. Now, if someone had kept Rs. 10 in the account for 15 days, their profit would be 15*10*0.00333 = Rs. 0.04995.

In his explanation of the process, Taqī ʿUsmānī recognized that this method was not found in classical *fiqh*. Instead, he resorted to relying on the basic principles of *shirka* and *muḍāraba* outlined in the Qur'an and *ḥadīth*. This is general principles-based reasoning which Taqī ʿUsmānī has not openly called for but was practically engaging in. Since the basic principle regarding division of profit in a *shirka* or a *muḍāraba* is "*al-ribḥ ʿala mā iṣṭalaḥā ʿalayhi wa al-waḍīʿa ʿala qadr al-māl* (profit is whatever the two parties agree on and the loss will be in proportion to the share of investment);" therefore, according to Taqī ʿUsmānī, while the share of profit is open to

[164] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 210-216.

discussion among partners, a partner cannot be made liable for a loss less than or greater than his share of the investment. According to Mumtāz, this is exactly what happens in the case of Islamic banks where a partner who joins a *muḍāraba* account after the start of the term, ends up being held liable for a share of the loss due to the daily product or weightage system.[165] Taqī ʿUsmānī acknowledged that this new system did not fulfill all the minute details set out by classical jurists, but he went on to assert that classical jurists allowed many such contracts merely because of need (*ḥāja*) and public practice (*taʿāmul*). Therefore, even though weightage system might be questionable on technical *fiqhī* grounds, need and public practice render it permissible.[166]

Taqī ʿUsmānī's critics were not convinced by his line of reasoning. Their response was that this system does not ensure equitable distribution of profit and loss despite all the claims to this effect.[167] Moreover, this system violates three basic *fiqh* principles governing economic transactions namely *al-kharāj bi al-ḍamān* (profit is the result of liability), *al-ghunm bi al-ghurm* (profit is due to liability), and *lā yaḥillu ribḥ mā lam yuḍman* (profit is not permissible on something whose risk one is not liable for) which all mean that a person deserves profit only when he assumes risk. The weightage system violates these principles because in the case of a person who makes a deposit in a *muḍāraba* account after the term start date, he cannot be eligible for the profit which accrues from before his joining because he is not being held responsible for the loss from before him.[168]

Although the details included in the foregoing discussion can get very complicated, at its core, all of these disagreements can be boiled down to the following: to what extent are the *ʿulamā*

[165] Mumtāz, *Ghayr sūdī bankārī*, 34-35.

[166] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 321-333.

[167] Mumtāz, *Ghayr sūdī bankārī*, 31-59.

[168] Mumtāz, *Ghayr sūdī bankārī*, 59-63.

obliged to bend the rules of fiqh in response to need and practice vs. making the banks conform to rulings of classical fiqh? I take up this question in detail in the next chapter.

4.9: Conclusion

Having examined Deobandī economic thought as well as some of the issues in the recent intra-Deobandī debate on the validity of Islamic banking, it is now time to summarize our findings so far. To say that many *ʿulamā* (Deobandīs among them) and Muslim thinkers across the world are opposed to both capitalism and socialism/communism is to state the obvious. In fact, this is the main reason why Islamic economics and then Islamic finance emerged as distinct Islamic sciences in the twentieth century. Deobandīs, driven by their desire to present Islam as a comprehensive way of life, were involved in these efforts from the very beginning as exemplified by the works of Seohārvī and Gilānī, two of the earliest such works on Islamic economics in any modern language.

But did these works lay the foundation of a Deobandī tradition of economic thought in the sense of a conversation extended over time? The answer seems to be mostly no. To be sure, Deobandi writings on *fiqh* often entail conversations taking place among Deobandīs across time.[169] The above-discussed debate on Islamic banking is a good example of that where both sides engaged in interpreting and re-interpreting opinions of their elders. However, when it comes to meta-level economic thinking, we do not find Deobandīs engaged in a conversation across generations. Even more, there seems to be a willful negligence of earlier Deobandī works. Thus, we find each author writing a treatise in isolation and the only threads connecting various Deobandī authors are their references to the Qur'an, *ḥadīth,* Ḥanafī *fiqh,* and their personal identities as Deobandīs. Seohārvī's and Gīlānī's works were published more than half a century ago and they

[169] The same is also true of Deobandī Sufi works.

are still in print. As such, it is highly likely that our contemporary Deobandī authors have read them. Nevertheless, there is no reference to these works in later ones, be it positive or negative.

More than exemplifying a tradition, this chapter has illustrated for us the kinds of challenges Deobandī *ʿulamā* face in navigating issues that the modern world has thrown at them. To begin with, there is the question of whether the *ʿulamā* and by extension Islam has anything to say on the economic question. Both Seohārvī and Gīlānī sought to answer this by providing a comprehensive overview of an Islamic economic system. Both of them were more concerned with philosophical questions and somewhat ahistorical economic issues. As the century progressed, Deobandī literature on economics and finance continued to evolve in response to changed circumstances. This is especially visible in the 1960s works of Pakistani Deobandīs Shafīʿ and Mīrathī which sought to provide concrete policy proposals for the then prevailing economic conditions in Pakistan. Later still, one finds a move to more micro-level issues as exemplified by Taqī ʿUsmānī's works from the 1990s, and the intra-Deobandī debate on Islamic banking. Throughout this period, and even before it, Deobandī *ʿulamā* continued to engage with questions of modern economics and finance through the medium of *fatwās* on specific questions. While some of these *fatwās* would engage in longer discussions of economic issues, the standalone works considered in this chapter represent a far more robust engagement with these issues.

This chapter also revealed the limits of *ʿulamā* trained in the premodern Islamic scholarly tradition engaging in discussions of modern issues. It thus showed the potentially large gap between subject-matter experts and the *ʿulamā* which then raises questions about the sufficiency of the training these *ʿulamā* receive in their *ʿĀlimiyya* and *Iftā'* programs. Thus, reading the works by Seohārvī, Gīlānī and Mīrathī, one is struck by the highly varied nature of their scholarship. Each of them clearly identifies the core problem at the heart of capitalism, i.e., unbridled greed

and lack of concern for economic justice. Similarly, they are also very articulate in laying out the broad contours of an Islamic economic system. Every now and then, one encounters something that suggests that the authors are well-versed in modern economic thought. But then a few pages later, one finds them struggling to make sense of a modern concept (Mīrathī with respect to supply and demand) or completely avoiding discussion of modern issues (Gīlānī talking about premodern *kharāj* in his discussion of government revenue, and not giving any concrete suggestions for the government of the day). Similarly, Deobandī authors only discuss non-quantitative ideas about economics and finance. There is almost no discussion of data collection and analysis,[170] or any quantitative theories which have come to dominate modern economics and finance. Modern economic thinkers are similarly conspicuous by their absence. Perhaps, this is because the Deobandī authors are not trying to prove any economic idea or theory through its practicality. Rather, their writings and proofs are within the broader framework of premodern *fiqh* discourse, i.e., their evidences are verses of the Qur'ān, *ḥadīths*, and opinions of jurists.

The biggest exception in all of this is Taqī ʿUsmānī. As someone who is trained in Deobandī *madrasas* as well as economics and modern Pakistani law, who has served in Pakistan's judiciary, and has been actively involved in advising Islamic banks, his grasp of *fiqh*, economics, and legal issues is unparalleled. This is why, he is able to hold so well against his Deobandī critics. The case of external specialists like Imran Nyazee and Zahid Mughal who specialize in law and economics respectively is different. Their critiques of Islamic banking and of Taqī ʿUsmānī's ideas is quite robust and Taqī ʿUsmānī has yet to respond to them. In fact, Taqī ʿUsmānī's choice of which criticism he responds to indicates what he considers to be his core constituency or discursive community with whom dialog or even debate is necessary or worth it. This is his fellow Deobandī

[170] I discuss this in more detail in the next chapter.

ʿ*ulamā* since Taqī ʿUsmānī sees himself as an ʿ*ālim* and a *muftī* more than an economic thinker, finance expert, or a judge.

So, what makes Taqī ʿUsmānī unique? It is the many worlds he inhabits. On the one hand, he is as Deobandī as a person can be. He comes from a family from Deoband, was born there, his father was a senior *muftī* at Dār al-ʿUlūm Deoband, and Taqī ʿUsmānī himself is one of the top few Deobandī ʿ*ulamā* in Pakistan. To top it all off, he is also the author of the standard Deobandī work on *taqlīd shakhṣī* which has played its not so insignificant role in shaping the general Deobandī stance on *taqlīd*. At the same time, Taqī ʿUsmānī is a cosmopolitan figure. He is well-traveled and most importantly, he has a close relationship with Arab ʿ*ulamā* by virtue of his participation in *al-Majmaʿ al-Fiqhī al-Islāmī* in Makka as well as the various international bodies overseeing Islamic finance. Thus, we find him not only citing modern Arab ʿ*ulamā* in his works but also endorsing some of their opinions such as on the various aspects of Islamic banking. His knowledge of and concession to the ground reality of modern business also plays a part in this, as we have already seen. In terms of *fiqh* sources, we also find Taqī ʿUsmānī occupying a unique position. His works on Islamic economics and finance can be seen at the intersection of three different fiqh discourses, the premodern *fiqh* discourse (primarily Ḥanafī), modern Deobandī *fiqh* discourse, and the modern Arab *fiqh* discourse. Taqī ʿUsmānī's Deobandī critics only engage with the first two of these while Nyazee and Mughal engage with the first and the third.

Turning now toward economic policymaking, we also saw that by the early 1990s, Deobandīs had effectively given up on Pakistani governments to do anything concrete for Islamization of the economy. Instead, Taqī ʿUsmānī's works demonstrate a desire to find some space for Islamic economics and finance within the broader framework of a capitalist order. Since economic policymaking cannot really be undertaken by private citizens and that too without any

business power behind them, Taqī ʿUsmānī and his colleagues shifted towards banking, a domain where partial Islamization could conceivably be achieved.

It is here that Taqī ʿUsmānī ran into trouble because many of his fellow Deobandīs were uncomfortable with this partial Islamization. Moreover, his approach to Islamic banking also ran afoul of the Deobandī approach to *taqlīd*, i.e., *taqlīd shakhṣī* which often entails an uncritical adherence to the standard opinion (variably termed *rājiḥ*, *mashhūr* or mostly *muftā bihi*) in the Ḥanafī *madhhab* except in cases of extreme necessity (*ḍarūra shadīda*). Although Taqī ʿUsmānī argued that many solutions to modern economics and finance problems cannot be found in only one *madhhab*, his opponents were not convinced because they felt that the issue is not so much finding solutions to new problems as it is changing the new situation to conform to premodern Islamic paradigms.

At the same time, we also noticed that both sides of the intra-Deobandī debate invoked Deobandī elders to support their respective positions thereby cementing not only their group identity but also *taqlīd* of late Ḥanafī authorities. Moreover, both sides invoked concepts such as *ḍarūra* and *ḥāja* without adequately defining them. In fact, these two issues, namely status of the Deobandī elders in the Ḥanafī *madhhab* and the rules governing deviation from the standard opinion in the *madhhab* are critical to understanding why the two sides take the stances they do. I look at these in the next chapter.

CHAPTER FIVE

THE DEOBANDĪ APPROACH TO *FATWĀ*-GIVING

The previous three chapters addressed the broad contours of the Deobandī knowledge tradition especially their academic complex and their approach to economics and finance. The second half of chapter four dealt with the main issues in the intra-Deobandī debate on Islamic banking pertaining to areas of intersection between economics and law. I begin this chapter with the same debate, now focusing more on issues pertaining to the principles governing *fatwā*-giving (*uṣūl al-iftā*). I start with a brief overview of the key *fatwā*-giving principles deployed by the critics of Islamic banking. This is followed by a detailed discussion of three major themes pertaining to Deobandī *fatwā*-giving namely Deobandī approach to *taqlīd*, deviation from the standard opinion in the *madhhab,* and *fatwā*-giving in the modern world. My goals in these sections are two-fold. Firstly, I seek to provide a general assessment of the Deobandī approach to *fatwā*-giving thereby highlighting its strengths and weaknesses. My other goal is to identify the similarities and differences between the approaches of Taqī ʿUsmānī and his Deobandī critics, and to tease out, if possible, why Taqī ʿUsmānī differs with his Deobandī colleagues as much as he does. Finally, I bring together all of these various strands pertaining to Deobandī approach to *fatwā*-giving to analyze how *fatwā*-giving can sometimes overlap with legislation and policymaking, and in such cases, requires a different kind of training as well as mindset.

5.1: *Uṣūl al-iftā'* and the Intra-Deobandī Debate on Islamic Banking

The intra-Deobandī debate on Islamic banking is first and foremost a debate among *muftīs* about the legal ruling of Islamic banking. Within the main work from the critics, *Murawwaja Islāmī bankārī: Tajziyātī mutālaʿā, sharʿī jā'iza, fiqhī naqd-o tabṣira,* there are three main discussions of

uṣūl al-iftā'. These are the foreword (*paysh lafẓ*) by Salīm Allāh Khān, the then President of Wifāq al-Madāris, the introduction (*muqaddama*) by ʿAbd al-Razzāq Iskandar,[1] the then rector (*muhtamim*) of Banūrī Town madrasa, and the ten basic principles given by the authors for evaluating Islamic banking which appear in the middle of the book. All three of these sections seek to provide methodological justification for the *fatwā* against Islamic banking.

Salīm Allāh Khān's short foreword makes three main points. One of the key arguments put forward by bankers associated with Islamic banking had been that it was supported by Taqī ʿUsmānī who is well-versed in Islamic sciences as well as modern economics and finance including banking. The implication in such defenses was that the *ʿulamā* opposing Islamic banking did not know enough about banking or modern economics or finance. That is, these *ʿulamā* did not have a good enough knowledge of the *wāqiʿ* (ground reality) to give a *fatwā* on it. Salīm Allāh Khān challenged this citing a series of Pakistani economists and bankers who considered Islamic banking to be no different than conventional banking. These included ʿAbd al-Mujīb Anṣārī, Shāhid Ḥasan Ṣiddīqī, Ḥasan al-Zamān Akhtar, and Jāved Akbar Anṣārī.

The second main point Salīm Allāh Khān made was that this *fatwā* reflected the opinion of the majority of the *ʿulamā* in Pakistan whereas supporters of Islamic banking were a very small minority. This binary between *jumhūr* (majority, mainstream) and *shādhdh* (fringe) was deployed throughout this debate to suggest that the mainstream of *ʿulamā* did not approve of Islamic banking, and thus the masses should avoid it.

Salīm Allāh Khān's third main argument was that Islamic banks tended to lack transparency and were also lax in upholding Islamic values in their work environment. The main

[1] See ʿAbd al-Razzāq Iskandar, introduction to *Murawwaja Islāmī bankārī: Tajziyātī mutālaʿā, sharʿī jā'iza, fiqhī naqd-o tabṣira*, by Rufaqā' Dār al-Iftā' Jāmiʿat al-ʿUlūm al-Islāmiyya Banurī Town (Karachi: Maktaba Bayyināt, 2008).

issue in this regard was the lack of gender segregation in Islamic banks.[2] Although not directly connected to any specific principle of *fatwā*-giving, Khān used this to question the credibility of so-called Islamic bankers. If they were not serious about upholding Islamic values in the workplace, then how could their word be taken on face-value when they said that all the procedures were *sharīʿa*-compliant.

The introduction (*muqaddama*) by ʿAbd al-Razzāq Iskandar, the then rector (*muhtamim*) of Banūrī Town *madrasa* evaluated Islamic banking using detailed guidelines provided by Yūsuf Banūrī in a series of articles written in the late 1960s.[3] In these articles, Banūrī had laid down what he considered to be the proper methodology for dealing with new issues. It called for collective *ijtihād* by *ʿulamā* who possessed strong command of the Islamic sciences as well as high levels of piety. In line with typical Deobandī fashion, Banūrī categorically stated that since the majority of Pakistanis are Ḥanafīs, the Ḥanafī *madhhab* should be followed except in case of severe need (*iḍṭirār shadīd*). Moreover, he further explained, if there is a solution in the four *madhhabs* and it is not an isolated opinion (*shādhdh*) and does not violate consensus, then it should be adopted instead of new *ijtihād*. He also clarified that *ijtihād* should only be conducted in areas where there is no primary text or consensus. New causes (*ʿilla*) or wisdoms (*ḥikma*) should not be devised to create a new ruling which nullifies the text or consensus. In order to warn against misuse of *fatwās,* Banūrī also stated that *talfīq* (impermissible mixing of *madhhabs*) must be avoided at all costs and one should not be systematically seeking dispensations across *madhhabs* (*tatabbuʿ rukhaṣ*). Moreover, in order to forestall wholesale adoption of all things modern, Banūrī also categorically

[2] This is based on the standard Deobandī discouragement/prohibition of *ikhtilāt,* i.e., free mixing of men and women.

[3] These articles and four others, three by Yūsuf Banurī and one by Walī Ḥasan Tonkī, together comprise the introduction to the collection of *fatwās* published over the years in Banūrī Town's monthly journal *Bayyināt*. See Muḥammad Yūsuf Banūrī, "*Jadīd fiqhī masāʾil aur rehnumā uṣūl*" in *Fatāwā Bayyināt,* ed. Majlis-i Daʿwat-o Taḥqīq (Karachi: Maktaba Bayyināt, 2017), 1:25-30; and Muḥammad Yūsuf Banūrī, "*Ijtihād kay uṣūl-o sharāʾiṭ*" in *Fatāwā Bayyināt,* 1:37-48.

stated that every requirement of the modern civilization does not fall under *iḍṭirār sharʿī*. There is a difference between *iḍṭirār* and seeking wealth. The rulings of *iḍṭirār* do not apply to the situation of a wealthy person.

Using these guidelines, Iskandar evaluated Islamic banking and found it to be in clear violation of the recommendations given by Banūrī. Thus, Iskandar stated that a basic mistake in Islamic banking is that those involved are unwilling to change any modern law but are more than happy to twist Islamic law. Thus, supporters of Islamic banking were using rules for *muḍṭarr* and deploying them to the benefit of those who were either already rich or seeking to improve their standard of living. Moreover, he argued that since Pakistanis are mostly Ḥanafī, therefore, Islamic banking should be based on the Ḥanafī *madhhab* so that the general public is not alienated. Lastly, Iskandar reiterated the importance of collective decision-making by *ʿulamā* and following the mainstream/majority of *ʿulamā*. This is something Banūrī had strongly recommended for tackling new issues. Iskandar approvingly cited Banūrī and added that since Muslim governments are not serious about implementing Islam, the *ʿulamā* should come together to form collective fora for *fatwā*.

As mentioned earlier, the third discussion of *uṣūl al-iftā'* takes place in the middle of the book just before the authors set out to do a *fiqhī* analysis of Islamic banking. They lay out ten basic principles regarding *ʿumūm balwā*, *ḥiyal*, choosing between *ḥarām* and *ḥalāl*, and dealing with *muʿāmalāt*.[4] Some of these have already been dealt with in the last chapter in the discussion of other *fiqhī* issues, and I examine the rest in detail later in this chapter. But first, I must explore the general Deobandī approach to *fiqh* and *fatwā* which is common to Taqī ʿUsmānī and his critics.

[4] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 160-187.

My discussion begins with a brief overview of the Ḥanafī *madhhab* especially as understood and presented by the Deobandīs.

5.2: Deobandīs, the Ḥanafī *Madhhab,* and *Taqlīd*

As mentioned earlier, Deobandīs are strict Ḥanafīs and they subscribe to a particular understanding of *taqlīd* called *taqlīd shakhṣī*. At its core, the idea is very simple. Whereas *taqlīd* refers to following the opinions of a qualified scholar, *taqlīd shakhṣī* refers to following the opinions of the same scholar in all matters. The opposite of this is *talfīq* where a person may follow the opinions of scholar X for one issue and follow the opinions of another scholar Y for another issue. In the case of Deobandīs, the single scholar that they follow is Abū Ḥanīfa. However, *taqlīd* of Abū Ḥanīfa is not as straightforward as the above may suggest. After all, Abū Ḥanīfa did not leave behind any work of *fiqh*, and his students including the two prominent ones, Abū Yūsuf and Muḥammad b. al-Ḥasan al-Shaybānī, were intimately involved in the elucidation and articulation of Abū Ḥanīfa's ideas. Moreover, each succeeding generation of Ḥanafī scholars also added to the legacy of the first generation.

The result then was a *madhhab,* a school of law, which is the aggregate of the opinions of not one but numerous scholars who all adhere to the methodology first articulated by Abū Ḥanīfa. When Deobandīs talk of *taqlīd shakhṣī* and Abū Ḥanīfa, what they really have in mind is the Ḥanafī *madhhab* with all its complexity. And the Ḥanafī *madhhab* is not alone in this. Other *madhhabs* share similar features. This complexity is what has led many modern Western scholars to translate *madhhab* in a number of different ways depending on what aspect is being emphasized. Hence, *madhhab* as a school of law (emphasis on doctrine),[5] as a guild (emphasis on its social structure

[5] See Bernard Weiss, "The Madhhab in Islamic Legal Theory," in P. J. Bearman, Rudolph Peters, and Frank E. Vogel (eds.), *The Islamic School of Law: Evolution, Devolution, and Progress* (Cambridge, Mass.: Islamic Legal Studies

or function),[6] as *madhhab*-jurisdiction (emphasis on the judicial aspect) and sometimes simply as a *madhhab* (range of meanings intended simultaneously).[7] The *madhhab*-law tradition, as al-Azem calls it, then refers to "the totality of the underlying logic, principles, and processes of this system across the various schools of law as it developed through time."[8]

For those not qualified to fully understand the complexity of such a legal tradition, *taqlīd* helps by requiring them to follow the standard opinion of the *madhhab* on a given issue. Variably termed as *muftā bihi* (that on which the *fatwā* is given), *ʿalayhi al-fatwā* (the *fatwā* is on it), *muʿtamad* (relied upon), *rājiḥ* (preferred), *muṣaḥḥaḥ* (validated), etc., the standard opinion is the chosen opinion among the plurality of opinions that might exist in the *madhhab*. This plurality had emerged due to variances in transmission of opinions from earlier jurists as well as due to new opinions offered by later jurists on the same issues that earlier jurists had opined about. To determine which one of these various opinions is the standard opinion requires one to have a structured system of engaging with the authorities (persons and texts) of the *madhhab*. Moreover, for Deobandīs, they also have to decide where their *akābir* (including those currently alive) fit into this hierarchy of Ḥanafī authorities.

Program, Harvard Law School, 2005), 1–9; Christopher Melchert, *The Formation of the Sunni Schools of Law, 9th–10th Centuries CE* (Leiden: Brill, 1997), xiv–xvii, and Wael Hallaq, "From Regional to Personal Schools of Law? A Reevaluation," *Islamic Law and Society* 8, no. 1 (2001): 1–26.

[6] See George Makdisi, "The Guilds of Law in Medieval Legal History: An Inquiry into the Origins of the Inns of Court," *Cleveland State Law Review* 34, no. 3 (1986): 4-7; idem, *The Rise of Humanism in Classical Islam and the Christian West* (Edinburgh: Edinburgh University Press, 1990), 18–22; and Sherman Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb al-Dīn al-Qarāfī* (Leiden: Brill, 1996), 103–112.

[7] For a concise and comprehensive overview of these different nuances of *madhhab*, see al-Azem, *Rule-Formulation and Binding Precedent*, 2-4.

[8] Al-Azem, *Rule-Formulation and Binding Precedent*, 1.

5.2.1: History of the Ḥanafī *Madhhab*

To better understand this structure of the Ḥanafī *madhhab*, we have to begin with a broad overview of the various stages that the Ḥanafī *madhhab* has passed through in its history. One can identify three such broad stages, namely formation, growth & consolidation, and stable transmission. The first stage is the period of Abū Ḥanīfa and his companions (*aṣḥāb*). These people are often dubbed the *salaf* within the Ḥanafī *madhhab* and their opinions are the foundation of the *madhhab*. Abū Ḥanīfa did not author any *fiqh* text, at least not an extant text. And although there are some extant works attributed to Abū Yūsuf, the primary written transmission of the opinions of Abū Ḥanīfa and his two main companions (*ṣāḥibān or ṣāḥibayn*), Abū Yūsūf and al-Shaybānī, happened through the works of al-Shaybānī. Six such works are together called the *ẓāhir al-riwāya* (manifest transmission) and comprise *al-Jāmīʿ al-ṣaghīr*, *al-Jāmīʿ al-kabīr*, *al-Siyar al-ṣaghīr*, *al-Siyar al-kabīr*, *Ziyādāt*, and *al-Aṣl* or *al-Mabsūt*. Later, these six were summarized in a single work called *al-Kāfī* by al-Ḥākim al-Shahīd (d. 334 AH), which was then commented upon by Shams al-A'imma al-Sarakhsi (d. 483 AH) in his detailed work titled *al-Mabsūṭ*.[9]

Rulings contained in *zāhir al-riwāya* occupy the first rank of rulings in the *madhhab* and are thus called *masā'il al-uṣūl*. The second rank called *masā'il al-nawādir* comprises those works which also contain opinions of Abū Ḥanīfa and his companions but whose transmission is less reliable than that of *zāhir al-riwāya*. Such works include works by al-Shaybānī such as *al-Kaysāniyyāt*, *al-Hārūniyyāt*, *al-Jurjāniyyāt*, etc. as well as works by other companions of Abū Ḥanīfa such as *Kitāb al-Mujarrad* of al-Ḥasan b. Ziyād (d. 204 AH) and the *Amālī* of Abū Yūsuf.

[9] Ever since its appearance, al-Sarakhsī's *al-Mabsūṭ* became the main source of knowing the *zāhir al-riwāya*, and therefore, the earlier works declined in circulation. In fact, with his various works, al-Sarakhsī can be said to have codified the *madhhab* in a way that it had lasting impact on future generations of Ḥanafīs. As far as I know, his work has not received attention from modern scholars as it deserves.

The second stage in the history of the Ḥanafī *madhhab* began from the beginning of the third Islamic century and lasted until the end of the ninth century. This period saw growth in the *madhhab* as well as its consolidation and maturation. The growth came about through responses to new situations by later jurists (variably dubbed as *khalaf* and *muta'akhkhirūn*) based on the hermeneutical principles set by the Ḥanafī *salaf*.[10] An example of such a work is the *Kitāb al-nawāzil* of Abū al-Layth al-Samarqandī (d. 373 AH). While some of these later jurists engaged in first order *ijtihād*, i.e., they directly engaged with the primary sources of Islamic law, other jurists employed *takhrīj*. *Takhrīj* (lit. derivation) entailed either explanation of an ambiguous opinion of the earliest Imams who were *mujtahid muṭlaqs* or using their opinions as the basis of new rulings. That is, just as a *mujtahid* used scriptural texts to determine rulings, the person engaged in *takhrīj* used earlier *mujtahids*' opinions as foundation to find rulings for new issues. In other words, *takhrīj* was a second-order activity as compared to a *mujtahid*'s first-order activity.

Besides *takhrīj*, many jurists of this period also engaged in *tarjīḥ* and *taṣḥīḥ* which while contributing to the growth of the *madhhab* also helped consolidate it. *Tarjīḥ* (giving preference) entailed determining which among the various opinions or narrations found in the *madhhab* should be given precedence. The relevant criteria might have been the reliability of the transmission of an opinion from an earlier jurist, strength of evidence, or exigent circumstances such as change of custom which required one to forego the hitherto standard opinion. In other words, the process of *tarjīḥ* helped to not only adjust the *madhhab* according to new circumstances, it also stabilized the

[10] There are various terms used to refer to jurists of "early" and "later" periods, and they do not always align with one another. Thus, according to one schema, Abū Ḥanifa and his companions are the *salaf*, while people who came after them until Shams al-A'imma al-Ḥalwānī (d. 448) are the *salaf*. They were followed by the *muta'akhkhirūn* who lasted until the end of the seventh century. According to another schema, the earliest jurists are the *mutaqaddimūn* and their period lasted till the end of the third Islamic century, i.e., Abū Ḥanīfa, his students and their students. Those who came after them are then the *muta'akhkhirūn*. See Jihād Aḥmad Majallī al-Quḍāt, *Qawāʿid al-taṣḥīḥ wa al-tarjīḥ fi al-madhhab al-Ḥanafī* (Amman: Dār al-Fārūq, 2021), 61. However, al-Azem argues that *muta'akhkhirūn* is a relative term and therefore, should be understood in the context in which it is used. See al-Azem, *Rule-Formulation and Binding Precedent*, 84-88.

madhhab through verification of earlier opinions. The result of this process was also called *tarjīḥ* (pl. *tarjīḥāt*). When later jurists engaged in *tarjīḥ* of an earlier *tarjīḥ*, i.e., confirmed or emended it, it was called *taṣḥīḥ* (validation/verification) and this further helped streamline the *madhhab*.[11]

The twin processes of *tarjīh* and *taṣḥīḥ*, often together dubbed as *tarjīḥ* by later jurists, were cumulative in nature. That is, a *tarjīḥ* gathered weight and acceptance when more and more *tarjīḥ*-capable jurists lent it support. Consequently, standard opinions of the *madhhab* began to emerge in cases where they may have been a plurality of opinions. Once an opinion was chosen to be the *fatwā* of the *madhhab*, it was deemed binding on all those less qualified than the ones who reached these decisions. The binding nature of precedent then helped ensure the stability of the system by taking away the right of lower-ranked jurists to engage in the kind of *ijtihād* that *mujtahid muṭlaqs* engaged in. This process of streamlining and maturation of the Ḥanafī *madhhab* can be said to have been completed by the end of the ninth Islamic century. The third stage which has lasted since then till today has also seen growth in the *madhhab*, but this has been primarily within the limits set by the tradition of the previous period.[12]

5.2.2: Mapping the Ḥanafī *Madhhab* for *Fatwā*-giving

As should be obvious from the foregoing, even though every Ḥanafī is supposedly following Abū Ḥanīfa, it often happens through the medium of someone else. It could be one of the many

[11] Al-Azem, *Rule-Formulation and Binding Precedent*, 4-8.

[12] There is no agreement among modern scholars regarding the periodization of the history of the Ḥanafī *madhhab*. Writing more than half a century ago, Meron had argued for a three-fold periodization of the Ḥanafī *madhhab*, namely ancient (up until the end of the 4th/10th century), classical (beginning in 5th/10th century) and post-classical (late 6th/11th century onwards). See Yaʿakov Meron, "The Development of Legal Thought in Hanafi Texts," *Studia Islamica* 30 (1969): 73–118. However, Meron's study was part of a larger debate among Western academics regarding *ijtihād* and *taqlīd* which informed his choice of cutoff points. Much has been written since then especially by Hallaq who has convincingly argued that *ijtihād* continued under different names even after the so-called closure of the gates of *ijtihād*. See Wael B. Hallaq, "Was the Gate of *Ijtihād* Closed?" *International Journal of Middle East Studies* 16, no. 1 (1984): 3–41. My choice of periodization is informed by two main studies as given in al-Quḍāt, *Qawāʿid al-taṣḥīḥ wa al-tarjīḥ*, 61-97 and al-Azem, *Rule-Formulation and Binding Precedent*, 52-84.

companions of Abū Ḥanīfa or their students or some jurist who came later, each one of whom is either transmitting Abū Ḥanīfa's ideas or engaging with it while potentially emending it. Moreover, this *taqlīd* occurs through one of the many texts which record these opinions. It is this mapping of the Ḥanafī *madhhab* through its jurists and texts that form one of the main tasks of the manuals of *fatwā*-giving composed by Ḥanafīs. Among the earliest such works is the sixth/twelfth century brief treatise by the Central Asian Qāḍīkhān (d. 592/1196) which serves as an introduction to his large compilation of *Fatāwā*. Since Qāḍīkhān falls within the second stage of the history of the Ḥanafī *madhhab*, a Ḥanafī jurist of the time was still expected to engage with the opinions (*aqwāl*) of the earliest Ḥanafī masters. Hence Qāḍīkhān's particular approach which was extremely brief and primarily focused on teaching jurists how to navigate Ḥanafī *madhhab*'s first-order opinions, i.e., opinions of Abū Ḥanīfa, his companions and later *mujtahids* within the *madhhab*.[13]

However, in a few more centuries, secondary literature such as compendia (*mukhtaṣar*), commentaries (*sharḥ*), glosses (*ḥāshiya*/*taʿlīqa*), etc. had become quite numerous and there had been a general decline in the abilities of the average Ḥanafī jurist. This required a different mapping of the authorities in the *madhhab* which would allow the average jurist to know the standard opinion in the *madhhab* without directly engaging with the evidences/proofs of the earliest masters' opinions. This was provided by the Egyptian Ibn Quṭlūbughā (1399-1474) as part of his commentary on al-Qudūrī's compendium. Finally, the early nineteenth century work by the Syrian Muḥammad b. Amīn Ibn ʿĀbidīn (d. 1836), *Sharḥ ʿUqūd rasm al-muftī* provided a more up to date guidance to lesser-ranked jurists on how to navigate the secondary literature in the *madhhab*.

[13] See Fakhr al-Dīn, al-Ḥasan b. Manṣūr Qāḍīkhān, "*Faṣl fī rasm al-muftī*," in *Fatāwā Qāḍīkhān*, (Beirut: Dār al-Kutub al-ʿIlmiyya, 2009), 1:9.

Although Ibn ʿĀbidīn's *Sharḥ ʿUqūd rasm al-muftī* is of quite recent origin, it achieved wide acceptance across the Ḥanafī lands very quickly on account of its conciseness and comprehensiveness. Perhaps another reason for this acceptance is that Ibn ʿĀbidīn also authored a much larger and up to date work titled *Radd al-muḥtār ʿalā al-Durr al-mukhtār* [Returning the Perplexed to The Chosen Pearl] which mostly freed the average *muftī* from the need to consult any other work. Between his *Sharḥ ʿUqūd rasm al-muftī* and his introduction to *Radd al-muḥtār*, one is able to gain quite a comprehensive knowledge of how the process of *fatwā*-giving works in the Ḥanafī *madhhab* (per Ibn ʿĀbidīn), while the main body of *Radd al-muḥtār* provides us with what Ibn ʿĀbidīn considers to be the reliable opinion in the *madhhab*. This is why, even though *Radd al-muḥtār* is written as a gloss/marginalia (*ḥāshiya*) on an earlier text of *furūʿ*, al-Ḥaṣkafī's (d. 1088 AH) *al-Durr al-mukhtār* [The Chosen Pearl], it is referred to as *Fatāwā Shāmiyya* by South Asian *ʿulamā*. Besides the above two works, Ibn ʿĀbidīn also authored a treatise on custom (*ʿurf*) titled *Nashr al-ʿarf fī binā' baʿḍ al-aḥkām ʿala al-ʿurf* [Spreading the Fragrance Regarding How Some Rulings Depend on Custom] which as its name suggests discusses the role of custom in deciding certain legal rulings.

The *fatwā*-giving manuals mentioned above and the various works of the *madhhab* they discuss help the *muftī* find the standard opinion in the *madhhab* regarding a given question. This is why Ibn ʿĀbidīn's *Sharḥ ʿUqūd rasm al-muftī* and *Radd al-muḥtār* are taught in *Takhaṣṣuṣ fi al-Iftā'* programs in Deobandī *madrasas* either line by line or as assigned personal reading. However, since the appearance of Taqī ʿUsmānī's even more up to date and better organized *Uṣūl al-iftā' wa ādābuḥu*, it has begun to slowly replace *Sharḥ ʿUqūd rasm al-muftī*. At their core, both *Sharḥ ʿUqūd rasm al-muftī* and *Uṣūl al-iftā' wa ādābuḥu* seek to lay out the structure of the Ḥanafī *madhhab*, i.e., ranking of its jurists (*ṭabaqāt al-fuqahā'*) and of rulings (*ṭabaqāt al-masā'il*), and

the language used to indicate which opinion is authoritative and which is not. In the process, Ibn ʿĀbidīn and Taqī ʿUsmānī also discuss cases when the standard opinion can be set aside. I begin with a discussion of the ranks of jurists.

5.2.3: Ranks of Ḥanafī Jurists (*Ṭabaqāt al-fuqahā' al-Ḥanafiyya*)

Ibn ʿĀbidīn begins his *Sharḥ ʿUqūd rasm al-muftī* by stating the basic principle of Ḥanafī *fatwā*-giving, namely one must either follow that which has been preferred or what is contained in *ẓāhir al-riwāya* and nothing opposing it has been given preference.[14] In other words, despite the high rank of the first generation of jurists, one still has to watch out for the *tarjīḥāt* of *aṣḥāb al-tarjīḥ* who are technically at a lower rank and came later. To explain this further, Ibn ʿĀbidīn approvingly cites the Ottoman Ibn Kamāl Pāshā (d. 940 AH) who first articulated a seven-level hierarchy of Hanafī jurists.

According to Ibn Kamāl and Ibn ʿĀbidīn, the top-most rank of jurists is occupied by the *mujtahid muṭlaq* who determines the hermeneutical principles (*uṣūl wa qawāʿid*) for deriving rulings from the four main sources of Islamic law (Qur'an, Sunna, consensus, and analogical reasoning). He does not follow anyone in either the *uṣūl* (foundational principles) or the *furūʿ* (rulings for specific issues). Examples include the eponymous founders of the *madhhabs* such as Abū Ḥanīfa, Mālik, Shāfiʿī and Aḥmad Ibn Ḥanbal. The second level is that of *mujtahid fi al-madhhab* who is capable of deriving rulings from the four main sources of Islamic law using the *uṣūl* established by the Imam of the *madhhab*. Companions of Abū Ḥanīfa such as Abū Yūsuf and

[14] His original lines of poetry are as follows:
اِعْلَمْ بِأَنَّ الْوَاجِبَ اتِّبَاعُ مَا تَرْجِيحُهُ عَنْ أَهْلِهِ قَدْ عُلِمَا
أَوْ كَانَ ظَاهِرَ الرِّوَايَةِ وَلَمْ يُرَجِّحُوا خِلَافَ ذَلِكَ فَاعْلَمْ
See Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 7-9.

Muḥammad b. al-Ḥasan al-Shaybānī fall in this category. Even when such a person disagrees with his Imam in *furūʿ*, he follows him in *ūṣūl*.

The third rank is that of *mujtahid fi al-masā'il*. Such a person acts as a *mujtahid* in those issues where there is no text from the Imam of the *madhhab* by deriving rulings based on the hermeneutical principles of his Imam. He does not oppose his Imam in either the *uṣūl* or the *furūʿ*. Examples include people like Aḥmad al-Khaṣṣāf (d. 261 AH), Abu Jaʿfar al-Ṭaḥāwī (d. 321 AH), Abu al-Ḥasan al-Karkhī (d. 340 AH), Shams al-A'imma al-Ḥalwānī (d. 448), Shams al-A'imma al-Sarakhsī (d. 483 AH), Fakhr al-Islām al-Bazdawī (d. 482 AH), and Fakhr al-Dīn Qāḍīkhān (d. 592).

The fourth through seventh categories are those of *muqallids*. Among them, the highest rank is that of *ṣāḥib al-takhrīj* such as Abū Bakr al-Jaṣṣāṣ (d. 370 AH). Such a jurist is not capable of *ijtihād* but because of his vast knowledge of the *uṣūl* and the *furūʿ*, he can explain an ambiguous text or a ruling. The fifth level is that of *ṣāḥib al-tarjīḥ* who is capable of giving preference to one narration or opinion among the many transmitted from the earlier scholars of the *madhhab*. Examples include scholars like Abu al-Ḥusayn al-Qudūrī (d. 428 AH) and Burhān al-Dīn al-Marghinānī (d. 593 AH), authors of *Mukhtaṣar al-Qudūrī* and *al-Hidāya* respectively.

The sixth level is that of *ṣāḥib al-tamyīz*, i.e., one who can differentiate between strong and weak opinions. Examples include authors of main texts such as *Kanz al-daqā'iq, al-Mukhtār* and *al-Wiqāya*. These authors do not narrate any weak opinion in their works. The last level is that of a pure *muqallid* who is incapable of doing any of the previously mentioned tasks and therefore must follow others. Thus, *muftīs* of this level are not really *muftīs* since a *muftī* is supposed to be

a *mujtahid*. Rather, they are transmitters of *fatwā* (*nāqil al-fatwā*).[15] Ibn ʿĀbidīn's manual is meant to guide them to find the reliable opinion in the *madhhab* which they can then transmit to others.

Anyone familiar with the history and the works of the Ḥanafī *madhhab* is immediately struck by a few issues in this typology. Most prominent among these issues is the status of the two main companions of Abū Ḥanīfa, namely Abū Yūsuf and al-Shaybānī. As the Kazan-based Shihab al-Dīn al-Marjānī (d. 1889) and his Indian contemporary ʿAbd al-Ḥayy al-Laknawī (d. 1884) pointed out, both Abū Yūsuf and al-Shaybānī are actually *mujtahid muṭlaq* because not only do they disagree with their teacher in *furūʿ* but in quite a large number of the *uṣūl*.[16] Many Deobandīs also agree.[17]

Moreover, later statements within *Sharḥ ʿUqūd rasm al-muftī* cause confusion as to what these categories mean. Thus, while citing Ibn Kamāl, Ibn ʿĀbidīn declares the top three ranks to be those of *mujtahids* and the bottom four to be those of *muqallids*. However, later on, he declares that the jurists of the third, fourth and fifth ranks also carry out the tasks of a *mujtahid fi al-madhhab* to varying degrees.[18] This is also the observation of Taqī ʿUsmānī, who declares that these seven ranks are actually referring to the tasks of a jurist, and a single jurist can perform tasks

[15] Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 10-12.

[16] ʿAbd al-Ḥayy al-Laknawī, *al-Nāfiʿ al-kabīr Sharḥ al-Jāmiʿ al-ṣaghīr li Muḥammad b. al-Ḥasan al-Shaybānī* (Karachi: Idārat al-Qur'ān wa al-ʿUlūm al-Islāmiyya, 1990), 11-12; and Shihāb al-Dīn al-Marjānī, *Nāzūrat al-ḥaqq fi farḍīyyat al-ʿIshā' wa in lam yaghib al-shafaq* (Amman: Dār al-Fatḥ, 2012), 193-198.

[17] See Muḥammad Amīn Ibn ʿĀbidīn, *Sharḥ ʿUqūd rasm al-muftī*, ed. Muẓaffar Ḥusayn al-Maẓāhirī and Abū Lubāba (Karachi: al-Rashīd, 2000), 39; Saʿīd Aḥmad Pālanpūrī, *Āp fatwā kaysay dayn?* (Lahore: Maktaba Raḥmāniya, n.d.), 19-20; ʿUthmānī, *Uṣūl al-iftā'*, 93-100; Muḥammad Rafīʿ ʿUsmānī, *Dars-i Sharḥ ʿUqūd rasm al-muftī* (Karachi: Idārat al-Maʿārif, 2000), 23-24.

[18] See Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 41-42 & 49. Also, see Pālanpūrī, *Āp fatwā kaysay dayn?*, 72 & 84.

belonging to various ranks. Thus, he can be a *mujtahid fi al-masā'il*, as well as someone who does *takhrīj* and *tarjīḥ*.[19]

A contemporary Jordanian Ḥanafī scholar Muḥamamd Ṣalāḥ Abu al-Ḥajj is even more explicit. According to him, the actual ranking of jurists should be based on time period since *ijtihād* always continues in some form even though the relative emphasis given to a task by a *mujtahid* may change.[20] Thus, according to him, a *mujtahid* can engage in five kinds of activities each of which further entails two kinds of activities. The first is direct derivation of rulings from the Qur'an, the Sunna, and the statements of the Companions. This can be on the basis of hermeneutical principles decided upon by the said *mujtahid* himself or based on the hermeneutical principles of another *mujtahid*. The second activity is that of *takhrīj* which may entail explanation of an ambiguous opinion of a *mujtahid muṭlaq* or second-order derivation based on the opinions and maxims of a *mujtahid muṭlaq*. The third is that of *tarjīḥ* and/or *taṣḥīḥ*, i.e., giving preference to one among many opinions in the *madhhab* based on either strength of evidence or changed context such as custom, needs, necessities, etc. The fourth activity is that of *tamyīẓ* which can refer to either distinguishing the *ẓāhir al-riwāya* from other opinions in the *madhhab* or differentiating between the strong and the weak among the various opinions and narrations from earlier jurists.

[19] ʿUthmānī, *Uṣūl al-iftā'*, 101-102 & 104-106. He gives the example of Abū Jaʿfar al-Ṭaḥāwī whom Ḥanafī texts sometimes describe as a *mujtahid fi al-masā'il* and sometimes as someone who can perform *tarjīḥ* whereas he was also at the level of a *mujtahid fi al-madhhab*.

[20] As mentioned in the first chapter, although *taqlīd* had long been reviled in modern Western academia due to its perceived role in decline of Islamic legal thought, recent scholarship has successfully challenged this view. Thus, works by Hallaq, Jackson, Fadel and al-Azem demonstrate that the switch from *ijtihād* from primary sources to *takhrīj*, *tarjīḥ* and *taṣḥīh* was actually a continuation of *ijtihād* by other means. See Sherman Jackson, *Islamic Law and the State*, 83-99; idem, "Kramer vs. Kramer in a Tenth/Sixteenth Century Egyptian Court: Post-Formative Jurisprudence between Exigency and Law," *Islamic Law and Society* 8, no. 1 (2001): 27-51; Fadel, "The Social Logic of *Taqlīd*;" Hallaq, "From Fatwās to *Furūʿ*," "*Takhrīj* and the Construction of Juristic Authority," in *Studies in Islamic Legal Theory*, ed. Bernard Weiss (Leiden: Brill, 2002), 317-335; and idem, "Operative Terminology and the Dynamics of Legal Doctrine." Most recently, al-Azem has confirmed the same through his detailed analysis of the work of Ibn Quṭlūbughā. See al-Azem, *Rule-Formulation and Binding Precedent*.

The fifth activity is that of giving *fatwā* that suits the *wāqiʿ*. This can be based either on responding to needs, necessities, custom, etc. or because of a deeper understanding of the relevant ruling.[21]

Based on the foregoing sets of activities, Abu al-Ḥājj argues for four main levels of *mujtahids*.[22] The first is *mujtahid muṭlaq*; the second is that of *mujtahid muṭlaq muntasib*, i.e., someone who is a *mujtahid muṭlaq* and has his own distinct *uṣūl* but nevertheless, ascribes himself to the founder of the school. This is the case of Abū Yūsuf and al-Shaybānī. Many Deobandīs also reach the same conclusion.[23] The third rank, according to Abu al-Ḥājj is that of *mujtahid muntasib* who although capable of *ijtihād* follows the *uṣūl* and *furūʿ* of the founder of the *madhhab* except in rare cases. Prominent jurists of the third and fourth centuries like Abū Jaʿfar al-Ṭaḥāwī and al-Karkhī belong to this category.

According to Abu al-Ḥājj, the fourth category is that of *mujtahid fi al-madhhab*. Such a person engages in *takhrīj, tarjīḥ, taṣḥīḥ*, as well as *tamyīẓ*. However, the relative attention given to each activity varies from generation to generation. Abu al-Ḥājj divides this category into four groups. The first is that of the *ʿulamā* of the fifth, sixth and a portion of the seventh centuries whose focus was *takhrīj, tarjīḥ* and *taṣḥīḥ*, as well as explication of the *uṣūl* of the *madhhab*. Examples include Qāḍīkhān, al-Sarakhsī, Fakhr al-Dīn al-Bazdawī (d. 482/1089), etc. The second category is that of the *ʿulamā* of seventh and eight centuries who engaged much less in *takhrīj* and more in *tarjīḥ* and *taṣḥīḥ* as well as *tamyīẓ* between weak and strong opinions. Abu al-Ḥājj calls them *aṣḥāb al-mutūn* (authors of texts) because their texts later became the standard textbooks of the Ḥanafī *fiqh* curriculum. Although he does not mention any names, the obvious candidates seem to be *Kanz*

[21] Ṣalāḥ Muḥammad Abu al-Ḥājj, *Isʿād al-muftī ʿalā Sharḥ ʿUqūd rasm al-muftī li Muḥammad Amīn Ibn ʿĀbidīn* (Beirut: Dār al-Bashā'ir al-Islāmiyya, 2015), 130-143.

[22] Abu al-Ḥājj, *Isʿād al-muftī*, 144-152.

[23] See, for example, Taqī ʿUsmānī, *Uṣūl al-iftā'*, 93-101.

al-daqā'iq of Abū ʿAbd-Allāh al-Nasafī (d. 710/1310) and *al-Mukhtār* of al-Mawṣilī (d. 683/1284).

The third category is that of the *ʿulamā* of the ninth and tenth centuries. They also engaged in *takhrīj*, *tarjīḥ*, *taṣḥīḥ*, and *tamyīz*, but they did very little *takhrīj* and focused more on the other three activities. However, according to Abu al-Ḥājj, the quality of their *tarjīḥ*, *taṣḥīḥ*, and *tamyīz* is much less than that of the previous category. The fourth category of *mujtahidīn fi al-madhhab* is that of the *ʿulamā* who came after 1000 AH. They also engaged in the same activities as the previous category. However, their quality is even lower than that of the previous category.

Although Taqī ʿUsmānī does not explicitly agree with the ideas of Abu al-Ḥājj, his work does suggest that he sees more scope for *ijtihād* than what Ibn ʿĀbidīn allows for which is all the more interesting considering that the current main Deobandī work on *taqlīd* in Urdu was authored by Taqī ʿUsmānī titled *Taqlīd kī sharʿī haysiyat* [The Legal Status of Taqlīd] (originally published 1396 AH). Although this work can seem to be aligned with the very staunch and simplistic Deobandī rhetoric in favor of *taqlīd shakhṣī*, a closer reading suggests otherwise.

To begin with, Taqī ʿUsmānī clarifies in this work that Deobandī elders did not consider *taqlīd shakhṣī* to be a *ḥukm sharʿī* (divine ruling) per se but as a *fatwā* meant to effectively manage religious affairs (*li tantaẓima bihi umūr al-dīn*), and this is why Deobandīs are opposed to mixing between *madhhabs* or engaging in *fatwā*-shopping.[24] However, as Taqī ʿUsmānī clarifies, *taqlīd* is of four different levels: that of common people (*ʿawāmm*), that of an erudite scholar (*ʿālim*

[24] See statements by Maḥmūd Ḥasan and Ashraf ʿAlī Thānvī cited in Muḥammad Taqī ʿUthmānī, *Uṣūl al-iftā' wa ādābuhu* (Karachi: Maktabat Maʿārif al-Qur'ān, 2012), 69-82.

mutabaḥḥir), that of a *mujtahid fi al-madhhab*, and that of a *mujtahid muṭlaq*.[25] He repeats the same in his more recent *Uṣul al-iftā' wa ādābuhu*.[26]

Taqī ʿUsmānī's definition of *ʿawāmm* includes three kinds of people: those uneducated in Islamic sciences, those who know Arabic but never studied Islamic sciences formally with qualified teachers, and thirdly, those graduates of formal programs (this would potentially include graduates of *ʿĀlimiyya* and *Takhaṣṣuṣ fi al-Iftā'* programs) who never developed a strong command (*istiʿdād*) of or insight (*baṣīrat*) in Islamic sciences including their underlying principles (*uṣūl*). For these *ʿawāmm*, Taqī ʿUsmānī recommends pure (*maḥḍ*) *taqlīd* because they do not have the ability to directly derive rulings from the Qur'an or Sunna.[27]

The second category, viz. erudite scholar is that of a person who is not a *mujtahid* but has spent enough time studying and engaging with Islamic sciences under the supervision of qualified teachers that Islamic sciences such as Qur'an, *ḥadīth* and *fiqh* and their principles are on his fingertips (*mustaḥḍar*). Although such a person is also engaged in *taqlīd* but he has the ability to be a *muftī* in his *madhhab*. Thus, he is in a position to choose between the various opinions found in his *madhhab* based on the current context and is also able to derive new rules based on the principles and maxims (*uṣūl-o qawāʿid*) of his *madhhab* if need be. In some cases, such a person can also give *fatwā* on the opinion of an Imam other than the Imam of his *madhhab* provided certain conditions are met such as when there is *ḥaraj shadīd* (extreme hardship) in an opinion of the *madhhab* and there is *ḥāja ʿammā* (general need) which warrants *fatwā* from a different

[25] Muḥammad Taqī ʿUsmānī, *Taqlīd kī sharʿī haysiyat* (Karachi: Maktaba Dār al-ʿUlūm Karāchi, 1421 AH), 85-114.

[26] ʿUthmānī, *Uṣūl al-iftā'*, 83-84.

[27] ʿUsmānī, *Taqlīd*, 85-94; and ʿUthmānī, *Uṣūl al-iftā'*, 83.

madhhab. However, it is more cautious for such a scholar to not go it alone. Rather, he should try to achieve common agreement among erudite scholars (*ʿulamā rāsikhūn*).[28]

The third category of *mujtahid fi al-madhhab* basically refers to those who follow their Imam in *uṣūl* but because of their depth of knowledge are able to disagree in *furūʿ* or new issues. Building on Ibn ʿĀbidīn, Taqī ʿUsmānī argues that this category includes people who would otherwise be classified as *aṣḥāb al-takhrīj wa al-tarjīḥ* as well as those who are *mujtahid fi al-masā'il*.[29] Finally, the fourth category is that of a *mujtahid muṭlaq* who although capable of directly deriving rulings from the Qur'an and Sunna still looks for guidance from the opinions of the early generations especially the Companions (*ṣaḥāba*) of the Prophet and the Successors (*tābiʿūn*) of the Companions.[30]

The description above raises three inter-related questions. The first is, where do Deobandī *akābir* fit into the categories mentioned above, i.e., those of Ibn ʿĀbidīn and/or of Taqī ʿUsmānī? Secondly, how does Deobandī attitude towards giving *fatwā* on a non-standard opinion within the *madhhab* or on a different *madhhab* play out in real life? That is, what kinds of qualifications are needed and what procedure should be followed when doing so? And lastly, how do Deobandīs define *ḥaraj* and *ḥāja* as well as their associated terms such as *ḍarūra* and *ʿumūm balwā* which allow one to set aside the standard ruling of the *madhhab*? As we will see below, all three of these questions are at the very heart of the intra-Deobandī debate on Islamic banking.

[28] ʿUsmānī, *Taqlīd*, 94-108; and ʿUthmānī, *Uṣūl al-iftā'*, 83-84.

[29] ʿUsmānī, *Taqlīd*, 108-109; and ʿUthmānī, *Uṣūl al-iftā'*, 84 & 105-106. Also see Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 49.

[30] ʿUsmānī, *Taqlīd*, 109-110; and ʿUthmānī, *Uṣūl al-iftā'*, 84.

5.2.4: Status of the Deobandī *Akābir* Among Ḥanafī Jurists

Most Deobandī authors do not clearly identify what rank their *akābir* occupy in the hierarchy of the *madhhab*. Moreover, the *akābir* of each generation were themselves ardent promoters of *taqlīd shakhṣī* and often referred to themselves as pure *muqallids*, much like Ibn ʿĀbidīn. The Deobandī attitude towards their *akābir*, however, suggests that they might as well be at the level of *aṣḥāb al-tarjīh* since they serve as the main reference for the average Deobandī when he approaches the Ḥanafī *madhhab*. Some junior *muftīs* have even developed a dependence on the *akābir*'s Urdu *fatwās* as their main source of *fatwā* in the *madhhab*.

In the intra-Deobandī debate on Islamic banking, quite a significant portion of the discussion revolved around determining whose approach was in line with that of the *akābir*. Whether it be the invocation of more recent *akābir* like Banūrī and Shafīʿ, or more older ones like Rashīd Gangohī and Thānvī, the logic was the same. In each of the issues that the two sides disagreed on such as whether banking can ever be Islamic, whether *ʿulamā* are required to provide an alternative to conventional banking, what are the acceptable justifications for leaving the *madhhab*, etc., both sides cited the *akābir* as proof that their approach was correct. We have already seen many such instances before and more will be cited later.

So how do we square the circle, i.e., are the *akābir* just *muqallids* or do they occupy a much higher position in the hierarchy of Ḥanafī jurists? One approach would be to say that the *akābir* were being modest and therefore, actually occupy a higher place in the Ḥanafī hierarchy than that of pure *muqallids*. Despite my extensive readings in Deobandī literature, I have so far uncovered only one instance where a prominent Deobandī actually says as much. Thus, during the course of a discussion on Islamic banking, Taqī ʿUsmānī's brother, Rafīʿ ʿUsmānī mentioned briefly that the era of *mujtahidīn fi al-masā'il* is not over and that the *fatwā* collections of Thānvī, Kifāyat

Allāh and Shafīʿ are proof of that.[31] Taqī ʿUsmānī's previously cited typology in which he defines *mujtahid fi al-madhhab* as a broad category encompassing *ashab al-takhrij wa al-tarjih* and *mujtahid fi al-masa'il* further lends credence to Rafīʿ ʿUsmānī's claim. However, Rafīʿ ʿUsmānī did not elaborate further and other Deobandī authors have not even been as explicit as this. This leaves us two more options to understand the position of Deobandī *akābir*, that of Taqī ʿUsmānī and that of many modern academics such as Qasim Zaman, Makdisi and Fadel, and both require us to look at the social and practical dimensions of *taqlīd* and *fatwā*-giving.

To begin with, we must keep in mind that the process of *fatwā*-giving comprises at least three different steps. One of them is finding the standard or reliable opinion in the *madhhab* which requires significant knowledge of the main texts and opinions in the *madhhab* as well as the ranks of jurists. The second step is knowing the context (*wāqiʿ*) in which the ruling is to be applied and the third step is determining how the original ruling is to be applied to it (*tanzīl al-qawl ʿala al-wāqiʿa al-juz'iyya*). This last step also includes examining if there are any exigent circumstances which necessitate or permit deviation from the standard opinion including giving *fatwā* on another *madhhab*.

According to Taqī ʿUsmānī, this process of application is also a kind of *ijtihād* and will continue until the day of judgement.[32] In other words, even a *muqallid muftī* who is merely expected to transmit the standard opinion of the *madhhab* (*naql al-fatwā*), also has to engage in some degree of *ijtihād* to determine how or to what extent this standard opinion is to be applied to the current situation. When looked at from this perspective, it becomes clear why Taqī ʿUsmānī differentiated between the *taqlīd* of a common person vs. that of an erudite scholar (*ʿālim*

[31] Muḥammad Rafīʿ ʿUsmānī, "*Islāmī bankārī kā mas'ala: Uṣūl-i iftā' kī roshnī mayn*," in Muḥammad Taqī ʿUsmānī, *Islāmī bankārī: Tārīkh-o pas-i manẓar aur ghalat fahmiyon kā izāla* (Karachi: Al-Afnān, 2011), 91.

[32] ʿUthmānī, *Uṣūl al-iftā'*, 161-162.

mutabaḥḥir). Unlike a common person, the erudite scholar is not only better aware of the spectrum of opinions in the *madhhab* including the standard opinion, he is also better capable of understanding the context and knowing when to deviate from the standard opinion and to what extent. This is why, the *fatwā* manuals discussed above have sections dealing with circumstances that would justify the *muftī* to leave the standard opinion for a weaker one or to give *fatwā* according to another *madhhab*.

In the case of the intra-Deobandī debate on Islamic banking, one of the unstated issues thus is whether Taqī ʿUsmānī is merely a regular *ʿālim* and thus a commoner in his own typology of *muqallids* or whether he is an erudite scholar? Because this issue has never clearly been stated or debated, it has remained unresolved. His critics measured him according to the standard that is expected from a regular *ʿālim*, i.e., a commoner in Taqī ʿUsmānī's typology. Taqī ʿUsmānī is also very modest and never claims for himself a rank higher than that of a student of knowledge. His legal reasoning and approach to Islamic banking as described earlier in the previous chapter, however, quite clearly illustrate that he behaves as an erudite scholar and thus feels comfortable leaving the standard opinions of the *madhhab* when the situation so warrants it.

At the same time, the unresolved status of Taqī ʿUsmānī has posed problems for him. On the one hand, he commands a great deal of respect in Deobandī circles, and it was in full display even in his critics' works who went to great lengths to record their respect for him and appreciation of his work.[33] Nevertheless, he does not command the same kind of undivided loyalty that previous generations of *akābir* commanded. At the time of this debate, i.e., 2008, Taqī ʿUsmānī thus occupied a liminal position. His qualifications, achievements, and social status among *ʿulamā* suggested that he would get a pass on his support for Islamic banking, and he actually did get it

[33] See, for example, Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 41-56; and Mumtāz, *Ghayr sūdī bankārī*, 11-25.

for many years (1992-2008). However, since he does not belong to the earlier generations of *akābir* and because his teacher Salīm Allāh Khān was still alive, he was unable to achieve uncontested respect. In fact, Taqī ʿUsmānī's critics sought to employ Salīm Allāh Khān's status as Taqī ʿUsmānī's former teacher to "convince" Taqī ʿUsmānī of his mistakes. Actually, the detailed account of discussions between Taqī ʿUsmānī and Khān prior to the issuance of the *fatwā* suggests that more than discussions, these encounters were meant to intimidate Taqī ʿUsmānī into changing his opinions.[34].

Invocation of Salīm Allāh Khān's status is thus just another instance that serves to confirm that the status of earlier Deobandī *akābir* is uncontested. As Zaman has ably shown in his *The Ulama in Contemporary Islam: Custodians of Change*, they are indeed the custodians of change, and *fatwās* must have their stamp of approval, explicitly or implicitly.[35] Moreover, references to the *akābir* during this debate from both sides helped to bring the two sides closer and further cemented the group identity of Deobandīs thereby confirming what Fadel pointed out with regards to medieval *taqlīd*, i.e., it had a social logic to it because it helped bind the group together through common adherence to precedent while also providing them an objective basis for legal decision-making.[36]

Makdisi and others have discussed how *taqlīd* helps turn the community of scholars into a guild with its own membership procedures.[37] While Deobandīs are not a formal guild, the intra-Deobandī debate discussed here does illustrate guild-like behavior of Deobandīs. Thus, one of the

[34] Muḥammad Taqī ʿUsmānī, "*Islāmī bankārī say mutaʿalliq fatwā kaysay wujūd mayn āya*," *Māhnāma al-Sharīʿa Special Edition: Māhnāma al-Sharīʿa kā ṭarz-i fikr aur pālīsī* (June 2014): 140-148.

[35] This is one of the main arguments of Zaman in his *The Ulama in Contemporary Islam*.

[36] See Fadel, "The Social Logic of *Taqlīd*."

[37] See f.n. 6 above.

constant refrains from Taqī ʿUsmānī's Deobandī critics has been that he is alone in his support for Islamic banking, and that the majority (*jumhūr*) is against it. Thus, Mumtāz argued that Taqī ʿUsmānī and his colleagues had gone alone in 1992 when they helped establish Meezan Bank, and that they had done the same earlier in 1980 when they had endorsed the governments' *zakāt* scheme.[38] The critics argued that Islamic banking belongs to the category of isolated (*tafarrud*) or fringe (*shādhdh*) opinions whereas the critics adhere to the mainstream (*jumhūr*). Subsumed under the charge of *tafarrud* (isolated) or holding a fringe (*shādhdh*) opinion was the charge that Taqī ʿUsmānī had left *taqlīd* because he had invoked non-Ḥanafī opinions for various contracts in Islamic banking.

Interestingly, there is no recognition in this kind of reasoning of the international scope of Taqī ʿUsmānī's work which involves *ʿulamā* from all over the Muslim world. If anything, Taqī ʿUsmānī's opponents can be said to all belong to one sect in one country and thus not the *jumhūr*. Moreover, even within Pakistan, the number of *ʿulamā* who actually signed the anti-Islamic banking *fatwā* was only 31 and *ʿulamā* from two Karachi-based *madrasas* provided 12 of those.[39] The *fatwā* was, thus, not even representative of the broader Deobandī community in Pakistan. Nevertheless, the deployment of *jumhūr* vs. *shādhdh* binary very clearly illustrates that as far as Taqī ʿUsmānī's Deobandī critics are concerned, they are the majority, and Arab and/or non-Deobandī *ʿulamā* do not pass muster to be even considered part of the group) whose opinions are worth consideration.

In response, Taqī ʿUsmānī castigated his critics for themselves following fringe opinions in some matters. Thus, as he defended the validity of *murābaḥa mu'ajjala* by extensively citing

[38] Mumtāz, *Ghayr sūdī bankārī*, 25 & 13.

[39] Muḥammad Zāhid, "*Jadīd electronic manāẓir kay bāray mayn naī bahas*," *al-Balāgh* (December 2008): 49-50.

support from the Islamic legal tradition, he argued that his critics were actually following the opinions of a contemporary scholar who had himself opposed the mainstream. Taqī ʿUsmānī was referring to the late Muḥammad Ṭāsīn, a former senior lecturer at Banūrī Town *madrasa* and a son-in-law of Yūsuf Banurī. Ṭāsin had held many unique views on economic affairs. Among these was his conviction that it was impermissible to charge more for deferred payment when the price was lower if paid immediately. In fact, according to Taqī ʿUsmānī, Ṭāsīn deemed even regular *murābaḥa* to be impermissible. All of this had been the result of an evolution in Ṭāsīn's thought which he had himself acknowledged in an article in *al-Balāgh*. In this article, from which Taqī ʿUsmānī reproduced a large quotation, Ṭāsīn had lamented that he had once ignorantly been a proponent of extreme *taqlīd* and had wrongfully thought that whatever the jurists have written in their books is enough, and that directly deriving rulings from the Qur'an and *ḥadīth* is a sin. However, as he dealt with new issues and engaged in an honest assessment of the *fiqh* literature, he realized that all these statements had been based on ignorance and blind imitation.[40]

The guild-like behavior and characteristics of Deobandīs in this debate do not end here. We have already seen in the third chapter that Deobandī *madrasas* in Pakistan are organized under a single accreditation board Wifāq al-Madāris and that most *madrasas* seek to validate their degrees through the Wifāq. Along with the social networks centering around *akābir* as their main nodes, the Wifāq acts as the second pillar of Deobandī identity formation. In this debate as well, Salīm Allāh Khān embodied in himself these two bases of Deobandī identity formation. As the head of Jāmiʿa Fārūqiyya, a major *madrasa* in Karachi, his direct students numbered in the thousands. Moreover, he had once been Taqī ʿUsmānī's teacher as well. Finally, as the long-standing President of the Wifāq, Salīm Allāh Khān commanded respect all over Pakistan as one

[40] See Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 130-133.

of the leading *akābir* of the Deobandī fraternity in Pakistan. It was all of this social capital that Salīm Allāh Khān and the other critics deployed in the *fatwā* against Islamic banking.

On his part, Taqī ʿUsmānī is not a small figure either. As the Vice President of DUK, his direct students also number in the thousands. Moreover, as an even more prolific author than Salīm Allāh Khān, he had acquired a huge following among vast segments of Deobandī *ʿulamā*. Finally, his professional achievements as a judge on the Federal Shariʿat Court, as a leading *muftī* known for his juristic acumen, and his global stature also helped him. Together, these factors also made him into one of the leading Deobandī *akābir* of Pakistan. And this would also explain why he got a pass for as long as he did. Nevertheless, he did make one mistake. In the guild-like structure of Pakistani Deobandīs, he did not seek to get buy-in from key stakeholders especially senior *ʿulama* at the prominent *madrasas* in Karachi regarding his approach to Islamic banking. In fact, this was also one of the key complaints of his Deobandī critics. In order to justify their public disagreement with a leading Deobandi scholar (Taqī ʿUsmānī), they claimed that the general public and the *ʿulamā* had been concerned about Islamic banking for some time, but Taqī ʿUsmānī had done nothing to placate their concerns. In his defense, Taqī ʿUsmānī repeatedly asserted that he had always been available to answer any questions, but the critics had never bothered to directly ask him about Islamic banking.[41] In any case, the eventual result was that resentment/bitterness continued to build and eventually erupted in the form of this *fatwā*.

5.3: Deviation from the Standard Opinion in the Ḥanafī *Madhhab*

So far, we have seen that *taqlīd* is not as simple as it might appear especially with respect to a *muftī*, and that the *muqallid muftī* who in one respect is merely a transmitter of *fatwā* has a task

[41] For more on this, see Taqī ʿUsmānī's detailed exposition of the events leading up to the *fatwā*. See the previously cited Taqī ʿUsmānī, *Islāmī bankārī: Tārīkh-o pas-i manẓar aur ghalat fahmiyon kā izāla.*

requiring a lot more than mere transmission of *fatwā*. One of these tasks is deciding between two *taṣḥīḥs* narrated from two different jurists. In his work, Ibn Ābidīn had listed ten principles governing this (*qawāʿid al-tarjīḥ ʿinda taʿāruḍ al-taṣḥīḥ*) and Taqī ʿUsmānī added three more.[42] While most of these principles have to do with the language employed to denote *tarjīḥ*/*taṣḥīḥ* or the text in which such a *tarjīḥ*/*taṣḥīḥ* is found, there are some principles that give more room for the *muftī* to exercise his judgement. Thus, one of the principles mentioned by Ibn ʿĀbidīn is that the *muftī* deems one opinion to be more suitable for the times. The other principle is that the one of the opinions is more beneficial for the *waqf*. Among the three principles added by Taqī ʿUsmānī, two also refer to a *muftī*'s judgment, i.e., one opinion is more beneficial for the poor or that it might help ward off a *ḥadd* punishment.

At the end of his discussion of the topic, Taqī ʿUsmānī concludes that applying these principles is not a straightforward process and sometimes these principles can even be in conflict. The real deciding factor is a *muftī*'s sound judgment (*madhāq al-muftī al-ṣaḥīḥ*). Thus, sometimes, he might feel there is a need to shut the door to a wrong (*sadd al-dharīʿa*) and thus follows an opinion which is more cautious (*aḥwaṭ*), or he might determine that the issue is so widespread that adopting the easier opinion is warranted. Whatever the case maybe, the *muftī* must rely on his juristic acumen (*malaka fiqhiyya*) which should operate on the basis of fear of God and not following of one's desires.[43]

While the foregoing gives us a small window into cases where even a *muqallid muftī* may exercise his judgement, other discussions in Ibn ʿĀbidīn and Taqī ʿUsmānī's respective works

[42] Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 66-68 and Taqī ʿUthmānī, *Uṣūl al-iftā'*, 188-190. It should be noted that there is some discrepancy between Taqī ʿUsmānī's citing of Ibn ʿĀbidīn and what is actually present in *Sharḥ ʿUqūd*. Thus, Taqī ʿUsmānī only lists nine of the principles given by Ibn ʿĀbidīn, and then adds four more. However, one of these additional principles, viz. whatever is more beneficial for *waqf* gets preference, is actually already listed by Ibn ʿĀbidin.

[43] Taqī ʿUthmānī, *Uṣūl al-iftā'*, 190.

expand the *muftī*'s discretionary space even further. Thus, right at the beginning of his *Sharḥ ʿUqūd* where Ibn ʿĀbidīn had declared the basic principle that one must follow the preferred opinion in the *madhhab*, he had qualified this by saying "except in a few cases."[44] Such exceptional cases may involve *ḥāja* (need), *ḍarūra* (necessity), *ʿumūm balwā* (general affliction), etc. and permit the *muftī* to give *fatwā* on a weak or overruled opinion in the *madhhab* (*al-iftā' bi al-riwāyāt al-ḍaʿifa aw al-marjūḥa*) or even on the opinion of another *madhhab* (*al-iftā' bi madhhab ākhar*). Moreover, in some cases, the standard opinion may itself be dependent on variable factors such as *ʿurf* (custom) and thus would need to be changed due to change in custom. This change due to custom would however not be considered leaving the *madhhab* according to Ibn ʿĀbidīn because the founder of the *madhhab* would have changed his *fatwā* as well if he had seen the change circumstances.[45]

For Ibn ʿĀbidīn, giving *fatwā* on a weak opinion or on another *madhhab* is permissible in one of two cases, either the *muftī* happens to be a *mujtahid* or there is some *ḍarūra* (necessity). Interestingly, Ibn ʿĀbidīn is unwilling to concede any amount of flexibility in this regard to the judge and declares that if a *muqallid* judge were to decide on the basis of a weak ruling or another *madhhab*, it would not take effect.[46] During the course of his discussion, Ibn ʿĀbidīn also employs other terms such as *ḥaraj* (difficulty), *mashaqqa* (difficulty), and *iḍṭirār* (desperation) to describe the situations that justify deviation from the standard opinion. However, these terms are not always defined, and their differences are not clearly spelled out.

[44] Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 8-9.

[45] Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 78.

[46] Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 84-92.

Taqī ʿUsmānī's analysis, on the other hand, of these exceptional cases, their justifications, and required conditions is much more detailed and better organized than Ibn ʿĀbidīn's. Moreover, it also indirectly sheds light on the intra-Deobandī debate we have been discussing. To begin with, Taqī ʿUsmānī also outlines three main kinds of deviations from the standard opinion, namely *fatwā* on a weak or an overruled opinion within the *madhhab*, *fatwā* on another *madhhab*, and change in ruling due to change in circumstances/time. For each of these three kinds of changes, he then discusses the factors that may justify the change. Many of these factors tend to repeat as will be seen below.

Like Ibn ʿĀbidīn, Taqī ʿUsmānī also declares that one can act on a weak or overruled opinion within the *madhhab* in one of two cases, i.e., either 1) he happens to be a mujtahid or 2) there is some *ḍarūra*. Although he does not explain *ḍarūra* clearly, his use of cognate terms in its description such as *ḥaraj shadīd* (extreme difficulty), *ḥāja muliḥḥa* (pressing need) and *iḍṭirār* (desperation) suggest he has a very high bar in mind. Taqī ʿUsmānī also adds the caveat that this *ḍarūra* should be recognized by an erudite (*ʿārif mutabaḥḥir*) *muftī*. He does not flesh this out in any detail here, but the implication seems to be that a regular person, *madrasa* graduate or not, should not be deciding on his own to shift from the standard opinion to a weak or an overruled one within the *madhhab*.[47]

5.3.1: Giving *Fatwā* Based on Another *Madhhab*

With respect to giving *fatwā* based on another *madhhab*, Taqī ʿUsmānī begins his detailed analysis by clarifying that the *fatwā* requiring one to follow a single *madhhab* is an administrative one

[47] ʿUthmānī, *Uṣūl al-iftā'*, 197-200.

because systematically following dispensations based on desire is forbidden.[48] Otherwise, all *madhhabs* are legitimate explanations of divine law. As such, if a *muftī* were to give a *fatwā* based on another *madhhab,* it would be permissible in three cases. The first of these exceptional cases is *ḥāja ʿāmma* (public need) which Taqī ʿUsmānī describes as *ḍarūra* and *ḥāja* as well as *ḥāraj shadīd lā yuṭāqu* (unbearable extreme hardship). That is, following one's own *madhhab* in this specific issue leads to unbearable extreme hardship. This suggests that Taqī ʿUsmānī considers the threshold for *ḥāja ʿāmma* to be very high. One of the examples he gives is that of later Ḥanafīs who gave *fatwā* on the Shāfiʿī opinion allowing one to receive remuneration for teaching the Qur'an even though the standard opinion in the Ḥanafī *madhhab* had been that receiving such remuneration was not permitted. The justification given by later Ḥanafīs was that in the earlier centuries of the Islamic caliphate, Qur'an teachers were given stipends from the *bayt al-māl* (public treasury) for their needs. These stipends later ceased, and therefore, if receiving remuneration on Qur'an teaching was not permitted, Qur'an teaching and therefore, Islam would have suffered irreparable damage.[49]

But Taqī ʿUsmānī does not limit himself to unbearable extreme hardship as explanation of *ḥāja ʿāmma*. He also includes *ʿumūm balwā* (general affliction) in this category and the examples he cites suggest that the threshold might not be that high after all. Moreover, after citing various cases of earlier jurists giving *fatwā* on other *madhhabs* in specific cases of economic contracts, Taqī ʿUsmānī argues that financial and business issues have become complicated today and the needs of people have increased in this domain. Therefore, a *muftī* should prioritize *taysīr* (making

[48] Taqī ʿUsmānī actually uses the expression *mabnī ʿala sadd al-dharā'iʿ wa al-maṣāliḥ al-sharʿiyya* which I have translated as "based on administrative needs." This is based on what Taqī ʿUsmānī says earlier in his book and was cited earlier in this chapter.

[49] ʿUthmānī, *Uṣūl al-iftā'*, 202-203.

easy) in his *fatwā* on those issues where there is *ʿumūm balwā* even if the opinion be from outside his *madhhab* from among the four *madhhabs*. He then cites Rashīd Gangohī who is reported to have said so to Thānvī who then employed it in a number of places in *Imdād al-fatāwā*.[50]

To clarify his stance further, Taqī ʿUsmānī provides five conditions that must exist in order to justify giving *fatwā* outside of one's *madhhab* due to *ḥāja* or *ʿumūm balwā*. These are as follows:[51]

1. The need should be extreme, and the affliction should be widespread. Moreover, the need should actually exist and not be imaginary. He does not clarify this further, but the implication seems to be that this should not be a future need.
2. The *muftī* must make sure of the existence of need. As such, he should consult other *muftīs* as well as subject matter experts. Moreover, he should not give a *fatwā* all by himself; rather, he should get others to co-sign it especially if he plans to disseminate his *fatwā*.
3. He must make sure he fully understands what the ruling of the other *madhhab* entails. Thus, he should not limit himself to personal research but should also consult with *ʿulamā* of that *madhhab*.
4. The adopted opinion should not be a fringe opinion which is opposed by majority of the jurists.[52]
5. The adopted ruling must be adopted in full so that it does not lead to *talfīq* (mixing of *madhhabs*) in a single issue, i.e., two *madhhabs* are mixed in a single issue in such a way that neither of the two *madhhabs* deems the act to be valid. An example is the case of a

[50] ʿUthmānī, *Uṣūl al-iftā'*, 203-204.

[51] ʿUthmānī, *Uṣūl al-iftā'*, 204-217.

[52] His actual words are: "*an lā yakūnu al-qawl al-ma'khūdh bihi min al-aqwāl al-shādhdha allatī tukhālifu jamāhīr al-fuqahā' wa waqaʿa minhum al-inkār ʿalayhā*." See ʿUthmānī, *Uṣūl al-iftā'*, 205.

person who follows the Shāfiʿī opinion that bleeding does not invalidate *wuḍū'* but touching a woman does and the Ḥanafī opinion that touching a woman does not invalidate *wuḍū'* but bleeding does. He then prays his ritual prayer after having touched a woman and after having bled. In this case, his prayer would be invalid in both the Ḥanafī and the Shāfiʿī madhhabs. If, however, he follows one *madhhab* with regards to one act and another *madhhab* with regards to another act, e.g., he makes sure his *wuḍū* is valid according to the Shafīʿī *madhhab* and then prays on the basis of the Ḥanafī *madhhab* and thus does not recite *Sūrat al-Fātiḥa* behind the imam, then his prayer would still be valid.[53]

Unfortunately, Taqī ʿUsmānī does not clarify whether needs in financial or economic matters today are mere needs or extreme needs as would be required by his earlier definition of *ḥāja ʿāmma* as unbearable extreme hardship. Similarly, it is not clear if *ʿumūm balwā* is a separate category similar to *ḥāja ʿāmma* or whether the *ʿāmma* in *ḥāja ʿāmma* is explained by *ʿumūm balwā*. Moreover, no specific definition of *ʿumūm balwā* is given. Does the whole country or a region have to be affected by the issue, or would one city or one class of people be sufficient, or is there a specific number a *muftī* should be looking for? Furthermore, there is no discussion of how one should determine if an issue is widespread or not (more on this later in the chapter).

These shortcomings notwithstanding, Taqī ʿUsmānī's approach does provide a disciplined approach to expanding the flexibility of Islamic law with respect to modern economic issues. In fact, Taqī ʿUsmānī and his colleagues in Islamic banking had used Thānvī's earlier cited statement vis-à-vis *tawassuʿ fi al-muʿāmalāt* (leniency in economic transactions) as the main justification for the use of some weak opinions in the Ḥanafī *madhhab* as well as of opinions from outside the

[53] Taqī ʿUsmānī's main source for this approach to *talfīq* is Thānvī. See ʿUthmānī, *Uṣūl al-iftā'*, 207-216.

madhhab such as forcing borrowers to agree to give charity in case of delay in repayment. We have already looked at some of these arguments in the previous chapter.[54]

On their part, the Deobandī critics did not deny that *fatwā* on weak opinions within the *madhhab* or on another *madhhab* was permissible in some cases. However, they argued that Taqī ʿUsmānī and his colleagues had not followed the conditions laid down by Thānvī especially with regards to collective decision-making and avoiding forbidden *talfīq*. These conditions are the same as those given by Taqī ʿUsmānī as mentioned above.[55] Moreover, Taqī ʿUsmānī's Deobandī critics also took him to task for serving the needs (*ḥājāt*) of the rich as opposed to the poor. Citing Banūrī, Iskāndar argued that whenever *ḍarūra* and *ḥāja* are invoked to justify deviating from clear Islamic teachings, then the *muftīs* must differentiate between actual *iljā'/iḍṭirār* (desperation) and attempts to become rich and improve one's standard of living.[56]

The critics also argued that Islamic banks receive tax exemption because of their supposed charitable status and yet they only serve the rich. Even though Muhammad Yunus of Bangladesh uses interest-based lending in his Grameen Bank, at least he serves the poor. When the vast majority of Pakistan's population is poor and rural, how do Taqī ʿUsmānī and his supporters justify Islamic banking because of the needs of the rich? How is it that the needs of the rich must be addressed right away while their poor countrymates are ignored and not given financing options at all.[57] In fact, this is a very strong criticism of Islamic banking and raises fundamental questions about the Deobandī approach to *fatwā*-giving, i.e., who are the people coming to them with

[54] For more, see Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 277-293.

[55] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 183-186. Also see Ashraf ʿAlī Thānvī, *al-Ḥīla al-nājiza taʿnī ʿauraton kā ḥaqq-i tansīkh-i nikāḥ* (Karachi: Dār al-Ishāʿat, 2017), 12-14 & 30-31.

[56] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 33-34.

[57] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 89-90.

questions, are Deobandī *muftīs* merely reactive or proactive, and how do they gain knowledge of the needs of the society around them? I look at these issues later in this chapter.

The second justification for giving *fatwā* on another *madhhab* is the strength of the evidence for the other *madhhab*'s ruling. This is permissible for someone who is extremely knowledgeable about his *madhhab*, knows the evidences, and has deep insight in the Qur'an and Sunna, even though he may not have reached the level of *ijtihād*. When such a person encounters a clear and sound *ḥadith* which is only contradicted by the opinion of his Imam, he can follow the opinion of a *mujtahid* who follows this hadith.[58] This principle does not seem to have been invoked in the intra-Deobandī debate on Islamic banking.

The third case is when a judge rules based on another *madhhab*. If the judge is a *mujtahid* and was appointed without designation of *madhhab*, then if he were to give a ruling on a *madhhab* other than the *muftī*'s, the *muftī* should still validate it as long as the issue is differed upon (*mujtahad fīhi*). Taqī ʿUsmānī's justification for this is what he terms the agreed upon maxim, viz. *ḥukm al-ḥākim yarfaʿu al-khilāf* (the decree of the ruler or the ruling of the judge removes disagreement). But what if the judge is a *muqallid* and rules based on another *madhhab*? Although Ibn ʿĀbidīn considers this ruling to be invalid as we saw earlier, Taqī ʿUsmānī argues that this ruling would be valid in the case when the judge is an erudite scholar and gives ruling on another madhhab under limited circumstances while observing all its conditions, i.e., he behaves as a *muqallid* muftī would when deviating from the standard opinion. Moreover, Taqī ʿUsmānī also argues invoking the earlier cited maxim *ḥukm al-ḥākim yarfaʿu al-khilāf* that if the ruler were to

[58] ʿUthmānī, *Uṣūl al-iftā'*, 217-220.

decree something which goes against one's *madhhab* but falls in the differed upon category, people must obey the ruling. Furthermore, *muftīs* must give *fatwā* to the public to follow the order.[59]

We can already see from the foregoing that while Taqī ʿUsmānī is quite strict with regards to adherence to the Ḥanafī *madhhab* and when he does allow deviation from the standard opinion, it is only in a very disciplined manner; nevertheless, he is a bit more flexible in this regard than Ibn ʿĀbidīn as we saw with respect to a judge giving *fatwā* on another *madhhab*.

5.3.2: Change in Rulings Due to Changed Circumstances

The third kind of deviation from the standard opinion in the Ḥanafī *madhhab*, according to Taqī ʿUsmānī, is change in rulings due to changed times. He lists four factors justifying such a change, namely change in *ʿilla* (ratio legis), change in *ʿurf*, change due to *ḍarūra* and/or *ḥāja*, and change due to *sadd al-dharā'iʿ* (obstruction of means).

1) Change in Rulings Due to Change in *ʿIlla* (Ratio Legis)

Taqī ʿUsmānī's approach to change in rulings due to change in *ʿilla* shows how committed he is to a faithful adherence to premodern *fiqh*. Thus, the bulk of his discussion of *ʿilla* is focused on clarifying his stance on *maqāṣid al-sharīʿa* (objectives of Islamic law). According to him, *ʿilla* of a ruling and the *ḥikma* (wisdom) behind it are not the same. Thus, a ruling is changed if the *ʿilla* behind it no longer exists. However, the ruling cannot be changed if the wisdom behind it or the benefit (*maṣlaḥa*) it was supposed to deliver is not realized. [60]

[59] ʿUthmānī, *Uṣūl al-iftā'*, 220-238.

[60] ʿUthmānī, *Uṣūl al-iftā'*, 241-245.

His main target here are those who deploy *maqāṣid*-based reasoning to upend traditional fiqh. Citing al-Shāṭibī, Taqī ʿUsmānī argues that benefits and harms are relative and not fixed, i.e., they change from case to case. Any apparent benefit which contradicts an Islamic primary text (*naṣṣ sharʿī*) is not a real benefit. Rather, it is mere desire (*hawa al-nafs*). Modern-day Islamic scholars who rely on *maqāṣid* to argue suspending some rulings found in Islamic primary texts are in fact helping demolish Islamic law. Even the objectives and benefits specified in Islamic primary texts are not always absolute; rather, they operate under certain limits. Therefore, one must rely on Islamic primary texts to understand the objectives and the benefits, and not the other way around.[61] In fact, sometimes the ruling is itself an objective, i.e., the Lawgiver uses it to reward the compliant and punish the sinner.[62]

With regards to the various types of *ʿilla*, Taqī ʿUsmānī identifies two main types with two further sub-types each, giving a total of four types. Thus, the *ʿilla* could either be mentioned in Islamic primary texts or derived by the jurists from primary texts. If it is mentioned in the primary texts, it is either mentioned in the Qur'an or *ḥadīth*. And if it is derived by the jurists from primary texts, then either they clearly state the *ʿilla* or merely hint at it. In the case of the *ʿilla* mentioned in the Qur'an such as the *ʿilla* of not fasting in Ramadan, it is the strongest category of *ʿilla,* and the ruling definitively relies on it.

The *ʿilla* mentioned in *ḥadīth* is often of a probabilistic nature (*ẓannī*) due to it being an isolated report (*khabar wāḥid*). However, the ruling depends on this *ʿillā* by way of *wujūb*, i.e., the *ʿilla* cannot be changed. The same applies to the *ʿilla* derived by the jurists and explicitly stated in their texts. Thus, the followers of these respective jurists must follow them in accepting this *ʿilla*.

[61] ʿUthmānī, *Uṣūl al-iftā'*, 245-247.

[62] His reference for this is Shāh Walī Allāh. See ʿUthmānī, *Uṣūl al-iftā'*, 248.

However, the ʿ*illa* that is not clearly stated by jurists is the weakest kind of ʿ*illa* and for Taqī ʿUsmānī, this is the only one where there is scope for disagreement.

2) Change in Rulings Due to Change in ʿ*Urf* (Custom)

Taqī ʿUsmānī discusses four different types of custom, namely local (*khāṣṣ*) vs. global (ʿ*āmm*) and lexical (*lafẓī*) vs. practical (ʿ*amalī*). Of these, what most concerns us is practical custom, also known as ʿ*āda* or *taʿāmul*. Like we saw with respect to his discussion of ʿ*illa*, Taqī ʿUsmānī's approach to *taʿāmul* is also very precise and restrictive. Thus, he begins his discussion by clarifying that not all *taʿāmul* is considered in *sharīʿa*. In fact, if a certain ruling mentioned in an Islamic primary text is not dependent on *taʿāmul*, then change of *taʿāmul* does not change the ruling even a little.[63] Beyond that, there are following six categories of rulings which may change due to *taʿāmul*. These are as follows:

1. If some aspects of a ruling mentioned in a primary text is based on *taʿāmul*, then those aspects change with the change of *taʿāmul*. While jurists may agree that some such cases depend on ʿ*urf*, they disagree on others as to whether the ruling is based on ʿ*urf* or not. Then, those who see it as based on ʿ*urf*, change the ruling, whereas others follow the primary text no matter what. An example is the case of the four *ribawī* things mentioned in the famous *ḥadīth* on *ribā*, namely wheat, barley, dates, and salt.[64] The Prophet commanded that when traded for the same commodity, they should be of equal volume (*kayl*). In his time, these four items were measure by volume. However, today they are measured by weight. Now, those jurists who see the ruling of equal measure as being

[63] ʿUthmānī, *Uṣūl al-iftā'*, 255.

[64] See f.n. 80 in chapter 4.

independent of *ʿurf* apply it today to volume and not to weight, whereas those jurists who consider the ruling of equal measure to depend on *ʿurf,* apply it to weight.[65]

2. Sometimes the *ʿilla* of the ruling is mentioned in the primary text but the *ʿilla* no longer exists with respect to some aspects of the ruling due to change in *ʿurf*. In such a case, the ruling is changed only in the affected aspects. An example is entering a public bath in exchange for money. Analogical reasoning (*qiyās*) would forbid this because the compensatory equivalent (*badal*), i.e., time spent, water used, etc. is unknown. However, this is permitted due to *taʿāmul* because the actual *ʿilla* is ambiguity leading to conflict which is removed due to *taʿāmul,* i.e., public agreement. Another example is having a condition in a sale contract. This is forbidden in *ḥadīth* but Ḥanafīs permit those conditions that are well-known among merchants. Taqī ʿUsmānī goes on to argue that many of the conditions prevalent in contracts today are based on this exception acknowledged by the Ḥanafīs.[66]
3. The primary text refers to a specific case, but the jurists deploy the same ruling in similar cases identified through analogical reasoning or *dalālat al-naṣṣ* (textual indication). In such cases, if the *ʿurf* nullifies analogical reasoning, then jurists approve of it, but they do not allow the *ʿurf* to nullify the specific case mentioned in *ḥadīth*. An example is giving a hired worker his wages through a portion of his labor, e.g., a person hired to mill flour is paid through a portion of that milled flour. This is specifically forbidden in *ḥadīth* but other similar cases such as a carrier of food being paid with a portion of that food is permitted due to *taʿāmul*. Taqī ʿUsmānī goes on to argue that when some jurists say that *taʿāmul* can

[65] ʿUthmānī, *Uṣūl al-iftā'*, 255-258.

[66] ʿUthmānī, *Uṣūl al-iftā'*, 258-260.

overrule analogical reasoning or can specify a primary text (*takhṣīṣ al-naṣṣ*), they mean those cases mentioned in primary texts that are not definitively known. Moreover, sometimes some jurists decide on an *ʿilla* which is broader in scope while others decide on an *ʿilla* which is narrower in scope. In such case, the more cautious approach should be adopted. However, *taʿāmul* can overrule it.[67]

4. There are some contracts that are not discussed in primary texts, neither in terms of permission nor in terms of prohibition. Moreover, such a contract has some similarity to forbidden thing, but it is common practice. In such a case, the jurists permit it. An example is *istiṣnāʿ* (manufacture to order, a kind of forward sale). Taqī ʿUsmānī also points out that *ʿulamā* of every age not condemning a *taʿāmul* counts as proof which can overrule analogical reasoning and specify a *ḥadīth*. Other examples include *shirkat al-aʿmāl* (partnership of labor) and *shirkat al-wujūh* (partnership of reputation) which Ḥanafīs permit due to *taʿāmul*.[68]
5. The ruling is based on apparent condition (*ẓāhir al-ḥāl*) and that has changed due to time. An example is that of a newlywed husband and wife arguing over whether the wife had received the dowry (*mahr*) before she had intercourse with her husband or not. Earlier jurists based their resolution of this dispute on the assumption that a woman would never have intercourse with her husband unless he had paid the dowry. However, this is no longer the case especially in South Asia.[69]

[67] ʿUthmānī, *Uṣūl al-iftāʾ*, 260-262.

[68] ʿUthmānī, *Uṣūl al-iftāʾ*, 262-263.

[69] ʿUthmānī, *Uṣūl al-iftāʾ*, 263-264.

6. The ruling is based on the general condition of the people which has now changed. An example is Abu Hanifa who relied in some of his rulings on coercion (*ikrāh*) on the assumption that no one beside the ruler can actually force anyone to do anything. However, his student al-Shaybānī based his rulings on coercion on the assumption that people besides the ruler can also coerce others. This contradiction was explained by later jurists as being due to change in circumstances of people.[70]

Taqi ʿUsmānī ends his discussion by citing Ibn ʿĀbidīn who declares that mere reading of books is not enough for a *muftī*; rather, he also needs to know the *ʿurf* because many rulings are based on that. Moreover, a *muftī* must be a person of deep insight if he is to give a *fatwā* of changed ruling due to change of *ʿurf*. This insight is achieved through proper understanding of the general principles of Islamic law, as well as the conditions of rulings, and through training at the hands of an expert teacher.[71]

3) Change in Rulings Due to *Ḍarūra* (Necessity) and *Ḥāja* (Need)

So far, we have seen Ibn ʿĀbidīn and Taqī ʿUsmānī deploy these two terms in the context of giving *fatwā* on a weak opinion within the *madhhab* or on another *madhhab*. Both Ibn ʿĀbidīn and Taqī ʿUsmānī had used somewhat ambiguous language there. Taqī ʿUsmānī's discussion of *ḍarūra* and *ḥāja* is clearer in this section. However, some ambiguities creep in here as well as will become clear below.

To begin with, Taqī ʿUsmānī defines five levels of *ḍarūra* and *ḥāja*. These are *ḍarūra*, *hāja*, *manfaʿa*, *zīna*, and *fuḍūl*. Following the common premodern practice of discussing these

[70] ʿUthmānī, *Uṣūl al-iftā'*, 264-265.

[71] ʿUthmānī, *Uṣūl al-iftā'*, 266-267.

terms in the context of hunger, Taqī ʿUsmānī defines *ḍārūra* as fear of loss of life or limb which permits one to eat something forbidden. Similarly, *ḥāja* refers to a level of difficulty which does not allow one to consume forbidden things but does permit breaking one's fast due to hunger or thirst. *Manfaʿa* refers to the case of someone who desires wheat bread, lamb meat or gravy, while *zīna* refers to the case of someone who desires to consume some dessert. Finally, *fuḍūl* refers to freely consuming forbidden and suspect things. Within these five categories, *fuḍūl* is forbidden and while *zīna* and *manfaʿa* are permissible, they do not rise to the level of justifying a change in rulings. However, *ḍarūra* and *ḥāja* can justify this.[72]

Moving on to *ḍarūra*, Taqī ʿUsmānī explains that four conditions must be met for *ḍarūra* to exist. When these four conditions exist, then the forbidden can be engaged in but only to the extent of the *ḍarūra*, and this is what the maxim *al-ḍarūrāt tubīḥu al-maḥẓūrāt* refers to. The four conditions are as follows:

1. There is fear of loss of life or limb.
2. The necessity exists and is not merely anticipated i.e., experience suggests that the harm is highly likely (*ghalabat al-ẓann*) to happen.
3. The necessity cannot be removed through some permissible means.
4. The forbidden thing should not be such that it leads to a similar harm upon another. Thus, killing someone under duress is not permitted.[73]

With respect to *ḥāja*, Taqī ʿUsmānī explains this as a need which if unfulfilled leads to hardship but does not lead to loss of life or limb. It has two types: *ʿāmma* and *khāṣṣa*. As their names suggest, *ʿāmma* is a hardship faced by all or most people while *khāṣṣa* is a hardship faced

[72] Aḥmad al-Ḥamawī, *Ghamz ʿuyūn al-baṣā'ir Sharh al-Ashbāh wa al-naẓā'ir li Ibn Nujaym*, as cited in ʿUthmānī, *Uṣūl al-iftā'*, 268.

[73] ʿUthmānī, *Uṣūl al-iftā'*, 268-269.

by individuals or a specific group of people.[74] With reference to the question that I had raised earlier about the distinction about *ʿumūm balwā* and *ḥāja ʿamma*, it seems Taqī ʿUsmānī is using them interchangeably. While this helps clarify one confusion, the other confusion with regards to *ḍarūra* and *ḥāja* still persists since Taqī ʿUsmānī and most other Deobandīs tend to define *ḥāja* as *ḥāja shadīda* (extreme need). In fact, Taqī ʿUsmānī himself admits that he has not yet encountered any work which clear describes the difference in the effects of *ḍārūra* and *ḥāja*. His own conclusion is that *ḥāja* can play a role in change of rulings in two cases.

1. Islamic primary texts themselves mention the particular need and base rulings on it. For example, permissibility of a forward sale (*salam*) which even though it is the sale of something non-existent and as such should be impermissible is permitted due to public need (*ḥājat al-nās*).
2. The original ruling is open to interpretation, or it is not explicitly stated in the Qur'an or Sunna or it is differed upon. In these cases, permission is given preference over prohibition in case of need. An example is a woman showing her face to an unrelated man which even though impermissible in itself is based on non-explicit texts, is differed upon, and some jurists have permitted it. Therefore, even though permission is an overruled (*marjūḥ*) opinion, it can be chosen in case of need.[75]

Taqī ʿUsmānī further declares that beyond these two kinds of scenarios, *ḥāja* has no effect on definitive rulings explicitly stated in the Qur'an or Sunna that are not differed upon. Moreover, while some jurists have stated that *ḥāja* can be treated as a *ḍarūra* irrespective of whether it is *ʿāmma* or *khāṣṣa*, this applies only when another Islamically valid evidence (*dalīl sharʿī*) calls for

[74] ʿUthmānī, *Uṣūl al-iftā'*, 270-271.

[75] ʿUthmānī, *Uṣūl al-iftā'*, 271-272.

it such as another text or *ʿurf*. Taqī ʿUsmānī concludes by saying that matters where *ḥāja* may have an effect on ruling are not well codified and it falls on a person's juristic acumen (*malaka fiqhiyya wa madhāq salīm*) to determine where *ḥāja* would change rulings.[76]

Interestingly, the rules that Taqī ʿUsmānī has laid out with respect to *ḍarūra* and *ḥāja* as discussed in this and the previous sections are similar in spirit to what his Deobandī critics argue for. In their discussion of *ʿumūm balwā*, they list five conditions that must be met for it to affect any change in the standard opinion of the *madhhab*. These are as follows:

1. The *ḥarām* which can no longer be avoided has to be *ḥarām li ghayrihī* (forbidden due to extraneous reasons) and not *ḥarām li ʿaynihi* (forbidden due to intrinsic reasons).
2. The original ruling of prohibition should not be a definitive and unequivocal text (*naṣṣ qaṭʿī wa ghayr muḥtamal*).
3. There should be no alternative which is permissible, or if there is a permissible alternative, it should not cause severe hardship (*mashaqqa shadīda*).
4. Removing one harm (*mafsada*) should not lead to a greater harm.
5. One's action should not lead to opposing the objective of the Lawgiver. Thus, *ijāra* (rent agreement) is sanctioned due to need. Therefore, *ijāra* cannot be used for something which is forbidden in Islam.[77]

As is obvious from the foregoing, both sides agree that for *ḥāja* to affect a change in any ruling or even justify a *fatwā* on a weak opinion in the *madhhab*, it must be hard or extreme. This basically raises the meaning of *ḥāja* to a level very close to that of *ḍarūra*. Moreover, both sides also agree in principle that *ḥāja* should not compromise the objective of the Lawgiver. The key

[76] ʿUthmānī, *Uṣūl al-iftā'*, 272-274.

[77] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 160-162.

differences between the two sides are two. One is the role of *maqāṣid al-sharīʿa* in determining whether something which is procedurally valid can be nullified because it nullifies the objective of Islamic law. This will be discussed in some more detail later. The second issue is that of determining whether something has reached the level of extreme need. In case of Taqī ʿUsmānī, he is cognizant of the fact that this is subjective. Hence, his constant refrain that the final decision is based on a *muftī*'s juristic acumen. In fact, this notion has a long history. The medieval jurist Ibn Quṭlūbughā had said something similar while justifying the higher status of Qāḍīkhān's *taṣḥīḥ*, "whatever he validates (*yuṣaḥḥiḥuhu*) has precedence over the validation of others because he innately understood fiqh (*faqīh al-nafs*)."[78] Taqī ʿUsmānī's critics would obviously agree with the importance of juristic acumen. However, they seem disinclined to concede that anything is subjective in their critique of Islamic banking. This will become clearer in the next section.

4) Change in Rulings Due to *Sadd al-dharā'iʿ*

Continuing with our discussion of factors that cause a change in ruling, Taqī ʿUsmānī lists the fourth reason as *sadd al-dharā'iʿ* (obstructing the means) which he defines as something which is permissible in itself but is forbidden because it leads to something forbidden. A good example of *sadd al-dharā'iʿ* is *taqlīd shakhṣī* itself. The earlier generations of Muslims did not always follow a single scholar or group of scholars in all matters. Rather, most people would ask a question to whichever scholar they could find. It was only later that a broad consensus emerged amongst the *ʿulamā* that people should be required to follow just one *madhhab* in order to prevent turning religion into a plaything.[79]

[78] Al-Laknawī, *al-Fawā'id al-bahiyya*, as cited in al-Quḍāt, *Qawāʿid al-taṣḥīḥ wa al-tarjīḥ*, 92.

[79] Taqī ʿUsmānī, *Taqlīd*, 60-78.

With respect to how *sadd al-dharā'iʿ* should be deployed, Taqī ʿUsmānī, identifies the following two types of *sadd al-dharā'iʿ*:

1. A means which is mentioned and forbidden in Islamic primary texts. Examples include the prohibition of cursing idols because that might cause idol-worshippers to curse Allah, and prohibition of *ribā al-faḍl* because it might lead to *ribā al-nasī'a*. Since these prohibitions are established clearly in primary texts, therefore the aspect of *sadd al-dharā'iʿ* is now merely a *ḥikma* and the ruling does not depend on whether the *ḥikma* is realized or not.
2. A means which is not mentioned in Islamic primary texts but the prohibition of what it leads to is established. An example is the second caliph ʿUmar forbidding Muslims from marrying non-Muslim women even though the Qur'an permits it, for fear of *fitna*. Another example is that of ʿUmar and the Prophet's wife ʿĀ'isha forbidding women from going to the mosque even though the Prophet had permitted them, due to fear of *fitna*.

With respect to the second type of *sadd al-dharā'iʿ*, Taqī ʿUsmānī explains that this is open to disagreement. A good example is that of *bayʿ al-ʿīna* which Mālik disliked and al-Shāfiʿī permitted under certain conditions. The same disagreement is also found among Ḥanafīs with al-Shaybānī disliking it while Abū Yūsuf permitting it.[80] Taqī ʿUsmānī's verdict about this type of *sadd al-dharā'iʿ* is two-fold. The first is that if a permissible thing is highly likely or definitively going to lead to a forbidden thing, it is also forbidden. However, if it is not highly likely or definitive then its impermissibility should not be clearly stated. Rather, the *muftī* should use a different language to discourage the questioner from engaging in it.[81] Taqī ʿUsmānī's other conclusion is that determining where to apply *sadd al-dharā'iʿ* depends on a person's juristic

[80] ʿUthmānī, *Uṣūl al-iftā'*, 274-280.

[81] ʿUthmānī, *Uṣūl al-iftā'*, 282.

acumen (*malaka fiqhiyya wa dhawq salīm*) which is normally not acquired except through extended training under experts.[82]

5.3.3: When Not to Leave the Standard Opinion?

We have already seen above that Taqī ʿUsmānī is very disciplined in how he approaches deviation from the standard opinion of the *madhhab*. This is as true of his discussion of the principles governing this as well as his arguments in his work defending Islamic banking, i.e., *Ghayr sūdi bankārī*. What should also have been clear from the foregoing is the central role that a jurist's subjective judgement plays in determining when to depart from the standard opinion. One of the factors affecting this subjective judgment is *taqwā*. Variably translated as piety and God-consciousness, *taqwā* can be understood as a maximalist approach to the law, i.e., a person seeks to fulfill his/her legal obligations to the fullest extent possible. This is the opposite of a minimalist approach to law, where a person is merely fulfilling the minimum requirements of the law. A good example in the case of *ʿibādāt* would be someone who merely prays what is obligatory such as four units of ʿAsr prayer vs. someone who prays what is obligatory (4 units) as well as voluntary (4 units of *sunna ghayr mu'akkada* before the obligatory prayer).[83] In the case of economic transactions, while *fatwā* would only require a person to pay his/her *zakāt*, *taqwā* requires a person to also engage in voluntary charity, i.e., *ṣadaqa*.

This *fatwā-taqwā* binary also operates in the other direction, i.e., staying away from sin. Thus, *taqwā* requires one to avoid not only forbidden acts but also disliked acts. A good example

[82] ʿUthmānī, *Uṣūl al-iftā'*, 283.

[83] The Ḥanafīs have more detail to *aḥkām taklīfiyya* than other Sunnī schools. Thus, instead of just having a five-level hierarchy of *farḍ*/*wājib*, *nafl*, *mubāḥ*, *makrūh* and *ḥārām*, Ḥanafīs have a number of intermediate categories between *farḍ* and *nafl*. Thus, *wājib* is also mandatory but has a status below that of *farḍ*, and there are two different types of *sunnas*, *mu'akkada* (emphasized) and *ghayr mu'akkada* (un-emphasized), as well as *mustaḥabb* (preferred/liked) above *nafl*. For more on these terms and their hierarchy, see Aḥmad al-Naqīb, *al-Madhhab al-Ḥanafī*, 1:289-305.

in this case is the amount of water used while making *wuḍū'* when piped water is available. While *fatwā* would require one to not use an excessive amount of water while making *wuḍū', taqwā* would require one to be very diligent in making sure that the amount of water used is as little as what the Prophet used to make *wuḍū*, i.e., a *mudd* (a small container which holds 775 mL of water).

As discussed earlier, one of the goals of the Deobandī movement is rejuvenation of Muslims through emphasis on spirituality and faithful adherence to the sacred law. Thus, emphasizing *taqwā* is a constant theme in Deobandī *madrasas* and in lectures given by Deobandī preachers. Students in *madrasas* are trained from a young age to adhere not only to the minimum requirements of Islamic law but to aspire to accrue more good deeds by avoiding disliked things as well as doing voluntary acts including emulating the *sunan ʿādiya* of the Prophet.[84] And Deobandīs are not unique in this. *Taqwā* is an important theme in the Qur'an and the Prophetic reports. Similarly, it has a long history among *ʿulamā*. Even today, traditionally trained Islamic scholars from around the world can be similarly seen emphasizing *taqwā* in all aspects of one's life.

So how does *taqwā* play a role in *fatwā*-giving? There are a few cases where this becomes important. In his discussion of choosing between two contradictory *taṣḥīḥ*'s, for example, Taqī ʿUsmānī mentions the case where there are two valid *taṣḥīḥ*'s coming from *ʿulamā* of the same stature who employ the same language to indicate *taṣḥīḥ*, and the only distinguishing factor between the two is that one permits an act while the other prohibits. In this case, Taqī ʿUsmānī

[84] Ḥanafī scholars of *uṣūl al-fiqh* define two main categories of *sunna* acts, *sunan al-hudā* and *sunan al-zawā'id*. *Sunan al-ḥuda* refers to those practices of the Prophet which Muslims are strongly encouraged to follow such as giving the *adhān* and *iqāma*, praying in congregation, and the *sunna mu'akkada* prayers. The other category is *sunan al-zawā'id* or *ghayr mu'akkada*. We have already seen examples of this earlier with respect to *ʿibādāt*. Another component of *sunan al-zawā'id* is *sunan ʿādiya*, i.e., those things the Prophet did by way of habit, such as his style of dress, his way of combing his hair, his beard, his way of putting on shoes, etc. For more, see al-Naqīb, *al-Madhhab al-Ḥanafī*, 1:296.

invokes the principle that if there is a choice between permission and prohibition, one should go with prohibition because that is closer to *taqwā*.[85]

At an even more fundamental level, one can see that the idea of *taqwā* permeates the whole edifice of *taqlīd*, be it premodern or modern Deobandī. Thus, while all *ʿulamā* can agree that one should not turn religion into a plaything because that would undermine the very idea of moral responsibility (*taklīf*), they disagree how best to ensure it. One basic level would be to say that instead of letting an average untrained Muslim derive rulings directly from the Qur'an and Sunna, they should be obliged to follow qualified scholars. A higher level would be that merely following qualified scholarship is not enough. There is a chance that people will pick and choose between different opinions and thus end up merely following their desires. To remove this possibility, people are then instructed to follow a single *madhhab*, i.e., *taqlīd shakhṣī*. Thus, both *sadd al-dharā'iʿ* and *taqwā* play a role in the argument for *taqlīd shakhṣī* thereby blurring the lines between *fatwā* and *taqwā*. An even higher level of caution would be to raise the threshold for justifying deviation from the standard opinion in the *madhhab*. Thus, even though *ḥāja* is supposed to be at a level below *ḍarūra*, Deobandīs (Taqī ʿUsmānī included) almost always add the qualifier *shadīda* to *ḥāja*. Not only that, sometimes, even *ḍarūra* also receives the qualifier *shadīḍa* thereby raising the threshold justifying deviation from the standard opinion even further. This emphasis on *taqwā* and *taqlīd* then engenders a conservative spirit among *ʿulamā* such that any talk of dispensations in response to needs is strongly discouraged, as will be discussed in the next section.

[85] Taqī ʿUsmānī, *Uṣūl al-iftā'*, 190.

5.3.4: *Ḥiyal* and *Tatabbuʿ al-rukhaṣ* in Islamic Law

As discussed above, an important part of keeping Muslims away from following their desires is the Deobandī emphasis on making sure people do not systematically seek dispensations (*tatabbuʿ al-rukhaṣ*), i.e., easier opinions from multiple *madhhabs*. Connected to that is the issue of deploying *ḥiyal* (sing. *ḥīla*; variably translated as ruse, subterfuge, or stratagem). Many critics of Islamic banking, Deobandīs included, consider the use of *ḥiyal* in Islamic banking to be one of the main reasons why Islamic banking is un-Islamic. Many of these critics acknowledge some *ḥiyal* as being legitimate as solutions to a difficult problem that do not frustrate the objectives of Islamic law. In such cases, they are called *makhārij* (exist) as well. However, there are other *ḥiyal* that are no better than subterfuge which undermine the objectives of Islamic law. Overall, in Islamic legal thought, the word *ḥīla* is often used negatively unless qualified by an adjective such as permissible. A good example is al-Bukhārī's condemnation of the Ḥanafīs for being liberal in their use of *ḥiyal*.[86]

The Deobandī critics of Islamic banking accused Taqī ʿUsmānī of building the entire edifice of Islamic banking on *ḥiyal* and on dispensations (*rukhaṣ*, sing. *rukhṣa*) which are supposed to be used only sparingly especially when it leads to nullification of the objectives of Islamic law. As in other places, the authors cited Taqī ʿUsmānī's own writings on the subject saying as much.[87] Besides Taqī ʿUsmānī's writings, other major sources for the critics were the works of Banūrī, Taqī ʿUsmānī's late father Shafīʿ, and Shāh Walī Allāh.[88] Thus, they quoted Banūrī as saying that

[86] For a general introduction to *ḥiyal* in Islamic law and the variations across legal schools, see Muhammad Tahir Mansoori, "Is "Islamic Banking" Islamic? Analysis of Current Debate on Sharīʿah Legitimacy of Islamic Banking and Finance," *Islamic Studies* 50, nos. 3 & 4 (2011): 384-392. For al-Bukhārī's condemnation of Ḥanafīs, see the chapter on *ḥiyal* (*kitāb al-ḥiyal*) in Muḥammad b. Ismāʿīl al-Bukhārī, *Ṣaḥīḥ al-Bukhārī* (Damascus: Dār Ibn Kathīr, 2002), 1722-1728.

[87] Taqī ʿUsmānī, "*Ghayr sūdī* counters," 2:260-261.

[88] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 162-173.

seeking dispensations should not be one's goal otherwise this amounts to leaving Islam.[89] Rather, as Taqī ʿUsmānī himself had said, there should be a Islamically valid evidence (*dalīl sharʿi*) requiring one to follow the dispensation.[90] They also cited Shafīʿ as saying that earlier *ʿulamā* had merely forbidden the common person from seeking dispensations. However, later *ʿulamā* added that one should not seek dispensation unless there is *ḍarūra shadīda*, *iḍṭirār*, and *ʿumūm balwā*. These conditions were added later because today it is understood that most people would follow dispensations because of their desires and not because of a valid Islamic reason.[91]

Finally, the critics cited Shāh Walī Allāh's *Ḥujjat Allāh al-bāligha* where he clearly states that *bāṭil* (invalid), *fāsid* (defective) and *makrūh* (disliked) transactions should not be adopted on a regular basis. Moreover, contracts that are impermissible even to a small degree should not be permitted because experience has shown that this leads to greater acceptance of them, and this eventually leads to suspending original rulings and distancing oneself from *sharīʿa*.[92] The critics went on to explain that one must avoid *tashahhī* (following desires) and *talahhī* (making religion a plaything). This is why, even though other *madhhabs* allow following *marjūḥ* (overruled) opinions for oneself while disallowing it for *muftīs*, the Ḥanafīs disallow for both the individual and the *muftī* because they see *marjūḥ* as abrogated.[93] Moreover, the critics invoked *taqwā* to argue that since the majority of *ʿulamā* disagree with Taqī ʿUsmānī, this renders Islamic banking at least

[89] Muḥammad Yūsuf Banūrī, *Fatāwā Bayyināt*, 1:28 & 60.

[90] *Al-Miṣbāh fī rasm al-muftī*, 2:208 as cited in Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 168.

[91] Interestingly, the latest edition of *Jawahir al-fiqh* does not have this quote in the suggested place (1:166) and does not even have the article "*Itmām al-khayr fī al-iftā' bi madhhab al-ghayr*" which the authors cite. Perhaps the critics got their reference wrong.

[92] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 170-172.

[93] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 183-186. Also see Ibn ʿĀbidīn, *Sharḥ ʿUqūd*, 8-9; 84-85.

suspect (*min al-mutashābihāt*) and caution (*iḥtiyāṭ*) dictates that *ribā* should be avoided even when it is merely suspected.[94]

As far as principles of *fatwā*-giving go, Taqī ʿUsmānī agrees with his critics regarding adherence to a single madhhab, leaving it only in cases of extreme need, and not turning religion into a plaything. We have already seen as much in the previous sections of this chapter. Taqī ʿUsmānī's response to his critics was thus focused on the details of their critique. To begin with, he argued that his critics were misidentifying certain things as *ḥiyal* even though they were not. Secondly, they had mixed *fatwā* with *taqwā* thereby rendering even *mushābahat al-ribā* equivalent to *shubhat al-ribā*.[95] Thirdly, they had misunderstood the Islamic rulings pertaining to *ḥiyal*. Thus, Taqī ʿUsmānī pointed out that *murābaḥa mu'ajjala* which is the most often used product in Islamic banks and which the critics had labeled a *ḥīla* is actually not a *ḥīla* and is sanctioned by the Qur'an itself. In fact, when the Qur'an (2:275) declares *ribā* to be forbidden and *bayʿ* to be permissible, it is referring to all kinds of *bayʿ*, the first of which is the sale of something at profit but with deferred payment. Because the polytheists had equated *ribā* with such a *bayʿ*, the Qur'an explained that the two are different. This is why, the Ḥanafīs also permit it and so does Mālik.[96]

Taqī ʿUsmānī also explained that *murābaḥa mu'ajjala* had long been accepted in Islamic law. A good example is the Ottomans who not only sanctioned *murābaḥa mu'ajjala*, but also capped the rate at which a person could make profit through it. This is similar to how central banks today specify rates of profit. Finally, he explained that while there are certain types of contracts where *murābaḥa mu'ajjala* can be used as a *hīla*, Islamic banks do not use it as such. Rather, in

[94] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 13, 26-27, 175-178 & 230.

[95] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 99 & 103. For more on *mushābahat al-ribā* vis-à-vis *shubhat al-ribā*, see the discussion in section 4.8.5 of this dissertation.

[96] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 74-98.

every case, it as an actual *bayʿ* in which the buyer actually intends to buy the goods.[97] Taqī ʿUsmānī also took his critics to task for behaving like those untrained in Islamic law who often think of all *ḥiyal* as being impermissible and who are not aware of the various types of *ḥiyal* identified by medieval jurists each with their own ruling.[98]

Thus, according to Taqī ʿUsmānī (he cites extensively from medieval jurists), there are three categories of *ḥiyal*, those that are impermissible and which do not have any legal consequences, those that are impermissible but do lead to legal consequences, and those that are permissible and lead to legal consequences.[99] An example of an impermissible *ḥīla* with legal consequences is that of someone who transfers his wealth to his wife before the end of the year to avoid *zakāt*. Since the wealth is no longer his, he is not liable for *zakāt*. However, it is still a sin because he did so to avoid a divine command.[100] An example of an impermissible *ḥīla* without legal consequence would be someone who gifts his wealth to his wife to avoid *zakāt* but does not transfer possession to her. In this case, even though he tried to actually change ownership, it failed because the gift is not complete unless possession is transferred. Another example of this category would be two people who decide to combine or separate their goats in front of the *zakāt* collector to incur lower *zakāt*. This would have no legal consequence because they have not really transferred ownership of their goats to one or the other. Thus, they would be sinning and would still be liable for the actual *zakāt* on their respective goats.[101]

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[97] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 112-130.

[98] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 161.

[99] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 162-178.

[100] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 177.

[101] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 175-177.

The third category of *ḥiyal* are those that are permissible and have legal consequences. The examples are the two famous cases from the Qur'an and *ḥadīth*. Thus, the Qur'an mentions the story of the Prophet Ayyūb (Job) who had made a vow in haste to hit his wife with 100 lashes. He was told to not break his vow, but to fulfill by hitting her lightly with a bunch of grass comprising 100 shoots (Qur'an, 38:44).[102] The incident mentioned in a *ḥadīth* is regarding the dates of Khaybar. Someone had gifted the Prophet Muḥammad high-quality dates from Khaybar. Upon being asked whether all dates of Khaybar were like this, the person explained that these were high quality ones, and people generally exchange two *ṣāʿ* of low-quality dates for one *ṣāʿ* of the high-quality dates.[103] Upon this, the Prophet told him that this was *ribā* and a better approach would have been to first sell the low-quality dates and then use that money to buy high-quality dates.[104]

Regarding the use of *ḥiyal* for circumventing the prohibition of *ribā*, Taqī ʿUsmānī explained to his Deobandī detractors that while Mālikīs tend to be quite strict and the Shāfiʿīs liberal, the Ḥanafīs take a nuanced position. They state that if an artificial contract designed to circumvent *ribā* does not have any legal consequences, then it is impermissible, but if it does have legal consequences distinguishing it from *ribā*, then it is permissible. A good example *is bayʿ ʿīna*. This is a *ḥīla* that utilizes two sale contracts (a credit sale with higher price, and an immediate sale with the original lower price) to achieve the goal of making profit on a loan. Thus, for example, someone wants to borrow $1,000 from a person who is willing to lend it, but he also wants to make a profit of $100 on it. If he were to directly ask for a profit, it would be *ribā* and thus forbidden.

[102] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 162-166.

[103] *Ṣāʿ* is a measure of weight used during the time of the Prophet. Its exact measure tended to vary from location to location. Ḥanafīs often consider it to be the equivalent of a little over 2 kgs. For more on Islamic weights and measures, see Ulrich Rebstock, "Weights and Measures in Islam," in *Encyclopaedia of the History of Science, Technology, and Medicine in Non-Western Cultures*, ed. Selin H. (Berlin: Springer Verlag, 2008), 2255-2267.

[104] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 166.

The *ḥīla* they use is that first the borrower buys some random thing from the lender for a deferred but higher price of $1,100. However, as soon as he takes possession of the goods, he turns around and sells it back to the lender for the original requested sum of $1,000, which the lender pays immediately. Eventually when the borrower pays the price ($1,100) for the first contract after the deferment period, the lender makes a profit of $100 as he had originally intended. In this case, the goods being sold and resold are not meant to be sold but just serve the purpose of propping up artificial contracts that help achieve the goal of making a profit of $100 on a loan of $1,000 given for a certain period of time.

All jurists agree that this kind of a contract comprising two sales would be impermissible if the first deferred credit sale contained within it the stipulation of the second immediate sale. However, the jurists disagree with regards to the case where the first sale does not have this stipulation, but the second sale does take place. While many earlier Ḥanafīs disagreed about this, later Ḥanafīs such as Ibn Nujaym, al-Shurunbulālī, and Ibn ʿĀbidīn declared it permissible. Taqī ʿUsmānī went on to argue that sometimes people get emotional about this juristic disagreement whereas this is all within the bounds of valid disagreement. He also explained that despite the allowances given by later Ḥanafīs, the preferred opinion (*rājiḥ qawl*) considers *bayʿ ʿīna* to be impermissible and it is not used in Islamic banks in Pakistan.[105]

Taqī ʿUsmānī also explained that his personal policy is to not rely too much on *ḥiyal* if other modes of financing are available. This is why, he adopts a strict tone when addressing governments. However, this does not mean that modes of financing that rely solely on *ḥiyal* are impermissible. The reason is that no earlier jurist has said that it is impermissible to rely heavily

[105] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 178-195.

on *ḥiyal*. In fact, if someone were to make this argument, they would have to define what does relying heavily even mean, i.e., is there a threshold for high or low reliance?[106]

What is interesting to note about Taqī ʿUsmānī's discussion of *ḥiyal* is that it revolves around the binary of permissible and impermissible. Mansoori's discussion of *ḥiyal* which was cited at the beginning of this section, and which is in turn built primarily around the work of Ibn al-Qayyim, divides *ḥiyal* on the basis of whether they frustrate the objectives of Islamic law or not. This is, in fact, illustrative of another aspect of this debate. The Deobandī critics of Islamic banking had deployed the same reasoning, arguing that the *ḥiyal* used in Islamic banking run counter to the objectives of Islamic law. They had cited Taqī ʿUsmānī's own writing condemning those *ḥiyal* which frustrate the objectives of Islamic law. Taqī ʿUsmānī's response was that the *ḥīyal* used in Islamic banking do not frustrate the objectives of Islamic law.[107] However, as we have seen above, he does not directly address the issue of objectives of Islamic law. Rather, his detailed discussion focuses solely on demonstrating how procedures involved in Islamic banking conform to premodern *juz'iyyāt* of *fiqh*.

5.4: *Fatwā*-giving in the Modern World

Having discussed the principles governing deviation from the standard opinion, it is now time for us to move to the last remaining step of the *fatwā*-giving process. As mentioned earlier, the process of *fatwā*-giving comprises at least three different steps. The first is identifying the standard opinion in the *madhhab* with respect to the given issue. The second is knowing the *wāqiʿ* (context/ground reality) in which the ruling is to be applied while the third is determining how the original ruling

[106] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 195.

[107] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 38-39.

is to be applied to the new context (*tanzīl al-qawl ʿala al-wāqiʿa al-juz'iyya*). This last step often entails evaluating whether one needs to deviate from the standard opinion or not. It should be noted from the foregoing that while there is a broad agreement between the two sides of the intra-Deobandī debate on these principles, the two sides do not see eye to eye with regards to their application. One of the main sources of this disagreement is their respective approaches to knowing the *wāqiʿ* (context/ground reality). But the differences associated with knowing the *wāqiʿ* are themselves part of a large issue facing the Deobandīs, i.e., the nature of the modern world, and it is to this I now turn.

Academics have long discussed how modernity has been a major disruptor in Muslim societies.[108] Among the changes brought about due to modernity is the breakdown of premodern social, political, and economic structures as well as those of knowledge transmission and generation. While I have already discussed at length some of these issues in the previous chapters, there are a few that pertain specifically to the process of *fatwā*-giving. These include the following inter-related issues: how to know the *wāqiʿ*, *ʿulamā*'s responsibility to give alternatives to forbidden matters, and the relationship between *fatwā*-giving and legislation and policymaking. I begin with the question of knowing the *wāqiʿ*.

5.4.1: Knowing the *Wāqiʿ* and the Limits of Reliance on External Experts

The issues of *fiqh al-wāqiʿ* (knowledge of the context) in the intra-Deobandī debate on Islamic banking can be understood in a narrow or broad sense. At the broad level, the disagreement between the two sides is regarding the question of whether banks are essential to modern societies or not. This requires knowledge and assessment of the broader socio-economic and politico-legal

[108] See, for example, Marshall Hodgson, *The Venture of Islam: Conscience and History in a World Civilization, Vol. 3, The Gunpowder Empires and Modern Times* (Chicago: The University of Chicago Press, 1974), 3:163-410.

situation obtaining in the modern world. In its narrow sense, *fiqh al-wāqiʿ* refers to knowledge and assessment of specific banking procedures.

With respect to both of these issues, Taqī ʿUsmānī can claim to be better informed because of his intimate knowledge of economics, modern Pakistani law (commercial and otherwise) as well as banking rules and regulations. His Deobandī detractors, on the other hand, can claim no such knowledge, and have to rely on outside experts, i.e., modern-educated economists and banking professionals. However, since modern economic thought and banking regulations are available in Pakistan primarily in the English language which these Deobandī critics do not know, and subject matter experts in law, economics, or banking are often not well-versed in *fiqh* terms and concepts, the chances of misunderstandings and miscommunication are always there. This is especially true of banking professionals. In fact, that is exactly what Taqī ʿUsmānī cited in his defense. He quoted many cases of banking regulations which had been mistranslated by his opponents. Moreover, he also pointed out the limitations of banking professionals in understanding how Islamic law related to modern banking. Thus, a banking professional might not see any substantive difference between Islamic banking contracts and conventional banking contracts, but a jurist who understands both fiqh and banking would know the difference.[109]

Consequently, Taqī ʿUsmānī was able to convincingly argue that his critics had no reliable knowledge of banking products or procedures. Moreover, while Taqī ʿUsmānī argued that banking was now integral to any country's economic system and an Islamic alternative had to be created,[110] his critics saw banking's "indispensability" as a case of Western imperialism which must be resisted and not endorsed.[111] The two sides were thus talking past each other. This disagreement

[109] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 216-227.

[110] Taqī ʿUsmānī, *Ghayr sūdī bankārī,* 15-29.
[111] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī,* 58-59 & 115-116.

in turn depended on the question of whether the *ʿulamā* are required to provide an alternative to everything forbidden. Both sides agreed that *ʿulamā* were not required to provide an alternative to every forbidden thing because that would amount to effectively undermining God's commands. However, they disagreed on how to determine whose alternative should be provided and whose not. The critics argued that *ʿulamā* should find an alternative to something forbidden only as long as it did not entail distorting Islamic rulings. To these critics, the *ḥiyal* used in Islamic banking were an example of the forbidden approach to finding alternatives because they entailed distorting God's commands.[112]

Taqī ʿUsmānī response, as cited earlier, was that the jurist should consider whether something forbidden actually fulfills a valid human need or not. As such, Muslims do not need to find an alternative to gambling or lottery which are merely indulgences (*ʿayyāshī*). However, those things which are needed (*insānī zarūrat*) or have come to be needed but are being fulfilled through impermissible means, then it is recommended (*masnūn*) to find their permissible alternatives. Since banks now play an essential role in people's lives, be it the average consumer and his savings or traders and their local and international trade, or national economies which rely on people's savings; *ʿulamā* must come up with an Islamic alternative to interest-based banking. As evidence, he cited statements by Banūrī and Shafīʿ to the effect that international trade is necessary and so some Islamic alternative to banking must be found.[113]

In fact, this disagreement about banks is illustrative of a larger methodological question facing *muftīs* in the modern world. According to Taqī ʿUsmānī, a *muftī* is not expected to be an expert in all kinds of sciences and often will have to rely on outside experts to fully understand a

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[112] Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 319-323.

[113] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 15-29.

given situation.[114] *ʿUlamā* can only give general guidelines. It is impossible for the *ʿulamā* to be experts in specialized fields of today. Thus, detailed Islamic alternatives to every questionable modern institution should be prepared by non-*ʿulamā* subject matter experts who should then present these plans to the *ʿulamā* for verification. He cited Banūrī as saying that the *ʿulamā* and modern intellectuals form two opposites. The *ʿulamā* are so conservative that they do not even adopt the means needed for serving Islam in the modern world, while opposing them are modern intellectuals who are capable of understanding the modern world but do not have the requisite Islamic knowledge to solve modern problems. He also cited his father saying that banking can be done Islamically provided banking experts and *ʿulamā* work together.[115]

However, the foregoing discussion has clearly illustrated the limitations of relying on outside subject matter experts. If Taqī ʿUsmānī himself had not been so familiar with modern law, economics, and finance, he might very well have misunderstood these same issues just as he alleges his opponents to have misunderstood them even though these critics were actually working with outside experts, i.e., banking professionals and economists. The main reason for this limitation is that modern sciences are so developed and sophisticated that a *muftī* who has no knowledge of these can and will make mistakes even when he relies on outside experts. If nothing else, being uninitiated in those sciences, will substantively increase his response time.

This discussion also highlights another methodological question, i.e., how do Deobandī *muftīs* gain knowledge of *wāqiʿ* in practice? If looked at from the perspective of training provided in Deobandī *madrasas*, we note that the standard theology text *al-ʿAqā'id al-Nasafiyya* taught there discusses three main sources of knowledge, viz., sense, reason, and true report. Most

[114] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 55.

[115] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 22-24.

ʿĀlimiyya graduates either know this by heart or are deeply familiar with it. Coupled with this is the general instruction given to *muftīs* in manuals of *uṣūl al-iftā'* as well as by *madrasa* teachers that a *muftī* must know the general context/circumstances of the questioner (*ḥāl al-mustaftī*). However, besides these, there is also another dimension of epistemology that is often left unstated but is understood by many *muftīs*.

This is the idea that premodern *fiqh* assumes certain socio-economic and political conditions. That is to say, Islamic rulings on various matters assume the society to be structured a certain way, where Islamic knowledge is accessible, family relationships are generally close-knit and stable, and there is a functioning Islamic judicial system. These assumptions have, of course, been thrown into a tailspin in the modern period, where new ways of structuring society, educating children, organizing politics and economics, and law have taken hold in Muslim lands. Pakistan is no exception. A deeply religious country rooted in a particular understanding of Islam is governed and thus also deeply shaped by a set of institutions that are basically Western and colonial in nature. Any discussion of *fiqh* must therefore involve a discussion of this new broader context.

There can be many ways to acquire knowledge of this broader context. One is to live in Pakistan and thus know what people deal with on a regular basis. Another is to study modernity and Western civilization as well as modern South Asian history to understand what makes modern Pakistan so different from premodern northern India or medieval Muslim lands. Another would be to engage in a systematic study of the socio-economic and politico-legal conditions of the country. An important tool in this regard would be modern social and behavioral sciences which are designed to systematically study and analyze the human condition (as individuals and in groups).

5.4.2: Training of *Muftīs* and the Social Sciences

So how does a Deobandī *muftī* gain knowledge of the broader socio-economic or political condition? A detailed analysis of the Deobandī educational system is given in chapter three. It clearly indicates that Deobandīs do not seem conscious of the need for utilizing any rigorous research method for this purpose. As such, there are no manuals written on the subject by any Deobandī scholar, and the default method for knowing the *wāqiʿ* is three-fold: personal experience, knowledge gained from interacting with others in one's social circles, and general news and reading. In other words, purely anecdotal. To be sure, there are mitigating factors at play. Thus, since most Deobandī *ʿulamā* also serve as Imams in mosques, they are in direct contact with a wide cross-section of society. This, of course, gives them a broad view of the social condition. However, its limitations become clear when we consider two relevant issues.

First, Pakistani society is extremely divided on the basis of language, culture, and perhaps most importantly socio-economic conditions. Thus, the experiences of an Imam in a big city like Karachi are not going to be the same as that of someone serving as an Imam in a village in southern Punjab. Moreover, even within the same city, there is a world of difference between the experiences of someone who studied in English-medium modern educational institutions and comes from a well-to-do family versus someone who studied only in Urdu-medium educational institutions and comes from a poor family. Most *madrasa* students and graduates fall into the latter category. Add to this the additional dimension of Deobandī *ʿulamā*'s general alienation from the broader society, and it is not difficult to see that their personal experiences and knowledge gained from their social circles of like-minded people is not going to be universally applicable.

The second issue where anecdotal methods of knowing the society turn out to be wanting has to do with legislation and policymaking. Although not all, but many issues of economics and

finance that the Deobandīs debated among themselves as well as their general call for Islamization of Pakistani law fall under national-level legislation and policymaking. In other words, Deobandīs are not just debating what is right for a merchant's personal practice while he plies his trade in Karachi but are effectively weighing in on what the law of the land should be. It is in this context that the role of modern social sciences comes to the fore. Deobandīs see themselves as competing with a host of stakeholders most important of which are the government, state bureaucracy, and those NGOs which Deobandīs see as propagating Western ideas and culture. Each of these stakeholders primarily comprise of modern-educated Pakistanis. They have thus been exposed to and many times, have training in modern sciences including social sciences. Moreover, government officials and these NGOs have access to data that gives them a bird's eye view of the whole country. They are able to chart their policies and justify them using this national-level data.

When looked at from this perspective, the limitations of Deobandī training become obvious. As we saw in the third chapter, the Deobandī educational system has dispensed with premodern *falsafa* which in many ways is the precursor to modern natural and social sciences.[116] Training in premodern *falsafa* had allowed early Deobandīs to effectively weigh in on issues of economic and political nature albeit with limitations, as we saw in the first half of the fourth chapter. Deobandī *madrasas* today have no provision for any modern social science except whatever may be studied up to the eighth or tenth grade. As we saw earlier in our exposition of Deobandī economic thought, only one among them (Seohārvī) was faintly familiar with the importance of data collection and analysis at the national level. Among more recent Deobandīs,

[116] I have in mind here the six main branches of Greek philosophy as transmitted by al-Farābī and Ibn Sīnā and recognized by al-Ghazālī, namely mathematics, logic, physics, metaphysics, politics (including economy), and ethics. Each one of these encompassed a number of allied fields of knowledge each of which has now developed into a specialized field of knowledge. For al-Ghazālī's discussion of these six branches and their constituent fields, see Abū Ḥāmid al-Ghazālī, *Qaḍiyyat al-taṣawwuf: al-Munqidh min al-ḍalāl*, ed. ʿAbd al-Ḥalīm Maḥmūd, 5th edition (Cairo: Dār al-Maʿārif, n.d.), 349-363.

one does find some isolated attempts at invoking data in support of their arguments, but it falls far short of what is needed to make sense of the modern world or to make an argument that would be useful for national policymaking (more on this later).[117]

All of this is not to suggest that the modern social sciences are error-free or that they provide perfect knowledge of the world. Many social scientists would readily admit the limitations of social sciences both in terms of the theories that underpin them, and the methods employed,[118] and there has been extensive critique of Western social and natural sciences by many non-Deobandī Islamic scholars especially those associated with the Islamization of knowledge movement.[119] Similarly, one must not casually dismiss the first-hand experiences of someone who is born and raised in a society and has lived there all his life. Nevertheless, it is quite obvious that a robust research approach encompassing both qualitative and quantitative analysis is bound to prove more superior for understanding the socio-economic and political situation as it pertains to legislation and policymaking as compared to a research method that is anecdotal and not thought through. To use Taqī ʿUsmānī's terms, this lack of training in social sciences and social research

[117] Thus, in his analysis of modern tools of wealth concentration, Rafī ʿUsmānī engages in a detailed analysis to demonstrate how much profit insurance companies make through the legally required third party insurance from motor vehicle owners. However, at the same time, his analysis of how insurance works is probably the weakest theoretical part of that book thereby demonstrating again the limits of a non-expert. See ʿUsmānī, *Islāmī maʿīshat kī khuṣūṣiyāt*, 64-73. Similarly, Taqī ʿUsmānī's Deobandī critics also dabble in some data analysis. Thus, while arguing against Islamic banking, they cite a survey according to which 80% of the employees of Islamic banks consider it to be un-Islamic. However, this is the extent of the data analysis deployed. See Rufaqā Dār al-Iftā, *Murawwaja Islāmi Bankārī*, 91.

[118] See, for example, John Martin's recent works on method and use of statistics in social research. John Levi Martin, *Thinking Through Methods: A Social Science Primer* (Chicago: The University of Chicago Press, 2017); and John Levi Martin, *Thinking Through Statistics* (Chicago: The University of Chicago Press, 2018).

[119] See, for example, Ismail al-Faruqi and A.O. Naseef, *Social and Natural Sciences: The Islamic Perspective* (London: Hodder and Stoughton, 1981). Al-Faruqi was also the founder of the International Institute of Islamic Thought (IIIT) which spearheaded the Islamization of knowledge movement in the 1980s and the 1990s. Founded in 1981, IIIT sponsored dozens of seminars and conferences, as well as the publication of hundreds of articles and books on the subject. It was also instrumental in the establishment of the International Islamic University Malaysia with the express purpose of Islamizing modern knowledge. More recently, a prominent Pakistani economist Asad Zaman has been actively engaged in critiquing Western social sciences. His writings and lectures are available at https://asadzaman.net and https://azprojects.wordpress.com, as well as on Google Scholar.

will negatively impact a *muftī*'s judgment of how the times have changed or whether something rises to the level of public need.

In this rather bleak picture of the quality of training of Deobandī *ʿulamā* and *muftīs*, the case of Taqī ʿUsmānī is unique. In the previous chapter, I had highlighted his ability to successfully engage and respond to a diverse set of stakeholders in diverse fields of knowledge. The crucial question here is, can Taqi ʿUsmānī's example be replicated? That is to say, to what extent is his scholarship a result of his training in Deobandī *madrasas* and at the hands of Deobandī *ʿulamā*, and to what extent is it the result of his unique experiences outside of *madrasas*? This would include his formal training in law and economics, service as a judge at the federal level, frequent travelling around the world and interacting with a very broad range of scholars globally. The obvious answer to the question based on the foregoing is that this is not replicable. What this means is that there is no institutional mechanism in Deobandī *madrasas* to better understand the modern world, i.e., the new *wāqiʿ*.

Taqī ʿUsmānī's own madrasa DUK has basically the same *ʿĀlimiyya* program as any other Deobandī *madrasa*, and while its *Takhaṣṣuṣ fi al-iftā'* program is a year longer and has some additional elements including some study of modern law, it still falls short of any robust training in modern law, economics, politics, or policymaking. Moreover, and perhaps even more consequentially, most members of Deobandī political parties such as JUI-F and JUI-S who have been elected to the national and provincial assemblies do not speak or read English and have no training in modern Pakistani law. Consequently, they are often taken by surprise when legislation is passed in these assemblies and later it turns out that there was some clause that the Deobandīs consider to be un-Islamic.

Even with respect to their home base, i.e., *madrasas*, there is no training in education as a distinct field of knowledge. Considering that hundreds of thousands of students are studying in tens of thousands of Deobandī *madrasas* in Pakistan at any given time, there is a wealth of data that can be collected and analyzed. In fact, that would be the first step in a large-scale modern organization of any kind. In the case of Deobandī *madrasas*, no significant advance has been made in this direction. To be sure, basic statistics such as the number of students, their names, addresses, grades, etc. are collected on a regular basis in every *madrasa* and aggregated at the national level through Wifāq al-ʿUlamā. However, this is the extent of it. There is no systematic data collection and analysis to determine what the alumni of each *madrasa* is doing after graduation and thus whether the education provided fits the career goals of students or not.[120] More fundamentally, Deobandī *madrasas* have no system of determining whether learning objectives in each course have been met or not. Rather, teachers and administrators tend to rely on anecdotal experiences to determine if the students are doing well in their studies or not. The same is true of character-building. While some *madrasas*, especially those focused on younger students, make a concerted effort to conform students to Islamic ideals of behavior, there is no coherent system of personality development and/or psychological evaluation.

In a way, it is unfair to expect all of this to be studied in the *ʿĀlimiyya* and/or *Takhaṣṣuṣ fi al-Iftā'* programs. These programs are already packed and intensive as it is, and the training provided in *Takhaṣṣuṣ fi al-Iftā'* programs is sufficient to prepare students to answer common questions of *fiqh* such as those pertaining to worships, marriage, divorce, etc. Rather, my main point here is that there is no *system-wide* recognition that *muftīs* should pursue further education if

[120] Some exceptions obviously do exist. An important one in this regard is Jāmiʿa al-Rashīd, a prominent *madrasa* in Karachi. However, its approach and policies are so different from many Deobandī *madrasas*, that it might as well be classified as a different kind of educational institution.

they wish to give *fatwās* on issues that require knowledge of the modern condition. The result, then, is that whenever Deobandī *ʿulamā* venture far from basic issues of *fiqh*, they run into trouble, either because they are commenting on economic and political issues without any formal training in them or because they are weighing in on a social issue without having adequately studied the social condition.

Interestingly, many *ʿĀlimiyya* and *Takhaṣṣuṣ fi al-Iftā'* graduates themselves arrive at this conclusion and end up enrolling in master's and PhD programs in the various universities in the country. However, their numbers are few compared to the overall number of students graduating from these programs every year. Secondly, there is no coherent Deobandī policy regarding modern educational institutions. In fact, there seems to be a love-hate relationship. People with advanced degrees like M.Phil.'s and PhD's are despised and envied at the same time. Thus, there are two prominent groups among Deobandī *ʿĀlimiyya* graduates pursuing further education, those closely connected to some of the *akābir*, and those who have rebelled against the Deobandī system or are at least not connected to it. Consequently, there is yet to emerge a discursive community of like-minded *ʿulamā* who could create more comprehensive institutions for the training of *ʿulamā* and *muftīs*.[121]

5.4.3: *Fatwā*-giving, Legislation, and Policymaking

People on both sides of the intra-Deobandī debate on Islamic banking, i.e., Taqī ʿUsmānī and his critics are equally convinced that the Pakistani government is not serious about implementing Islam. In other words, as far as they are considered, the political vacuum created by the absence of

[121] There are some new efforts afoot to change that. Madrasa Discourses spearheaded by Ebrahim Moosa in the US and his partners, 'Ammār Khān Nāṣir in Pakistan and Wāris Maẓharī in India, is one such effort. However, its direct impact within the *madrasa* world remains to be seen.

legitimate Muslim political authority in the colonial period has continued in the post-colonial Pakistani state. In such a situation, the *ʿulamā* find themselves having to fill this vacuum. However, we also find that many of these *ʿulamā* are oblivious of the implications of such a role.

In Islamic political thought, the actions and policies of the ruler are supposed to be governed by Islamic law. However, quite a significant portion of the matters under a ruler's purview do not have any clear Islamic injunction regarding them and then there are those areas where the jurists themselves disagree. In the case of the former, the ruler is expected to make decisions on the basis of public benefit (*maṣlaḥa*).[122] Hence, the concept of *siyāsa sharʿiyya*. Moreover, Muslims are supposed to submit to the ruler in light of the Qur'anic injunction (4:59) to obey those in authority as long as they do not command one to commit a sin. But what about issues differed upon among jurists? Whose opinion should the ruler be following in these cases? If he is not a *mujtahid* or erudite scholar himself, should he still try to follow the strength of the evidence or should he simply do *taqlīd* of one the *madhhabs*, i.e., promulgate one of the *madhhabs* as the law of the land? From what we have seen earlier, the general Deobandi answer to this question is that yes, the legal system of the country should be based on a single *madhhab* which in the case of Pakistan would be the Ḥanafī *madhhab* due to the majority of the population being Ḥanafī.

Connected to this is another important concept which although often used with reference to judicial matters has a bearing on our discussion here as well, viz. the decision of a judge puts an end to inter-*ʿulamā* disagreement (*ḥukm al-ḥākim yarfaʿu al-khilāf*) even if he chooses to enforce

[122] Hence, the famous maxim "تَصَرُّفُ الْإِمَامِ فِي الرَّعِيَّةِ مَنُوطٌ بِالْمَصْلَحَةِ (Actions of the Imam affecting the subjects are based on benefit/welfare)." For applications of this maxim in *fiqh*, see Aḥmad b. Muḥammad al-Zarqā', *Sharḥ al-qawāʿid al-fiqhiyya* (Damascus: Dār al-Qalam, 2012), 309-310; and Aḥmad b. al-Ḥamawī, *Ghamz ʿuyūn al-baṣā'ir sharḥ al-Ḥamawī ʿala al-Ashbāh wa al-naẓā'ir li Ibn Nujaym* (Karachi: Idārat al-Qur'ān wa al-ʿUlūm al-Islāmiyya, 1432 AH), 1:328-336.

an opinion considered weak or invalid by a *madhhab*. Thus, with respect to a judge, a private scholar or *muftī* may voice what he considers to be the soundest opinion (either through his *ijtihād* or based on the rules of the *madhhab*), but once the judge makes the decision, all affected parties are supposed to submit to it.

However, if there is no (legitimate) ruler or judge, and the *ʿulamā* are filling the vacuum, should the *ʿulamā* continue to make the case for their *madhhab* or should they also take into consideration those factors which a ruler would have such as *maṣlaḥa* and the broader context? Such an approach might compel them to go with a weak or non-Ḥanafī opinion even in a Ḥanafī majority country. My point here is that there is a potential contradiction between the role of a scholar who merely presents what he considers to be the sound opinion based on texts, and the ruler who is better aware of the ground reality and understands *maṣlaḥa* better. It seems not all Deobandīs have fully understood the implications of this. One of the few who has is Taqī ʿUsmānī.

Thus, in his recent work *Fiqh al-buyūʿ*, Taqī ʿUsmānī lays out his framework towards financial matters by explaining that even though adherence to a single *madhhab* is necessary in normal circumstances, all of the *madhhabs* are valid interpretations of Islamic law. This is why all *madhhabs* agree that when a *ḥākim* decrees something in differed upon matters, it applies to all subjects even if it be opposed to someone's *madhhab*.[123] Although not explicit, this statement does suggest that Taqī ʿUsmānī realizes that sometimes a *muftī* may have no choice but to borrow from different *madhhabs* to make matters easy for Muslims. In other words, the *muftī* has to think the way a *ḥākim* thinks. A more explicit declaration comes later in the work where while discussing *khiyār al-majlis* (option to rescind an offer in the same sitting), Taqī ʿUsmānī points out that laws

[123] Muḥammad Taqī ʿUsmānī, *Fiqh al-buyūʿ ʿala al-madhāhib al-arbaʿa maʿa taṭbīqātihi al-muʿāsira muqārin*^{an} *bi al-qawānīn al-waḍʿiyya* (Karachi: Maktabat Maʿārif al-Qur'ān, 2015), 1:9.

made by the government are at least at the level of *ʿurf*. Moreover, even if one's own *madhhab* disagrees with the law, the law takes precedence because *ḥukm al-ḥākim rāfiʿ al-khilāf*.[124]

An even more explicit declaration is to be found in his *Islām aur siyāsī naẓariyāt* where he clearly states that the ruling of a ruler is also decisive in matters differed upon among jurists, i.e., he considers the word *ḥākim* in the above-mentioned maxim to include judges *and* rulers.[125] When considered in conjunction with Taqī ʿUsmānī's subjective judgement that public need warrants leniency in economic matters, one can see that he is behaving in a manner similar to how a policymaker would behave. However, Taqī ʿUsmānī never explicitly declares this. Thus, there is no call for a large-scale adoption of the principle of *ḥukm al-ḥākim rāfiʿ al-khilāf* regarding economic matters. If anything, it seems to be a means to defend himself from those who would charge him with defying *taqlīd*. Hence, his clarification that one must adhere to *taqlīd shakhṣī* under normal circumstances.

In fact, this hesitation on Taqī ʿUsmānī's part is reflective of a larger issue affecting Deobandī approach to *fatwā*-giving. In general, Deobandīs have been very reluctant to make changes in Islamic law that are fundamental or comprehensive in nature. In fact, one of the hallmarks of Deobandī approach to Islamic law has been their opposition to any such radical change. Their *fatwā* activity which has been quite prolific seeks to make small incremental changes to respond to the changed circumstances. This has the benefit of keeping the edifice of premodern Islamic law intact while also allowing for some flexibility. This is true of both Taqī ʿUsmānī and his Deobandī detractors. Nevertheless, the case of Islamic banking also shows the limits of this approach.

[124] Taqī ʿUsmānī, *Fiqh al-buyūʿ*, 1:66.

[125] Muḥammad Taqī ʿUsmānī, *Islām aur siyāsī naẓariyāt* (Karachi: Maktaba Maʿārif al-Qur'ān, 2011), 277-282.

Thus, in a *fatwā* given by the Dār al-iftā' at Banūrī Town and cited by Taqī ʿUsmānī in his defense, Banūrī Town *muftīs* advised a questioner to follow the exact same approach that Taqī ʿUsmānī prescribes in his works, i.e., use a *ḥīlā* for the sake of an investment plan. Taqī ʿUsmānī cited this *fatwā* to argue that there is nothing fundamentally different between what he is doing and what his opponents did in that *fatwā*.[126] The crucial difference though is that of scale. For Banūrī Town *muftīs*, a few random *fatwās* here and there that help out an individual is one thing but creating a new system altogether based on *ḥiyal* is extremely problematic. For Taqī ʿUsmānī, there is no other option. The individual helped out by Banūrī Town *muftīs* is not alone. The issues he faces are faced by multitudes of people in the business community. So theoretically everyone should be getting that same solution. Obviously, in such a case, the scale of change is going to be quite big, i.e., it will be systemic. Taqī ʿUsmānī is conscious of this and this is why his *Islām aur jadīd maʿīshat* provides the conceptual justification of a broad range of new ideas introduced by modern capitalism. His reasoning is that these are now unavoidable and thus giving a few odd *fatwās* to private individuals is not sufficient. However, even Taqī ʿUsmānī stops short of introducing fundamental or comprehensive change. Rather, he is keen to stay within the confines of his Deobandī heritage, and thus his work is filled with examples from premodern *fiqh*. This then leads to solutions that do not adhere to the spirit of the law, and barely hold on to the letter of the law which is not enough to assuage Taqī ʿUsmānī's opponents.

[126] Taqī ʿUsmānī, *Ghayr sūdī bankārī*, 42-49.

CHAPTER SIX

CONLUSION

This dissertation had started with a series of questions which dealt with two important themes of Islamic law and legal education. One was the question of *taqlīd* in today's world i.e., how do *ʿulamā* and *muftīs* subscribing to a strict *taqlīd* regime operate today, and to what extent can they be creative while staying in such a regime? In other words, can Islamic law be flexible if one subscribes to a strict *taqlīd* regime? The other theme had to do with the training of *ʿulamā* today. More specifically, what goes into the training of Deobandī *ʿulamā* and how does that affect the kind of legal reasoning they adopt. Utilizing the recent debate on Islamic banking among Pakistani Deobandīs, I have sought to answer both sets of questions. In the process, this dissertation also examined in depth, as much as is possible in a textual study, the social context in which Pakistani Deobandīs operate.

One of the overarching themes of this study has been that unlike many academics who merely see Deobandīs through limited lenses of either personal piety or construction of authority, Deobandīs consider themselves to also be participating in a much broader mission, namely revival of Islam as a comprehensive way of life. This is what motivates their forays into economics and banking, as well as politics, policymaking, and legislation. It is also here that we find the Deobandīs straining under the weight of their colonial era institutions which are simply not designed to produce intellectuals.

The quintessential Deobandī institution is the *madrasa*. Modeled on public schools introduced by the British in colonial India for mass education, Deobandī *madrasas* combine colonial-era bureaucratic and institutional structures with a curriculum that has medieval roots.

Moreover, the broader Deobandī academic complex, which in addition to *madrasas* also comprises journals and printing presses, is focused primarily on transmission of old knowledge as opposed to production of new knowledge. The result, then, is a knowledge tradition which has produced a huge amount of literature including several major *fatwā* works dealing with all kinds of mundane and important issues, but that still struggles to provide a comprehensive alternative to modern ideologies and institutions.

This dissertation focused quite heavily on analyzing Deobandī economic thought and the intra-Deobandī debate on Islamic banking. As we saw in the fourth chapter, Deobandīs have produced quite a large amount of literature on economics which is distinguished by its comprehensiveness as well as its variegated nature. Whereas earlier Deobandī works on economics dealt with meta-level issues of economic thought, more recent works have focused more on areas of intersection between law and economics and even more so on minutiae of finance contract law. This is reflective of a couple of issues. One is the gradual change of curricula in Deobandī *madrasas*. Earlier Deobandī curricula tended to be holistic and balanced with roughly equal attention given to religious sciences, Arabic, and ancillary sciences including medieval *falsafa*. More recently, however, Deobandī *madrasa* curriculum has changed and is now a truncated version of its former self. This is as true of Dār al-ʿUlūm Deoband as it is of Pakistani Deobandī *madrasas*. While Arabic and religious sciences continue to receive significant attention, most ancillary sciences have been phased out without being replaced by their modern equivalents. The result is that recent *madrasa* graduates are ill-equipped to engage in the kind of speculative/philosophical reasoning that earlier Deobandīs such as Seohārvī or Gīlānī could engage in.

Secondly, the evolution in Deobandī economic thought is reflective of a recognition among many Pakistani Deobandīs that Pakistani governments are not serious about Islamization of the economy. Islamic banking is thus an attempt by Taqī ʿUsmānī and his colleagues to create an alternative to conventional banking which can be implemented without government intervention or support. Taqī ʿUsmānī has sought to create this alternative to conventional banking while staying within the confines of a strict *taqlīd* regime. The strict *taqlīd* regime that Deobandīs adhere to is called *taqlīd shakhṣī* and it deems it impermissible for a person to leave his *madhhab* unless absolutely necessary.

In fact, the question of what justifies deviation from the standard opinion in the *madhhab* and what does not is one of the key issues dividing Taqī ʿUsmānī and his Deobandī critics. As we saw in detail in the fifth chapter, Ḥanafī manuals of *fatwā*-giving recognize room for deviation from the standard opinion of the *madhhab* through tools such as *ḍarūra* (necessity), *ḥāja* (need), *ʿumūm balwā* (general affliction), *ʿurf* (custom), etc. However, because of their emphasis on *taqlīd shakhṣī*, Deobandīs often set the threshold very high for anyone seeking to justify leaving the *madhhab* with respect to a particular issue. Taqī ʿUsmānī and his Deobandīs critics agree in theory on most of these principles governing deviation from the standard opinion of the *madhhab*. However, determining when the threshold has been reached often relies on a jurist's judgment call. In other words, it is subjective.

It is here that a *muftī*'s understanding of the *wāqiʿ* (ground reality) plays a crucial role. We have seen how Taqī ʿUsmānī stands out among his fellow *ʿulamā* due to his diverse education and extensively broad exposure to the modern world. He engages with the common man on the street as well as the global Muslim political, business, and scholarly elite. Having served as a judge in the highest Islamic court of Pakistan and being on the board of various global organizations gives

him a view of the world and its problems that his Deobandī critics cannot even hope to emulate. At the same time, Taqī ʿUsmānī's methodology for knowing the social condition also suffers from the same weakness as other Deobandīs. It is purely anecdotal in nature and there is no role whatsoever of the social sciences to better understand the *wāqiʿ*. In fact, Taqī ʿUsmānī is the exception that proves the rule. Although his foundation is in the Deobandī educational system, what makes him unique is all those activities that he engaged in outside of the Deobandī educational system. As such, his training and experiences cannot be easily replicated and his particular application of *fatwā* principles is only being passed on in a limited circle comprising mostly his students.

The second factor that plays a role in forming a jurist's judgment is his education. As we saw in the third chapter, despite vigorous calls for reform from within and without, Deobandīs have moved with a glacial pace with regards to educational reforms in their *madrasas*. Part of the reason is their insecurities vis-à-vis outside influences which are a result of their countercultural tendencies that they developed during the colonial era and that have continued to grow in post-independence Pakistan. This hinders any embrace of rapid change. The other possible reason is that any meaningful educational reform would require integration of medieval and modern knowledge, an intellectual task that most Deobandīs are simply not trained to undertake. Innovative thinking is not encouraged in Deobandī circles and the Deobandī academic complex in Pakistan does not have institutions for fostering intellectual dialog. This is because the main avenues for intellectual exchange are either informal and infrequent conversations or formal written refutations.

Underlying both of these reasons, i.e., limitations in education and social research, is the extremely important role played by Deobandī elders or *akābir* in determining the direction of the

movement. As we saw in chapter two, more than *ʿulamā* as a whole, it is these *akābir* who have been the custodians of change among Deobandīs. Deobandī stances on matters of theology and *fiqh* that continue to divide South Asian Sunnīs are the result of their *akābir*'s choices made in the colonial context. Similarly, a strong rejectionist attitude towards everything British and thus Western most clearly visible in Deobandī stances toward matters of Islamic identity are a result of the *akābir*'s choices. The one exception in this regard was the British idea of mass schooling which the early *akābir* came to adopt wholeheartedly. Mass schooling implemented in the form of *madrasas* helped Deobandīs become the largest producer of *ʿulamā* in India and post-independence, in Pakistan. At the same time, Deobandīs also deployed the medieval institution of the *khānqāh* (Sufi lodge) to instill spirituality among the masses. The result of these twin sets of institutions was a fusion of *fatwā* and *taqwā* which helped engender a conservative spirit among Deobandīs thereby limiting their flexibility in the face of rapid socio-economic and political change.

But education and spirituality were not the only projects undertaken by the Deobandīs. As we saw in chapter two, Deobandīs understood their task as inheritors of the Prophet to also include raising the word of Allah. This meant that they had to find ways of operationalizing Islam not only in the private sphere but also the public sphere. It is this vision of Islam as a comprehensive way of life and a desire to demonstrate it as such that has driven many Deobandīs such as Seohārvī, Gīlānī, Shafīʿ, Mīrathī and most recently Taqī ʿUsmānī to articulate the details of what they consider to be the Islamic solution to economic problems. However, this is also where structural weaknesses of the Deobandī movement come into sharp relief.

Because of their training or lack of it, Deobandīs have not fully sorted out the relationship between *fatwā*, legislation, and policymaking. They still operate on the assumption that piecemeal

changes through individual *fatwās* are enough to respond to the changes taking place in the modern world. However, if approached from the perspective of legislation and policymaking, Deobandī outlook on deviation from the standard opinion in the *madhhab* might very well change, i.e., the threshold for necessity and need might be reached sooner than many Deobandī *muftīs* are currently willing to concede. Moreover, it might even compel them to abandon *taqlīd* in certain areas such as economics and finance, and resort to legal reasoning based on general principles of Islamic law, the original Ḥanafī methodology. However, the psychological leap involved in such an approach is so great that we have yet to see any major Deobandī scholar engage in it.

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Appendix A

Evolution of the Educational System and the Curriculum of the *ʿĀlimiyya* Program at Dār al-ʿUlūm Deoband, 1866 – the Present

Introduction

My goal in this appendix is to document the historical evolution of two aspects of Dār al-ʿUlūm Deoband, its overall educational system, and the curriculum of the *ʿĀlimiyya* program, officially called *darajāt-i ʿarabiyya* (Arabic classes) or *dars-i niẓāmī*, which is the main avenue for the training of *ʿulamā*. With respect to this curriculum, I focus on the change in the relative proportion of texts devoted to the various sciences as well as the actual texts that continue to be taught and the texts that have been removed or added.

I begin by describing the evolution of the educational system at Dār al-ʿUlūm Deoband. This is followed by a comparison of nine curricula, the original *dars-i niẓāmī* of Farangī Maḥall, and Dār al-ʿUlūm Deoband's *ʿĀlimiyya* program curricula for the years 1870, 1880, 1940, 1952, 1965, 1976, 1994 and 2015. Through this comparison, I demonstrate that *madrasa* curricula have evolved over time although the pace is much slower than what the reformers call for and is limited to the ancillary sciences and introductory levels of the religious sciences. Furthermore, there seems to be an almost non-existent engagement with modern knowledge.

Literature Review

Deobandī *madrasas* have been in the spotlight since September 11th, 2001. Journalists, academics, and Western and South Asian policy makers have all attempted to understand, explain and at times, malign these institutions. More relevant here are the serious academic studies that have been produced independent of policy considerations. With particular reference to *madrasa* curricula,

Ali Riaz's 2008 book-length analysis of South Asian *madrasas*, *Faithful Education: Madrassahs in South Asia*, stands out. However, despite the great deal of research that went into it – the author personally visited several *madrasas* in Bangladesh, India, and Pakistan – Riaz's study suffers from a major weakness, namely the author's confused documentation of the actual *madrasa* curricula, and the educational system followed there.[1]

Besides Riaz's work, Deobandīs themselves have produced a wealth of literature about their educational movement, its evolution and so on. Prominent among these is Ebrahim Moosa's recent (2015) work *What is a Madrasa?* which comprises a substantial engagement with the texts taught in Deobandī *madrasas*. However, none of these studies, by insiders or outsiders, undertakes a diachronic study of *madrasa* curricula. The only exception to this is a recent study (2016) in Urdu commissioned by the Peace Education and Development Foundation Pakistan (henceforth PEAD), titled "*Dars-i Niẓāmī: Wifāq al-Madāris al-ʿArabiyya kay niṣāb kā tanqīdī jā'iza, pas-i manẓar, tajziya aur sifārshāt*" [*Dars-i Niẓāmī*: A Critical Study of the Curriculum of the Board of Arabic Madrasas. Background, Analysis and Recommendations]. Although prescriptive in nature, it does provide a useful analysis of the curriculum followed by the Pakistani Board of Deobandī Madrasas, Wifāq al-Madāris al-ʿArabiyya, in comparison with Dār al-ʿUlūm Deoband's 1965 curriculum. However, this also falls short of a systematic diachronic study that would encompass the entire period of existence of Deobandī *madrasas* since 1866.

[1] See, for example, his listing of the typical Pakistani madrasa curriculum in table 3.4 where he describes the name of two texts *Tareekh Millat* and *Khilafat-e-Rashida* as Indian Islamic movements. In a similar fashion, he translates *farā'iḍ* as "responsibility" which is its literal meaning, thus ignoring its usage in the curriculum, where it refers to a course on "Islamic laws of inheritance." Similarly, he documents the names of many texts incorrectly. See, for example, the names given in table 3.5, where he transcribes *Kinaldeqaiq* instead of the correct *Kanz al-daqā'iq*, *Hadiayah* instead of the correct *al-Hidāya*, *Essem Ghoti* instead of the correct *Īṣāghūjī*, *Shaht-ul-aqaid* instead of the correct *Sharḥ al-ʿaqā'id*, and so on. Also consider his claim that madrasas award degrees without examinations and that madrasa boards have no system for monitoring affiliated madrasas (p. 81), which is incorrect. For the case of Pakistani madrasas, see the official website of the Deobandī Wifāq al-Madāris al-ʿArabiyya for a listing of the official examination centers, http://www.wifaqulmadaris.org/rolnoslip/marakiz.php.

Sources & Methodology

Perhaps, the best approach to accurately chart the evolution of Dār al-ʿUlūm Deoband's curriculum would have been to comb through its annual reports that are preserved in its library. However, because of lack of digitization and visa issues, I have had to rely on publicly available documents. Most of these are official Dār al-ʿUlūm Deoband works with three exceptions. One is a detailed report by a British colonial officer, G. W. Leitner, on the state of education in the Punjab in 1882, in which he also discusses Dār al-ʿUlūm Deoband's educational system and curriculum. The second non-official work is a research/policy paper by a modern Indian scholar Nūr al-Ḥasan Rāshid Kāndhlavī titled *Dār al-ʿUlūm Deoband aur Maẓāhir-i ʿUlūm Sahāranpūr kā sab say pehlā niṣāb-i taʿlīm* [The Earliest Curriculum of Dār al-ʿUlūm Deoband and Maẓāhir al-ʿUlum Saharanpur]. The third non-official document is a study of Islamic education by G.M.D. Sufi titled *Al-Minhaj: The Evolution of Curriculum in the Muslim Educational Institutions of India*. This survey covering all periods of Indian Muslim history was published in 1941. Like Leitner, Sufi does not provide an exact date for the curriculum. However, he does use the present tense which suggests that the curriculum must have been current at the time of writing, i.e., c. 1940.

The earliest official *madrasa* document available to me is *Tārīkh-i Maẓāhir* [History of Maẓāhir alʿUlūm]. Maẓāhir al-ʿUlūm is the second oldest *madrasa* in the Deobandī network of *madrasas*, having been founded only six months after Dār al-ʿUlūm Deoband. These two *madrasas* have the same status among Deobandī madrasas as Oxford and Cambridge have among British universities. Written by Muḥammad Zakariyyā Kāndhlavī (d. 1982, a distant relative of Nūr al-Ḥasan Kandhlavī), the former senior professor of *ḥadīth* at Maẓāhir al-ʿUlūm, and documenting the first fifty years of its existence, this work is the closest one can get to an official history of Maẓāhir al-ʿUlūm. While Nur al-Ḥasan Kāndhlavī's essay is a mix of academic research and

policy recommendations, Zakariyyā Kāndhlavī's work is a mix of history-writing and public relations. I compare the two sources to arrive at a more reliable description of Dār al-ʿUlūm Deoband's earliest (c. 1870) educational system and curriculum.

For 1952, 1965, 1976, and 1994, my job is rendered easier because different official histories of Dār al-ʿUlūm Deoband are available for those years. For 1952 and 1976, I rely on Sayyid Maḥbūb Rizvī's two works, the short *Tārīkh-i Deoband* [History of Deoband], published in 1952 and the much longer *Tārīkh-i Dār al-ʿUlūm Deoband* [History of Dār al-ʿUlūm Deoband], originally published in 1982. For 1965, I rely on another short work, *Tārīkh-i Dār al-ʿUlūm Deoband* [History of Dār al-ʿUlūm Deoband], originally published in 1965, by its then rector Qārī Muḥammad Ṭayyib (d. 1981). For 1994, I use Ḥabīb al-Raḥmān Qāsmī's *Dār al-ʿUlūm Deoband: Ayk ijmāli taʿāruf* [Dār al-ʿUlūm Deoband: A Brief Introduction].

For 2015, I rely on an Arabic language booklet published by Dār al-ʿUlūm Deoband to introduce its educational system to an international audience. I found it to be more reliable than Dār al-ʿUlūm Deoband's website which has discrepancies between its Urdu and English pages. I discuss these sources later on as well, but it would be useful to note here that all of these official works date from after India's independence from Britian, and appear to be a part of a public relations effort to better introduce Dār al-ʿUlūm Deoband to the community at large, Muslim and non-Muslim.

As discussed in chapter 3, I divide the various texts/subjects taught in these curricula into three categories: religious sciences, Arabic and its related sciences, and other ancillary sciences. As opposed to other classifications such as *manqūlāt* (transmitted sciences) vs. *maʿqūlāt* (rational sciences), this is better aligned to the nature of recent Deobandī curricula. In my scheme, religious sciences comprise Qur'ān and its sciences, Prophetic biography (*sīrat al-nabī*), *ḥadīth* (Prophetic

reports) and its sciences, theology (*ʿaqīda wa kalām*), Islamic substantive law (*fiqh*), and Islamic legal theory (*uṣūl al-fiqh*). Sciences associated with the Arabic language include morphology (*ṣarf*), syntax (*naḥw*), rhetoric (*balāgha*), literature (*adab*), poetry & prosody (*shiʿr, ʿarūḍ wa qawāfī*), and other texts/courses used to teach Arabic. The category "other ancillary sciences" comprises logic (*manṭiq*), philosophy (*falsafa* or *ḥikma*), mathematics (*riyāḍī*), medicine (*ṭibb*), astronomy/astrology (*hay'a* or *falakiyāt*), history, geography, other languages, etc.

While documenting curricula is relatively straightforward, determining the relative attention given to each category of sciences can be tricky. Counting the number of texts seems to be an easy option and has been followed by others who have studied *madrasa* curricula.[2] However, it is problematic because the texts vary in length, and receive varying degrees of attention. Thus, many times three or four short texts of Arabic morphology are taught in a single hour of the day while a work of Islamic substantive law, *al-Hidāya*, is almost always divided into four parts and each of these are taught in separate hours as if they were distinct texts.

In such a situation, the best option would be to use actual class schedules or timetables for daily instruction that indicate how much time is devoted to each text/subject. However, I was able to locate this information to a certain extent for only three of these curricula (1880, 1994, and 2015). As a result, I have had to fall back on the imperfect method of merely counting the texts dedicated to each subject. However, I have improved it by using hints in the curriculum which suggested how much time was given to each text. Thus, for example, where indicated in the curriculum, I count *al-Hidāya* as four texts for the purpose of calculating the time devoted to each category of sciences. Similarly, in some cases, the curriculum mentions that a single hour will be split between two texts. In this case, each of the texts is counted as half a text for the purpose of

[2] See, for example, Francis Robinson, "Ottomans-Safavids-Mughals: Shared Knowledge and Connective Systems," *Journal of Islamic Studies* 8:2 (1997): 151-184.

calculating the time devoted to each category of sciences. The reader will thus find two kinds of comparison charts, one merely plotting the number of texts belonging to each category, while the other showing the time devoted to each category of sciences. The latter, I hope, will be a more accurate, although still imperfect, reflection of the attention given to various sciences.

Evolution of Dār al-ʿUlūm Deoband's Educational System

As mentioned earlier, I have documented eight curricula from the various stages in Dār al-ʿUlūm Deoband's history. However, before analyzing these curricula, it would be useful to first discuss at some length the evolution of Dār al-ʿUlūm Deoband's educational system in which the *ʿĀlimiyya* program eventually became just one component.

During the early years of Dār al-ʿUlūm Deoband, the contents and length of the Arabic program underwent some changes varying between 6 and 10 years.[3] In the beginning, it was a ten-year program, but only two years later, it had been reduced to six years. According to Qāsim Nānautvī's biographer, Munāẓir Aḥsan Gīlānī (d. 1956), this was done to allow *madrasa* students to eventually enroll in government schools, which would not have been possible with a longer program since the British government-imposed age restrictions for admission into government schools.[4] However, this did not last long. In 1870, the program was back to being ten years, and ten years later, in 1880, it was eight years.

[3] A good overview of some of the early debates about the goals of Dār al-ʿUlūm's Arabic program is given in Gīlānī, *Sawāniḥ Qāsimī*, 2:275-330. For a discussion of Qāsim Nānautvī's openness to the idea of madrasa graduates studying in secular institutions after completing their madrasa training, see Gīlānī, *Sawāniḥ Qāsimī*, 2:280-285.

[4] Gīlānī, *Sawāniḥ Qāsimī*, 2:285-286. I will analyze the reasons for this change later in this appendix.

In 1870, the first year for which I have detailed curriculum, the educational system at Dār al-ʿUlūm Deoband started with students learning to read and memorize the Qur'an.[5] This stage lasted for two to three years. This was followed by a short period (perhaps a few months or a year) of basic training in Persian. After this, students embarked on a ten-year educational program that comprised not only Arabic & Islamic studies but also Persian, mathematics and astronomy up to the fifth or sixth year. Along with the texts that students studied, they also received extensive practice in translating between Urdu, Persian and Arabic. At this time, as well as in 1880, the study of main collections of *ḥadīth* was distributed over the last 3 years of the educational program. These collections were taught alongside other texts dealing with Qur'anic exegesis, Islamic law, and theology.

Graeco-Arabic medicine had been taught at Dār al-ʿUlūm Deoband since 1878. However, it became a formal part of the educational program in 1883.[6] In 1903, a formal department of *tajwīd* (the art of Qur'anic recitation) was also established. Students had the option of enrolling in it after completing memorization of the Qur'an.[7] In 1932, a ninth year was added to the Arabic program. This was dubbed *dawra-i tafsīr* because it was dedicated to the study of Qur'anic exegesis.[8] In 1945, a vocational training center (*dār al-ṣanā'iʿ*) was also established to provide training to *madrasa* graduates who wanted to work outside of traditional *ʿulamā* roles.[9]

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[5] Nūr al-Ḥasan Kāndhlavī, "*Dār al-ʿUlūm Deoband*," 95; and Muḥammad Zakariyyā Kāndhlavī, *Tārīkh-i Maẓāhir* (Saharanpur: Kutubkhāna Ishāʿat al-ʿUlūm, 1392), 14.

[6] Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband*, 1:186.

[7] Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband*, 1:207-208.

[8] Two medieval multi-volumes works, *Tafsīr Ibn Kathīr* and *Tafsīr al-Bayḍāwī*, were now to be studied in full during this year. Prior to this change, students's study of the Qur'an had been limted to a brief text in principles of Qur'anic exegesis (*al-Fawz al-kabir*), a very concise medieval commentary on the Qur'an (*Tafsīr al-Jalālayn*), and only a small section of *Tafsīr al-Bayḍāwī.* See Rizvī, *Tārīkh Dār al-ʿUlūm Deoband* (2005), 1:281-282.

[9] Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband*, 1:312-313.

In 1940, the program was still 8 years, but some new texts had been added in various sciences. Most prominent in this regard was the addition of three texts for teaching medicine. The study of major works of *ḥadīth* was spread over the last three years when students also studied other texts in Qur'anic exegesis, Islamic law, and theology, as well as the other ancillary sciences. By 1952, the next year for which I have detailed curriculum, the educational system at Dār al-ʿUlūm Deoband had been substantially streamlined.[10] Urdu and Persian had been separated from the Arabic component of the educational system. Students had to complete two stages of primary education (*ibdtidā'ī darajāt*) before they could enroll in the Arabic program (*darajāt-i ʿarabiyya*). Students began with learning to read and/or memorize the Qur'an. This lasted for 2-3 years on average. This was followed by five years of Urdu and Persian studies which also included study of mathematics, history, and geography. After the Urdu/Persian stage, students embarked on a 9-year Arabic program. The ninth year of the program was still the *dawra-i tafsīr* but the study of major collections of *ḥadīth* had by now become concentrated in the eighth year and was thus called *dawra-i ḥadīs*.

By 1965, two years of *takmīl* (completion/postgraduate) classes had been added to the already 9-year Arabic program, making the overall length of the Arabic program 11 years.[11] Furthermore, primary education now comprised two separate but most likely concurrent programs after the first stage of reading and/or memorization of the Qur'an, namely Urdu (4 years) and Persian (5 years).[12] Like before, both Urdu and Persian programs also included study of history,

[10] Rizvī, *Tārīkh-i Deoband*, 108-109.

[11] For details of the educational program, see Qārī Muḥammad Ṭayyib, *Tārīkh-i Dār al-ʿUlūm Deoband* (Karachi: Dār al-Ishāʿat, 1972), 33-46. It seems likely that these two additional years were compulsory in the beginning.

[12] It is not clear from Ṭayyib's description if the Urdu and Persian programs were to be taught one after the other or concurrently. Since both 1952 and 1994 curricula have only one Urdu/Persian stage, I am inclined to think that the same was true in 1965, i.e., the Urdu program was taught concurrently with the Persian one. Requiring students to

geography, and Islamic studies, as well as mathematics and science. Moreover, the Persian program also comprised a number of introductory texts for teaching Arabic grammar, Arabic literature, and logic, as well as geography and Hindi, which appears for the first time in Deoband's curriculum in 1965.[13] In addition, there also existed a 3-year program for improving students' command of all areas of Arabic (speaking, listening, reading, and writing).[14]

By the late 1970s, Dār al-ʿUlūm had further streamlined its educational system.[15] To begin with, the Arabic program was reduced to 8 years with *dawra-i ḥadīth* being the last year. Works on logic and philosophy were reduced significantly, and perhaps more importantly, medieval mathematics and sciences were removed from all stages of the educational program. History, geography, and mathematics were now to be studied only in the Urdu/Persian stages. The *dawra-i tafsīr* which had previously been the ninth year of the main Arabic program, was now replaced by an optional postgraduate 1-year *takmīl-i tafsīr* program with a changed curriculum. Other optional 1-year *takmīl* programs in Arabic literature (*adab*), rational sciences (*maʿqūlāt*) and religious studies (*dīniyāt*) were also launched.[16] As before, the Arabic program was preceded by

complete four years of Perisan after four years of Urdu, and then an additional eleven years for Arabic would have made the length of the overall educational system significantly longer. This is highly unlikely.

[13] It is quite likely that Hindī had been added much before 1965. However, the earliest record of it accessible to me is from 1965.

[14] It is not clear if this Arabic program was required or optional, and whether it was to be studied separately or concurrently with the now 11-year main Arabic program.

[15] Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband*, 2:270.

[16] Dār al-'Ulūm Deoband starting offering optional *takmīl* programs distinct from the main Arabic program in 1970. See Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband*, 1:400.

primary education, which comprised three stages. These were reading and/or memorization of the Qur'an (1 to 3 years), Urdu (4 years), and Persian (4 years).[17]

By 1994, further changes had been made to the educational program at Dār al-ʿUlūm.[18] These mainly pertained to the curriculum of primary education that students were required to complete before joining the Arabic program. Some of these changes were made in consultation with other Arabic *madrasas* in India and thus represent an attempt at standardization at the national level. Primary education now comprised a one-year kindergarten (*rawḍat al-aṭfāl*) stage followed by five years of Urdu and Persian. As before, students also studied Islamic studies, mathematics, history, geography, and Hindi in this stage. Moreover, this is the first time that modern science makes an appearance in the educational program albeit only in the primary stage. The Arabic program also saw the introduction of a dedicated text on the biography of the Prophet Muḥammad.

The system adopted in 1994 is still in place although some of the texts and subjects have changed. More importantly, one can notice a clear attempt in Dār al-ʿUlūm's 2015 introductory brochure, written in Arabic, to provide equivalence of its degrees with the modern educational system.[19] While kindergarten and primary education are referred to as *rawḍat al-aṭfāl* and *al-maʿhad al-ibtidā'ī* respectively, the Arabic program is divided into two levels, four years of *al-maʿhad al-thānawī* (secondary institute) followed by four years of *al-marḥala al-jāmiʿiyya* (university stage). Use of these terms suggests that the author sees the first four years of Dār al-

[17] It is not clear from Rizvī's description if the Urdu and Persian programs were to be studied one after the other or concurrently. Like in the 1965 curriculum, I am inclined to think that the Urdu program was taught concurrently with the Persian one.

[18] Ḥabīb al-Raḥmān Qāsimī, *Dār al-ʿUlūm Deoband: Aik ijmāli taʿāruf* (Deoband: Markazī Daftar Rabiṭa Madāris-i ʿArabiyya, 1994), 69-83, as cited in Muhammad Hanif Ahmad, "A Study of the Secular Content of the Educational Programmes of Prominent Madrasas of Uttar Pradesh" (PhD diss., Aligarh Muslim University, 2002), appendix A, http://shodhganga.inflibnet.ac.in/handle/10603/52798.

[19] See Muḥammad ʿĀrif Jamīl Qāsimī Mubārakpūrī, *Lamḥa ʿan al-jāmiʿa al-islāmiyya: Dār al-ʿUlūm Deoband wa manāhijuhā wa muqarrarātuhā al-dirāsiyya* (Deoband: Dār al-ʿUlūm Deoband, 2015), 34-47.

ʿUlūm Deoband's Arabic program as the equivalent of a high school degree while the last four years are the equivalent of a four-year undergraduate degree (BA), as is the norm in the Arab world. The specialization courses (*takhaṣṣuṣāt* or *takmīlāt*) offered by Dār al-ʿUlūm are labelled as *marḥalat al-dirāsāt al-ʿulya*, which is the term used in the Arab world to refer to postgraduate studies i.e., MA and PhD.[20]

The problem with this implied equivalency is that in the Islamic universities in the Arab world, one completes twelve years of schooling beyond kindergarten before enrolling in a BA program which is itself 4-years long. Dār al-ʿUlūm's students, on the other hand, complete nine years of basic schooling before *al-marḥala al-jāmiʿiyya.* Moreover, in the mainstream Indian system, a BA degree requires three or four years beyond twelve years of basic schooling. Thus, the overall number of years studied to receive the *ʿĀlimiyya* degree (given at the completion of the Arabic program) at Dār al-ʿUlūm is thirteen, while the number of years an average Indian takes to complete a humanities BA is at least fifteen and that at an Arab university is sixteen. This is the reason that Dār al-ʿUlūm Deoband's *ʿĀlimiyya* degree is not recognized by Indian universities as being equivalent to a BA. Even Jamia Millia Islamia, one of the few Muslim universities in India, considers the *ʿĀlimiyya* degree to be the equivalent of Secondary School Certificate (12th grade). However, to be eligible for admission into Jamia Millia's BA program, *madrasa* graduates still have to pass the English exam for the Secondary School Certificate.[21]

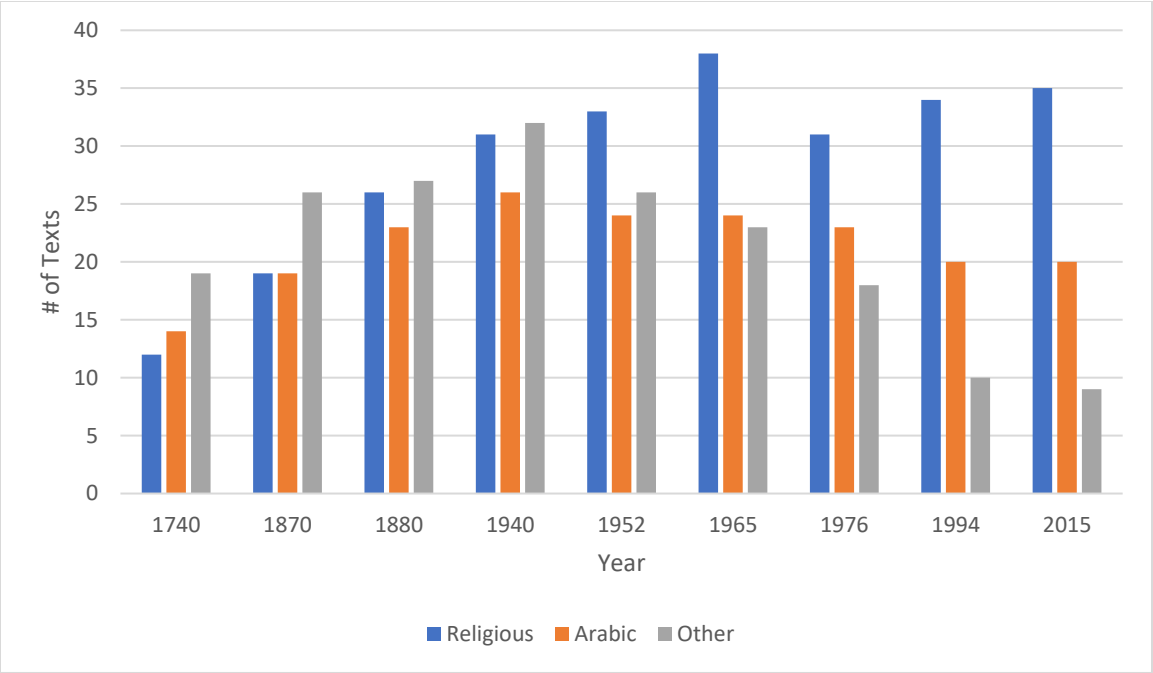
[20] It is highly likely that this is solely the author's opinion and not the official policy of Dār al-ʿUlūm Deoband. I reached this conclusion based on private conversation (Chicago, 7/31/18) with one of the alumni of Dār al-ʿUlūm Deoband who had to deal with issues of equivalency when applying to mainstream universities after graduating from Dār al-ʿUlūm Deoband.

[21] See pp. 25-26 in https://www.jmi.ac.in/upload/advertisement/guideline_private_2014.pdf.

Analysis of Curricula

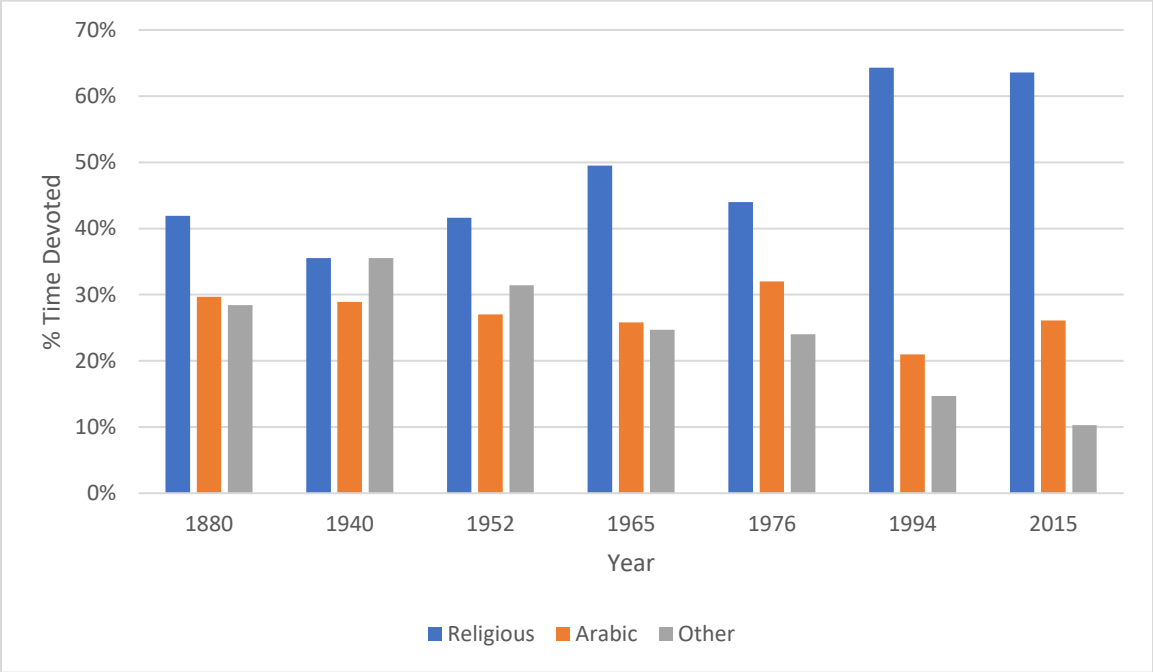
Having described the evolution of the overall educational system at Dār al-ʿUlūm Deoband, I now chart the evolution of the curricula followed in the *ʿĀlimiyya* program. As can be seen from fig. A1, the *ʿĀlimiyya* program at Dār al-ʿUlūm Deoband has always employed many more texts than the original *dars-i niẓāmī*. The number of texts seems to have continued increasing until 1940. However, the relative proportion of texts for the various categories of sciences changed markedly in 1952. Most notably, the number of texts dealing with other ancillary sciences decreased while those dealing with the religious sciences increased significantly. It is not clear when these changes had been initiated. It is highly likely that at least a few years had passed before these changes were documented in the 1952 work that I am using as a source. Since 1952, the trend has remained the same, increase in texts for religious sciences with a corresponding decrease in those for other ancillary sciences. Perhaps, the only constant throughout the history of Dār al-ʿUlūm Deoband is the number of texts dealing with the Arabic language which have stayed between 20 and 25 for most of its history.

Fig A1: Number of Texts for Each Category of Sciences in the Original *Dars-i Niẓāmī* (c. 1740) and Dār al-ʿUlūm Deoband's *ʿĀlimiyya* Program, 1870 – 2015



A more accurate picture of how much attention was given to each category of sciences emerges when we plot the actual time devoted to them. However, as I have stated earlier, I do not have accurate timetables for all the curricula under consideration except for 2015, and to a lesser extent 1880 and 1994. For all the other curricula, the percentages used are only slightly better than a mere count of the number of texts.

Fig A2: Time Devoted to Each Science at Dār al-ʿUlūm Deoband, 1870 – 2015



It is obvious here that the religious sciences have tended to receive the bulk of attention since the very inception of Dār al-ʿUlūm Deoband. There was a significant increase in 1965 and then in 1976 with a corresponding decline in the time given to other ancillary sciences. In 1994 and 2015, we see an even greater increase in the time given to religious sciences at the expense of the other ancillary sciences. As with fig. A1, the only relative constant here is the proportion of time given to Arabic language and its associated sciences.

Texts and Authors

So much for numbers and percentages. While they provide us a general overview of the evolution of the curricula, they do not tell us the whole story. To examine whether the texts being studied are medieval or modern, one must look at the details of the curricula, which I have documented in tables A1-A9. That all the texts in the original *dars-i niẓāmī* curriculum should be medieval is

obvious considering the period when it was envisaged, viz. c. 1740s. But what about the Deobandī curricula? To be sure, the main elements of Dār al-ʿUlūm Deoband's earliest curriculum comprised texts composed in or before the eighteenth century. However, as early as 1870, one can see a recent text included in Dār al-ʿUlūm Deoband's curriculum, namely *al-Mirqāt* of the Indian scholar Fazl-i Imām Khayrābādī (d. 1827), used for teaching introductory logic. In 1880, another recent work was added, namely *Nafḥat al-Yaman,* a work of Arabic literature, by the Yemeni scholar Aḥmad b. Muḥammad al-Anṣārī al-Shirwānī (d. 1837) who had authored it while teaching in India (Kolkata). In 1940, we see the addition of another text for teaching Arabic literature namely *Mufīd al-ṭālibīn* written by the Deobandī scholar Muḥammad Aḥsan Nānautvī (d. 1894).

By 1952, Dār al-ʿUlūm Deoband's curriculum had been updated with the addition of a few more recent texts, most of which had been composed in India. These were *ʿIlm al-ṣīgha*, a work of Arabic morphology, by the Indian scholar ʿInāyat Aḥmad Kākorvī (d. 1862) and a work of Arabic literature, *Nafḥat al-ʿArab,* by a Deobandī scholar Muḥammad Iʿzāz ʿAlī (d. 1954). Moreover, there was also a new Middle Eastern text by the Lebanese scholar Muḥy al-Dīn al-Khayyāṭ (d. 1914) titled *Durūs al-ta'rīkh al-islāmī*. By 1965, four more recent texts had been added. These were *Fawā'id-i Makkiyya* of the Indian scholar Qārī ʿAbd al-Raḥmān Makkī (d. c. 1930) for teaching *tajwīd* (Qur'ānic recitation), *Sharḥ ʿUqūd rasm al-muftī* of the Syrian Ḥanafī scholar Ibn ʿĀbidīn (d. 1836) for *fatwā*-giving, *al-Hadiyya al-saʿīdiyya* of Fazl-i Ḥaqq Khayrābādī (d. 1861) for philosophy, and *Nuqṭat al-dā'ira* of the Lebanese litterateur Nāṣīf al-Yāzijī (d. 1871) for prosody. In 1965, another major development was the introduction of a separate class taught over two years to teach students the translation and commentary of the Quran in Urdu.

By 1976, ten more recent texts had been added, one for *tajwīd* (*Jamāl al-Qur'ān*), two for *ḥadīth* (*Mishkāt al-āthār* and *Alfiyyat al-ḥadīth*), six for various Arabic sciences (*ʿArabī kā qāʿida*,

al-Naḥw al-wāḍiḥ, *al-Balāgha al-wāḍiḥa*, *Rawḍat al-adab*, *Nafḥat al-adab*, and *ʿArabī kā muʿallim*), and one for logic (*Taysīr al-manṭiq*). Crucially, seven of them had been authored by Deobandī scholars of the twentieth century. Of the remaining three, one had been authored by another Indian scholar (possibly also Deobandī), and the other two were twentieth century Egyptian schoolbooks, namely *al-Naḥw al-wāḍiḥ* and *al-Balāgha al-wāḍiḥa*. Furthermore, the curriculum now also boasted a series of subjects meant to teach varied ancillary sciences such as economics, personal healthcare, civic studies, etc.[22] It is highly likely that government textbooks were used to teach these subjects. On the flip side, the advanced legal theory text *al-Tawḍīḥ wa al-Talwīḥ* as well as a couple of theology texts had been dropped.

By 1994, seven more recent texts had been added. These included two for Prophetic biography (*Sīrat Khātim al-Anbiyā'* and *Aṣahh al-siyar*), three for Arabic (*Durūs al-balāgha*, *Miftāḥ al-ʿarabiyya*, and *Al-Qirā'a al-wāḍiḥa*), one for logic (*Āsān manṭiq*), one for philosophy (*Mabādi' al-falsafa*), and two for Islamic history (*Tārīkh-i millat* and *Ta'rīkh al-Madhāhib al-islāmiyya*). As before, most of these were Indian texts, many authored by Deobandī scholars themselves, and a couple were of Middle Eastern origin (*Durūs al-balāgha* and *al-Madhāhib al-islāmiyya*). In addition to these texts, there continued to be a subject dedicated to civic studies and geography. Another development was the increased attention given to the translation and commentary of the Qur'an in Urdu from the previous two years to now three years. This was in the middle years of the program as a way of preparing them for the Arabic commentaries on the Qur'an. By 2015, another couple of new texts had been added including one authored locally (*Uṣūl al-tajwīḍ*). As before, the advanced texts of legal theory and theology continued to remain absent while the Urdu translation and commentary on the Quran continued to be taught for three years.

[22] For more details, see Table A7.

The growing presence of recent texts most of which are introductory primers and many of which are written in Urdu by Deobandīs themselves indicates a few things. First, there is a vibrant scholarly culture at work that is responsive to students' educational needs. Second, the Deobandīs are open to modern Arab works from the Middle East, which belies their otherwise parochial reputation. Third, the canonical texts in each field, be it the ancillary sciences or the religious ones, are almost all medieval and have not changed markedly over time.

That Muslims should study the Qur'an, their Holy Book, or the *ḥadīth* collections, which are more than a thousand years old, is a given since Sunnīs consider them to be different versions of divine revelation.[23] As for law and jurisprudence, Deobandīs also give priority to transmission of medieval knowledge over new formulations of the same. For them, Islamic law (Ḥanafī) was codified early on (ninth to twelfth centuries), and the task of later scholars is primarily to understand and implement this law.[24] Hence the continued presence of medieval Ḥanafī texts. With respect to new interpretation of the law, Deobandīs consider this to belong to the domain of *fatwā*-giving, which does not receive much attention in the ʿĀlimiyya program except through the inclusion of a *fatwā*-giving manual such as Ibn ʿĀbidīn's (d. 1836) *Sharḥ ʿUqūd rasm al-muftī*. Training students to give legal responses (*fatwā*) to new questions falls under the *Takhaṣṣuṣ fi al-Iftā'* program, which is beyond the scope of this appendix.

With respect to the Arabic language, Dār al-ʿUlūm Deoband's focus is on training students in classical Arabic, especially those aspects of it that are needed to make sense of religious texts.

[23] I have in mind here the standard Sunnī designation of the Qur'ān as *waḥy matluww* (recited revelation) and the Sunna (Prophetic practice) as *waḥy ghayr matluww* (unrecited revelation). See Abū Ḥāmid al-Ghazālī, *al-Mustaṣfā min ʿilm al-uṣūl*, ed. Aḥmad Zakī Ḥammād (Cairo: Sidra & Dār al-Maymān, 2009), 197. For a Deobandī presentation of this idea, see Muhammad Taqi Usmani, *The Authority of Sunnah* (Karachi: Idaratul Quran, n.d.), 23-39.

[24] Hence the concept of *taqlīd shakhṣī* (strict adherence to a single school of law). For the Deobandī articulation of this concept, see Taqī ʿUsmānī, *Taqlīd kī sharʿī ḥaysiyat*. For its implications in Deobandī pedagogy, see Hamid Mahmood, "The *Dars-e-Niẓāmī* and the Transnational Traditionalist Madāris in Britain" (MA thesis, University of London, 2010), 11-14.

As such, the advanced curriculum comprises medieval texts that represent mature premodern Islamic scholarship on Arabic language. Furthermore, since the bulk of attention is given to developing student's reading comprehension, only limited time and texts are devoted to developing students' speaking, listening, and writing abilities in Modern Standard Arabic.

With respect to "other ancillary sciences," Dār al-ʿUlūm Deoband has phased out most texts on philosophy. There are a few more texts on logic but the main goal of studying logic or philosophy is to make students familiar with terms and concepts that they will encounter in religious texts. It is no longer to make students logicians or philosophers or even theologians, which highlights another important aspect of the evolution of Deobandī curricula. Not all religious sciences are equal. The bulk of attention is now given to *ḥadith* and Ḥanafī *fiqh,* followed by the Qur'an. Islamic legal theory receives much less attention and theology is now limited to two texts, one very brief (*al-ʿAqida al-ṭaḥāwiyya*) and the other (*Sharḥ al-ʿĀqāʿid al-nasafiyya*) more comprehensive. However, because of the absence of robust training in philosophy, students come away from the study of *Sharḥ al-ʿĀqāʿid al-nasafiyya* with only a general awareness of some medieval theological debates.

Conclusion

Dār al-ʿUlūm Deoband's educational system and the curriculum of its Arabic program have been constantly evolving since the Dār al-ʿUlūm's founding in 1866. The current educational system at Dār al-ʿUlūm Deoband comprises multiple stages, namely kindergarten (one year), primary schooling in Urdu and Persian (five years), the main Arabic program (eight years), and various postgraduate programs (one to two years). The result is an educational system that may not fully correspond to the modern educational system prevalent in India but is not very different either. In

this scheme, the Arabic program can be seen to be equal to four years of high school followed by four years of college.

Through documentation of the curricula of main Arabic program at Dār al-ʿUlūm Deoband from different stages of its history (1870, 1880, 1952, 1965, 1978, 1994 & 2015), I have also shown that the current curriculum is a far cry from the original *dars-i niẓāmī*, whose focus was much broader. Now, this curriculum has a much narrower focus, namely preservation and transmission of religious sciences. The ancillary sciences are now truly ancillary in that they are used merely for helping students make sense of religious texts. Hence, the inclusion of a few primers in medieval Muslim philosophy and logic. This downgrading of rational sciences has also led to a decreased focus on Islamic theology.

Table A1: The Original *Dars-i Niẓāmī*, c. 1740[25]

Total Number of Works Studied: 45

Religious Sciences Works studied: **12** Time devoted:[26] **26.7%**	**Arabic Language** Works studied: **14** Time devoted: **31.1%**	**Other Instrumental Sciences** Works studied: **19** Time devoted: **42.2%**
Qur'an and its Sciences: 2 *Tafsīr al-Jalālayn* *Tafsīr al-Bayḍāwī* *Ḥadīth* and its Sciences: 1 *Mishkāt al-maṣābīḥ* Theology: 4 *Sharḥ al-ʿAqā'id al-nasafiyya* *Sharḥ-i ʿaqā'id-i jalālī* *Sharḥ al-Mawāqif* *Mīr Zāhid** Substantive Law: 2 *Al-Hidāya* *Sharḥ al-Wiqāya* Islamic Legal Theory: 3 *Nūr al-anwār** *Al-Tawḍīḥ wa al-Talwīḥ* *Musallam al-thubūt**	Morphology: 7 *Mīzān al-ṣarf** *Munshaʿib** *Ṣarf Mīr* *Panj ganj** *Zubda* *Fuṣūl-i akbarī** *Al-Shāfiya* Syntax: 5 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Mullā Jāmī* Rhetoric: 2 *Mukhtaṣar al-maʿānī* *Al-Muṭawwal*	Logic: 11 *Al-Risāla al-shamsiyya* *Sullam al-ʿulūm** *Mīr Zāhid risāla** *Mullā Jalāl** *Ṣughrā* *Kubrā* *Īsāghūjī* *Tahdhīb al-manṭiq* *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Mīr Quṭbī* Philosophy: 3 *Al-Maybudhī* *Al-Shams al-bāzigha** *Ṣadrā* Mathematics & Astronomy: 5 *Uqlīdas* *Khulāṣat al-ḥisāb* *Tashrīḥ al-aflāk* *Risāla-i Qūshjī* *Sharḥ Chaghmīnī*

* Texts with an asterisk indicate those that were authored in South Asia.

[25] Adapted from Robinson, *ʿUlama of Farangi Mahall*, 48-50 and Peace Education and Development Foundation, *Dars-i Niẓāmī: Wifāq al-Madāris al-ʿArabiyya kay niṣāb kā tanqīdī jā'iza, pas-i manẓar, tajziya aur sifārshāt* (Islamabad: Peace Education and Development Foundation, 2016), 15-19. There are some discrepancies between the two listings. Robinson lists more texts for logic while PEAD authors provide more texts for theology. I have combind the two lists to prepare this table.

[26] I have calculated this merely based on the percentage of texts of each category of sciences.

Table A2: Dār al-ʿUlūm Deoband's 10-year Curriculum c. 1870[27]

Total Number of Texts/Subjects Studied: 64

Religious Sciences Texts studied: **19** Time devoted:[28] **29.7%**	**Arabic Language** Texts studied: **19** Time devoted: **29.7%**	**Other Instrumental Sciences** Texts/subjects studied: **26** Time devoted: **40.6%**
Qur'an and its Sciences: 2 *Al-Jalalayn* *Tafsīr al-Bayḍāwī* *Ḥadīth* and its Sciences: 8 *Mishkāt al-maṣābīḥ* *Jāmiʿ al-Tirmidhī* *Ṣaḥīḥ Muslim* *Ṣaḥīḥ al-Bukhārī* *Sunan al-Nasā'ī* *Sunan Abī Dāwūd* *Sunan Ibn Mājah* *Muwaṭṭa' Mālik* Theology: 1 *Sharḥ al-ʿAqā'id al-Nasafiyya*	Morphology: 7 *Mīzān al-ṣarf** *Munshaʿib** *Ṣarf Mīr* *Dustūr al-mubtadī** *Fuṣūl-i Akbarī** *Marāḥ al-arwāḥ* *Al-Shāfiya* Syntax: 5 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Mullā Jāmī* Rhetoric: 1 *Mukhtaṣar al-maʿānī*	Logic: 7 *Īsāghūjī* *Qāla aqūlu* *Al-Mirqāt** *Taḥdhīb al-manṭiq* *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Mīr Quṭbī* Philosophy: 3 *Al-Maybudhī* *Ṣadrā* *Al-Shams al-bāzigha** Persian: 12 *Gulistān* *Ṣafwat al-maṣādir* *Inshā'-ye khalīfa* *Būstān*

Table A2 Continued (pg. 367)

* Texts with an asterisk indicate those that were authored in South Asia.

[27] Adapted from Nūr al-Ḥasan Kāndhlavī, "*Dār al-ʿUlūm*," 95-96; and Zakariyyā Kāndhlavī, *Tārīkh-i Maẓāhir*, 14. There is some confusion in Nūr al-Ḥasan Kāndhlavi's account. He lists one set of titles under the year-by-year listing of the curriculum but provides a slightly different list when he analyzes the texts devoted to the study of each subject. I have combined both his lists and collated them with Zakariyyā Kāndhlavī's list to arrive at a more plausible list.

[28] I have calculated this merely based on the percentage of texts/subjects of each category of sciences.

Substantive Law: 5 *Munyat al-muṣallī* *Mukhtaṣar al-Qudūrī* *Sharḥ al-Wiqāya* *Al-Hidāya* *Al-Sirājī fi al-mīrāth* Islamic Legal Theory: 3 *Uṣūl al-Shāshī* *Nūr al-anwār** *Al-Tawḍīḥ wa al-Talwīḥ*	Arabic Literature: 5 *Muntakhabāt al-adab al-ʿarabī* *Maqāmāt Hindiyya* *Kalīla wa dimna* *Maqāmat al-Ḥarīrī* *Ta'rīkh-i yamīnī* Poetry: 1 *Dīwān al-Mutanabbī*	*Zulekhā* *Maṣdar-i fuyūz* *Anwār-i suhaylī* *Ruqʿāt-i ālamgīrī* *Risāla ʿAbd al-Wāsiʿ* *Risāla Roshanʿalī Anṣārī* *Abu al-Fazl* *Sikandar nāma* Mathematics & Astronomy:[29] 3 Translation Practice (10 years)

[29] Nūr al-Ḥasan Kāndhlavī only mentions the subjects falling under Mathematics and Astronomy that were taught at the Dār al-ʿUlūm. These are mathematics (*riyāḍī*), geometry (*handasa*), and astronomy (*hay'a*). Zakariyyā Kāndhlavī lists various topics falling under mathematics and astronomy that were taught during the second through the sixth years of the curriculum.

Table A3: Dār al-ʿUlūm Deoband's 8-year Curriculum c. 1880[30]

Total Number of Texts Studied: 86

Religious Sciences Texts studied: **26** Time devoted:[31] **41.9%**	**Arabic Language** Texts studied: **23** Time devoted: **29.7%**	**Other Ancillary Sciences** Texts studied: **27** Time devoted: **28.4%**
Qur'an and its Sciences: 2 *Al-Jalalayn* *Tafsīr al-Bayḍāwī* *Ḥadīth* and its Sciences: 8 *Mishkāt al-maṣābīḥ* *Jāmiʿ al-Tirmidhī* *Ṣaḥīḥ Muslim* *Ṣaḥīḥ al-Bukhārī* *Sunan al-Nasā'ī* *Sunan Abī Dāwūd* *Sunan Ibn Mājah* *Muwaṭṭa' Mālik*	Morphology: 11 *Mīzān al-ṣarf** *Munshaʿib** *Ṣarf Mīr* *Panj ganj** *Zubda* *Dustūr al-mubtadī** *Zarrādī* *Zarīrī* *Marāḥ al-arwāḥ* *Fuṣūl-i Akbarī** *Al-Shāfiya*	Logic: 17 *Īsāghūjī* *Qāla aqūlu* *Al-Mirqāt** *Mīzān al-manṭiq** *Taḥdhīb al-manṭiq* *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Mīr Quṭbī* *Sullam al-ʿulūm* *Mullā Ḥasan** *Mīr Zāhid** *Ghulām Yaḥyā** *Mīr Zāhid Jalālya** *Mullā Jalāl* *ʿAbd al-ʿAlī** *Ḥamd Allāh** *Qāḍī Mubārak**

Table A3 Continued (pg. 369)

* Texts with an asterisk indicate those that were authored in South Asia.

[30] Adapted from Leitner, *The History of Indigenous Education in the Panjab*, 76. It should be noted that Leitner has given two lists of texts, one with a daily timetable (p. 76) and another with just a subject-wise listing of texts (pp. 77-78). It seems that the second list, which is longer, comprises texts that were taught as well as those that were used as reference.

[31] Leitner has listed the number of pages studied from each book everyday and the months spent on studying it. The daily schedule was divided into three lessons per day generally devoted to one subject but often comprising a number of texts. I have calculated the percentage of time devoted to each category of texts using the number of months devoted to it. This leads to 99.75 months of study for religious sciences, 70.5 months of study for Arabic Sciences, and 67.5 months of study for other ancillary sciences. This still does not precisely tell us as to how much time was actually devoted to each category, but it seems better than merely counting the number of texts.

Theology: 5 *Sharḥ al-ʿAqā'id al-Nasafiyya* *Ḥāshiyat al-Khayālī* *Al-Umūr al-ʿāmma Mīr Zāhid** *Al-Umur al-āmmā ʿAbd al-ʿAlī**[32] *Sharḥ al-Mawāqif* Substantive Law: 6 *Munyat al-muṣallī* *Mukhtaṣar al-Qudūrī* *Kanz al-daqā'iq* *Sharḥ al-Wiqāya* *Al-Hidāya* *Al-Sirājī fi al-mīrāth* Islamic Legal Theory: 5 *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī* *Al-Tawḍīḥ wa al-Talwīḥ* *Musallam al-thubūt**	Syntax: 6 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Al-Miṣbāḥ*[33] *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Mullā Jāmī* Rhetoric: 1 *Mukhtaṣar al-maʿānī* Arabic Literature: 3 *Nafḥat al-Yaman** *Maqāmat al-Ḥarīrī* *Ta'rīkh-I yamīnī* Poetry: 2 *Dīwān al-Mutanabbī* *Diwān al-ḥamāsa*	Philosophy: 3 *Al-Maybudhī* *Ṣadrā* *Al-Shams al-bāzigha** Mathematics & Astronomy: 7 *Khulāṣat al-ḥisāb** *Uqlīdas* *Al-Jabr wa al-muqābala* *Tashrīḥ al-aflāk* *Sabʿ shidād* *Sharḥ Chaghmīnī* *Maṣāḥat*

[32] Leitner lists these two works titled *al-Umūr al-ʿāmma* as texts of logic; however, their contents indicate that they are texts of theology.

[33] Leitner lists *al-Miṣbāḥ* as a text of etymology, i.e., *ṣarf*; however, Khayrābādi describes it as a syntax (*naḥw*) text. See Ḥabīb al-Raḥmān Maẓāhirī Khayrābādī, *Tadhkirat al-muṣannifīn: Dars-i niẓāmī wa ʿāliya kī kitābon kay muṣannifīn kay mustanad ḥālāt kā nādir majmūʿa* (Kanpur: Maktaba Maʿārif-i Millī, 1389 AH), 32-33. Khayrābādī is more knowledgeable in the details of the texts as compared to Leitner who was merely compiling a list and probably did not even know Arabic. As such, I have followed Khayrābādī's listing.

Table A4: Dār al-ʿUlūm Deoband's 8-year Curriculum c. 1940[34]

Total Number of Texts Studied: 86

Religious Sciences Texts studied: **31** Time devoted:[35] **35.55%**	**Arabic Language** Texts studied: **26** Time devoted: **28.9%**	**Other Ancillary Sciences** Texts studied: **32** Time devoted: **35.55%**
<u>Qur'an and its Sciences:</u> 2 *Al-Jalalayn* *Tafsīr al-Madārik* *Tafsīr al-Bayḍāwī* <u>*Ḥadīth* and its Sciences:</u> 12 *Nukhbat al-fikar* *Mishkāt al-maṣābīḥ* *Jāmiʿ al-Tirmidhī* *Ṣaḥīḥ Muslim* *Ṣaḥīḥ al-Bukhārī* *Sunan al-Nasā'ī* *Shamā'il al-Tirmidhī* *Sunan Abī Dāwūd* *Sunan Ibn Mājah* *Muwaṭṭa' Mālik* *Muwaṭṭa' Muḥammad* *Sharḥ al-maʿānī al-āthār*	<u>Morphology:</u> 9 *Mīzān al-ṣarf** *Munshaʿib** *Ṣarf Mīr* *Panj ganj** *Dustūr al-mubtadī** *Zarrādī* *Marāḥ al-arwāḥ* *Fuṣūl-I Akbarī** *Al-Shāfiya* <u>Syntax:</u> 6 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Al-Miṣbāḥ*[36] *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Mullā Jāmī*	<u>Logic:</u> 19 *Īsāghūjī* *Qāla aqūlu* *Al-Mirqāt** *Mīzān al-manṭiq** *Taḥdhīb al-manṭiq* *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Mīr Quṭbī* *Sullam al-ʿulūm* *Taṣawwurāt Mullā Mubīn ʿala Sharḥ al-Sullam* *Mullā Ḥasan** *Mīr Zāhid** *Ghulām Yaḥyā** *Mullā Jalāl* *Mīr Zāhid Mullā Jalāl** *ʿAbd al-ʿAlī Mīr Zāhid Risāla** *ʿAbd alʿAlī Mullā Jalāl** *Ḥamd Allāh** *Qāḍī Mubārak**

Table A4 Continued (pg. 371)

* Texts with an asterisk indicate those that were authored in South Asia.

[34] G.M.D. Sufi, *al-Minhaj: The Evolution of Curriculum in the Muslim Educational Institutions of India* (Lahore: Shaikh Muhammad Ashraf, 1941), 128-132.

[35] Sufi provides the number of pages to be studied for each text but that does not provide us any indication as to how much time was devoted. Therefore, I have merely counted the number of texts and added the number of extra periods devoted when available. This is indicated in parentheses. In this curriculum, this is mentioned only for *al-Hidāya*.

[36] Sufi does not identify which text is for which subject. As with the curriculum for 1880, I have relied on Khayrābādi who describes *al-Miṣbāḥ* as a syntax (*naḥw*) text.

Theology: 5 *Sharḥ al-ʿAqā'id al-Nasafiyya* *Ḥāshiyat al-Khayālī* *Sharḥ al-Mawāqif* (*al-umūr al-ʿāmma*) *Al-Umūr al-ʿāmma Mīr Zāhid** *Al-Umur al-āmmā ʿAbd al-ʿAlī**[37] Substantive Law: 7 *Munyat al-muṣallī* *Mukhtaṣar al-Qudūrī* *Kanz al-daqā'iq* *Sharḥ al-Wiqāya* *Al-Hidāya* (2 years) *Al-Sirājī fi al-mīrāth* *Al-Durr al-mukhtār* Islamic Legal Theory: 5 *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī* *Al-Tawḍīḥ wa al-Talwīḥ* *Musallam al-thubūt**	Rhetoric: 3 *Talkhīṣ al-Miftāḥ* *Mukhtaṣar al-maʿānī* *Al-Muṭawwal* Arabic Literature: 4 *Mufīd al-ṭālibīn* *Nafḥat al-Yaman** *Maqāmat al-Ḥarīrī* *Ta'rīkh-i yamīnī* Poetry: 4 *ʿArūḍ al-miftāḥ* *Dīwān al-Mutanabbī* *Al-Sabʿ al-muʿallaqāt* *Dīwān al-ḥamāsa*	Philosophy: 3 *Al-Maybudhī* *Ṣadrā* *Al-Shams al-bāzigha** Mathematics & Astronomy: 7 *Khulāṣat al-ḥisāb** *Uqlīdas* *Al-Jabr wa al-muqābala* *Al-Taṣrīḥ** *Sabʿ shidād* *Sharḥ Chaghmīnī* *Maṣāḥat* Medicine: 3 *Al-Mūjaz* *Nafīsī* *Al-Qānūn* (*ḥummiyyāt*)

[37] Leitner lists these two works titled *al-Umūr al-ʿāmma* as texts of logic; however, their contents indicate that they are texts of theology.

Table A5: Dār al-ʿUlūm Deoband's 9-year Curriculum in 1952[38]

Total Number of Texts Studied: 87

Religious Sciences Texts/Subjects studied: **33** Time devoted:[39] **41.6%**	**Arabic Language** Texts studied: **24** Time devoted: **27%**	**Other Ancillary Sciences** Texts studied: **26** Time devoted: **31.4%**
Qur'an and its Sciences: 5 *Al-Fawz al-kabīr** *Al-Jalalayn* *Tafsīr al-Bayḍāwī* (3)[40] *Tafsir Ibn Kathīr* (3) Study and practice of *tajwīd* *Ḥadīth* and its Sciences: 12 *Mishkāt al-maṣābīḥ* *Nukhbat al-fikar* *Ṣaḥīḥ al-Bukhārī* *Ṣaḥīḥ Muslim* *Jāmiʿ al-Tirmidhī* *Sunan Abī Dāwūd* *Sunan al-Nasā'ī* *Sunan Ibn Mājah* *Sharḥ maʿāni al-āthār* *Muwaṭṭa' Mālik* *Muwaṭṭa' Muḥammad* *Shamā'il al-Tirmidhī*	Morphology: 6 *Mīzān al-ṣarf** *Munshaʿib** *Panj ganj** *Ṣarf mīr* *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** Syntax: 6 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Mullā Jāmī* *Sharḥ Ibn ʿAqīl* Rhetoric: 4 *Talkhīṣ al-Miftāḥ* *ʿArūḍ al-Miftāḥ* *Mukhtaṣar al-maʿānī* *Al-Muṭawwal*	Logic: 12 *Kubrā* *Īsāghūjī* *Al-Mirqāt* *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Mīr Quṭbī* *Sullam al-ʿulūm** *Mullā Ḥasan** *Mīr Zāhid Risāla** *Mīr Zāhid Mullā Jalāl** *Ḥamad Allāh** *Qāḍī Mubārak** Philosophy: 3 *Al-Maybudhī* *Al-Shams al-bāzigha** *Ṣadrā* Dialectics: 1 *Al-Rashīdiyya*

Table A5 Continued (pg. 373)

* Texts with an asterisk indicate those that were authored in South Asia.

[38] Adapted from Rizvī, *Tārīkh-i Deoband,* 104-108.

[39] Some of the texts/subjects were taught over multiple years or were split into multiple parts and taught separately. This is indicated in the parentheses after the name of the text or the subject. I have used this number in addition to the basic text count when calculating the percentage of time devoted to each category of sciences. This leads to weights of 37, 24, and 28 for religious sciences, Arabic sciences, and other ancillary sciences, respectively.

[40] According to Rizvī, each of *Tafsīr al-Bayḍāwī* and *Tafsīr Ibn Kathīr* were divided into three parts, with each part being taught every day, i.e., a student would study each commentary from three different places every day. See Rizvī, *Tārīkh-i Deoband,* 106.

Theology: 5 *Sharḥ al-ʿAqāʾid al-Nasafiyya* *Ḥāshiyat al-Khayālī* *Al-Musāmara* *Al-Umūr al-ʿāmma* *Sharḥ-i ʿaqāʾid-i Jalālī* Substantive Law: 6 *Nūr al-īḍāḥ* *Mukhtaṣar al-Qudūrī* *Kanz al-daqāʾiq* *Sharḥ al-Wiqāya* *Al-Hidāya* (4)[41] *Al-Sirājī fi al-mīrāth* Islamic Legal Theory: 5 *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī* *Al-Tawḍīḥ wa al-Talwīḥ* *Musallam al-thubūt**	Arabic Literature: 5 *Mufīd al-ṭālibīn** *Nafḥat al-Yaman** *Nafḥat al-ʿArab** *Risāla sīrat Mawlāna ʿImād al-Dīn* *Al-Maqāmat al-Ḥarīriyya* Poetry: 3 *Dīwān al-ḥamāsa* *Dīwān al-Mutanabbī* *Al-Sabʿ al-muʿallaqāt*	History: 2 *Durūs al-tārīkh al-islāmī* (2 years) *Tāʾrīkh Abi al-Fidāʾ*[42] Mathematics & Astronomy: 4 *Al-Taṣrīḥ** *Sharḥ Chaghmīnī* *Bast bāb* *Uqlīdās* Medicine: 4 *Qanūncha* *Sharḥ Asbāb** (2)[43] *Nafīsī* *Ḥumyat-i qānūn*

[41] This text was divided into four parts, and each was taught separately.

[42] This text was assigned for personal reading, to be completed over three years. Because it was not taught, I have counted it as being equal to only one text for the purpose of calculating the time devoted to each category of sciences.

[43] This text was split in two parts, which were taught separately.

Table A6: Dār al-ʿUlūm Deoband's 11-year Curriculum in 1965[44]

Total Number of Texts/Subjects Studied: 84

Religious Sciences Texts/Subjects studied: **38** Time devoted:[45] **49.5%**	**Arabic Language** Texts/subjects studied: **24** Time devoted: **25.8%**	**Other Ancillary** Texts studied: **23** Time devoted: **24.7%**
Qur'an and its Sciences: 7 Translation & commentary of the Qur'ān in Urdu (2 years) *Al-Fawz al-kabīr** *Al-Jalalayn* *Tafsīr al-Bayḍāwī* (3)[46] *Tafsir Ibn Kathīr* (3) *Fawā'id-i Makkiyya** Practice of *tajwīd*[47] *Hadīth* and its Sciences: 12 *Mishkāt al-maṣābīḥ* *Sharḥ Nukhbat al-fikar* *Ṣaḥīḥ al-Bukhārī* *Ṣaḥīḥ Muslim* *Jāmiʿ al-Tirmidhī* *Sunan Abī Dāwūd* *Sunan al-Nasā'ī*	Morphology: 6 *Mīzān al-ṣarf** *Munshaʿib** *Panj ganj** *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** *Marāḥ al-arwāḥ* Syntax: 5 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Mullā Jāmī* Rhetoric: 3 *Mukhtaṣar al-maʿānī* *Talkhīṣ al-Miftāḥ* *Al-Muṭawwal*$^{\alpha}$	Logic: 12 *Ṣughrā* *Kubrā* *Al-Mirqāt** *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Mīr Quṭbī* *Sullam al-ʿulūm** *Mullā Ḥasan** *Mīr Zāhid Risāla**$^{\alpha}$ *Mullā Jalāl**$^{\alpha}$ *Ḥamad Allāh**$^{\alpha}$ *Qāḍī Mubārak**$^{\alpha}$ Philosophy: 4 *Al-Hadiyya al-saʿīdiyya** *Al-Maybudhī* *Al-Shams al-bāzigha**$^{\alpha}$ *Ṣadrā*$^{\alpha}$

Table A6 Continued (pg. 375)

* Texts with an asterisk indicate those that were authored in South Asia.

[44] Adapted from Ṭayyib, *Tārīkh-i Dār al-ʿUlūm Deoband*, 33-46. Texts with an $^{\alpha}$ indicate texts studied in the finishing 2 years (*daraja-i takmīl*), beyond the 9-year standard curriculum. They are included here because they were obligatory and not optional.

[45] Some of the texts/subjects were taught over multiple years or were split into multiple parts and taught separately. This is indicated in the parentheses after the name of the text or the subject. I have used this number in addition to the basic text count when calculating the percentage of time devoted to each category of sciences. This leads to weights of 46, 24, and 23 for religious sciences, Arabic sciences, and other ancillary sciences, respectively.

[46] Like in the 1952 curriculum, each of *Tafsīr al-Bayḍāwī* and *Tafsīr Ibn Kathīr* were divided into three parts, with each part being taught every day, i.e., a student would study each commentary from three different places every day.

[47] It should be noted that Ṭayyib has listed study and practice of Qur'anic recitation as falling under *ʿulūm āliya*. However, in my scheme, I count it under religious sciences.

Sunan Ibn Mājah *Ṭaḥāwī* *Muwaṭṭa' Mālik* *Muwaṭṭa' Muḥammad* *Shamā'il al-Tirmidhī* Theology: 5 *Al-Musāmara* *Sharḥ al-ʿAqā'id al-Nasafiyya* *Ḥāshiyat al-Khayālī*[α] *Al-Umūr al-ʿĀmma*[α] *Al-Jalālī*[α] Philosophy of Islamic Law: 2 *ʿAwārif al-maʿārif*[α] *Ḥujjat Allāh al-bāligha**[α] Substantive Law: 7 *Nūr al-īḍāḥ* *Mukhtaṣar al-Qudūrī* *Kanz al-daqā'iq* *Sharḥ al-Wiqāya* *Al-Hidāya* (4) *Al-Sirājī fi al-mīrāth* *Rasm al-muftī* (possibly *Sharḥ ʿUqūd rasm al-muftī*) Islamic Legal Theory: 5 *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī* *Al-Tawḍīḥ wa al-Talwīḥ* *Musallam al-thubūt**	Arabic Literature: 4 *Mufīd al-ṭālibīn** *Nafḥat al-Yaman** *Nafḥat al-ʿArab** *Al-Maqāmat al-Ḥarīriyya* Poetry & Prosody: 4 *Dīwān al-ḥamāsa*[α] *Dīwān al-Mutanabbī*[α] *Al-Sabʿ al-muʿallaqāt*[α] *Nuqṭat al-dā'ira*[α] Other Arabic Subjects: 2 Arabic writing practice (*imlā' o taḥsīn-i khaṭṭ*) Arabic composition (*inshā'*)	Dialectics: 1 *Al-Rashīdiyya*[α] Mathematics & Astronomy: 6 *Al-Taṣrīḥ** *Sharḥ Chaghmīnī*[α] *Sabʿ Shidād*[α] *Bast bāb*[α] *Khulāṣat al-ḥisāb*[α] *Uqlīdas*[α]

Table A7: Dār al-ʿUlūm Deoband's 8-year Curriculum 1976[48]

Total Number of Texts/Subjects Studied: 76+6

Religious Sciences Texts/Subjects studied:[49] **31**+3 Time devoted:[50] **44%**	**Arabic Language** Texts/Subjects studied: **23**+2 Time devoted: **32%**	**Other Ancillary Sciences** Texts/Subjects studied: **18**+1 Time devoted: **24%**
<u>Qur'an and its Sciences:</u> 6+1 *Tajwīd* practice (2 years) *Jamāl al-Qur'ān** Translation & commentary of the Qur'ān in Urdu (2 years) *Al-Fawz al-kabīr** *Al-Jalalayn* *Tafsīr al-Bayḍāwī* *Talkhīṣ al-Itqān* (optional) <u>*Hadīth* and its Sciences:</u> 14+1 *Mishkāt al-āthār** *Alfiyyat al-ḥadīth** *Mishkāt al-maṣābīḥ* *Sharḥ Nukhbat al-fikar* *Muqaddamat Ibn al-Ṣalāḥ* (optional)	<u>Morphology:</u> 6 *ʿArabī kā qāʿida** *Mīzān al-ṣarf ** *Munshaʿib** *Panj ganj** *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** <u>Syntax:</u> 6 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Naḥw al-wāḍiḥ, ibdtidā'ī vol. 1* *Sharḥ Ibn ʿAqīl* *Sharḥ Mullā Jāmī*	<u>Logic:</u> 6+1 *Taysir al-manṭiq** *Al-Mirqāt** *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Sullam al-ʿulūm** *Mullā Ḥasan** *Ḥamad Allāh** (optional) <u>Philosophy:</u> 2 *Al-Hadiyya al-saʿīdiyya** *Al-Maybudhī* <u>Contemporary Sciences:</u> 10 History of India since Maḥmūd Ghaznavī Islamic history

Table A7 Continued (pg. 377)

* Texts with an asterisk indicate those that were authored in South Asia.

[48] Adapted from Rizvī, *Tārīkh-i Dār al-ʿUlūm Deoband*, 2:270-273. The original work was published c. 1980. Beyond the 8-year ʿĀlim Course, *takmīl* (completion/postgraduate) courses in various Arabic & Islamic sciences were also offered. The list of texts included here is from the 8-year ʿĀlim Course. The *takmīl* stage is not included because it was not obligatory but optional.

[49] Some texts or courses were declared optional (*ikhtiyārī mazāmīn*). They are included in the count after the + sign.

[50] Some of the texts/subjects were taught over multiple years or were split into multiple parts and taught separately. This is indicated in the parentheses after the name of the text or the subject. I have used this number in addition to the basic text count (not including the optional texts) when calculating the percentage of time devoted to each category of sciences. This leads to weights of 33, 24, and 18 for religious sciences, Arabic sciences, and other ancillary sciences, respectively.

Ṣaḥīḥ al-Bukhārī *Ṣaḥīḥ Muslim* *Jāmiʿ al-Tirmidhī* *Sunan Abī Dāwūd* *Sunan al-Nasā'ī* *Sunan Ibn Mājah* *Sharḥ maʿāni al-āthār* *Muwaṭṭa' Mālik* *Muwaṭṭa' Muḥammad* *Shamā'il al-Tirmidhī* Theology: 2+1 *Al-ʿAqīda al-ṭaḥāwiyya* *Sharḥ al-ʿAqā'id al-Nasafiyya* *Al-Musāmara* (optional) Substantive Law: 6 *Nūr al-īḍāḥ* *Mukhtaṣar al-Qudūrī* *Kanz al-daqā'iq* *Sharḥ al-Wiqāya* *Al-Hidāya* (4) *Al-Sirājī fi al-mīrāth* Islamic Legal Theory: 3 *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī*	Rhetoric (*al-Balāgha*): 3 *Mukhtaṣar al-maʿānī* *Talkhīṣ al-Miftāḥ* *Al-Balāgha al-wāḍiḥa* Arabic Literature: 4+1 *Rawḍat al-adab** *Nafḥat al-adab** *Nafḥat al-ʿArab** *Al-Maqāmat al-Ḥarīriyya* *Al-Nathr al-jadid* (optional) Poetry: 1+1 *Dīwān al-Mutanabbī* *Dīwān al-ḥamāsa* (optional) Other Arabic texts/subjects: 3 Arabic writing practice (2 years) Arabic composition & speaking *ʿArabī kā muʿallim**	Civic studies Geography of the Muslim World World geography General science Basics of personal healthcare Selections from the Indian constitution Basics of economics Selected modern philosophers

Table A8: Dār al-ʿUlūm Deoband's 8-year Curriculum in 1994[51]

Total Number of Texts/Subjects Studied:

Religious Sciences Texts/Subjects studied: **34** Time devoted:[52] **64.3%**	**Arabic Language** Texts/Subjects studied: **21** Time devoted: **21%**	**Other Ancillary Sciences** Texts/Subjects studied: **10** Time devoted: **14.7%**
Qur'an and its Sciences: 5 *Tajwīd* practice (8 years) *Jamāl al-Qur'ān** Translation & commentary of the Qur'ān in Urdu (3 years) *Al-Fawz al-kabīr** *Al-Jalalayn* (2) Prophetic Biography: 2 *Sīrat Khātim al-Anbiyā'** *Aṣaḥḥ al-siyar** *Ḥadīth* and its Sciences: 15 *Mishkāt al-āthār** *Alfiyyat al-ḥadīth** *Mishkāt al-maṣābīḥ* (3 periods) *Sharḥ Nukhbat al-fikar* *Muqaddamat Sh. ʿAbd al-Ḥaqq Muḥaddith Dehlawī* *Ṣaḥīḥ al-Bukhārī* *Ṣaḥīḥ Muslim* *Jāmiʿ al-Tirmidhī*	Morphology: 5 *Mīzān al-ṣarf ** *Munshaʿib** *Panj ganj** *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** Syntax: 5 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Shudhūr al-dhahab* Rhetoric (*al-Balāgha*): 3 *Durūs al-balāgha* *Mukhtaṣar al-maʿānī* *Talkhīṣ al-Miftāḥ* Arabic Literature: 3 *Nafḥat al-adab** *Nafḥat al-ʿArab** *Al-Maqāmat al-Ḥarīriyya*	Logic: 5 *Āsān manṭiq** *Al-Mirqāt** *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Sullam al-ʿulūm** Philosophy: 2 *Mabādi' al-falsafa** *Al-Maybudhī* Islamic History: 2 *Tārīkh-i millat** *Al-Madhāhib al-islāmiyya* Contemporary Sciences: 1 Civic studies & Geography

Table A8 Continued (pg. 379)

* Texts with an asterisk indicate those that were authored in South Asia.

[51] Adapted from Qāsimī, *Dār al-ʿUlūm Deoband*, 69-73.

[52] Some of the texts were taught over multiple years or were split into multiple parts and taught separately. This is indicated in the parentheses after the name of the text. I use this information as well as the hour-wise breakdown of each year given by Qāsimī to calculate the time devoted to each category of sciences. Qāsimī's hour-wise breakdown is not very precise; however, it is still better than merely counting the number of texts.

Sunan Abī Dāwūd *Sunan al-Nasā'ī* *Sunan Ibn Mājah* *Sharḥ maʿāni al-āthār* *Muwaṭṭa' Mālik* *Muwaṭṭa' Muḥammad* *Shamā'il al-Tirmidhī* <u>Theology:</u> 2 *Al-ʿAqīda al-ṭaḥāwiyya* *Sharḥ al-ʿAqā'id al-Nasafiyya* <u>Substantive Law:</u> 5 *Nūr al-īḍāḥ* *Mukhtaṣar al-Qudūrī* *Sharḥ al-Wiqāya* *Al-Hidāya* (4) *Al-Sirājī fi al-mīrāth* <u>Islamic Legal Theory:</u> 4 *Tashīl al-uṣūl* *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī* <u>Etiquette:</u> 1 *Taʿlīm al-mutaʿallim*	<u>Poetry:</u> 2 *Dīwān al-Mutanabbī* *Dīwān al-ḥamāsa* <u>Other Arabic texts/subjects:</u> 3 *Miftāḥ al-ʿarabiyya** vols. 1 & 2* *Al-Qirā'a al-wāḍiḥa** vols. 1, 2 & 3 (3 years) Handwriting practice (2 years)	

Table A9: Dār al-ʿUlūm Deoband's 8-year Curriculum in 2015[53]

Total Number of Texts/Subjects Studied: 64

Religious Sciences Texts/Subjects studied: **35** Time devoted:[54] **63.6%**	**Arabic Language** Texts/Subjects studied: **20** Time devoted: **26.1%**	**Other Ancillary Sciences** Texts/Subjects studied: **9** Time devoted: **10.3%**
<u>Qur'an and its Sciences:</u> 8 *Uṣūl al-tajwīḍ** *Jamāl al-Qur'ān** Translation & commentary of the Qur'ān in Urdu (3 years) *Al-Fawz al-kabīr** *Al-Jalalayn* Practice of *tajwīd* <u>Prophetic Biography:</u> 2 *Sīrat Khātim al-Anbiyā'** *Aṣaḥḥ al-siyar** <u>*Hadīth* and its Sciences:</u> 15 *Mishkāt al-āthār** *Alfiyyat al-ḥadīth** *Mishkāt al-maṣābīḥ*	<u>Morphology:</u> 5 *Mīzān al-ṣarf** *Munshaʿib** *Panj ganj** *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** <u>Syntax:</u> 5 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Kāfiya* *Sharḥ Shudhūr al-dhahab*[55] <u>Rhetoric:</u> 2 *Durūs al-balāgha* *Mukhtaṣar al-maʿānī*	<u>Logic:</u> 5 *Āsān manṭiq** *Al-Mirqāt** *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Sullam al-ʿulūm** <u>Philosophy:</u> 2 *Mabādi' al-falsafa** *Al-Maybudhī* <u>Islamic History:</u> 1 *Tārīkh-i Millat** <u>Geography:</u> 1 World geography

Table A9 Continued (pg. 381)

* Texts with an asterisk indicate those that were authored in South Asia.

[53] Adapted from Mubārakpūrī, *Lamḥa ʿan al-Jāmiʿa al-Islāmiyya*, 34-42. The curriculum is also available on Dār al-ʿUlūm Deoband's website: <u>darululoom-deoband.com</u>. However, there are some discrepancies between the list of books given on the Urdu page on the website and the English one. Moreover, it is not clear when that website was updated. I have found the printed book to be more reliable based on my personal knowledge of contemporary Deobandī curricula. As such I have relied upon it to prepare this list.

[54] Mubārakpūrī gives the actual hours devoted to each subject. I use this to caculate the percentage of time devoted to each category of sciences. According to Mubārakpūrī's list, over an 8-year period, 205 weekly hours were devoted to religious sciences, 84 to Arabic language, and 33 to other instrumental sciences.

[55] Mubārakpūrī does not include this text in his description of the curriculum. However, both the English and Urdu versions of the curriculum on Dār al-ʿUlūm Deoband's website lists this text as the last one to be taught for *naḥw* after *al-Kāfiya*.

Sharḥ Nukhbat al-fikar *Muqaddamat al-Shaykh ʿAbd al-Ḥaqq* *Ṣaḥīḥ al-Bukhārī* *Ṣaḥīḥ Muslim* *Jāmiʿ al-Tirmidhī* *Sunan Abī Dāwūd* *Sunan al-Nasā'ī* *Sunan Ibn Mājah* *Sharḥ maʿāni al-āthār* *Muwaṭṭa' Mālik* *Muwaṭṭa' Muḥammad* *Shamā'il al-Tirmidhī* <u>Theology:</u> 2 *Al-ʿAqīda al-Ṭaḥāwiyya* *Sharḥ al-ʿAqā'id al-Nasafiyya* <u>Substantive Law:</u> 4 *Nūr al-īḍāḥ* *Mukhtaṣar al-Qudūrī* *Sharḥ al-Wiqāya* *Al-Hidāya* <u>Islamic Legal Theory:</u> 4 *Tashīl al-uṣūl* *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī*	<u>Arabic Literature:</u> 3 *Nafḥat al-adab** *Nafḥat al-ʿArab** *Al-Maqāmat al-Ḥarīriyya* <u>Poetry and Prosody:</u> 2 *Dīwān al-ḥamāsa* *Dīwān al-Mutanabbī* <u>Other Arabic texts/subjects:</u> 3 *Miftāḥ al-ʿarabiyya** vols 1 & 2 *Al-Qirā'a al-wāḍiḥa** vols. 1, 2 & 3 (3 years) Arabic writing practice (2 years)	

APPENDIX B: Curricula of Pakistani *Madrasas*

Table B1: Curriculum of the 8-Year Arabic Program at Wifāq al-Madāris al-ʿArabiyya Pakistan, 2020[56]

Total Number of Texts/Subjects Studied: 71

Religious Sciences Texts/Subjects studied: 39 Time devoted:[57] ~ 58%	**Arabic Sciences** Texts/Subjects studied: 25 Time devoted: ~ 33%	**Other Ancillary Sciences** Texts/Subjects studied: 7 Time devoted: ~ 9%
Qur'an and its Sciences: 8 Practice of *tajwīd* *Jamāl al-Qur'ān** *Fawā'id-i Makkiyya** Translation & commentary of the Qur'ān in Urdu (4 years) *Al-Fawz al-kabīr** *Al-Tibyān fī ʿulūm al-Qur'ān* *Tafsīr al-Jalalayn* *Tafsīr al-Bayḍāwī* Prophetic Biography:[58] 0 *Ḥadīth* and its Sciences: 17 *Zād al-ṭālibīn** *Riyāḍ al-ṣāliḥīn* (2 years) *Musnad Imām Aʿẓam* *Khayr al-uṣūl*	Morphology: 7 *Mīzān al-ṣarf** *Munshaʿib** *Panj ganj*/ʿIlm al-ṣarf*/Irshād al-ṣarf* *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** *Ṣafwat al-maṣādir** *Taysīr al-abwāb** Syntax: 7 *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Tashīl al-adab** *Al-Minhāj fi al-qawāʿid wa al-iʿrāb/al-Naḥw al-yasīr/Tashīl al-naḥw*	Logic: 5 *Taysīr al-manṭiq** *Īsāghūjī* *Al-Mirqāt** *Sharḥ al-Tahdhīb* *Al-Quṭbī* Philosophy: 1 *Muʿīn al-falsafa** Astronomy: 1 *Tafhīm al-falkiyāt**

Table B1 Continued (pg. 383)

* Texts with an asterisk indicate those that were authored in South Asia.

[56] Originally approved in 2003, this curriculum is for males. Females have a slightly modified curriculum with shorter duration. Source: http://www.wifaqulmadaris.org/downloads/nisab/NisabBnin.pdf

[57] Some of the texts/subjects are taught over multiple years or are split into multiple parts and taught separately. This is indicated in the parentheses after the name of the text or the subject. I have used this number in addition to the basic text count when calculating the percentage of time devoted to each category of sciences. Thus, 39 texts/subjects for religious sciences become 47, 25 for Arabic sciences become 27, while ancillary sciences remain unchanged giving a total of 81 texts/subjects.

[58] There is only one textbook, *Sīrat Khātim al-Anbiyā'* of Mufti Muḥammad Shafīʿ, prescribed for this in the second year of *mutawassiṭa* which is equivalent to middle school, and is thus not included here.

*Āthār al-sunan**	*Al-Kāfiya*	
Mishkāt al-maṣābīḥ (2 periods)	*Sharḥ Jāmī*	
Sharḥ Nukhbat al-fikar	<u>Rhetoric:</u> 2	
Ṣaḥīḥ al-Bukhārī	*Durūs al-balāgha*	
Ṣaḥīḥ Muslim	*Mukhtaṣar al-maʿānī*	
Jāmiʿ al-Tirmidhī		
Sunan Abī Dāwūd	<u>Arabic Literature:</u> 2	
Sunan al-Nasā'ī	*Nafḥat al-ʿArab**	
Sunan Ibn Mājah	*Al-Maqāmat al-Ḥarīriyya*	
Sharḥ maʿāni al-āthār		
Muwaṭṭa' Mālik	<u>Poetry and Prosody:</u> 4	
Muwaṭṭa' Muḥammad	*Matn al-Kāfī*	
Shamā'il al-Tirmidhī	*Dīwān al-ḥamāsa*	
	Dīwān al-Mutanabbī	
<u>Theology & Heresiology:</u> 4	*Al-Sabʿ al-muʿallaqāt*	
*Al-Intibāhāt al-mufīda**		
Al-ʿAqīda al-Ṭaḥāwiyya	<u>Other Arabic texts/subjects:</u> 3	
Sharḥ al-ʿAqā'id al-Nasafiyya	*Al-Ṭarīqa al-ʿaṣariyya** vols 1 & 2 (1 year)	
Āina-i Qādiyāniyat	*Al-Qirā'a al-rāshida** vol. 1	
<u>Substantive Law:</u> 5	*Muʿallim al-inshā'** vols. 1, 2, & 3 (3 years)	
Mukhtaṣar al-Qudūrī		
Kanz al-daqā'iq		
Sharḥ al-Wiqāya		
Al-Sirājī fi al-mīrāth		
Al-Hidāya (3 years, 4 periods)		
<u>Islamic Legal Theory:</u> 5		
Āsān uṣūl al-fiqh		
Uṣūl al-Shāshī		
*Nūr al-anwār**		
Muntakhab al-Ḥusāmī		
Al-Tawḍīḥ wa al-Talwīḥ		

Table B2: Curriculum of the 8-Year *ʿĀlimiyya* Program at Dār al-ʿUlūm Karachi[59]

Total Number of Texts/Subjects Studied:

Religious Sciences Texts/Subjects studied: 46 Time devoted:[60] ~ 56%	**Arabic Language** Texts/Subjects studied: 26 Time devoted: ~ 29%	**Other Ancillary Sciences** Texts/Subjects studied: 14 Time devoted: ~ 15%
Qur'an and its Sciences: 9 *Jamāl al-Qur'ān** *Fawā'id-i Makkiyya** *Al-Muqaddamma al-jazariyya* Translation & commentary of the Qur'ān in Urdu (4 years) *Al-Fawz al-kabīr** *Al-Tibyān fī ʿulūm al-Qur'ān* *Tafsīr al-Jalalayn* *Tafsīr al-Bayḍāwī* Practice of *tajwīd* Prophetic Biography:[61] 2 *Qaṣaṣ al-nabiyyīn* vols. 1, 2 & 3 *Sīrat Khātam al-Nabiyyīn** *Ḥadīth* and its Sciences: 18 *Jawāmiʿ al-kalim* *Zād al-ṭālibīn** *Riyāḍ al-ṣāliḥīn* (2) *Āthār al-sunan** *Khayr al-uṣūl*	Morphology: 4 *ʿIlm al-ṣarf* *Mīzān al-ṣarf** *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** Syntax: 7 *ʿIlm al-naḥw** *Naḥw Mīr* *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Al-Kāfiya* *Al-Naḥw al-wāḍiḥ li al-thānawiyya* vol. 1 *Sharḥ Jāmī* Rhetoric: 3 *Durūs al-balāgha* *Mukhtaṣar al-maʿānī* *Al-Balāgha al-wāḍiḥa*	Logic: 5 *Taysīr al-manṭiq** *Īsāghūjī* *Al-Mirqāt** *Sharḥ al-Tahdhīb* *Al-Quṭbī* Philosophy: 2 *Al-Hadiyya al-saʿīdiyya* *Hidāyat al-ḥikma* Dialectics: 1 *Al-Rashīdiyya* Astronomy: 2 *Fahm al-falkiyāt** *Al-Hay'a al-wusṭā** History: 3 *Tārīkh al-khulafā' al-rāshidīn* *Mukhtaṣar tārīkh islāmī* *Tārīkh al-Islām*

Table B2 Continued (pg. 385)

* Texts with an asterisk indicate those that were authored in South Asia.

[59] Darul Uloom Karachi, https://darululoomkarachi.edu.pk/?page_id=6. Accessed January 15th, 2021.

[60] This is simply based on the number of texts taught for each subject adjusted for those texts whose class periods are known to be more than one. Thus, 46 texts/subjects for religious sciences become 54, 26 for Arabic sciences become 28, while ancillary sciences remain unchanged giving a total of 96 texts/subjects.

[61] This work is actually the fifth volume of Abu al-Ḥasan ʿAlī Nadwī's *Qaṣaṣ al-nabiyyīn*. Another textbook, *Sīrat Khātam al-Anbiyā'* of Mufti Muḥammad Shafīʿ is taught in the second year of *mutawassiṭa* which is equivalent to middle school and is thus not included here.

Muwaṭṭa' Imām Mālik *Muwaṭṭa' Imām Muḥammad* *Mishkāt al-maṣābīḥ* (2 periods) *Nukhbat al-fikar* *Ṣaḥīḥ al-Bukhārī* *Ṣaḥīḥ Muslim* *Jāmiʿ al-Tirmidhī* *Sunan Abī Dāwūd* *Sunan al-Nasā'ī* *Sunan Ibn Mājah* *Sharḥ maʿāni al-āthār* *Shamā'il al-Tirmidhī* *Al-Taqrīb* with *Tadrīb al-rāwī* <u>Theology:</u> 5 *Al-Intibāhāt al-mufīda** *Al-ʿAqīda al-Ṭaḥāwiyya* *Sharḥ al-ʿAqā'id al-Nasafiyya* *Āina-i Qādiyāniyat* *Ikhtilāf-i ummat aur ṣirāt-i mustaqīm** <u>Etiquette:</u> 1 *Taʿlīm al-mutaʿallim* <u>Substantive Law:</u> 5 *Mukhtaṣar al-Qudūrī* *Kanz al-daqā'iq* *Sharḥ al-Wiqāya* *Al-Sirājī fi al-mīrāth* *Al-Hidāya* (4 periods) <u>Islamic Legal Theory:</u> 6 *Āsān uṣūl al-fiqh* *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī* *Al-Tawḍīḥ wa al-Talwīḥ* *Sharḥ ʿUqūd rasm al-muftī*[62]	<u>Arabic Literature:</u> 3 *Nafḥat al-ʿArab** *Al-Maqāmat al-Ḥarīriyya* *Mukhtārāt min adab al-ʿArab* <u>Poetry and Prosody:</u> 4 *Matn al-Kāfī* *Dīwān al-ḥamāsa* *Dīwān al-Mutanabbī* *Al-Sabʿ al-muʿallaqāt* <u>Other Arabic texts/subjects:</u> 5 *Al-Ṭarīqa al-ʿaṣariyya** *Tashīl al-adab** *Al-Ṭarīqa al-jadīda** vol. 2 *Al-Qirā'a al-rāshida** vol. 1 *Muʿallim al-inshā'** vols. 1 2, & 3 (3 years)	<u>Economics:</u> 1 *Islām aur jadīd maʿīshat-o tijārat**

[62] This is a work of *uṣūl al-iftā'* (principles of *fatwā*-giving).

Table B3: Curriculum of the 8-Year Arabic Program at al-Jāmiʿa al-Islāmiyya Banūrī Town Karachi[63]

Total Number of Texts/Subjects Studied:

Religious Sciences Texts/Subjects studied: 43 Time devoted:[64] ~55%	**Arabic Language** Texts/Subjects studied: 23 Time devoted: ~28%	**Other Ancillary Sciences** Texts/Subjects studied: 13 Time devoted: ~17%
Qur'an and its Sciences: 10 *Jamāl al-Qur'ān** *Fawā'id-i Makkiyya** *Al-Muqadamma al-jazariyya* Translation & commentary of the Qur'ān in Urdu (4 years) *Al-Fawz al-kabīr** *Al-Tibyān fī ʿulūm al-Qur'ān* *Yatīmat al-bayān fī shay' min ʿulūm al-Qur'ān** *Tafsīr al-Jalalayn* *Tafsīr al-Bayḍāwī* Practice of *tajwīd*	Morphology: 4 *Taʿlīm al-ṣarf** *Tadrīb al-ṣarf** *ʿIlm al-ṣīgha** *Fuṣūl-i Akbarī** Syntax: 6 *Taʿlīm al-naḥw** *Tadrīb al-naḥw** *Sharḥ mi'at ʿāmil* *Hidāyat al-naḥw** *Sharḥ Ibn ʿAqīl* *Sharḥ Jāmī*	Logic: 6 *Taysīr al-manṭiq** *Īsāghūjī* *Al-Mirqāt** *Sharḥ al-Tahdhīb* *Al-Quṭbī* *Sullam al-ʿulūm* Philosophy: 1 *Muʿīn al-falsafa* Astronomy: 1 *Tafhīm al-falkiyāt**[65]

Table B3 Continued (pgs. 387 & 388)

* Texts with an asterisk indicate those that were authored in South Asia.

[63] Jāmiʿat al-ʿUlūm al-Islāmiyya, *Taʿāruf Jāmiʿat al-ʿUlūm al-Islāmiyya ʿAllāma Muḥammad Yūsuf Banūrī Town* (Karachi: Jāmiʿat al-ʿUlūm al-Islāmiyya, n.d.). This introductory brochure has no date of publication. However, since I received it directly from a BT official in 2017, I assume it to be current at least as of 2017.

[64] This is simply based on the number of texts taught for each subject adjusted for those texts whose class periods are known to be more than one. Thus, 43 texts/subjects for religious sciences become 50, 23 for Arabic sciences become 25, and 13 for ancillary sciences become 15 giving a total of 90 texts/subjects.

[65] This work is not listed in the official *Taʿāruf* but I have included it here because it is required by the Wifāq.

Prophetic Biography:[66] 2 *Uswa-i Rasūl-i Akram** *Sīrat al-Muṣṭafā** *Ḥadīth* and its Sciences: 17 *Zād al-ṭālibīn** *Riyāḍ al-ṣāliḥīn* *Āthār al-sunan** *Khayr al-uṣūl* *Musnad al-Imām al-Aʿẓam* *Mishkāt al-maṣābīḥ* (2 periods) *Sharḥ Nukhbat al-fikar* *Ṣaḥīḥ al-Bukhārī* *Ṣaḥīḥ Muslim* *Jāmiʿ al-Tirmidhī* *Sunan Abī Dāwūd* *Sunan al-Nasā'ī* *Sunan Ibn Mājah* *Sharḥ maʿāni al-āthār* *Shamā'il al-Tirmidhī*[67] *Muwaṭṭa' Imām Mālik* *Muwaṭṭa' al-Imām Muḥammad* Theology: 4 *Al-Intibāhāt al-mufīda** *Al-ʿAqīda al-Ṭaḥāwiyya* *Sharḥ al-ʿAqā'id al-Nasafiyya* *Al-Muhannad ʿala al-mufannad**[68]	Rhetoric: 3 *Durūs al-balāgha* *Mukhtaṣar al-maʿānī* *Talkhīṣ al-Miftāḥ* Arabic Literature: 2 *Nafḥat al-ʿArab** *Al-Maqāmat al-Ḥarīriyya* Poetry and Prosody: 4 *Matn al-Kāfī* *Dīwān al-ḥamāsa* *Dīwān al-Mutanabbī* *Al-Sabʿ al-muʿallaqāt* Other Arabic texts/subjects: 4 *Al-Ṭarīqa al-ʿaṣariyya** *Al-Qirā'a al-rāshida** vol. 1 *Muʿallim al-inshā'** vols. 1 2, & 3 (3 years) *Tashīl al-adab**	History: 3 *Tārīkh-i Islām** *Sīrat khulafā'-i rāshidīn** *Tārīkh-i millat* (3 years) Persian: 2 *Fārsī zubān kā āsān qāʿida** *Gulistān*

[66] No textbook devoted only to Prophetic biography is taught in the 8-year program. However, two Urdu works are assigned as personal required reading in the third and seventh years, namely *Uswa-i Rasūl-i Akram* by the Deobandī Sufi ʿAbd al-Ḥayy ʿĀrifī and *Sīrat al-Muṣṭafā* by the Deobandī scholar Muḥammad Idrīs Kāndhlavī respectively. I have included these because they are tested on in the exams and thus are part of the formal curriculum. Besides these, vol. 5 of *Qaṣaṣ al-nabiyyīn* aka *Sīrat Khātam al-Nabiyyīn* is taught in the tenth grade (*iʿdādiya panjum*), i.e., in the year prior to the start of the Arabic program. It is, therefore, not included here.

[67] This work is not mentioned in the official *Taʿāruf* but is required by the Wifāq and is taught in every Deobandī madrasa in the final year. Leaving it out, thus, seems to be an oversight in the official document. Therefore, I have included it here.

[68] This work is not taught but is required reading and is tested in the exams.

Substantive Law: 6 *Al-Fiqh al-muyassar** *Mukhtaṣar al-Qudūrī* *Kanz al-daqā'iq* *Sharḥ al-Wiqāya* *Al-Sirājī fi al-mīrāth* *Al-Hidāya* (4 periods) Islamic Legal Theory: 4 *Uṣūl al-Shāshī* *Nūr al-anwār** *Muntakhab al-Ḥusāmī* *Al-Tawḍīḥ wa al-Talwīḥ*		

Table B4: Curriculum of the Specialization in Islamic Law (*Takhaṣṣuṣ fi al-Fiqh wa al-Iftā'*) at Dār al-ʿUlūm Karachi[69]

First Year	Second Year
Textbooks & Assigned Readings	
Taqī ʿUsmānī's *Uṣūl al-iftā wa ādābuhu**	Ibn Nujaym's *al-Ashbāh wa al-naẓā'ir*
Al-Ḥaṣkafī's introduction to his *al-Durr al-mukhtār*[70]	Al-Ḥaṣkafī's *al-Durr al-mukhtār* in conjunction with either *Radd al-muḥtār* or *Ḥāshiyat al-Ṭaḥṭāwī*
Sirāj al-Dīn Ūshī's *Al-Sirājī fi al-mīrāth*	Mufti Muḥammad Shafīʿ's *Jawāhir al-fiqh**
Al-Ḥaṣkafī's *al-Durr al-mukhtār* in conjunction with either *Radd al-muḥtār* or *Ḥāshiyat al-Ṭaḥṭāwī*	Ẓafar Aḥmad ʿUsmānī's *Imdād al-aḥkām**
Uṣūl al-Karkhī	Taqī ʿUsmānī's *Milkiyat-i zamīn aur us kī taḥdīd**
Ashraf ʿAlI Thānvī's *Imdād al-fatāwā** (first five volumes)	Taqī ʿUsmānī's *Buḥūth fi qaḍāyā fiqhiyya**
Mufti Muḥammad Shafīʿ's *Ālāt-i jadīda aur un kay aḥkām**	Taqī ʿUsmānī's *ʿAdālatī faislay**
Mufti Muḥammad Shafīʿ's *Ru'yat-i hilāl**	Muftī Muḥammad Shafīʿs *Imdād al-muftīn**[72]
Muḥammad Rafīʿ ʿUsmānī's *Ḍābiṭ al-mufṭirāt**	Shabbīr Aḥmad Kākākhel's *Fahm al-falkiyāt** in conjunction with *Āsān falkiyāt**
Ta'rīkh al-tashrīʿ al-islāmī[71]	

Table B4 Continued (pg. 390)

* Texts with an asterisk indicate those that were authored in South Asia.

[69] https://darululoomkarachi.edu.pk/?page_id=5480. Unlike BT's Iftā' curriculum which is broken down into *al-kutub al-dirāsiyya* (required reading) and *kutub al-muṭālaʿa* (personal reading), DUK's curriculum does not distinguish between the two categories. However, looking at the list, it is obvious that not all texts are actually studied in class. So, some must be part of the personal reading category.

[70] DUK website lists this text as *Muqaddamat al-Durr al-mukhtār* in Urdu. However, al-Ḥaṣkafī's introduction is very short and does not adequately address principles of *fatwā*-giving. The standard text in Deobandī Dār al-Iftā's tends to be Ibn ʿĀbidīn's longer introduction to his *Radd al-muḥtār* which is a commentary on al-Ḥaṣkafī's *al-Durr al-mukhtār*. It is highly likely that whoever typed the webpage (probably a non-*ʿālim*) misread *Radd al-muḥtār* as *al-Durr al-mukhtār*. It is very easy to make this mistake in Urdu and Arabic especially when the name of the author is not given.

[71] The name of the author is not given. It is quite possible that this is Khaḍrī Bak's famous text.

[72] This is a collection of *fatwās* given by Muftī Muḥammad Shafīʿ when he was head mufti at Dār al-ʿUlūm Deoband for about 13 years before his migration to Pakistan in 1947.

Munāẓir Aḥsan Gīlānī's *Muqaddama-i Tadwīn-i fiqh** *Tehrīr kaysay sīkhain** Ashraf ʿAlī Thānvī's *Ḥīlā-i nājiza** Mufti Muḥammad Shafīʿ's *Mas'ala-i sūd** Mufti Muḥammad Shafīʿ's *Provident Fund** Mufti Muḥammad Shafīʿ's *Islām kā niẓām-i arāzī** Mufti Muḥammad Shafīʿ's *Bīmā-i zindagī** in conjunction with *jā'iza-i niẓām-i takāful** Mufti Muḥammad Shafīʿ's *Insānī aʿzā ki pewandkārī** Mufti Muḥammad Shafīʿ's *Īmān aur kufr Qur'ān kī roshnī main** Mufti Muḥammad Shafīʿ's *Waḥdat-i ummat**	
English	
Computer Training	
Fatwā-giving Practice	
80 *fatwās*	210 *fatwās*

Third Year
Textbooks & Assigned Readings
Sharīʿa Standards (*al-maʿāyīr al-sharʿiyya)* of Accounting and Auditing Organization for Islamic Financial Institutions (AAOFI)   Constitution of Pakistan   Islamic Laws of 1982[73]   *ʿUlamā*'s decision on 22 points regarding Islamic law in Pakistan
Fatwā-giving Practice (250 *fatwās*)
English writing OR *Tabwīb al-fatāwā*

[73] It is not clear which particular laws this refers to. It could be any number of possible laws promulgated during Ziaul Haq's Islamization of laws.

Table B5: Curriculum of the Specialization in Islamic Law (*Takhaṣṣuṣ fi al-Fiqh wa al-Iftā'*) at al-Jāmiʿa al-Islāmiyya Banūrī Town Karachi[74]

First Year	Second Year
Textbooks	
Zāhid al-Kawtharī's *Fiqh ahl al-ʿIrāq wa ḥadīthihim* Ibn ʿĀbidīn's introduction to his *Radd al-muḥtār* Ibn ʿĀbidīn's *Sharḥ ʿUqūd rasm al-muftī* Ibn Nujaym's *al-Ashbāh wa al-naẓā'ir* (*qawāʿid ʿāmma*)	*Ta'sīs al-naẓar* *Al-Muwāfaqāt* (*juz' al-maqāṣid*)
Assigned Reading	
Muqaddamat Sharḥ al-Wiqāya Ashraf ʿAlī Thānvī's *al-Ḥilā al-nājiza** Wahba al-Zuḥaylī's *al-Fiqh al-islāmī wa adillatuhu* (chapters on *buyūʿ and ijārāt*) Muḥammad Abū Zahra's *Abū Ḥanīfa* Wahba al-Zuhaylī's *Uṣūl al-fiqh al-Islāmī* Qāḍīkhān's *Sharḥ al-Ziyādāt* Al-Ṣāghārjī's *al-Fiqh al-Ḥanafī wa adillatuhu* Mufti Muḥammad Shafīʿ's *Jawāhir al-fiqh** Mullā ʿAlī al-Qārī's *Sharḥ al-Nuqāya* Al-Suyūṭī's *al-Ashbāh* *Uṣūl al-Sarakhsī* Muftī Kifāyat Allāh's *Kifāyat al-muftī**	Ibn ʿĀbidīn's *Radd al-muḥtār* (first and second volumes) ʿAbd al-Qādir al-ʿAwda's *al-Tashrīʿ al-jinā'ī al-islāmī* Ibn Nujaym's a*l-Baḥr al-rā'iq sharḥ Kanz al-daqā'iq* Al-Kāsānī's *Badā'iʿ al-ṣanā'iʿ* (chapters on worships) Ibn Qudāma's *al-Mughnī* (chapters on *buyuʿ*, *ijārāt*, and *muzāraʿa*) Ẓafar Aḥmad ʿUsmānī's *Imdād al-aḥkām**
Practice in *Fatwā*-giving	

* Texts with an asterisk indicate those that were authored in South Asia.

[74] Jāmiʿat al-ʿUlūm al-Islāmiyya, *Taʿāruf Jāmiʿat al-ʿUlūm al-Islāmiyya*, 39-40.

APPENDIX C: Texts Used in *Madrasa* Curricula and Their Authors[75]

I. Religious Sciences

Qur'ān and its Sciences

1. *Fawā'id-i makkiyya**: A primer on *tajwīd* in Urdu by the Indian scholar Qārī ʿAbd al-Raḥmān Makkī (d. c. 1930)
2. *Al-Fawz al-kabīr* (*fī uṣūl al-tafsīr*)*: A short text on the principles of Qur'anic exegesis by Shāh Walī Allāh of Delhi (d. 1762). Although originally written in Persian, now its Arabic translation is used in *madrasas*.
3. *Al-Jalālayn*: A brief commentary on the Qur'ān coauthored by the Mamlūk Shāfiʿi scholars Jalāl al-Dīn al-Maḥallī (d. 1459) and Jalāl al-Dīn al-Suyūṭī (d. 1505)
4. *Jamāl al-Qur'ān**: A primer on *tajwīd* in Urdu by the Deobandī scholar Ashrafʿ Alī Thānvī (d. 1943)
5. *Al-Muqaddama al-jazariyya*: This is the famous didactic poem for teaching *tajwīd* by the medieval Syrian scholar Shams al-Dīn Ibn al-Jazarī (d. 1429)
6. *Tafsīr al-Bayḍāwī* aka *Anwār al-tanzīl wa asrār al-ta'wīl*: A commentary on the Qur'ān by the Shāfiʿi scholar Qāḍī Nāṣir al-Dīn al-Bayḍāwī (d. 1286)
7. *Tafsīr al-Madārik*: This refers to *Madārik al-tanzīl* of the Central Asian scholar Abu al-Barakāt al-Nasafī (d. 1310).
8. *Talkhīṣ al-Itqān:* An abridgement of al-Suyūṭī's famous work on Qur'anic sciences titled *al-Itqān fī ʿulūm al-Qur'ān*

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* Texts with an asterisk indicate those that were authored in South Asia.

[75] Book titles are arranged alphabetically within each science. All books are in Arabic unless otherwise noted. My main sources for the details about the books are Khayrābādī, *Tadhkirat al-muṣannifīn*; Muḥammad Ḥanīf Gangohī, *Ẓafar al-muḥaṣṣilīn bi aḥwāl al-muṣannifīn yaʿnī ḥālāt-i muṣannifīn-i dars-i niẓāmī* (Karachi: Dār al-Ishāʿat, 2000); Robinson, *The ʿUlama of Farangi Mahall*; and PEAD. Where needed and possible, I have also checked the details from other sources.

9. *Al-Tibyān* (*fī ʿulūm al-Qur'ān*): An introductory text on Qur'anic sciences by the Saudi-based Syrian scholar Muḥammad ʿAlī al-Ṣābūnī (b. 1930)
10. *Uṣūl al-tajwīd**: A primer on *tajwīd* by the Deobandī scholar Jamshayd Aḥmad Qāsimī

Prophetic Biography (*sīrat al-nabī*)

1. *Aṣaḥḥ al-siyar**: Probably by Abu al-Barakāt ʿAbd al-Ra'ūf Qādirī Dānāpurī[76]
2. *Qaṣaṣ al-nabiyyīn*: This is a five-volume work dedicated to stories of the Prophets authored by the Indian scholar Abu al-Ḥasan ʿAlī Nadwī (d. 1999)
3. *Sīrat Khātam al-Nabiyyīn**: This is the fifth volume of the previously mentioned *Qaṣaṣ al-nabiyyīn.*
4. *Sīrat-i Khātim al-Anbiyā'**: A biography of the Prophet Muḥammad in Urdu by the Deobandī scholar Muḥammad Shafīʿ (d. 1978)

***Ḥadīth* and its Sciences**

1. *Alfiyyat al-ḥadīth**: A collection of 1,000 *ḥadīths* by the Deobandī scholar Muḥammad Manẓūr Nuʿmānī (d. 1997)
2. *Āthār al-sunan**: A collection of *hadīths* supporting Ḥanafī legal positions, compiled by the Indian scholar Muḥammad b. ʿĀlī Shawq al-Nīmawī (d. c. 1904)
3. *Khayr al-uṣūl* (*fi ḥadīth al-rasūl*)*: A primer in Urdu dealing with basic principles of *ḥadīth* criticism and terminology by the Deobandī scholar Khayr Muḥammad Jālandharī (d. c. 1960s)

[76] The curricula do not provide the name of the author. My guess is that it is the book given here: https://www.rokomari.com/book/116311/asahus-siar.

4. *Jāmiʿ al-Tirmidhī*: One of the *Ṣiḥāḥ Sitta*, compiled by Abū ʿĪsā Muḥammad b. ʿĪsā al-Tirmidhī (d. 892)
5. *Jawāmiʿ al-kalim*: This is a collection of forty *ḥadīths* by Mufti Mūhammad Shafīʿ (d. 1976)
6. *Mishkāt al-āthār*: A collection of *hadīths* by the Deobandī scholar Muḥammad Miyān Anṣārī (d. 1946)
7. *Mishkāt al-maṣābīḥ*: A collection of *hadīths* by the Shāfiʿī scholar Walī al-Dīn al-Khaṭīb al-Tabrīzī (d. 1340/1)
8. *Muqaddamat Ibn al-Ṣalāḥ*: A work on principles of *ḥadīth* criticism and terminology by the Syrian Shāfiʿi scholar Ibn al-Ṣalāḥ al-Shahrazurī (d. 1245)
9. *Muqaddamat al-Shaykh ʿAbd al-Ḥaqq*: A work on principles of *ḥadīth* criticism and terminology by the Indian scholar ʿAbd al-Ḥaqq Muḥaddith Dihlawī (d. 1642)
10. *Musnad al-Imām al-Aʿẓam Abī Ḥanīfa*: A collection of *ḥadīths* narrated by the Iraqi scholar Abū Ḥanifa (d. 767), the eponymous founder of the Ḥanafī School
11. *Muwaṭṭa' Mālik*: A collection of *ḥadīths* by the Madīnan scholar Mālik b. Anas (d. 795), the eponymous founder of the Mālikī School
12. *Muwaṭṭa' Muḥammad*: A recension of Mālik's *Muwaṭṭa'* by Abū Ḥanīfa's student Muḥammad b. al-Ḥasan al-Shaybānī (d. 805)
13. *Nukhbat al-fikar*: A work on principles of *ḥadīth* terminologies and criticism by the Mamluk Shāfiʿi scholar Ibn Ḥajar al-ʿAsqalānī (d. 1449).
14. *Riyāḍ al-ṣāliḥīn*: A collection of *ḥadīths* by the medieval Syrian Shāfiʿi scholar Yaḥyā b. Sharaf al-Nawawī (d. 1277)

15. *Ṣaḥīḥ al-Bukhārī*: One of the *Ṣiḥāḥ Sitta*, compiled by Abū ʿAbd-Allāh Muḥammad b. Ismāʿīl al-Bukhārī (d. 870)
16. *Ṣaḥīḥ Muslim*: One of the *Ṣiḥāḥ Sitta,* compiled by Muslim b. al-Ḥajjāj al-Naysabūrī (d. 875)
17. *Shamā'il al-Tirmidhī*: A collection of *ḥadīths* about the person of the Prophet Muḥammad, compiled by Abū ʿĪsā Muḥammad b. ʿĪsā al-Tirmidhī
18. *Sharḥ Maʿāni al-āthār*: A commentary on a collection of *ḥadīths* dealing with legal matters by the Egyptian Ḥanafī Abū Jaʿfar al-Ṭaḥāwī (d. 933)
19. *Sharḥ Nukhbat al-fikar* aka *Nuzhat al-naẓar*: Ibn Ḥajar's commentary on his own *Nukhbat al-fikar*
20. *Sunan Abī Dāwūd*: One of the *Ṣiḥāḥ Sitta*, compiled by Abū Dāwūd Sulaymān b. Ashʿath al-Sijistānī (d. 889)
21. *Sunan Ibn Mājah*: One of the *Ṣiḥāḥ Sitta*, compiled by Abū ʿAbd-Allāh Ibn Mājah al-Qazwīnī (d. c. 889)
22. *Sunan al-Nasā'ī*: One of the *Ṣiḥāḥ Sitta*, compiled by Abū ʿAbd al-Raḥmān al-Nasā'ī (d. 915)
23. *Al-Taqrīb*: This is al-Nawawī's summary of Ibn al-Ṣalāh's *Muqaddama*, a work on principles of *ḥadīth* terminology and criticism.
24. *Tadrīb al-rāwī*: A commentary on the previously mentioned al-Taqrīb by the medieval Egyptian scholar Jalāl al-Dīn al-Suyūṭī
25. *Zād al-ṭālibīn*: A brief collection of *hadīths* by the Deobandī scholar ʿĀshiq Ilāhī Bulandshahrī (d. 2002), also used for application of Arabic grammar rules

Theology (*ʿaqida wa kalām*)

1. *Ā'ina-i qādiyāniyat*: A refutation of the Aḥmadī/Qādiyānī sect by the Deobandī scholar Allāh Wasāyā (f. late 20th cent.)
2. *Al-ʿAqīda al-ṭaḥāwiyya*: A primer on Islamic creed by the Egyptian Ḥanafī scholar Abū Jaʿfar al-Ṭaḥāwī (d. 933)
3. *Ḥashiyat al-Khayālī ʿala Sharḥ al-ʿAqā'id al-nasafiyya*: Gloss by the Ottoman scholar Shams al-Dīn Aḥmad b. Mūsā al-Khayālī (d. 1458) on al-Taftāzānī's commentary on Abū Ḥafs ʿUmar al-Nasafī's (d. 1142) *al-ʿAqā'id al-nasafiyya*
4. *Ikhtilāf-i ummat aur ṣirāt-i mustaqīm**: An Urdu work of heresiography by the Pakistani Deobandī scholar Muḥammad Yūsuf Ludhyānvī (d. 2000)
5. *Al-Intibāhāt al-mufīda*: A short primer in Urdu on modern objections about Islam by the Deobandī scholar Ashraf ʿAlī Thānvī
6. *Al-Jalālī* OR *Sharḥ-i ʿaqā'id-i jalālī*: A commentary by the Iranian Jalāl al-Dīn al-Dawwānī (d. 1502) on *al-ʿAqā'id al-ʿaḍudiyya* of ʿAḍud al-Dīn al-Ījī (d. 1355)
7. *Mīr Zāhid**: Mīr Muḥammad Zāhid al-Harawī's (d. 1699/1700) commentary on the *Mawāqif* of ʿAḍud al-Dīn al-Ījī
8. *Al-Musāmara*: A commentary by the Mamlūk scholar Kamāl al-Dīn b. al-Amīr ibn Abī Sharīf (d. 1499) on *al-Musāyara* of the Mamlūk scholar Kamāl al-Dīn Ibn al-Humām (d. 1457)
9. *Sharḥ al-ʿAqā'id al-nasafiyya*: A commentary by the Timurid scholar Saʿd al-Dīn al-Taftāzānī (d. 1390) on Abū Ḥafs ʿUmar al-Nasafī's *al-ʿAqā'id al-nasafiyya*
10. *Sharḥ al-Mawāqif*: Mīr Sayyid Sharif Jurjānī's (d. 1413) commentary on al-Ījī's *Mawāqif*

11. *Al-Umur al-āmmā ʿAbd al-ʿAlī**: Gloss by the Farangī Mahallī scholar Baḥr al-ʿUlūm ʿAbd al-ʿAlī (d. c. 1820) on Mīr Zāhid al-Harawī's gloss on the section on *al-umūr al-ʿāmma* from Mīr Sayyid Sharīf al-Jurjānī's commentary on al-Ījī's *Mawāqif*
12. *Al-Umūr al-ʿāmma Mīr Zāhid**: Mīr Zāhid al-Harawī's gloss on the section on *al-umūr al-ʿāmma* from Mīr Sayyid Sharīf al-Jurjānī's commentary on al-Ījī's *Mawāqif*

Philosophy of Islam (*ḥikmat-i sharīʿa*)

1. *ʿAwārif al-maʿārif*[77]: A classic Sufi text by the founder of the Suhrawardī *ṭarīqa* (order), Shihāb al-Dīn al-Suhrawardī (d. c. 1234)
2. *Ḥujjat Allāh al-bāligha**: Shāh Walī Allāh's magnum opus dealing with the wisdom behind Islamic rulings

Morals and Etiquette (*akhlāq* wa *ādāb*)

1. *Taʿlīm al-mutaʿallim*: A brief primer by the Central Asian scholar Burhān al-Dīn al-Zarnūjī (d. 1223) elucidating proper etiquette for a student

Substantive Law (*Fiqh*) - Ḥanafī

2. *Al-Fiqh al-muyassar**: An introductory text authored by the Nadwī scholar Shafīq al-Raḥmān Nadwī
3. *Nūr al-īḍāḥ*(*wa najāt al-arwāḥ*): A beginner's text dealing only with worships (*ʿibādāt*) by the Egyptian scholar Abu al-Ikhlāṣ Ḥasan b. ʿAmmār al-Shurunbulālī (d. 1658)

[77] I have placed this text in this category because the official curriculum of Dār al-ʿUlūm Deoband for 1965 lists this Sufi text under this category of *ḥikmat-i sharīʿa*. See Ṭayyib, *Tārīkh-i Dār al-ʿUlūm Deoband*, 37.

4. *Mukhtaṣar al-Qudūrī*: A compendium according to the Ḥanafī School dealing with all branches of the law by the Iraqi scholar Abu al-Ḥusayn Aḥmad al-Qudūrī (d. 1037)
5. *Munyat al-muṣallī* (*wa ghunyat al-mubtadī*): A short primer by the East Turkistānī scholar Sadīd al-Dīn al-Kāshgharī (d. 1305)
6. *Kanz al-daqā'iq*: A concise comprehensive text by the Central Asian scholar Abu al-Barakāt ʿAbd-Allāh al-Nasafī (d. 1310)
7. *Sharḥ al-Wiqāya*: A commentary by the Central Asian scholar Ṣadr al-Sharīʿa ʿUbayd Allāh b. Masʿūd al-Maḥbūbī (d. 1346/7) on a *fiqh* primer titled *al-Wiqāya* written by his grandfather Tāj al-Sharīʿa Maḥmūd (d. unknown)
8. *Al-Hidāya*: A major text of Hanafī law by the Central Asian scholar Burhān al-Dīn al-Marghīnānī (d. 1196), written as a commentary on his own *Bidāyat al-mubtadī*
9. *Al-Sirājī*: A work on Ḥanafi inheritance law by the Central Asian scholar Sirāj al-Dīn al-Sajāwandī al-Ūshī (f. 7th Islamic century)

Islamic Legal Theory (*uṣūl wa qawāʿid fiqhiyya wa uṣūl al-iftā*)

1. *Āsān uṣūl al-fiqh*: Author unknown; most likely the Deobandī scholar Saʿid Aḥmad Pālanpūrī (d. 2020)
2. *Muntakhab al-Ḥusāmī*: A text on Ḥanafī legal theory by the Central Asian scholar Ḥusām al-Dīn al-Ikhsīkathī (d. 1246)
3. *Musallam al-thubūt**: An advanced work on legal theory by the Indian scholar Muḥibb Allāh Bihāri (d. 1707)
4. *Nūr al-anwār**: A commentary by the Indian scholar Mullā Aḥmad Jīwan (d. 1718) on Abu al-Barakāt ʿAbd-Allāh al-Nasafi's *al-Manār*

5. *Sharḥ ʿUqūd rasm al-muftī*: A commentary by the Syrian Ḥanafī scholar Muḥammad Amīn Ibn ʿĀbidīn (d. 1836) on his own *fatwā*-giving manual *ʿUqūd rasm al-muftī*
6. *Al-Tawḍīh wa al-Talwīḥ*: Contains three works: the original text, *al-Tanqīḥ* by Ṣadr al-Sharīʿa ʿUbayd Allāh al-Maḥbūbī, his own commentary on it titled *al-Tawḍīḥ*, and a gloss on this commentary by al-Taftāzānī titled *al-Talwīḥ*
7. *Tashīl al-uṣūl*: Author unknown.
8. *Uṣūl al-Shāshī*: An introductory text to Ḥanafī legal theory by an obscure author, possibly the Central Asian Niẓām al-Dīn al-Shāshī (fl. 5th Islamic century)

II. Arabic Language & Allied Sciences

Morphology (*ṣarf*)

1. *ʿArabī kā qāʿida** aka *ʿArabī kā āsān qāʿida*: A short primer of Arabic grammar in Urdu by the Indian scholar Mushtāq Aḥmad Charthāwalī (d. 1952).
2. *Dustūr al-mubtadī**: A primer in Persian written by the Indian scholar Ṣafī Radolvī (d. 1416).
3. *Fuṣūl-i akbarī**: A primer in Persian by the Indian scholar Qāḍī ʿAlī Akbar Ilāhābādī (d. 1679).
4. *ʿIlm al-ṣarf**: A primer in Urdu by the Indian scholar Mushtāq Aḥmad Charthāwalī.
5. *ʿIlm al-ṣīgha**: Originally written in Persian by the Indian scholar ʿInāyat Aḥmad Kākorvī (d. 1862). Its Arabic translation is now increasingly being used instead of the Persian original.
6. *Marāḥ al-arwāḥ*: By Aḥmad b. ʿAlī (d. unknown).

7. *Mīzān al-ṣarf**: A primer in Persian by the Indian scholar Sirāj al-Dīn Awadhī (d. 1356)
8. *Munshaʿib**: A primer in Persian by the Indian scholar Ḥamza Badāyūnī (d. unknown).
9. *Panj ganj**: A primer in Persian written by the Indian scholar Ṣafī Radolvī.
10. *Ṣafwat al-maṣādir**: By the Indian scholar Mushtāq Aḥmad Charthāwalī.
11. *Ṣarf Mīr*: A primer in Persian by the Timurid scholar Mīr Sayyid Sharīf al-Jurjānī.
12. *Al-Shāfiya*: An advanced text of morphology by the Egyptian scholar Jamāl al-Dīn Ibn Ḥājib (d. 1248)
13. *Taysīr al-abwāb*: A primer in Urdu by the Deobandī scholar Khayr Muḥammad Jālandharī.
14. *Zarrādī*: Author unknown.
15. *Zarīrī*: Author unknown.
16. *Zubda*: This could possibly refer to *Zubdat al-ṣarf* or *Zubda juāna mū'ī* or *Zubda-i tashḥīdh*. All three are in Persian and are often published together with *Panj ganj* as part of a collection of primers on morphology titled *Majmūʿa-i Panj ganj*. PEAD gives the name of its author as Ẓahīr b. Maḥmūd b. Masʿūd ʿAlwī. Other sources give the first name as Ẓuhayr.[78]

Syntax (*naḥw*)

1. *Hidāyat al-naḥw*: An intermediate level text by the Indian scholar Sirāj al-Dīn Awadhī.
2. *Al-Kāfiya*: A concise text by the Egyptian scholar Jamāl al-Dīn Ibn Ḥājib
3. *Al-Minhāj fi al-qawāʿid wa al-iʿrāb*: By the Syrian scholar Muḥammad al-Anṭākī al-Ḥalabī (d. unknown).
4. *Al-Miṣbāḥ*: By Abu al-Fatḥ Nāṣir al-Dīn al-Muṭarrizī al-Khawārazmī (d. 1213).

[78] Jamal Malik, *Islamische Gelehrtenkultur in Nordindien: Entwicklungsgeschichte und Tendenzen am Beispiel von Lucknow* (Leiden: Brill, 1997), 523.

5. *Naḥw Mīr*: A primer in Persian by the Timurid scholar Mīr Sayyid Sharīf al-Jurjānī.
6. *Al-Naḥw al-wāḍiḥ*: A modern Egyptian textbook of Arabic grammar by ʿAlī al-Jārim and Muṣṭafā Amīn.
7. *Al-Naḥw al-yasīr*: Arabic version of *Naḥw Mir*
8. *Sharḥ Ibn ʿAqīl*: A commentary on the *Alfiyya* of Ibn Mālik (d. 1274) by Qāḍī Bahā' al-Dīn Ibn ʿAqīl (d. 1367)
9. *Sharḥ Mi'at ʿāmil*: A commentary by Ḥusayn al-Nawqānī (d. 1520) on *al-ʿAwāmil al-mi'a* of ʿAbd al-Qāhir al-Jurjānī (d. 1078)
10. *Sharḥ Mullā Jāmī* aka *al-Fawā'id al-ḍiyā'iyya*: A commentary by ʿAbd al-Raḥmān Jāmī (d. 1492) on the *Kāfiya* of Ibn Ḥājib.
11. *Sharḥ Shudhūr al-dhahab* (*fī maʿrifat kalām al-ʿArab*): A commentary by the famous Egyptian grammarian Ibn Hishām al-Anṣārī (d. 1360) on his own *Shudhūr al-dhahab fī maʿrifat kalām al-ʿArab.*
12. *Tashīl al-naḥw*: This either refers to the short explanatory text on al-Jurjānī's *Naḥw Mīr* by the Deobandī scholar ʿAbd-Allāh Gangohī (d. 1921) or the much larger Urdu work by another Deobandī scholar Ṣiddīq Aḥmad Bāndvī (d. 1997)
13. *Tashīl al-adab**: An introductory text on Arabic grammar in Urdu by the Deobandī scholar Salīm Allāh Khān (d. 2017)

Rhetoric (*balāgha*)

1. *ʿArūḍ al-miftāḥ*: Details and author unknown
2. *Al-Balāgha al-wāḍiḥa*: A modern Egyptian text on the same pattern as *al-Naḥw al-wāḍiḥ* by ʿAlī al-Jārim and Muṣṭafā Amīn

3. *Durūs al-balāgha*: A modern concise text by Ḥafnī Nāṣif, Muḥammad Diyāb, Sulṭān Muḥammad, and Muṣṭafā Ṭayyūm
4. *Mukhtaṣar al-maʿānī*: A commentary by the Timurid scholar Saʿd al-Dīn al-Taftāzānī on *Talkhīṣ al-Miftāḥ* of Jalāl al-Dīn al-Qazwīnī (d. 1338)
5. *Al-Muṭawwal*: Al-Taftāzānī's larger commentary on *Talkhīṣ al-Miftāḥ*
6. *Talkhīṣ al-miftāḥ*: Jalāl al-Dīn al-Qazwīnī's abridgment of the *Miftāḥ al-ʿulūm* of Abū Yaʿqūb Yūsuf al-Sakkākī (d. 1229)

Arabic Literature (*adab ʿarabī*)

1. *Kalīla wa dimna*: Arabic rendition of an anthology of Indian fables by the Persian litterateur Ibn al-Muqaffaʿ (d. 759)
2. *Al-Maqāmāt al-ḥarīriyya*: A collection of 40 *maqāmāt* (assemblies) by the Iraqi litterateur al-Qāsim al-Ḥarīrī (d. 1122)
3. *Maqāmāt hindiyya*: Details and author unknown
4. *Mufīd al-ṭālibīn*: An introductory text by the Deobandī scholar Muḥammad Aḥsan Nānautvī (d. 1894)
5. *Nafḥat al-adab*: Details and author unknown, most likely by a Deobandī scholar
6. *Nafḥat al-ʿArab*: An intermediate-level text by the Deobandī scholar Muḥammad Iʿzāz ʿAlī (d. 1954)
7. *Nafḥat al-Yaman (fīmā yazūlu bi dhikrihi al-shajan*)*: An intermediate-level text authored in India by the Yemeni scholar Aḥmad b. Muḥammad al-Anṣārī al-Shirwānī (d. 1837)
8. *Al-Nathr al-jadīd*: Refers to the study of modern Arabic prose. Details of text(s) studied not available.

9. *Rawḍat al-adab*: An introductory text by Mushtāq Aḥmad Charthāwalī
10. *Risālat sīrat Mawlānā ʿImād al-Dīn*: Details and author unknown
11. *Tā'rīkh-i yamīnī*: Possibly a work by the Ghaznavid historian Muḥammad b. ʿAbd al-Jabbār al-ʿUtbī (d. 1035/6)

Poetry & Prosody (*shiʿr, ʿarūḍ wa qawāfī*)

1. *Dīwān al-ḥamāsa*: An anthology of early Arabic poetry on the theme of *ḥamāsa* (chivalry), compiled by the Abbasid poet Abū Tammām Ḥabīb b. Aws al-Ṭā'ī (d. 845).
2. *Dīwān al-Mutanabbī*: A collection of the poetry of the Abbasid poet Abu al-Ṭayyib Aḥmad al-Kindī aka al-Mutanabbī (d. 965).
3. *Matn al-kāfī* (*fi ʿilmay al-ʿarūḍ wa al-qawāfī*): A short primer on prosody by the Egyptian scholar Shihāb al-Dīn Aḥmad al-Qinā'ī (d. 1454).
4. *Nuqṭat al-dā'ira*: A short treatise on prosody by the Lebanese litterateur Nāṣīf al-Yāzijī (d. 1871) published as part of his larger work *Majmūʿ al-adab fi funūn al-ʿArab*.
5. *Al-Sabʿ al-muʿallaqāt*: A pre-Islamic anthology of poetry.

Texts for General Arabic Training

1. *ʿArabī kā muʿallim**: A four-part detailed textbook for teaching Arabic by the 20th century Indian scholar ʿAbd al-Sattār Khān
2. *Miftāḥ al-ʿarabiyya**: An introductory textbook for teaching Arabic by the Deobandī scholar Nūr ʿĀlam Khalīl Amīnī
3. *Muʿallim al-inshā'**: A three-part detailed textbook for teaching Arabic composition by the Indian scholar ʿAbd al-Mājid Nadwī

4. *Al-Qirā'a al-rāshida**: A three-part textbook for Arabic reading practice by the Indian scholar Abu al-Ḥasan ʿAlī Nadwī (d. 1999)
5. *Al-Qirā'a al-wāḍiḥa**: A three-part textbook for Arabic reading practice by the Deobandī scholar Waḥīd al-Zamān Kīrānvī (d. 1995)
6. *Al-Ṭarīqa al-ʿaṣariyya**: An introductory textbook for teaching Arabic by the Deobandī scholar ʿAbd al-Razzāq Sikandar, currently head of the Banūrī Town *madrasa* in Karachi

III. Other Ancillary Sciences

Logic (*manṭiq*)

1. *ʿAbd al-ʿAlī**: A gloss on *Mīr Zāhid risāla* by the Farangī Maḥallī scholar Baḥr al-ʿUlūm ʿAbd al-ʿAlī al-Laknawī (d. 1810)
2. *Āsān manṭiq**: An introductory text in Urdu by the Deobandī scholar Saʿīd Aḥmad Pālanpūrī
3. *Ghulām Yaḥyā**: A gloss by the Indian scholar Ghulām Yaḥyā b. Najm al-Dīn (d. 1766) on a text by Mīr Zāhid al-Harawī
4. *Ḥamd Allāh**: A commentary by the Indian scholar Ḥamd Allāh Sandaylvi (d. 1747) on Bihārī's *Sullam al-ʿulūm*
5. *Īsāghūjī*: A primer by Athīr al-Dīn al-Abharī (d. 1265)
6. *Kubrā*: A primer in Persian by Mīr Sayyid Sharif al-Jurjānī
7. *Al-Mirqāt**: An introductory primer by the Indian scholar Fazl-i Imām Khayrābādī (d. 1827)
8. *Mīr Quṭbī*: A gloss by Mīr Sayyid Sharīf al-Jurjānī on Quṭb al-Dīn al-Rāzī's commentary on *al-Risāla al-shamsiyya*

9. *Mīr Zāhid**: By Mīr Zāhid al-Harawī
10. *Mīr Zāhid Mullā Jalāl**: A gloss by Mīr Zāhid al-Harawī on al-Dawwānī's commentary *Mullā Jalāl* on al-Taftāzānī's *Tahdhīb al-manṭiq*
11. *Mīr Zāhid jalālya**: Possibly the same as *Mīr Zāhid Mullā Jalāl*
12. *Mīr Zāhid risāla**: A commentary by Mīr Zāhid al-Harawī on a section of Quṭb al-Dīn al-Rāzī's commentary on *al-Risāla al-shamsiyya* dealing with *taṣawwur* (apprehension) and *taṣdīq* (judgment)
13. *Mīzān al-manṭiq**: An introductory primer by the Indian scholar Qāḍī ʿAbd al-Muqtadir Shurayḥī (d. 1388)
14. *Mullā Ḥasan**: A commentary by the Indian scholar Mullā Muḥammad Ḥasan (d. 1697) on Bihārī's *Sullam al-ʿulūm*
15. *Mullā Jalāl*: A commentary by Jalāl al-Din al-Dawwānī (d. 1502) on al-Taftāzānī's *Tahdhīb al-manṭiq*
16. *Qāḍī Mubārak**: A detailed commentary by the Indian scholar Qāḍī Mubārak (d. 1748) on Bihārī's *Sullam al-ʿulūm*
17. *Qāla aqūlu*: A commentary by Ḥusām al-Dīn al-Sakānī (d. unknown) on al-Abharī's *Īsāghūjī*
18. *Al-Quṭbī*: A commentary by Quṭb al-Dīn al-Rāzī (d. 1364) on *al-Risāla al-shamsiyya* of Najm al-Dīn ʿAlī al-Qazwīnī al-Kātibī (d. 1276)
19. *Al-Risāla al-Shamsiyya*: A primer by Najm al-Dīn ʿAlī al-Qazwīnī al-Kātibī
20. *Sharḥ al-Tahdhīb*: A commentary by ʿAbd-Allāḥ Ḥusayn Yazdī (d. 1606) on al-Taftāzānī's *Tahdhīb al-manṭiq*
21. *Ṣughrā*: A primer in Persian by Mīr Sayyid Sharif al-Jurjānī

22. *Sullam al-ʿulūm**: By the Indian scholar Muḥibb Allāh Bihārī
23. *Tahdhīb al-manṭiq*: A primer by Saʿd al-Dīn al-Taftāzānī
24. *Taṣawwurāt Mullā Mubīn ʿala Sharḥ al-Sullam*: I was unable to locate any information on the author. However, as the title suggests, this refers to a gloss on the commentary of *Sullam al-ʿulūm*.
25. *Taysīr al-manṭiq**: An introductory text in Urdu by the Deobandī scholar ʿAbd-Allāh Gangohī

Philosophy (*falsafa*)

1. *Al-Hadiyya al-saʿīdiyya**: A primer by the Indian scholar Fazl-i Ḥaqq Khayrābādī (d. 1861)
2. *Mabādi' al-falsafa**: An introductory text by the Deobandī scholar Saʿīd Aḥmad Pālanpūrī
3. *Al-Maybudhī:*A commentary by Qāḍī Mīr Ḥusayn b. Muʿīn al-Dīn al-Maybudhī/al-Maybudī (d. 1514) on al-Abharī's *Hidāyat al-ḥikma*
4. *Muʿīn al-falsafa**: An introductory text in Urdu by the Deobandī scholar Saʿīd Aḥmad Pālanpūrī
5. *Ṣadrā*: A commentary by Mullā Ṣadr al-Dīn Muḥammad b. Ibrāhīm al-Shīrāzī (d. 1640) on al-Abharī's *Hidāyat al-ḥikma*
6. *Al-Shams al-bāzigha**: By the Indian scholar Mullā Maḥmūd Jawnpūrī (d. 1651)

Dialectics

1. *Al-Rashīdiyya*: By ʿAbd al-Rashīd b. Muṣṭafā (d. 1055), further details unknown

Mathematics & Astronomy (*riyāḍī wa hay'a*)

2. *Bast bāb* aka *Bīst bāb asṭurlāb*: A commentary by ʿAbd al-ʿAlī Birjandī (d. 1528) on a treatise dealing with astrolabe by Naṣīr al-Dīn al-Ṭūsī (d. 1274)
3. *Fahm al-falkiyāt**: A modern text in Urdu on astronomy by the Pakistani scholar Sayyid Shabbīr Aḥmad Kākākhel
4. *Al-Jabr wa al-muqābala*: It is not clear if this is the name of a text or just refers to the subject of algebra.
5. *Khulāṣat al-ḥisāb*: A work on arithmetic by Bahā' al-Dīn ʿĀmilī (d. 1621)
6. *Maṣāḥat*: It is not clear if this is the name of a text or just refers to the subject of land surveying.
7. *Risāla-i Qūshjī*: A treatise on astronomy by the Ottoman scholar ʿAlā' al-Dīnʿ Alī Qūshjī/Qūshchī (d. 1474)
8. *Sabʿ shidād*: A treatise on mathematics by the Ottoman scholar Mawlā Luṭfī (d. 1494)
9. *Sharḥ Chaghmīnī*: A commentary by the Ottoman scholar Qāḍīzāda Rūmī (d. 1493) on the astronomical treatise *al-Mulakhkhaṣṣ fī ʿilm al-hay'a* of Maḥmūd Chaghmīnī (d. 1221)
10. *Tashrīḥ al-aflāk*: A work on astronomy by Bahā' al-Dīn ʿĀmilī
11. *Al-Taṣrīḥ**: A commentary by Imām al-Dīn Lāhorī (d. 1732) on ʿĀmilī's *Tashrīḥ al-aflāk*
12. *Al-Uqlīdas* aka *Taḥrīr ʿilm uṣūl al-handasa li Uqlīdas*: Arabic rendition of Euclid's *Elements* by Naṣīr al-Dīn al-Ṭūṣī

Medicine (*ṭibb*)

1. *Ḥumyat-i qānūn*: The section on the various types of fevers (*ḥummiyyāt*) from Ibn Sīnā (d. 1037) *al-Qānūn*

2. *Mūjaz al-Qānūn* aka *al-Mūjaz*: A concise work on medicine by ʿAlā' al-Dīn Ibn al-Nafīs (d. 1288)
3. *Nafīsī*: A commentary by Nafīs b. ʿIwaḍ (fl. 15th century) on the above-mentioned *Mūjaz al-Qānūn* of Ibn al-Nafīs
4. *Qānūncha*: A shorter work by Maḥmūd Chaghmīnī based on Ibn Sīnā's *al-Qānūn*
5. *Sharḥ Asbāb*: A commentary by Nafīs b. ʿAwiḍ on *al-Asbāb wa al-ʿalāmāt* of Najīb al-Dīn Muḥammad b. ʿAlī al-Samarqandī (d. 1222)

Islamic History (*tā'rīkh-i islāmī*)

1. *Durūs al-ta'rīkh al-islāmī*: A 5-volume survey of Islamic history for beginners by the Lebanese scholar Muḥy al-Dīn al-Khayyāṭ (d. 1914)
2. *Ta'rīkh al-Madhāhib al-islāmiyya*: A two-volume text on the history of Islamic thought by the Egyptian scholar Muḥammad Abū Zahra (d. 1974). Its Urdu translation was assigned for personal reading.
3. *Tarīkh-i Islām**: A 3-volume survey of Islamic history in Urdu by the Indian scholar Akbar Shāh Najībābādī
4. *Tarīkh-i millat**: A 3-volume survey of Islamic history in Urdu by two Indian scholars, Zayn al-ʿĀbidīn Sajjād Mīrathī and Intiẓām Allāh Shihābī Akbarābādī