

Ghaly, Mohammad, "Writings on Disability in Islam: The 16<sup>th</sup>-Century Polemic on Ibn Fahd's *al-Nukat al-Zirâf*", *Arab Studies Journal*, George Washington University, Fall 2005/Spring 2006, vol. XIII no. 2/vol. XIV no. 1, pp. 9-38.

**Writings on Disability in Islam: The 16<sup>th</sup>-Century Polemic on Ibn Fahd's *al-Nukat al-Zirâf*<sup>1</sup>**

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Al-Haytham b. 'Adiyy (d. 821) is the first known writer on the topic of people with disabilities.<sup>2</sup> About seven centuries after his death, an interim period during which produced a vast field of literature on this topic was produced, a book written in 1541 on people with disabilities triggered a vigorous debate that continued until 1543. This article unfolds and contextualizes one of the hitherto unstudied works on disability in Islamic literature, and focuses on the two-year debate between the author of the book (Ibn Fahd) and a well-known contemporaneous jurist (Ibn Hajar al-Haytami). The debate went beyond these two figures to include damaging a book and the issuing of different fatwas from different Islamic cities supporting the author.

In a bid for a better reading of this debate, the direct and the broad contexts have been fathomed. As part of the direct context, I provide a detailed analysis of all dimensions of this debate, in addition to the roles of other parties and factors

involved therein. The broader context of writings on disability in Islamic literature, both before and after Ibn Fahd's book, has also been delineated. I hope to make a case that disability was not, contrary to conventional scholarly belief, an understudied topic for Muslim scholars. What is needed now is exerting more efforts to explore this legacy and present it to the academic field.

### **A broad context and the literature**

A brief note on the literature leading up this debate is due in order to contextualize the events. The literature can be traced at three main levels: namely, linguistic, religious and literary.

The first level is represented by a number of linguistic compilations whose main focus is in describing the human body and its physical defects, including what we now call disabilities and which can afflict each part of this body.<sup>3</sup>

The second level was part of a larger genre that was more interested in comforting people afflicted with misfortunes and calamities, helping them overcome their sadness and the calamity. Such literature was more religious than literary in the sense that it was based on Qur'anic verses, Prophetic traditions and preachy statements and narratives rather than humorist anecdotes.<sup>4</sup> A limited number of such sources were dedicated for people with disability, in particular such as *Tasliyat al-Darir* (Consoling the Blind) <sup>5</sup> by Jar Allah al-Zamakhshari (d. 1144).<sup>6</sup> The dispersed references to people with disabilities in juristic (*fiqhi*) sources can be also appended to this level. This took usually the form of mentioning the juristic rulings or concessions devoted to persons suffering specific disabilities. These references remained discrete

without dedicating a book or even a chapter to such rulings. The first known jurist to break this rule was Abu Hamid al-Ghazali (d.1111), who wrote a small chapter on the rulings pertaining to people afflicted with blindness.<sup>7</sup>

The third and the most controversial level is composed of almost purely literary sources. The largest part of available literature on people with disability was a part of a vast literary genre composed mainly for the sake of entertaining the reader. This was made by retelling pleasing stories and anecdotes (*nawadir*) containing wit, humor, jocularities and repartée.<sup>8</sup> In the midst of these stories, a chapter was always dedicated to people with physical abnormalities (*Dhawi al-'Ahat*).<sup>9</sup> Other books adopted the same approach but they focused on people with mental disabilities.<sup>10</sup> Two main points were raised about this type of literature. The first regarded the legal ruling of humor and jocularities in principle.<sup>11</sup> The second concerned the legal ruling about using people's physical or mental defects as a source of entertainment and even occasionally sarcasm. These points were quite controversial and a lot of justification on the issue evolved in order to avoid legal or religious embarrassment in this respect.<sup>12</sup> Concerning the second point, Al-Jahiz (d. 868-9)<sup>13</sup> one of the pioneers in this field, criticized the mentioning of names or the retelling of stories of people with disabilities for the sole purpose of entertainment.<sup>14</sup> He added that such literature should rather have beneficial goals, such as demonstrating the spirit of challenge inherent to those people and elaborating the lessons and admonitions to be learnt from their experiences with afflictions.<sup>15</sup>

Strikingly, the two men whose writings both inaugurated and concluded the aforementioned seven-century period were the ones most heavily affected by controversies launched on this type of literature. The first was al-Haytham b. ‘Adiyy. Among his compilations is *Kitab al-Haytham b. ‘Adiyy* where he recorded a number of luminaries categorized on the basis of the disability they were afflicted with. The available version now of this compilation is the booklet always appended to the printed book of al-Jahiz on the same topic.<sup>16</sup> Al-Jahiz was aware of this book and he criticized Ibn al-Haytham’s approach.<sup>17</sup>

As described by his biographers, Al-Haytham was expert in people’s flaws (*mathalib*) and exploits (*manaqib*).<sup>18</sup> It seems that al-Jahiz was not the first to criticize al-Haytham b. ‘Adiyy. The man was also was accused by his contemporaries of having malicious intentions by tracing and revealing people’s defects and drawbacks. However, according to some historians, this accusation was groundless and was falsely leveled against him due to others’ personal grudges. At any rate, however, the accusation was effective in the sense that it made people hate him and impugned his lineage as well. Al-Haytham was also imprisoned by Caliph Harun al-Rashid (d. 809) for a number of years because he attributed a defect to the Companion al-‘Abbas b. ‘Abd al-Muttalib. But the succeeding Caliph al-Amin (d. 813) freed him upon his succession.<sup>19</sup> Unfortunately, there is no available information to give us more details in this regard. For instance, did his book on disability play a role in inciting hatred against him or to his being imprisoned? How did he try to defend himself and his opinions?

This is not the case with the second writer, Jar Allah b. Fahd. I came across the title of his book while trying to fathom the fatwa literature regarding issues germane to the topic of disability. A fatwa issued by the Shafi'i scholar Ibn Hajar al-Haytami showed the questioner asking about a book entitled *Al-Nukat al-Ziraf fi man Ibtuliya bi al-'Ahat min al-Asbraf* (Cute Anecdotes on Luminaries Afflicted with Disabilities). Ibn Hajar issued a fatwa that the book had to be damaged.

Being unable to neither identify the author nor trace the book in available manuscript catalogues, I decided to retrace threads remaining in the fatwa's text and in available biographical information of the mufti. I came across a book studying the historians of Mecca, which referred to the aforementioned book as one of the compilations of Ibn Fahd al-Makki.<sup>20</sup> After collecting all available threads, I could construct an interesting multi-dimensional polemic which is unfolded for the first time in this study.

### **A Controversial Book**

The story of this book started in 1541 when Ibn Fahd wrote the first version of *Al-Nukat al-Ziraf*. This work triggered a series of harsh reactions, primarily led by a group of bald people whom Ibn Fahd mentioned in his book. Ibn Fahd and his relatives became the object of malicious attacks targeting his honor and attributing different faults and diseases to him. Ibn Fahd declared himself and his relatives innocent of any such defects and diseases.<sup>21</sup>

The attack campaign culminated when Ibn Hajar issued his fatwa declaring that this book fell under the category of the forbidden *ghiba* (backbiting). "The author

has to repent for what he did by having his book damaged. If he insisted not to do so, then those in charge among scholars and rulers are to reproach him for what he did with what they see fit until he repents. They are to erase these offensive pieces included in this book and even to tear it apart.”<sup>22</sup> Ibn Hajar was aware that an objection was expected concerning using such disciplinary punishment against a prestigious scholar like Ibn Fahd. Islamic sources and Muslim scholars state that the lapses of prestigious scholars are to be forgiven. Ibn Hajar responded to this objection by saying, “This is true in the case of minor sins only. However, the aforementioned book encompasses a grave sin, nay, grave sins for which I ask God to grant me and the author repentance out of His favor and generosity. Amen!”<sup>23</sup>

The aforementioned bald people took the initiative and damaged the book by washing its text.<sup>24</sup> This happened towards the end of 1541, less than one month after the book was written.<sup>25</sup> In response, Ibn Fahd decided to remove this group in the new version of the *Nukat* out of inattention and disinterest.<sup>26</sup> Ibn Fahd reminded his adversaries of Judgement Day when they would stand together in front of God and the oppressed would regain his right from the oppressor.<sup>27</sup>

The incident also had a social impact. About twenty days later, a great flood swept Mecca and overflowed the Holy Mosque and the copies of Qur’an (*masahif*) therein. Ibn Fahd deemed this flood a clear admonition. His view was shared by a poet who composed a poem on this occasion expressing his sympathy with Ibn Fahd.<sup>28</sup>

The year 1542 was something of a defensive year for Ibn Fahd – defending his book. One of the main measures he took was sending letters to the credible Muslim scholars in Egypt and Syria asking their legal opinion on composing a book for just such a purpose. Five of these scholars answered in the affirmative. Ibn Fahd’s book refuted the arguments of those who had criticized his *Nukat*, entitled *Al-Nusra wa al-Is‘af fi al-Radd ‘ala al-Muntaqidin li Mu‘allafi al-Nukat al-Ziraf* (Advocacy and Succor against the Critics of the Book the Cute Anecdotes).<sup>29</sup>

After getting the support he was looking for, Ibn Fahd embarked upon a new and enlarged version of the *Nukat*, almost double the size of the original.<sup>30</sup> This version was finished towards the end of 1543 and it included the whole story, so to speak. The book is divided into an introduction, two chapters, and a conclusion. The introduction starts by elaborating on the occasion of writing the book, a word about the author’s predecessors and their writings in this field as well as an overall description of the book. The main body of this introduction is dedicated to the Prophetic traditions, anecdotes and poetical verses pertaining to people with disabilities. The author started with those traditions that appeared to convey negative attitudes towards people with disabilities. After analyzing such reports and negating their negative implications, the author presented the traditions that extol people with disabilities and all those who suffer from them. The story of Job was presented in detail as an exemplary model for those who show patience and thus eventually gain great rewards. The introduction was supplemented with about five folios dedicated to defending his work against those who attacked it claiming that it falls under the

category of the forbidden *ghîba* (backbiting). The author presented a detailed refutation for this claim, basing his arguments on a book written by the well-known mystic al-Harith al-Muhasibi (d. 857)<sup>31</sup> entitled *al-Ghiba*. He also mentioned the question he sent to the scholars of al-Azhar in Cairo and recorded verbatim the fatwas issued by the Muftis of the four Sunni schools of law stating that there is no harm in writing such a book. He also referred to the letter he received from the Damascene scholar Ahmad b. Tulûn (1475-1546).<sup>32</sup>

His first chapter reviews in detail those with disabilities in general and the well known figures among them. He started with a long quotation from *Mufîd al-'Ulum wa Mubîd al-Humum* (Provider of Sciences and Eliminator of Worries) by Abu Bakr al-Khawarizmi (d. 1012), which counted the Prophets and other noble figures known for being afflicted with blindness and loss of one-eye. Ibn Fahd continued by presenting discussions of Muslim scholars on the possibility that a prophet can be blind. This was succeeded by retelling the stories of those well known figures afflicted with these two disabilities, in particular the author's contemporaries. Ibn Fahd retold also the stories reporting the Prophet healing those afflicted with different disabilities and those who got afflicted with disabilities because of disobeying or lying to the Prophet.

The second chapter is dedicated to discussing other sorts of *'âbât* (disabilities) especially one-eyedness, squintiness, baldness, lameness, and leprosy. The author mentioned those afflicted with these misfortunes as quoted from al-Khawarizmi's book, with a focus on the author's contemporaries. The author paid special concern



for baldness, emphasizing that earlier scholars did not recognize it a shame. Thus, he added, these bald people could not reasonable get irritated because he mentioned them in the first version of the *Nukat*. He concluded this chapter by mentioning supplications reported to protect from certain afflictions.

The conclusion focused on the rewards and blessings accorded to those afflicted with calamities. The author based his work here on Qur'anic verses, Prophetic traditions, scholars' statements, anecdotes and poetical verses, all of which promote the beneficial aspects of suffering and adversity.

The contents of this book show that Ibn Fahd attempted to represent a balanced mixture of the abovementioned religious and literary levels. Besides retelling the entertaining anecdotes of people with disabilities, there are also the admonitory statements and narratives with the aim of consoling afflicted people. This explains the statement he made when defending his position that his book was meant for *al-tasliya* (entertainment) and *al-maw'iz̤a* (admonition).<sup>33</sup> Keeping in mind that the available version is an enlarged one, we cannot be sure if this balance was also extant in the original, smaller, version. The possibility that material pertaining to the second (religious) level was added in the new version as a result of the controversy and as a means of defending the legal validity of the book cannot be ignored.

### **Main Contributors**

As mentioned above, the first main figure participating in this polemic was Ibn Fahd, whose full name is Jar Allah Muhammad Taqiyy al-Din b. al-'Izz b. al-Najm b. 'Umar

b. Taqiyy al-Din, Muhammad b. Fahd al-Makki al-Hashimi al-Shafi'i. He was born in July 1486 and died in the same month in 1547.

Ibn Fahd descended from an elite Meccan family known for their scholarly prestige for three centuries. He himself represented the fourth generation in an unbroken chain of traditionists (*muhaddithun*). The family is also known for its general refraining from assuming political or religious positions.<sup>34</sup> They had their own *waqf* in Mecca. Ibn Fahd could make use of this *waqf* after a dispute with his brother and recorded the whole story in one of his books.<sup>35</sup>

Ibn Fahd memorized the Qur'an and learned *hadith* from his father. He accompanied him on his knowledge-seeking trips throughout the Arabian peninsula. Ibn Fahd's first trip outside the peninsula was in 1507 when he traveled to Cairo to learn *hadith*. His trips to Cairo were repeated whenever he traveled to Syria or to Ottoman cities such as Istanbul or Bursa.<sup>36</sup> Ibn Fahd was better known as an historian and traditionalist rather than a jurist. However, his biography shows that he studied jurisprudence with more than one shaykh. For instance, he studied *al-Minhaj*<sup>37</sup> with his father and later on with other two shaykhs, namely Shaykh 'Abdullah Bakathir with whom Ibn Fahd studied *fiqh* in general and Shaykh Shihab al-Din al-Yusri.<sup>38</sup>

Ibn Fahd wrote forty-nine books, mainly historical in nature besides some others on ethics and *hadith*.<sup>39</sup> Four of these books recounted the laudable deeds of the Ottoman Sultans and a fifth book extolled the Meccan Sharif, Abû Zuhayr Barakât.<sup>40</sup> Contrary to these books, Ibn Fahd expressed his criticism against the Ottomans and

their policy in Mecca and vicinity in his historical book on Mecca entitled *Nayl al-Muna*. However, he kept the praising tone for the Meccan Sherifs but still mixed with some indirect critical remarks on their policy. Strikingly enough, *Nayl al-Muna* remained just a draft till the death of the author and he did not refer to it in any of his other books. The book was also not known to the contemporaries of Ibn Fahd. All this would indicate that Ibn Fahd might have wanted to keep these critical remarks beyond the reach of the public during his lifetime.<sup>41</sup>

The second figure taking part in this polemic was Ibn Hajar whose full name is Abû al-‘Abbâs Aḥmad b. Muḥammad b. Muḥammad b. ‘Ala b. Hajar, Shihab al-Haytami born in 1504 and died in 1567. Unlike Ibn Fahd, Ibn Hajar was specialized in Islamic Jurisprudence and well-known as a prolific writer of the Shâfi‘î school.

He received his elementary school education in the sanctuary of al-Sayyid al-Badawi in Tanta, a province in northern Egypt. In 1518, he went to al-Azhar to continue his education and at the end of the year 1523 his teachers gave him on their own initiative the *ijaza* (authorization or license) to issue fatwas. He went to Mecca for the hajj in 1527 and then again in 1531, each time spending a year’s sojourn afterwards. During his first visit, he began writing after seeing the well-known mystic al-Harith al-Muhasibi (d. 857) in a dream encouraging him to do so. In 1533, he made his third pilgrimage and settled permanently in Mecca, devoting himself to writing and teaching.

Besides the religious and spiritual benefits of being in the vicinity of the Holy Mosque, Mecca was also an attractive place of residence for Muslim scholars of the

time. The province of al-Hijaz in general, and Mecca in particular were, economically speaking, much more privileged than the other provinces of the Ottoman Empire. For instance, the inhabitants of this province were exempted from the duty of paying personal or real estate taxes. Furthermore, al-Hijaz used to receive an annual supply of money and grains.<sup>42</sup> The Ottomans exerted evident effort in establishing and developing the institutions of religious learning, funding educational activities and paying for the scholars of the two Holy Mosques and the retirees there through the charities of *Jawali*.<sup>43</sup> This economic sphere had positive effects on the scholarly milieu by attracting a great number of well known Muslim scholars to come reside permanently in Mecca.<sup>44</sup>

Although Ibn Hajar's reputation spread both far and wide, his authority in Mecca was not entirely undisputed and he engaged in a series of vigorous polemics with Ibn Ziyad, the Shafi'i mufti of Zabid on the financial issue of sponsorship and debts. By the time of his death, Ibn Hajar had compiled more than forty books, most of which are juristic and theological in nature. It is reported that two of these books concerned the juristic rulings that rulers and kings are to abide by.<sup>45</sup> However, Ibn Hajar seems to have been quite untouched by the political upheavals that occurred during his lifetime.<sup>46</sup>

The main source to be used here is the two-page *fatwa* published in his fatwa collection entitled *Al-Fatawa al-Fiqhiyya al-Kubra* (Grand Juridical Fatwas).<sup>47</sup> *Al-Zawajir 'an Iqtiraf al-Kaba'ir* (Restraints Against Committing Grave Sins) where Ibn Hajar handles the theme of *ghiba* (backbiting)<sup>48</sup> would be of benefit as well for comparative

reasons. That is because, as indicated by the author in the introduction, *Al-Zawajir* was written after 1546, i.e. at least five years after issuing the fatwa under discussion.<sup>49</sup>

### **Encounters Preceding this Polemic**

It is felicitous to examine the nature of the relationship between these two figures before this polemic of 1541 to see if personal dimensions rather than scholarly interests would have played a role in this polemic.

The possibilities of personal encounters earlier than 1533 whether during the scholarly visits of Ibn Fahd to Egypt starting from 1507 or during Ibn Hajar's visits to Mecca for pilgrimage in 1527 and 1531 are not to be crossed out. However, there is a certainty that the two figures co-lived in Mecca at least for fourteen years starting from Ibn Hajar's permanent settlement in Mecca since 1533 till his death 1567.

Broadly speaking, there is no mention that either of the two scholars assumed an official political or religious position during his lifetime. Thus a struggle for power is out of context in this respect. Although they are both recognized as religious scholars, the men belonged to different fields of knowledge; Ibn Hajar specialized in *fiqh* and Ibn Fahd in history – thus jealousy or envy of each other's fame was likely kept to a minimum.

As for details, available historical records are silent on any kind of encounter or relationship between these two scholars before 1537. In this year, Ibn Fahd himself made the first reference to Ibn Hajar in his historical record on Mecca, *Nayl al-Muna*. In this book, we come across Ibn Hajar, five times mentioned as a scholar participating in Meccan life, but none of which relates a story or incident between

these two figures.<sup>50</sup> However, Ibn Fahd always preceded Ibn Hajar's name with honorable titles such as *Mufti of Muslims*,<sup>51</sup> *al-shaykh al-mudarris* (the teacher shaykh)<sup>52</sup> and the like. Unfortunately, *Nayl al-Muna* stops in 1539, two years before the polemic takes place, and thus makes no reference to this incident. The editor of the book raised the question, "Where are the historical reports of the last eight years (1539-1547) until the death of Ibn Fahd? Did he write them where they remained as draft and then were lost? Did he stop writing these reports for a specific reason?" The editor concludes that available texts do not provide us with an answer.<sup>53</sup>

The main historical thread telling us what happened after this time is again Ibn Fahd himself in *Al-Nukat al-Ziraf*. He says that although Ibn Hajar belongs to *dhawi al-'abat*, for being squinty-eyed, he did not enlist him in the old version of the *Nukat*. However, Ibn Hajar did issue a fatwa against the *Nukat* by which he gave a helping hand to Ibn Fahd's adversaries. Depending on the principle of an eye for an eye, Ibn Fahd enlisted him among the squinty-eyed in the new version and thus giving a helping hand to Ibn Hajar's adversaries as well. Ibn Fahd recalls in this regard the well-known Arabic aphorism, "Obscurity is a blessing but everyone rejects [it] whereas celebrity is wrath but everyone wishes [for it]."<sup>54</sup>

To sum up, available reports show that the two main figures taking part in this polemic were, before this incident, neither intimate friends nor vigorous enemies – thus personal issues did not play a role.

### **Identity of the 'demagogues'**

According to Ibn Fahd, the main catalyst of this tumult against him was a number of bald men being irritated because he mentioned them in his book. A careful reading of the question upon which Ibn Hajar issued the fatwa gives the indication that the questioner can in fact be one of these irritated bald people. For instance, the questioner had a clear opposing standpoint against the author and even suggested the punishment: namely, tearing up the book.<sup>55</sup>

Why were those bald people upset by what Ibn Fahd wrote rather than the others he mentioned among the blind, the lame, etc? Besides the possibility of pre-existing enmity already existing before the writing of his book, listing baldness was in a sense revealing a sensitive issue of privacy. That is because covering one's head by wearing a *'imama* (turban) was a common practice in this time.<sup>56</sup> For instance, Ibn Hajar wrote a book on this topic, stating that wearing *'imama* was one of the indications signifying a scholar.<sup>57</sup> Ibn Fahd wrote also a book in the same vein and named *al-'imama* the crown of the Arabs.<sup>58</sup> One of the means of humiliating a person and specifically a scholar was forcing him to take the *'imama* off.<sup>59</sup> The most probable place where Ibn Fahd could have seen the baldness of these men would have been mosque because they had to wipe their heads with water as one of the pillars of ablution (*wudū'*).

Precisely identifying the members of this group is not possible, mainly because the old version of the *Nukat*, which included a list of these people, is unavailable. Additionally, available sources recording the history of Mecca during this period are silent in this respect.<sup>60</sup> However, Ibn Fahd mentioned four characteristics of these

people that can help us. They lived in Mecca (*min abl al-bilad*),<sup>61</sup> held important positions there (*min akabir baladi*)<sup>62</sup> but they were simultaneously profligates of the age (*fujjar al-'asr*) and thus known for their corruption and immoral acts.<sup>63</sup> The fourth characteristic was that they are *qur'an* rather than *sul'an*. According to Ibn Fahd, *qur'an* are those who suffer baldness in the middle of the head because of an ailment whereas *sul'an* are those who suffer baldness in the forefront of the head without ailment.<sup>64</sup> This specific characteristic could have indicated, to him, that people of this group belonged most probably to the Maliki and the Hanafi juristic schools rather than the Shafi'i and the Hanbali. That is because the Maliki and Hanafi jurists have to take their turbans off completely, wiping their whole heads directly without a barrier.<sup>65</sup> On the other hand, Hanbalis could just wipe the turban instead of the head.<sup>66</sup> The Shafi'is can wipe the forepart of the head only without taking the turban off.<sup>67</sup> Thus Ibn Fahd would be able to see the baldness in the middle of those people's heads in case they are Malikis and Hanafis. This is so if the earlier proposition is true, that Ibn Fahd could see their baldness during performing ablution. However, we cannot cross out the possibility that Ibn Fahd could see the baldness of this group in a public bath (*hammâm*). In this case, it would be more difficult to establish their juristic affiliation.

Furthermore, Ibn Tulun's<sup>68</sup> letter to Ibn Fahd gives an indication that those "demagogues" were known as men of letters (*udaba*). Learning the lesson from this incident Ibn Tulun decided to avoid mentioning any of the *udabâ'* in his forthcoming



book *Taʿjil al-Bishara li man Sabar ʿala Dhabab al-Basar* (Accelerating the Good Omen for Those Who Were Patient Upon Losing Their Eyesight).<sup>69</sup>

### **The Polemic in Focus**

The key question in this polemic was whether *Al-Nukat al-Ziraf* fell under the category of forbidden backbiting (*ghiba*) in Islam. Ibn Hajar was of the opinion that this was the case and Ibn Fahd insisted that his book had nothing to do with *ghiba* and was just for the sake of admonishment and entertainment.

Before delving into details of this polemic, two brief notes are in order. Firstly, as indicated by the extensive use of arguments and statements attributed to Shafiʿi jurists, the two scholars belong to that same juristic school. Secondly, Ibn Fahd based all juristic arguments he used concerning *ghiba* on a work of the same title, i.e., *Al-Ghiba*<sup>70</sup> by al-Harith al-Muhasibi (d. 857)<sup>71</sup> giving him preference over other Shafiʿi jurists who are more authoritative such as al-Ghazali.<sup>72</sup> Ibn Fahd may have done this on purpose keeping in mind that his main addressee, in this case Ibn Hajar, did not dare start his scholarly career as a writer until he saw al-Muhasibi in a dream encouraging him to do so. It seems that this story was well-known, especially to those living in Mecca and is thus mentioned by Ibn Hajar's Meccan student.<sup>73</sup> In other words, Ibn Fahd is sending an indirect message whose purport is that you, Ibn Hajar, run the risk of going against the convictions of your authority that gave you the first sign of launching your scholarly career.

*Ghiba (Backbiting)*

*Ghiba*, according to both Ibn Hajar and Ibn Fahd, is to say something, even if it is true, about someone that he or she would *dislike*.<sup>74</sup> After giving the definition, Ibn Hajar embarks upon refuting a possible argument, i.e., that mentioning the physical defects of the Companions of the Prophet (*al-sahaba*) in particular does not fall under the category of *ghiba* thus defined. That is because the Companions were too noble to have been offended by being mentioned with such defects. In short, it is not something they would have disliked. Ibn Hajar deems this allegation groundless and invalid, stating that being offended with such things is innate and has nothing to do with being noble or ignoble.<sup>75</sup>

However, the prohibition of the above-defined *ghiba* is not applicable to six exceptional cases upon which Ibn Fahd and Ibn Hajar are in agreement. The cases are: 1) complaining about oppression or injustice by the wronged or oppressed person; 2) seeking others' assistance for addressing an injustice – for instance, informing the ruling authorities that a specific person is a thief so that he would be caught, 3) seeking religious advice (fatwa) – for instance, asking a scholar about the ruling if one's husband or wife did such and such against him/her; 4) warning Muslims against bad people such as narrators fabricating traditions and ascribing them to the Prophet of Islam. In such a case, one is obliged to declare that such people are liars and untrustworthy; 5) telling about people practising immoral and dissolute deeds in public; and 6) introducing someone by using his well-known epithet which incidentally indicates a defect such as the lame (*al-a'raj*), the deaf (*al-asamm*), and the bald (*al-aqra'*).<sup>76</sup>

Ibn Hajar is determined that the *Nukat* does not belong to any of the exceptional cases. He refutes the sole possibility that this book could belong to the sixth case by saying, “The author did not restrict himself to such epithets well-known in public but went further to defects that would be known only through his book. Thus it is forbidden (*haram*) by consensus.”<sup>77</sup>

After presenting these six cases, Ibn Fahd alluded that his book belongs to one of these exceptional cases without specifying exactly which one. He added that he did intend to blemish luminaries. His aim was rather in presenting an amusing admonition and entertainment. He wonders further, “How could my intention be blemishing figures mentioned in my work although I enlisted myself among the bald, my maternal grandfather among the lame and a number of my noble masters among the blind?!”<sup>78</sup>

In response to the argument of aiming admonition, Ibn Hajar exclaims, “This is a void allegation. I have never known of anyone who listed this as a reasonable ground legitimizing *ghiba*. This author should be informed that what he believes is not true. If he insists on his contention, he should receive a grave disciplinary punishment. Ultimately, such conviction could drag him to a difficult situation.”<sup>79</sup> Ibn Hajar continued, saying that compiling such a book had nothing to do with admonition. It was rather the result of devilish temptation so that the ignorant would see it as good work. He cited the Qur’an in this regard, “Is he, then, to whom the evil of his conduct is made alluring, so that he looks upon it as good, (equal to one who is rightly guided)?” Surat al-Nisa’ (35:8).<sup>80</sup>

Ibn Hajar adds, “Even if we overlooked the truth and supposed that there is admonition, this admonition is accompanied by untold number of harms and evils. Giving an assumed benefit (i.e., admonition) precedence to a definite harm would be done by none except one ignorant about Qur’an, Sunna and consensus.”<sup>81</sup>

As for the enormity of *ghība* as a sin in Islam, it was sufficient for Ibn Fahd to concede that *ghība* is forbidden. However, he added that a number of jurists opine that *ghība* is forbidden only in case of defaming one’s religion rather than one’s honor or physical characteristics.<sup>82</sup> This would mean that his book, according to those scholars, would fall beyond the scope of *ghība*. In a bid to support this argument, Ibn Fahd quoted a *hadith* in which it is related that Prophet Muḥammad was asked about two groups of people. To identify them for the questioner, he made use of physical defects saying some were red beardless people and the other had black short beards.<sup>83</sup> For the same reason, Ibn Fahd made reference to the dialogue between two prominent Companions, namely, ‘Umar ibn al-Khattab, who was then Caliph, and ‘Abdullah b. ‘Abbas. The former elaborated in this dialogue his remarks on some of the prominent Companions which deter him from nominating them for the position of Caliph after him. These remarks reveal a number of their defects such as being over-humorous, quick-tempered, lenient and so forth. Ibn Fahd comments on this dialogue by saying, “Umar’s intention was absolutely away from defaming these figures. He just wanted to show people their characteristics so that they would choose a Caliph among them out of knowledge.”<sup>84</sup>

For Ibn Hajar, *ghiba* is not just a normal sin. It is rather one of the *kaba'ir*, the grave and major sins in Islam, when it targets scholars of religion and memorizers of the Qur'an and even when it unjustifiably targets anyone else. Ibn Hajar is basing his argument here on al-Qurtubi (d. 1272)<sup>85</sup> who transmitted the consensus (*ijma'*) of scholars on this point.<sup>86</sup>

In a bid to uphold his argument, Ibn Hajar made reference to a statement of the Companion Ibn 'Abbas, who participated in the aforementioned dialogue, "He who hurts a jurist, in fact did hurt the Messenger of God, and one who hurts the Messenger of God, in fact did hurt God the Sublime."<sup>87</sup> Ibn Hajar himself did not neglect to refer to al-Shafi'i (767-820)<sup>88</sup>. The Prophet is reported as saying that had his daughter Fatima stolen something, he would have cut her hand. When relating this story, al-Shafi'i used the expression "a certain woman (*fulana*)" instead of mentioning the Prophet's daughter by name considering the rather negative context of the story. Commenting on this, Ibn Hajar says, "Had this author reflected over this noble politeness of al-Shafi'i, he would have realized that the enormity of what he did will not be repaired in a lifetime."<sup>89</sup>

Remarkably, five years later Ibn Hajar expressed a more lenient opinion concerning the enormity of *ghiba* in his book, *Al-Zawajir 'an Iqtiraf al-Kaba'ir*. He conceded that there are other opinions ascribed to credible jurists such as al-Ghazali categorizing *ghiba* as a minor sin. Anyhow, "Even if no consensus can be demonstrated in this regard, we should at least differentiate between the different sorts, categories, and harms of each *ghiba*."<sup>90</sup> Concerning the *ghiba* targeting one's

physical defects, which is the case of Ibn Fahd's book, he also does not negate the possibility of categorizing it as a minor sin (*saghira*).<sup>91</sup>

Did Ibn Hajar adopt this more lenient opinion on the basis of revising his previous convictions and new information he came across in this regard within the five-year span between issuing the fatwa and writing the book? Or was he, at the time of issuing the fatwa, just under the influence of a specific sphere that pushed him to adopt that harsh opinion, compared with the other one expressed in the book? The way is open for more than one possibility. However, this gives the indication that had this incident happened in another context and at a later date, the fatwa might have been less harsh.

#### *Predecessors*

One of the main arguments forwarded by Ibn Fahd in this polemic is that he had precursors in this field and thus his book was not an innovation. It seems that this point was central in the sense that it had been mentioned by the questioner who asked Ibn Hajar to elaborate on this point. Ibn Fahd also used this point in his question sent to the scholars in Egypt.

Ibn Fahd was aware of four predecessors. He referred to three of them: Ibn Qutayba (828-889) in *Kitab al-Ma'arif* (Entertaining Information);<sup>92</sup> Salah al-Din al-Safadi, (1297-1363) who wrote *Nakt al-Himyan fi Nukat al-'Umyan*<sup>93</sup> (Extracting the Precious on the Anecdotes of The Blind) and *Al-Shu'ur bi al-'Ur* (Feeling For The One-Eyed People)<sup>94</sup>; and Abu 'Uthman 'Amr b. Bahr al-Jahiz (776-868/9) who wrote *Al-'Urjan wa al-Bursan wa al-Qur'an* (The Lame, the Lepers and the Bald).<sup>95</sup> The fourth

and to Ibn Fahd, the most important predecessor, was Abu Bakr Muhammad b. Musa al-Khwarizmi (d. 1012) who dedicated three chapters to prominent people afflicted with disabilities in his *Mufid al-'Ulum wa Mubid al-Humum* (Provider of Sciences and Eliminator of Worries). Ibn Fahd presented al-Khwarizmi as the Jurist of Baghdad, one of the senior ascetics (*ṣūḥḥā*) and a fourth-century<sup>96</sup> renewer of religion (*mujaddid al-din*).<sup>97</sup>

On his side, Ibn Hajar did not recognize this argument as valid and forwarded two main counterarguments. The first point was about the identity of those predecessors: “Are they exemplary figures in the same rank of Ahmad b. Hanbal (780-855),<sup>98</sup> Yahya b. Ma‘in (775-847),<sup>99</sup> Abu Zur‘a al-Razi (d. 878)<sup>100</sup> and their counterparts who came after or before them? If the predecessor is any of those then you have to name him. Otherwise, if he is one of those worthless people whose sayings and deeds are negligible, then Allah would not care about in which valley you will die away.”<sup>101</sup>

The second point was that Ibn Hajar believed that the predecessors’ context would not entail ascribing dishonour to luminaries listed as people with physical differences. However, the context of Ibn Fahd would encourage the populace misusing such information and thus degrading the honorific status of those luminaries including the Companions. Consequently, “The author of this book would bear the burdens of the sins committed in this respect until Doomsday.”<sup>102</sup>

Important information is still missing concerning this issue in particular. Ibn Hajar avoided any reference to al-Khwarizmi, the main exemplary figure for Ibn

Fahd. It seems that Ibn Fahd also was not aware of many predecessors in this field. He made reference to only four of them and he seems to have only seen that book of al-Khawarizmi's. He missed important sources, some of which would have been strong support for his argument. To mention the most important, Ibn al-Jawzi (1126-1200)<sup>103</sup> discussed the same thing in his historical work *Talqih Fubum Abl al-Atbar fi 'Uyun al-Tarikh wa Al-Siyar* (Fertilizing the Perceptions of the Traditionists Concerning the Fountains of History and Biographies) where he listed notable people afflicted with different disabilities.<sup>104</sup> The importance of Ibn al-Jawzi as a predecessor in this regard lies in being a very well known and venerated Muslim jurist. Furthermore, Ibn Hajar himself used Ibn al-Jawzi as a credible reference more than once in his books.<sup>105</sup>

#### *Juristic Authorities*

Ibn Hajar reproached Ibn Fahd for not consulting the specialized jurists before embarking upon such work. To Ibn Hajar, this is indicative of malice and being overcome by bigotry for untruthfulness.<sup>106</sup> Ibn Hajar quotes the Qur'anic verses: "If they had only referred it to the Messenger, or to those charged with authority among them, those among them who can search out the knowledge of it would have known it." Surat al-Nisa' (4:83)

To avoid falling into the same trap, Ibn Hajar based the reasoning for his fatwa on damaging the book on a previous fatwa issued by al-Suyuti (1445-1505)<sup>107</sup> concerning destroying houses used for illegal and immoral actions.<sup>108</sup> Thus,



fountainheads of corruption are to be devastated whether they assume material form, like houses or books.

Rather than indulging in defending his juristic background, as shown above, Ibn Fahd adopted a short way and consulted the juristic authorities in Egypt. In 1542, he sent the following question to the scholars in Cairo<sup>109</sup>:

“What do you say – May God be pleased with you – of a student who read a book entitled *Muid al-Ulum* (Provider of Sciences) by the well-known Hanafī scholar Abi Bakr Muhammad b. Musa al-Khawarizmi. The student saw chapters on the physical defects of noble people. The author mentioned a group of the early and late prominent figures of this nation who were known for such defects as the lame, the bald, the blind and the like. Seeing this, the student composed a book on this issue using the same justification proposed by the author of the aforementioned book, namely, promoting admonition, learning, and entertainment. Would this intention legitimize embarking upon such an act? Give us the fatwa asking that God would make Paradise your reward!”<sup>110</sup>

Ibn Fahd recorded verbatim the fatwas issued by four scholars, each of whom belongs to one of the four juristic schools, the Hanafī (Abu al-Fayḍ b. ‘Alī al-Sulami), Hanbali (Aḥmad b. al-Najjar), Maliki (Nasir al-Laḡani), and Shafī‘i (Aḥmad al-

Bulqini). They all responded to the question in the affirmative stating that there is no harm in compiling such a book with such intention.<sup>111</sup>

In the same year, Ibn Fahd received a supportive letter from his intimate friend,<sup>112</sup> the well-known Damascene scholar Abu ‘Abdullah Muhammad b. Tulun (1475-1546). Ibn Tulun referred to the contention that the forbidden *ghiba* is restricted to blemishing one’s religiosity. It does not include mentioning one’s physical characteristics or honour unless it is mentioned with the intention of defaming one’s character.

## **Conclusion**

The reader may have gotten overall impression that Ibn Fahd won the debate. He rewrote the revised version of *Al-Nukat* after gaining the support of religious authorities through the fatwas of the Syrian and Egyptian scholars. The version remained intact until the present day.

However, it seems that the incident was not without adverse consequences. The main example in this regard is Ibn Tulun who expressed his support for Ibn Fahd. Ibn Tulun was busy at the time of this controversy with writing a book on people with blindness entitled *Ta’jil al-Bishara liman Sabar ‘ala Dhabab al-Basar* (Accelerating the Good Omen for Those Who had Patience Upon Losing Their Eyesight). Because of the fuss raised by Ibn Fahd’s work and fearing that he could face the same end, Ibn Tulun decided not to list any men of letters afflicted with disabilities therein.<sup>113</sup>

We have neither concrete nor comprehensive information on whether the influences of this incident stopped by the book of Ibn Tulun or went further to create an unwilling atmosphere for those who wanted to write on this topic, especially those sources pertaining to the third controversial level, the literary one. Bearing in mind the fact that the state of Middle Eastern scholarship on disability is still in its infancy, future findings are sure to tell us more in this regard.

However, available sources after this period indicate the occurrence of clear changes in disability literature. For instance, more interest was paid to sources of religious interest at the cost of those literary sources with the aim of simply entertaining the reader. For instance, Hanafi jurist Ibn Nujaym (d. 1563) wrote a chapter on the rulings of people having blindness. This chapter was later expounded upon by his student Ahmad b. Muhammad al-Hamawi (d. 1687).<sup>114</sup> Another Hanafi jurist, Mulla ‘Ali b. Sultan al-Harawi al-Qari (d. ca. 1605),<sup>115</sup> wrote *Tasliyat al-‘ama min Baliyyat al-‘Ama* (Consoling the Blind from the Affliction of Blindness).<sup>116</sup>

This tendency intensifies the closer we come to the contemporary era, especially in the twentieth century. For instance, Ahmad al-Sharabasi (1918-1980)<sup>117</sup> wrote *Fi ‘Alam al-Makfufin* (In the World of the Blind) and made a call for researchers to write on the juristic rulings of people with blindness. This what he himself did in the second volume when he noticed no response to his call.<sup>118</sup> The juristic rulings of people with disabilities became later on a favorite topic for many academic researchers.<sup>119</sup> Other sources pertaining also to the religious level paid more attention to the rights (*huquq*) of those people.<sup>120</sup>

As for sources pertaining to the literary level, it is noticeable that they decrease in number but do not disappear.<sup>121</sup> The situation of sources with linguistic interests could be the worst in this regard. The sole example that I have come across in this respect is the lexicon compiled by Nasif al-Yaziji (1800-1871)<sup>122</sup> in the nineteenth century.<sup>123</sup>

To conclude, it is clear by examining the list we come across in this article that people with disabilities did not fall outside the interest of Muslim scholars. A multitude of different sources with divergent topics have spoken at length about people with disabilities. We could get a very vivid picture through unearthing some of the buried material in this respect. It is evident as well that a lot has still to be done in this field.

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<sup>1</sup> This paper is based on my PhD dissertation, entitled “Islam and Disability: Theological and Jurisprudential Perspectives,” funded by Prince Salman Center for Disability Research, Riyadh. I hereby submit my thanks to all those who helped me finish this study, namely the Prince Salman Center, the staff of the Faculty of Theology at Leiden University especially my supervisor Prof. P. S. van Koningsveld for his helpful comments on the first draft. Also, my sincere thanks go to the anonymous reviewers of *ASJ* for their comments.

<sup>2</sup> There is no agreement on the year of his death. Opinions are divided between 821, 822 and 824 C.E. See C. Pellat, “Al-Haytham B. ‘Adi”, in *Encyclopedia of Islam*, CD-ROM Edition v. 1.0, Koninklijke Brill NV, Leiden, The Netherlands, vol. III (2003), p. 328. Also see al-Dhahabi, *Siyar A‘lam al-Nubala’*, ed. Shu‘ayb al-Arna‘ut & Muhammad Nu‘aym al-‘Arqasusi, 9<sup>th</sup> edition, (Beirut: Mu‘assasat al-Risala, 1413 A.H.), vol. 10, pp. 103-104; Ibn al-Nadim, *Al-Fihrist*, vol. 1 (Beirut: Dar al-Ma‘rifa, 1978), pp. 145-46.

<sup>3</sup> For further details on this literary genre, see Yusuf Sadan, “Risala fi al-Damama li Muhammad b. Hamza al-Kuzlihsari al-Idini,” in *al-Karmil*, vol. 9 (1988), pp. 7-33, esp. 15-16.

<sup>4</sup> For a detailed survey of this literary genre, see Alfred Wiener, “Die Farag ba’d aš-Šidda-Literatur”, in *Der Islam*, vol. 4 (1913), pp. 270-98.

<sup>5</sup> See Yaqut al-Ḥamawī, *Mu‘jam al-Udaba’*, (Beirut: Dar al-Kutub al-‘Ilmiyya, 1993), vol. 5, p. 494; ‘Abd al-Razzaq Ḥusayn, *Al-I‘aqa fi al-Adab al-‘Arabi*, 1<sup>st</sup> edition, (United Arab Emirates: Madinat al-Shariqa li al-Khadamat al-Insaniyya, 1999), p. 19.

<sup>6</sup> Strikingly enough it is reported that al-Zamakhshari lost his leg and thus also had a disability. On him, see al-Dhahabi (1413 A.H.), *Siyar A‘lam al-Nubala’*, vol. 20, pp. 151-56; C. H. M. Versteegh, “Al-Zamakhshari”, in *Encyclopedia of Islam*, vol. XI, pp. 433-34.

<sup>7</sup> See Jalal al-Din al-Siyuti, *Al-Ashbah wa al-Naz‘ir*, 1st ed., (Beirut: Dar al-Kutub al-‘Ilmiyya, 1983), p. 251. Other jurists followed the same fashion, see Yahya b. Sharaf al-Nawawi, *Al-Majmu‘ Sharh al-Muhadhdhab*, (Egypt: Maṭba‘at al-Muniriyya, n. d.), vol. 9, p. 368; Jalal al-Din al-Siyuti, *Al-Ashbah wa al-Naz‘ir*, pp. 251-53; Abu Yahya Zakariyya al-Ansari, *Tuhfat al-Tullab bi Sharh Tabrir Tanqih al-Lubab*, (Indonesia: Maktbat wa Maṭba‘at Rajamura Vkalughan, n. d.), pp. 140-41.

- <sup>8</sup> See C. Pellat, “Nadira”, in *Encyclopedia of Islam*, vol. VII (2003), pp. 857-58.
- <sup>9</sup> “*Dhawi al-‘Abat*” is the common term used in early Arabic literature denoting what we now know as “people with disabilities”. However, it is of vital importance to recognize that the purport of “*Dhawi al-‘Abat*” is broader than that of “people with disabilities”. For instance, it is common to enlist the bald, those who are too short, those who are too long, those whose pregnancy was abnormally long or short and so forth. See for instance the list of *Dhawi al-‘Abat* given by Ibn Qutayba. Ibn Qutayba, *‘Uyun al-Akhhbar*, 1<sup>st</sup> ed., (Cairo: Dar al-Kutub al-Miṣriyya, n. d.), vol. 4, pp. 53-69; Ibn Qutayba, *Al-Ma‘arif*, ed. Tharwat ‘Ukasha, 2<sup>nd</sup> ed., (Egypt: Dar al-Ma‘arif, n. d.), pp.578-95. For an extended list of such sources, see Yusuf Sadan, *Al-Adab al-‘Arabi al-Haṣil wa Nawadir al-Thuqala*, (Tel Aviv University, 1983), p. 13, fn 5.
- <sup>10</sup> For an extended list of this type of books, see *Al-Adab al-‘Arabi al-Haṣil*, pp. 26-28, fn 36.
- <sup>11</sup> For discussions on this point, see for instance *Al-Adab al-‘Arabi al-Haṣil*, pp. 56-71; Riyadh Qaziha, *Al-Fukaha wa al-Dabik fi al-Turath al-‘Arabi al-Mashriqi*, (Beirut: al-Maktaba al-‘Asriyya, 1988), pp. 36-40 and 42.
- <sup>12</sup> For a detailed analysis of this point, see *Al-Adab al-‘Arabi al-Haṣil*, pp. 19, 25-36.
- <sup>13</sup> On him see, al-Dhahabi, *Siyar A‘lam al-Nubala*, vol. 11, pp. 526-30; C. Pellat, “Al-Djahiz”, in *Encyclopedia of Islam*, vol. II, pp. 385-87.
- <sup>14</sup> Abu ‘Uthman ‘Amr b. Bahr al-Jahiz, *Kitab Al-Burṣan wa al-‘Urjan wa al-‘Umyan wa al-Hulan*, Muhammad Mursi al-Khuli, ed. 4<sup>th</sup> ed., (Beirut: Mu’assasat al-Risala, 1987), p. 6.
- <sup>15</sup> Ibid, pp. 7-8. This was also the approach of Ibn al-Jawzi, see Riyadh Qaziha, *Al-Fukaha wa al-Dabik fi al-Turath al-‘Arabi al-Mashriqi*, pp. 45-55.
- <sup>16</sup> Abu ‘Uthman ‘Amr b. Bahr al-Jahiz, *Kitab Al-Burṣan wa al-‘Urjan wa al-‘Umyan wa al-Hulan*, p. ya’.
- <sup>17</sup> Ibid, p. 6.
- <sup>18</sup> For instance, concerning the defects he wrote *Kitab al-Mathalib al-Kabir*, *Kitab al-Mathalib al-Saghir* and *Kitab Mathalib Rabi’a*. As for exploits, he wrote *Kitab Tarikh al-Asraf al-Kabir* and *Kitab Tarikh al-Asraf al-Saghir*. For a list of more than fifty books attributed to him, see *Al-Fihrist*, p. 154.
- <sup>19</sup> Ahmad b. Muhammad Ibn Khallikan, *Wafayat al-A‘yan wa Anba’ Abna’ al-Zaman*, vol. 6, ed. Ihsan ‘Abbas. (Beirut: Dar al-Thaqafa, 1968), p. 106; C. Pellat, “Al-Haytham B. ‘Adi”, in *Encyclopedia of Islam*, vol., III, p. 328. Pellat said even that none of his works survived. However, his aforementioned booklet on luminaries with disabilities is available.
- <sup>20</sup> His autograph is preserved in the Chester Beatty library in Ireland, no. 3838. See Muhammad Habib al-Hila, *Al-Tarikh wa al-Mu‘arrikhun bi Makka*, 1<sup>st</sup> ed., (Beirut: Dar al-Gharb al-Islami, 1994), pp. 208-209. The editor said that this book in particular is not listed among books written by Ibn Fahd in any of his biographies, a fact which attests to the difficulties of tracing the author of that book. I am currently in the final stages of producing a critical Arabic edition of this text.
- <sup>21</sup> Ibn Fahd, (950 A.H.), *Al-Nukat al-Ziraf fi al-Maw‘iza bi Dhawi al-‘Abat min al-Asraf*, MS 3838, Chester Beatty, Dublin, folios, 16a-16b.
- <sup>22</sup> Ibn Hajar al-Haytami, *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4 (Al-Maktaba al-Islamiyya, 1983), p. 83.
- <sup>23</sup> Ibid.
- <sup>24</sup> Ibn Fahd, (950 A.H.), *Al-Nukat al-Ziraf*, op. cit., folios 15b-16a.
- <sup>25</sup> Ibid, folio, 59b.
- <sup>26</sup> Ibid, folio, 15b.
- <sup>27</sup> Ibid, folios, 15b-16b.
- <sup>28</sup> Ibid, folio, 16a.
- <sup>29</sup> Ibid, folio, 11a. Unfortunately, this book is not traceable.
- <sup>30</sup> Ibid, folio, 59b.
- <sup>31</sup> He is well known as a Muslim mystic. On him, see R. Arnaldez, “Al-Muhasibi”, in *Encyclopedia of Islam*, vol. VII, pp. 466b-467b.
- <sup>32</sup> On him, see, Salah al-Din al-Munajjid, *Al-Mu‘arrikhun al-Dimashqiyyun wa Atharuhum al-Makhtuta min al-Qarn al-Thalith al-Hijri ila Nibayat al-Qarn al-‘Ashir*, (Egypt: Matba‘at Misr, 1965), pp. 79-81.
- <sup>33</sup> Ibn Fahd, *Al-Nukat al-Ziraf*, folio 9b.
- <sup>34</sup> Ibn Fahd, *Kitab Nayl al-Muna bi Dhayl Bulugh al-Qira li Takmilat Ithaf al-Wara*, vol. 1 (London: Mu’assasat al-Furqan li al-Turath al-Islami, 2003), p. 5.
- <sup>35</sup> The book is *Hifẓ al-‘Uhud ‘ala Hukm Waqf Dar al-Fuhud*, see Ibid, vol. 1, pp. 6, 12, and vol. 2, pp. 713-14.
- <sup>36</sup> Ibid, vol. 1, pp. 7-8.
- <sup>37</sup> A very well-known juristic book in the Shafi‘i school. It is to be noted that Ibn Hajar al-Haytami wrote a commentary on this book and gave it the title *Tuhfat al-Muhajj li Sharh al-Minhaj* which later became one of the

authoritative textbooks of the Shafi'i school. See J. Schacht and C. van Arendonk, "Ibn Hajar al-Haytami" in *Encyclopedia of Islam*, vol. III, p. 779.

<sup>38</sup> Muḥyi al-Din 'Abd al-Qadir al-'Aydarusi, *Tarikh al-Nur al-Musafir 'an Akhbār al-Qarn al-'Ashir*, (Baghdad: Al-Maktaba al-'Arabiyya, 1934), pp. 241-42. For a list of the other jurists who taught Ibn Fahd, see *Al-Tarikh wa al-Mu'arrikhun bi Makka*, p. 9.

<sup>39</sup> For a full list of these works, see *Al-Tarikh wa al-Mu'arrikhun bi Makka*, pp. 197-213, and Ibn Fahd, *Kitab Nayl al-Muna*, vol. 1, pp. 10 -13. For more biographical information on Ibn Fahd, see besides these two sources Muḥyi al-Din al-'Aydarusi, *Tarikh al-Nur al-Musafir*, pp. 241-42; Ibn al-'Imad, *Shadharat al-Dhabab fi Tarikh man Dhabab*, (Beirut: Dar al-Kutub al-'Ilmiyya, n. d.), vol. 4, p. 301.

<sup>40</sup> See *Al-Tarikh wa al-Mu'arrikhun bi Makka*, pp. 198, 201-204, 207-208; Ibn Fahd, *Kitab Nayl al-Muna*, vol. 1, pp. 10-13.

<sup>41</sup> See *Al-Tarikh wa al-Mu'arrikhun bi Makka*, pp. 210-213; *Kitab Nayl al-Muna*, pp. 16-19.

<sup>42</sup> 'Ali b. Taj al-Din al-Sanjari, *Mana'ih al-Karam fi Akhbār Makka wa al-Bayt wa Wulat al-Haram*, (Mecca: Jami'at Umm al-Qura, 1998), vol. 1, p.19.

<sup>43</sup> *Jawali* is a tax imposed on the dhimmis and émigrés living in the Islamic umma. See 'Ali b. Taj al-Din al-Sanjari, *Mana'ih al-Karam*, op. cit., vol. 1, p. 22, footnote, 3. For the etymology and different usages of this term, see C. Cahen, "Djawali", in *Encyclopedia of Islam*, op. cit., vol. II, p. 490.

<sup>44</sup> *Mana'ih al-Karam*, vol. 1, p. 22.

<sup>45</sup> *Al-Tarikh wa al-Mu'arrikhun bi Makka*, pp. 226-27.

<sup>46</sup> J. Schacht and C. van Arendonk, "Ibn Hadjar al-Haytami" in *Encyclopedia of Islam*, vol. III, p. 779a.

<sup>47</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, pp. 82-83.

<sup>48</sup> Ibn Hajar al-Haytami, *Al-Zawajir 'an Iqtiraf al-Kaba'ir*, vol. 2, 1st ed., (Beirut: Dar al-Fikr, 1994), pp. 8-33.

<sup>49</sup> For further information on this figure, see *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 1, pp. 2-5; Ibn al-'Imad, *Shadharat al-Dhabab*, vol. 4, p. 370-72; Muhammad Habib al- Hila, *Al-Tarikh wa al-Mu'arrikhun bi Makka*, pp. 197-213; J. Schacht and C. van Arendonk, "Ibn Hadjar al-Haytami" in *Encyclopedia of Islam*, vol. III, pp. 778b-779b. For the case between him and Ibn Ziyad, see Ibn Hajar al-Haytami, *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 3, pp. 2-38.

<sup>50</sup> For details on these five times, see *Kitab Nayl al-Muna*, vol. 2, pp. 664, 668, 717, 722, 771- 72.

<sup>51</sup> *Ibid*, vol. 2, pp. 664-69.

<sup>52</sup> *Ibid*, vol. 2, p. 717.

<sup>53</sup> *Ibid*, vol. 1, p. 20.

<sup>54</sup> *Al-Nukat al-Ziraf*, folio 51b.

<sup>55</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 82.

<sup>56</sup> For further details on the traditional costume worn in the Islamic lands and the position of 'imama there, see Y. K. Stillman, N. A. Stillman and T. Majda, "Libas", in *Encyclopedia of Islam*, vol. V, pp. 732-50.

<sup>57</sup> Ibn Hajar Haytami, *Darr al-Ghamama fi Dharr al-Taylasan wa al-'Adbba wa al-'Imama*, (Egypt: Matba'at al-Sa'ada, n. d.), p. 2.

<sup>58</sup> *Bulugh al-Arab fi Huḳm Tijan al-'Arab*; see *Al-Tarikh wa al-Mu'arrikhun bi Makka*, p. 198.

<sup>59</sup> See *Kitab Nayl al-Muna*, vol. 1, pp. 321, 489.

<sup>60</sup> This is the case for instance with Quṭb al-Din al-Nahrawali (d. 1582) on the history of Mecca, see Quṭb al-Din al-Nahrawali, *Al-'Ilam bi 'Alam Bayt Allah al-Haram*, (Cairo: n.p., 1886). It is also the same with 'Ali b. Taj al-Din al-Sanjari (d. 1713) in his voluminous work on the history of Mecca *Mana'ih al-Karam* although he made eighteen references to Ibn Hajar, see 'Ali b. Taj al-Din al-Sanjari, *Mana'ih al-Karam*, vol. 1, pp. 68, 91, 92, 99, 100, 230, 250, 295, 382, 441, 500; vol. 2, pp. 80, 81, 196; vol. 3, pp. 313, 338, 340; and vol. 4, p. 72; and C. Snouck Hurgronje, *Mekka: Die Stadt und ihre Heren*, vol. 1 (Maritnus Nijnhoff, 1888), pp. 104-108.

<sup>61</sup> *Al-Nukat al-Ziraf*, folio 15b.

<sup>62</sup> *Ibid*, folio 42b.

<sup>63</sup> *Al-Nukat al-Ziraf*, folio 15b.

<sup>64</sup> This is the main difference intended by Ibn Fahd. See his *Al-Nukat al-Ziraf*, folio 42b. See also Ibn Manzur, *Lisan al-'Arab*, 1<sup>st</sup> ed., (Beirut: Dar Ṣadir, n. d.), vol. 8, p. 262, item *q-r* '.

<sup>65</sup> For further details on this legal norm in the Ḥanafi School, see al-Sarakhsi, *Al-Mabsuṭ*, vol., 1 (Beirut: Dar al-Ma'rifa, 1989), p. 101. For the Maliki School, See Malik, *Al-Mudawwana*, vol. 1, 1<sup>st</sup> ed., (Beirut: Dar al-Kutub al-'Ilmiyya, 1995), p. 124; Sulayman b. Khalaf al-Baji, *Al-Muntaqa Sharh al-Muwatta'*, vol. 1, 2<sup>nd</sup> ed., (Dar al-Kitab al-Islami, n. d.), pp. 75-76.

<sup>66</sup> See Ibn Qudama, *Al-Mughni*, vol. 1, 2<sup>nd</sup> ed., (Dar Ihya' al-Turath al-'Arabi, 1985), pp. 184-85.

- <sup>67</sup> Yahya b. Sharaf al-Nawawi, *Al-Majmu' Sharh al-Muhadhdhab*, vol. 1 (Egypt: Matba'at al-Muniriyya, n. d.), p. 438.
- <sup>68</sup> Contents of this letter are to be elaborated below.
- <sup>69</sup> *Al-Nukat al-Ziraf*, folio, 15a.
- <sup>70</sup> This book is one of the missing works of al-Muhasibi, see al-Muhasibi, *Al-Wasaya*, (Beirut: Dar al-Kutub al-'Ilmiyya, 1986), p. 39; Margaret Smith, *An Early Mystic of Baghdad: A Study of the Life and Teachings of Harith b. Asad al-Muhasibi*, (London: The Sheldon Press, 1935), pp. 31, 147. However, Smith suggests that the book of al-Muhasibi handles the *ghiba* in the mystic sense, i.e., absence from creation and the presence with God, rather than the juristic one. The extensive quotation made by Ibn Fahd here suggests that al-Muhasibi used the juristic sense of *ghiba* (backbiting) in this book.
- <sup>71</sup> It should be noted that counting al-Muhasibi as one of the Shafi'i jurists is highly debatable. He is rather well known as a great mystic. See Ibn Qadi Shuhba, *Tabaqat al-Shafi'iyya*, ed. Al-Hafiz 'Abd al-'Alim Khan, vol. 2, 1<sup>st</sup> ed., (Beirut: 'Alam al-Kutub, 1407 A.H.), p. 59, 60.
- <sup>72</sup> He is a credible jurist, especially within the Shafi'i school. On him, see W. Montgomery Watt, "al-Ghazali", in *Encyclopedia of Islam*, vol. II, pp. 1038b-1041b.
- <sup>73</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 1, p.4.
- <sup>74</sup> *Ibid*, vol. 4, p. 82; *Al-Nukat al-Ziraf*, folio 10a.
- <sup>75</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 82.
- <sup>76</sup> *Al-Nukat al-Ziraf*, folios, 13a & b; *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 82; *Al-Zawajir 'an Iqtiraf al-Kaba'ir*, vol. 2, pp. 23-24.
- <sup>77</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 82.
- <sup>78</sup> *Al-Nukat al-Ziraf*, folio, 13b.
- <sup>79</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 82.
- <sup>80</sup> *Ibid*.
- <sup>81</sup> *Ibid*, vol. 4, p. 83
- <sup>82</sup> *Al-Nukat al-Ziraf*, folio 11b. For this opinion and its refutation, see al-Qurtubi, *Al-Jami' li Ahkam al-Qur'an*, ed., Ahmad 'Abd al-'Alim al-Barduni, 2<sup>nd</sup> ed., (Cairo: Dar al-Sha'b, 1372 A.H.), vol. 16, p. 337.
- <sup>83</sup> *Ibid*, 12b-14a. For this tradition, see Ibn Hibban, *Sahib Ibn Hibban*, ed. Shu'ayb al-Arna'ut, 2<sup>nd</sup> ed., (Beirut: Mu'assasat al-Risala, 1993), Hadith no. 7257, vol. 16, p. 246; Abu al-Hasan al-Haythami, *Majma' al-Zawa'id wa Manba' al-Fawa'id*, (Cairo-Beirut: Dar al-Rayyan li al-Turath-Dar al-Kitab al-'Arabi, 1407 A.H.), vol. 6, p. 191.
- <sup>84</sup> *Ibid*, 11a-13b. For this dialogue, see Ibn 'Abd al-Barr, *Al-Isti'ab fi Ma'rifat al-Ashab*, vol. 3, ed. 'Ali Muhammad al-Bijawi, (Egypt: Maktabat Nahdat Misr, n. d.), p. 1120.
- <sup>85</sup> He is well known for his commentary on the Qur'an. See R. Arnaldez, "Al-Qurtubi", in *Encyclopedia of Islam*, vol., V, pp. 512-13.
- <sup>86</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 83. On the opinion of al-Qurtubi, see al-Qurtubi, *Al-Jami' li Ahkam al-Qur'an*, vol. 16, p. 337.
- <sup>87</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, op. cit., vol. 4, p. 83
- <sup>88</sup> On him, see E. Chaumont, "Al-Shafi'i", in *Encyclopedia of Islam*, vol., IX, pp. 181-185.
- <sup>89</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 83
- <sup>90</sup> *Al-Zawajir 'an Iqtiraf al-Kaba'ir*, vol. 2, p. 19.
- <sup>91</sup> *Ibid*.
- <sup>92</sup> *Al-Nukat al-Ziraf*, in the margin of folio 3a.
- <sup>93</sup> *Himyan* is an Arabized word denoting the purse tied on one's waist where money and precious things are preserved and *nakt* denotes drawing out or extracting. See Muhammad al-Razi, *Mukhtar al-Sihab*, vol. 1, ed. Mahmud Khaṭir, (Maktabat Libnan Nashirun, 1995), p. 291; Ibn Manzur, *Lisan al-'Arab*, vol. 15, p. 364. Thus *nakt al-Himyan* is drawing out these precious things that is kept in the purse.
- <sup>94</sup> *Al-Nukat al-Ziraf*, folio 3a.
- <sup>95</sup> *Ibid*, folios 3a and 3b.
- <sup>96</sup> This is according to the Islamic calendar. According to the Gregorian calendar, it is the tenth century.
- <sup>97</sup> *Al-Nukat al-Ziraf*, folio 3a. It is to be noted that the notion of this honorific title is based on a Prophetic tradition stating that every century would have a renewer of religion. This title was always reserved for those with very high scholarly prestige such as al-Shafi'i who was recognized as the *mujaddid* of the second century. On further elaboration for the purport of this title and the responsibility of its holder, see Abu al-Tayyib Muhammad Shams al-Haqq Abadi, *'Awn al-Ma'bud Sharh Sunan Abi Dawud*, vol. 11, 2<sup>nd</sup> ed., (Beirut: Dar al-Kutub al-'Ilmiyya, 1415 A.H.), pp. 259-67. Cf. E. Van Donzel, "Mudjaddid" in *Encyclopedia of Islam*, vol., VII, p. 290; J. J. G. Jansen, "Tadjdid", in *Encyclopedia of Islam*, vol. X, pp. 61b, 62a. In this vein, Al-Khwarizmi is

recognized by some scholars as the one of the renewers of religion of the fourth century, see Abu al-Tayyib Muhammad Shams al-Haqq Abadi, *ʿAwn al-Maʿbud*, vol. 11, p. 264.

<sup>98</sup> He is one of the most venerated personalities in Islamic history and the founder of the Ḥanbali School. On him, see H. Laoust, “Ahmad b. Hanbal”, in *Encyclopedia of Islam*, vol. I, pp. 272-77.

<sup>99</sup> An eminent traditionalist and authorities like Ahmad b. Hanbal is reported to be among his pupils. On him, see al-Dhahabi, *Siyar Aʿlam al-Nubalaʾ*, vol. 11, pp. 71-96; F. Leemhuis, “Yahya b. Maʿin”, in *Encyclopedia of Islam*, vol. XI, p. 247.

<sup>100</sup> He is also a very well known traditionalist. On him, see al-Dhahabi, *Siyar Aʿlam al-Nubalaʾ*, vol. 13, pp. 65-85; Saʿdi al-Hashimi, *Abu Zurʿa al-Raʿi*, 1<sup>st</sup> ed., (Al-Jamiʿa al-Islamiyya bi al-Madina al-Munawwara, 1982).

<sup>101</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 4, p. 82.

<sup>102</sup> *Ibid.*, p. 83.

<sup>103</sup> On him, see al-Dhahabi, *Siyar Aʿlam al-Nubalaʾ*, vol. 22, pp. 352-57.

<sup>104</sup> Ibn al-Jawzi, *Talqih Fubum Abl Athar fi ʿUyun al-Tarikh wa al-Siyar*, (Delhi, n. d.), pp. 229-31.

<sup>105</sup> See for instance *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 2, p. 31, 84, 116, 135; and vol. 4, p. 259; Ibn Hajar al-Haytami, *Al-Zawajir ʿan Iqtiraf al-Kabaʿir*, vol. 1, pp. 20, 28, 127.

<sup>106</sup> *Al-Fatawa al-Fiqhiyya al-Kubra*, op. cit., vol. 4, p. 82

<sup>107</sup> He is a credible authority in the Shafiʿi school in particular. On him, see E. Geoffroy, “Al-Suyuti”, in *Encyclopedia of Islam*, vol., IX, pp. 913-916.

<sup>108</sup> For the full text of the fatwa and its context, see al-Suyuti, *Al-Hawi li al-Fatawa*, vol. 1 (Egypt: Maktabat al-Qudsi, 1995), pp. 152-53. For the whole text of the fatwa, see pp. 153-65.

<sup>109</sup> Choosing Cairo in particular could be traced back, besides the authoritativeness of al-Azhar mosque in this time, to the fact that Ibn Hajar is originally Egyptian and received his education there in al-Azhar since 1517. For instance al-Laḡani, one of those who signed the fatwa supporting Ibn Fahd, is one of the main masters of Ibn Hajar. See Ibn Hajar al-Haytami, *Al-Fatawa al-Fiqhiyya al-Kubra*, vol. 1, p. 4. Additionally each of the four scholars who responded to the question belongs to one of the four Sunni juristic schools, something that would of course lend Ibn Fahd the support he is looking for not only among the Shafiʿis but also among the followers of other schools.

<sup>110</sup> *Al-Nukat al-Ziraf*, folio 14a.

<sup>111</sup> This is of course a clear response to Ibn Hajar when he stated, as noted above, that he has never known of anyone who sees such intention, viz., promoting admonition, as a legitimizing factor for mentioning people’s defects.

<sup>112</sup> See Ibn Tulun, *Mufakabat al-Khillan fi Hawadith al-Zaman*, vol. 2 (Egypt, 1964), p. 14 and footnote 16; Nasir b. Saʿd al-Rashid, “Banu Fahd Muʿarrikhū Makka al-Mukarrama wa al-Taʿrif bi Makhtut al-Najm b. Fahd,” in *Masadir Tarikh al-Jazira al-ʿArabiyya*, Jamiʿat al-Riyad (1979), vol. 1, part 2, pp. 69-90, especially 77; Muhammad Habib al-Hila, *Al-Tarikh wa al-Muʿarrikhun bi Makka*, p. 196.

<sup>113</sup> *Al-Nukat al-Ziraf*, folio 15a.

<sup>114</sup> See Ahmad b. Muhammad al-Hamawi, *Ghamṣ ʿUyun al-Baṣaʿir fi Sharh al-Asbab wa al-Naṣaʿir*, (Beirut: Dar al-Kutub al-ʿIlmiyya, 1985), pp. 334-35.

<sup>115</sup> On him, see Khayr al-Din al-Zirikli, *Al-Aʿlam*, 15<sup>th</sup> ed., vol. 5 (Beirut: Dar al-ʿIlm li al-Malayin, 2002), p. 12.

<sup>116</sup> See Carl Brockelmann, *Geschichte der arabischen Litteratur*, vol. 2 (Leiden: Brill, 1937-42), p. 397.

<sup>117</sup> On him, see Ahmad Tammam, “*Al-Sharabasi: Mawahib Shatta*”, an online article available on <http://www.islamonline.net/Arabic/history/1422/12/article19.shtml>. Accessed on 20 February 2006.

<sup>118</sup> Ahmad al-Sharabasi, *Fi ʿAalam al-Makfufin*, vol. 2 (Maṭbaʿat Lajnat al-Bayan al-ʿArabi, n. d.), p. 32. It is to be noted that the first volume of this book appeared in 1956 but the second one was without date. Copies of this book are very difficult to locate now.

<sup>119</sup> As for PhD dissertations, for instance in the Egyptian university, Al-Azhar, Layla ʿAbdullah wrote on the rulings of people with dumbness, see Lyala ʿAbdullah, (*Abkam al-Akbras fi al-Fiqh al-Islami*, (Egypt: Maktabat al-Zahra, 1997). In the same university Sari al-Kilani wrote on the rulings of people with disability in general, see Sari al-Kilani, *Abkam al-Muʿannaqin fi al-Fiqh al-Islami*, unpublished dissertation presented to the faculty of Islamic Sharia and Law (Cairo: al-Azhar University, n. d.).

As for master theses Mustafa al-Qudat wrote his master thesis in the Qarawiyyin University of Morocco on the juristic rulings of people with blindness, see Mustafa al-Qudat, *Abkam al-Muʿannaqin fi al-Shariʿa al-Islamiyya: Abkam al-Umyan*, unpublished master thesis, (1985). In the King Saʿud University of Saudi Arabia, Ibrahim al-Kharji wrote on the juristic rulings pertaining to the hearing disability, see Ibrahim al-Kharji, *Al-Iʿaqa al-Samiyya Atharaha wa Abkamaha fi al-Fiqh al-Islami*, unpublished paper presented as part of obtaining the MA degree in Jurisprudence and its principles, King Saʿud University (1998).



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<sup>120</sup> See for instance, Sa'di Abu Jayb, *Al-Mu'awwaq wa al-Mujtama' fi al-Shari'a al-Islamiyya*. (Damascus/Beirut: Dar al-Fikr al-Mu'asir/Dar al-Fikr, 1982); Mustafa Ibn Hamza, *Huquq al-Mu'awwaqin fi al-Islam*, (Morocco: n.p., 1993); Musafa al-Qudat, *Huquq al-Mu'awwaqin bayna al-Shari'a al-Islamiyya wa al-Qanun*, (Jordan: Mu'assasat Hamada, 2004).

<sup>121</sup> See for instance, Ahmad Swuilam, *Muslimun Hazamu al-'Ajz*, 2<sup>nd</sup> ed., (Egypt: al-Dar al-Misriyya al-Libnaniyya, 1992); Husayn, 'Abd al-Razzaq, *Al-I'qa fi al-Adab al-'Arabi*.

<sup>122</sup> On him, see Khayr al-Din al-Zirikli, *Al-A'lam*, vol. 7, pp. 350- 51.

<sup>123</sup> See Nasif al-Yaziji, *Mu'jam al-Qatifa fi Asma' A'da' al-Insan wa ma Yata'allq biha wa al-Sifat al-Jariya 'alayhi min al-Hila wa al-'Uyub*, (Beirut: Maktabat Libnan, 1984).