

Al-Qāḍī Abū Ya‘lā: Thoughts and Influence on the Development of Legal Theory of Islamic Civilization and Sciences of JurisprudenceYusuf Abdul Azeez,^a Azmi Shah Bin Suratman,^a Hussin Bin Salamon,^a Ramli Bin Awang^a^a*Faculty of Islamic Civilization, Universiti Teknologi Malaysia***Corresponding author: abdulazeeyusuf2003@yahoo.com*

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Abstract

Al-Qāḍī Abū Ya‘lā ibn al-Farrā’ (380-458 A.H / 990-1065 C.E) is regarded as the most prominent Hanbali scholar and one of the early Muslim jurists who played dynamic roles in formulating a systematic legal framework and constitutional theory on Islamic system of government during the first half of the 5th/11th Century in Baghdad, and which are still found to be relevant in the modern day constitutional legal theories. Attempt would, therefore, be made in this paper to examine the contributions of this Leading Legal Luminary to the Legal theory of Islamic civilization and sciences of jurisprudence of the Ḥanbali Madhhab (Hanbali School of Law). Other areas of relevance critically examined in this paper are his education and legal background, contemporary pursuits of intellectuals and prominent fuqahā’ (jurists) of his time, as well as a detailed account of his notable students, works and influence in the development of the Ḥanbali Madhhab

Keywords: Islamic Civilization, Islamic Jurisprudence, *Ḥanbali Madhhab*, *Ḥanbali* Scholars, Legal Theory

1.0 INTRODUCTION

Historical antecedents are replete with the facts that he was born on the evening of the 28th or 29th Muḥarram, 380 A.H. (Abu Faris, 1983). He was said to have been brought up in Baghdad, one of the principal seats of learning and education in the Muslim world at that time. His father, Abū ‘Abd Allāh al-Ḥusayn (d. 390 A.H / 1000 C.E.), was a Ḥanafī *muḥaddith* (expert on the Prophetic tradition) and a *fāqih* (jurist) of high repute (Gibb, & Krammers, 1979).

In the year 385 A.H, the father of al-Qāḍī Abū Ya‘lā introduced him to the study of the Glorious Quran and the *ḥadīth* (Prophetic tradition). He apparently became an adherent of the *Ḥanbalī Madhhab* at a younger age. He first studied *ḥadīth* under a *muḥaddith* known as Abū al-Ḥasan al-Sukkarī and went on to continue his study with a Quranic teacher known as Ibn Mufrihah al-Muqrī, who taught him the acts of worship and religion, and guided his studies on the famous *Ḥanbalī* treatise; *Mukhtasar al-Khiraqī*, a prominent and important classical work on Islamic jurisprudence and administration on which he later wrote his well known commentaries. Al-Qāḍī Abū Ya‘lā later joined the study circle of his greatest teacher and intellectual mentor; Abū ‘Abd Allāh al-Ḥasan ibn Ḥamīd in his mosque at Bab al-Sha‘ir in Baghdad. Abū Ya‘lā acquired the knowledge of *ḥadīth* from some of the prominent scholars in Baghdad, Damascus, Aleppo and Makkah. Among them were ‘Abd al-Rahmān ibn Abī Naṣrī, Abū Naṣr ‘Abd Allāh ibn Sa‘īd al-Sajazī al-Ḥāfiz, and the famous scholar of Khurasan Abū ‘Abd Allāh al-Hakīm al-Naysabūrī, the author of *al-Mustadrak* (Abu Faris, 1983). On the death of his master, the young Abū Ya‘lā began his long career as a *mudarris* imparting the knowledge of religion. At a young age he had become an expert in *ḥadīth* and a *muftī* (expounder of Islamic law). His proficiency in *ḥadīth* and versatility in Islamic jurisprudence proved useful in securing a respectable career for him. A great number of people and members of other *madhāhib* (schools of jurisprudence) were attracted to his study circle which was held in a mosque at Bab al-Sha‘ir (Ephrat, 2000). Abū Ya‘lā succeeded his master Ibn al-Ḥamīd after his death in 403 A.H. / 1012 C.E. He made his pilgrimage to Makkah in 414 A.H. / 1025 C.E. and on his return he devoted himself to the teaching of the *ḥadīth* and the *Ḥanbalī fiqh*. In 421 A.H. / 1030 C.E. or 422 A.H. / 1031 C.E., he was nominated to the post of *shāhid* (notary) by the Chief *Qāḍī* of Baghdad Abū ‘Abd Allāh ibn Makula al-Damaghanī (d. 447 A.H. / 1055 C.E.). Not so long after, he was nominated to the post of *Qāḍī* of the *Harim* (the caliphal courtyard). However, he refused to take up the post in spite of persuasions of al-Sharīf Abū ‘Alī al-Hashīm (d. 428 A.H. / 1037 C.E.). Some years later, probably in 428 A.H. / 1037 C.E., he finally accepted the post as a result of intervention of the great patrons of Ḥanbalism, Abū Mansūr ibn Yūsuf (d. 460 A.H. / 1067 C.E.) and Abū ‘Abd Allāh ibn Jaradah (d. 470 A.H. / 1077 C.E.) (Gibb, & Krammers, 1979). It was through the suggestion of Ibn al-Muslimah, the *wazīr* (minister) of Caliph al-Qā‘im bi Amr Allāh (422-467 A.H. / 1031-1075 C.E.), and through the good offices of Abū Mansūr ibn Yūsuf that al-Qāḍī Abū Ya‘lā ibn al-Farra’ in 447 A.H / 1055 C.E. agreed to become *Qāḍī* of the *Harim*. That was after the death of al-Qāḍī Abū ‘Abd Allāh ibn Makulā.

Al-Qāḍī Abū Ya‘lā’s acceptance of this post was based on the following four conditions (Abū Ya‘lā, n.d.). which were forwarded to Caliph al-Qā‘im bi Amr Allāh who acceded to his request:

1. That he should not be expected to take part in official processions;
2. That he would not be able to receive or meet important personalities received by the Caliph;
3. That he should be exempted from attending the palace in person;
4. That he should be allowed to spend one day each month at Nahr al-Mu‘allā, and another one at Bāb al-Azāj, the two cities also covered by his area of jurisdictions, and that he should be given the chance to nominate someone who will serve as his *nā‘ib* (deputy) at the *ḥharim* whenever he is absent.

At a later stage in the life of al-Qāḍī Abū Ya‘lā, his jurisdiction was extended to cover the two cities of Ḥarrān and Hulwan, looking into the capital punishment cases related to homicide, adultery and financial crimes (Gibb, & Krammers, 1979). In 429 A.H./ 1038 C.E., al-Qāḍī Abū Ya‘lā was fiercely criticized by a

group of Ash‘ari theologians who accused him of having supported in his *Kitāb al-Sifāt* (The Invalidation of Figurative Interpretation on the Information of Attributes) (Abū Ya‘lā, n.d.). It is reported that al-Qāḍī Abū Ya‘lā contrasted the *taslīm al-īmān* (unquestioning faith) of the *Hanbalis* with the *ta‘wil* (semi-rationalism) of Ash‘arism on the view and doctrine of anthropomorphism of Almighty Allah. It was due to the effect of this criticism and accusation that al-Qāḍī Abū Ya‘lā in 432 A.H. / 1040 C.E. lead a rally which was followed by a multitude, among whom was the famous *zāhid* (ascetic) Abū al-Hasan al-Qazwini (d. 442 A.H / 1050 C.E), to the palace of Caliph al-Qā‘im bi Amr Allāh in order to clear the ambiguity and misunderstanding surrounding his claims, and to affirm the Sunni caliphal policy as well as restore the government’s confidence and patronage for the *Ḥanābilah* (Abū Ya‘lā, n.d.). The result of this action was that the caliph, after examining the contents of the book, declared that the ideas of al-Qāḍī Abū Ya‘lā were in accordance with *al-i‘tiqād al-qādirī*; a dogma which holds the view that freedom of action and deed in this world is vested in oneself.

Under the instruction of the Caliph, the ‘*ulamā*’ that came from a different *madhāhib* were invited to attend the occasion whereby they were made to attest to their agreement with the Caliph’s finding. Among the signatories were al-Qazwinī, al-Qāḍī Abū Ya‘lā himself and the *Shāfi‘ī* al-Qāḍī Abū al-Ṭayyib al-Ṭabarī (Abū Ya‘lā, n.d.) and since then, support for the teachings of al-Qāḍī Abū Ya‘lā continued to grow because of the events that took place after the rally in *Dār al-Khilāfah* (the Palace of the Caliph). A Ḥanafī scholar; Abū al-Qāsim ‘Abd al-Qādir ibn Yūsuf, in declaring his support for al-Qāḍī Abū Ya‘lā, cited a *ḥadīth* in which the Prophet says: “There will always be a group from my community who shall continue to hold to the truth until the Day of Judgment.” Also, al-Qazwinī went to al-Manṣūr Mosque to deliver a lecture on some of the Prophetic traditions on the attributes of God and dictated the book of al-Qāḍī Abū Ya‘lā. He is also mentioned to have made himself present at the meeting which was held in *Dār al-Khilāfah* in 445 A.H. / 1053 C.E. under the chairmanship of Ibn al-Muslimah, the *wazīr* of Caliph al-Qā‘im bi Amr Allāh (al-Sayed, 1982), in order to officially explain the position of the caliphate in matters of dogma; particularly on the divine attributes and uncreated nature of the Quran. At the end of the meeting, it was proclaimed that: “The Qur’an is the word of Allah, and the words concerning Allah’s attributes must be understood as they were revealed” (Gibb, & Krammers, 1979).

Al-Qāḍī Abū Ya‘lā remained in office as a caliph jurist until his death, passing judgments on any matter brought to him for adjudication and imparting the knowledge of *ḥadīth* and *fiqh* every Friday in al-Manṣūr Mosque in the same seat where ‘Abd Allāh the son of al-Imām Aḥmad ibn Ḥanbal (Muhammad, 2001) used to deliver his lectures. The attendance of al-Qāḍī Abū Ya‘lā listeners used to be so great that one could hardly get a place to sit. He was characterized by his biographers as a man of knowledge in theology and law, and an outstanding figure in political and religious affairs, whose followers were uncountable, whose works were taught, whose legal judgments based on *fatāwā* (personal opinion) were sought for, and whose *majālis al-‘ilm* (lecture places) were well attended by people of different *madhāhib* (Abū Ya‘lā, n.d.). Al-Qāḍī Abū Ya‘lā passed away on the 19th of Ramadan, 458 C.E. He was buried in the graveyard of al-Imām Aḥmad ibn Ḥanbal (Ephrat, 2000), and survived by a daughter and three sons. They are Nu‘aymat bint al-Qāḍī Abū Ya‘lā, Abū al-Qāsim ibn al-Qāḍī Abū Ya‘lā (d. 649), Abū Khazim ibn al-Qāḍī Abū Ya‘lā (d. 430 A.H / 1039 C.E) and Abū al-Ḥusayn Muḥammad ibn al-Qāḍī Abū Ya‘lā (d. 525 A.H / 1131 C.E). Apparently, they all began their education with their father at extraordinarily young ages and all were described as experts in *ḥadīth* (*muḥaddithūn*). The second son Abū al-Ḥusayn Muḥammad ibn al-Qāḍī Abū Ya‘lā was the most famous; he was regarded as one of the greatest Muslim historians and he was the author of *Tabaqāt al-Ḥanābilah* (Biographical Layers of the *Ḥanbalīs*).

2.0 CONTEMPORARY PURSUITS OF INTELLECTUALS

While commenting on the intellectual situation in the Muslim world during the medieval era, Daphna Ephrat (2000) stated that: “Baghdad, particularly in the eleventh century, emerged as a major link in the worldwide chains of transmission of Islamic learning”. Many ‘*ulamā*’ (scholars) travelled from their homes to this centre of religious learning to study under the most celebrated teachers of their generation, to acquire

teaching experience, and to establish their scholarly reputation. The *Baghdādīs* who left the city in search of better opportunities abroad spread the teachings and legal doctrines of their schools while other scholars came to Baghdad from all parts of the Muslim world as far as Spain and Transoxania. Some adopted the city as their home while others resided in Baghdad for some time, then later returned to their homes or moved to other cities where they pursued their scholastic activities and careers, thus making contributions towards intellectual stimulation (Ephrat, 2000). The period from the fourth – fifth century A.H. / tenth - eleventh century C.E. in which al-Qāḍī Abū Ya‘lā lived falls within an era viewed by modern scholarship as the age of transformation of Muslim societies; a period often called “the period of the Sunni revival.” It was indeed a period when the main foundations of new forms of religious and social organizations were laid down in central Islamic regions. New social associations and frameworks were developed to teach Islamic religious and legal sciences, application of religious laws and the harness of mysticism (Ephrat, 2000). This period was also distinct in the sense that it was a time when most notable scholars played remarkable and indelible roles in the development of Islamic knowledge and other disciplines such as jurisprudence and its principles, Quranic exegesis, Quranic sciences, Prophetic tradition and its sciences, Arabic grammar and syntax, morphology, literature, poetry, medicine, philosophy, elaboration and systematization of scholastic theology (*‘ilm al-kalām*), astronomy, trade and commerce, and natural sciences (Abu Faris, 1983). During the course of this century, the four Sunni Schools of Jurisprudence (*al-Madhāhib al-Sunniyyah al-Arba‘ah*) namely: *Mālikī*, *Ḥanbalī*, *Ḥanafī* and *Shāfi‘ī* were consolidated as scholarly establishments, the nubs of the *ṣūfī* fraternities were formed and the Islamic law schools (*al-madāris al-shar‘iyyah*) and *ṣūfī* hostels (*khanqah* or *ribāṭ*) were founded with substantial *awqāf* (endowments). Most of these *awqāf* were established by the Abbasid caliphate and, subsequent Buyid and Seljuk dynasties funded and ensured the perpetuity of the *madāris* (schools) (Ephrat, 2000). The endowments were also meant principally for the study and transmission of pure Islamic sciences. These financial supports became necessary due to the fact that the ‘ulama’ and students of learning (tullab al-‘ilm) were considered as representatives of mainstream Islam. (Ephrat, 2000) These developments took place against the background of the Abbasid caliphate’s disintegration and the subsequent rise to power of the sultanates of the Buyids and Seljuks. This type of strong institutionalized intellectualism, as mentioned by Muhammad Abu Faris, was essential by then to sustain the heritage of Islam and secure the unity of the Muslim *Ummah* (Abu Faris, 1983).

During this period, the pressure for conformity and uniformity among various Muslim sects and *madhāhib* was very strong in the capital city of Baghdad and disputes over the proper Islamic creed and behavior reached a peak between the *Shī‘ah* (Shiites) and *ahl al-Sunnah* (Sunnites). The *Ḥanbalīs* became the most vigorous and dynamic sub-faction among *ahl al-Sunnah* of Baghdad in the midst of clashes between the *Ḥanbalīs* and their rivals, while the *Shi‘ah* were regarded as a cornerstone of troubles erupting between experts of *ḥadīth* (*ahl al-ḥadīth*) and theologians (*mutakallimūn*) over the status of rational investigation. Out of fear of detractions which rational inquiry into divine revelation might bring into the simple original faith, the *Ḥanbalīs* led the movement of *ahl al-ḥadīth* that insisted on finding *ḥadīth* solutions to legal and theological questions by all possible means. In addition to taking it upon themselves to persecute the *Shi‘ah*, leaders of the *Ḥanbalīs* and their theologians occupied themselves in fighting all forms of rationalism by imputing by force their orthodox thought on *Baghdādī* society (Ephrat, 2000).

3.0 PROMINENT *FUQAHĀ’* OF HIS TIME IN BAGHDAD

An attempt is made at this juncture to briefly identify some of the prominent *fuqahā’* (jurists) of the four schools of jurisprudence that dominated legal circles in the 11th century Baghdad as highlighted below:

1. *Ḥanbalī Madhhab*: According to Daphna Ephrat (2000), six great *Ḥanbalī* scholars of the 11th century Baghdad played major roles in the scholastic development of *Ḥanbalism*. The first great *Ḥanbalī fāqih* of the period was Abū ‘Abd Allāh ibn Ḥamīd (d. 403 A.H. / 1012 C.E.). He was a native of Baghdad who excelled in both the science of *ḥadīth* and law, and whose *isnad* (scholarly ascription) goes back to the famous *Ḥanbalī* jurisconsult

of the fourth Muslim century, Abū al-Qāsim ‘Umar ibn al-Ḥusayn ibn ‘Abd Allāh al-Khiraqī (d. 334 A.H.). Ibn Hamid’s closest disciple. Al-Qāḍī Abū Ya‘lā was described by *Ḥanbalī* writers as the leader of the *Ḥanbalī Madhhab* in Baghdad. Two of al-Qāḍī Abū Ya‘lā’s many disciples played prominent roles in the spread and consolidation of the *Ḥanbalī Madhhab* abroad; they are Abū al-Faṭḥ al-Baghdādī al-Ḥarrānī, known as *Qāḍī Ḥarrān* (d. 476 A.H. / 1083 C.E.), and Abū al-Faraj al-Shirāzī (d. 486 A.H. / 1094 C.E.). Ya‘qūb al-Barzabānī (d. 486 A.H. / 1093 C.E.) and Abū al-Khaṭṭāb al-Kalwadhānī (d. 510 A.H. / 1116 C.E.) were two other famous disciples of al-Qāḍī Abū Ya‘lā placed among the leading legal scholars of the 5th / 11th century Baghdad (Ibn al-Athīr, 1996).

2. *Ḥanaḥī Madhhab*: Three great *fuqahā’* dominated the *Ḥanaḥī Madhhab* in the 11th century Baghdad; they are al-Qaddūrī (d. 428 A.H. / 1037 C.E.), al-Qāḍī Abū al-Wāḥid al-Saymarī (d. 436 A.H. / 1045 C.E.) and Abū ‘Abd Allāh al-Damaghanī (d. 478 A.H. / 1085 C.E.) (Ephrat, 2000).
3. *Shafi‘ī Madhhab*: The line of leading *Shafi‘ī Madhhab* in the 11th century Baghdad commenced with Abū Ḥamīd al-Isfīrā’inī (d. 406 A.H. / 1016 C.E.). Among al-Isfīrā’inī’s most celebrated disciples were Abū al-Ḥasan al-Mawardī of Basrah (364-450 A.H. / 972-1058 C.E.) who is considered by many Muslim political scientists as the most learned theoretician of orthodox political theory, and Abū al-Ṭayyib al-Ṭabarī (d. 450 A.H. / 1058 C.E.), who, on the death of his master, succeeded him as leader of the *Shafi‘ī Madhhab* in Baghdad (Ephrat, 2000). Among other adherents of the *madhhab* attending al-Isfīrā’inī’s study circle were Abū al-Ḥasan al-Mahamīlī (d. 415 A.H. / 1024 C.E.) and Abū al-Faṭḥ Sulaym al-Rāzī (d. 447 A.H. / 1055 C.E.). His two most prominent disciples were Abū Ishāq al-Shirāzī (d. 476 A.H. / 1038 C.E.), the first professor of al-Nizamiyyah School renowned for his famous treatise on jurisprudence, entitled *Kitāb al-Shāmil fī al-Fiqh* (Ephrat, 2000). Among his students was Abū Bakr al-Shashī (d. 507 A.H. / 1114 C.E.) who arrived in Baghdad after studying the legal doctrine of the *Shafi‘ī Madhhab* with al-Qāḍī Abu Mansur al-Ṭūsī, a disciple of the eminent *Shāfi‘ī faqīh*, and Ash‘arī theologian, Imām al-Ḥaramayn al-Juwaynī. The last leading *Shāfi‘ī* scholar of the 11th century Baghdad was Abū al-Faṭḥ ibn Barhan (d. 518 A.H. / 1124 C.E.). He adhered to *Ḥanbalism* during the first stage of his life but later changed affiliation to the *Shafi‘ī Madhhab* under the direction of both al-Shasī and the famous al-Ghazzālī (d. 505 A.H. / 1111 C.E.), as well as under ‘Alī al-Ṭabarī al-Harrasī, also known as al-Kiyah al-Harrasī (d. 504 A.H. / 1110 C.E.) (Ephrat, 2000).
4. *Mālikī Madhhab*: Four great *fuqahā’* dominated the *Mālikī Madhhab* in the 11th century Baghdad, they are al-Qāḍī ‘Abd al-Wahhāb ibn Naṣr al-Baghdādī (d. 422 A.H. / 1001 C.E.), Abū Bakr ibn ‘Abd Allāh al-Abharī (d. 390 A.H. / 969 C.E.), Abū al-Ḥasan al-Ma‘afīrī (d. 403 A.H. / 982 C.E.), and Abū ‘Abd Allāh al-Fakkhār Muḥammad ibn ‘Umar ibn Yūsuf al-Qurtubī (d. 419 A.H. / 998 C.E.) (Ibn al-Athīr, 1996).

These great scholars are regarded as the torch bearing *‘ulamā’* of the 11th century Baghdad. It is said that the outstanding role each of them played in world-wide networks of Islamic learning will never be forgotten. These men acquired profound knowledge in the realms of law, Prophetic traditions, theology and sufism, and passed it on to succeeding generations. They are however, merely a few of the more than seven hundred scholars who comprised the learned society in Baghdad during the 11th and the 12th centuries C.E. (Ephrat, 2000).

4.0 STUDENTS

Al-Qāḍī Abū Ya‘lā lived most of his life in Baghdad and it was because of this that he was able to obtain knowledge of the classical Arabic language. During his school days, his teacher Al-Ḥasan ibn Ḥamīd used to appoint the young Abū Ya‘lā to take over his position in his absence (Abu Faris, 1983). It is no wonder that after the death of his master, he succeeded to his chair in al-Manṣūr Mosque. His name soon

became a household name in *Baghdādī* circles. Most of his teaching activities were held in his *madrasah* in al-Manṣūr Mosque. He also conducted the sermon and preaching every Friday in the same place (Abū Ya‘lā, n.d.). He was undoubtedly one of the most celebrated teachers of his generation. People from all walks of life namely merchants, cosmopolitan elites, bearers of cultures, students of learning and religious scholars irrespective of their *madhāhib* of thought gathered around al-Qāḍī Abū Ya‘lā to acquire the knowledge of *ḥadīth*, *tafsīr*, *fiqh wa uṣūluhu* (jurisprudence and its principles), *‘ilm al-kalām* (rational knowledge) and *‘ulūm al-Qur‘ān wa al-ḥadīth* (sciences of the Quran and *ḥadīth*). Others travelled from their towns and cities to acquire teaching and legal experience as well as jurisconsult and religious education (Abu Faris, 1983). His study group was so large that it would have been very difficult for one to count their number on every occasion. He was highly regarded, not only by members of his own *madhhab*, but by learned scholars of other *madhāhib* as well as the political figures and the common people (Abu Faris, 1983).

In the light of the foregoing, efforts would now be made to briefly give insight into the life history of some of the leading figures and those celebrated among his students. Hence, the most notable and prominent students of al-Qāḍī Abū Ya‘lā are:

1. Al-Ḥasan ibn Aḥmad ibn ‘Abd Allāh ibn al-Bannā’ (d. 471 A.H. / 1050 C.E.): He was an eminent scholar of his time in Quranic sciences. He studied under the supervision of some of the great masters of his period in Baghdad and was one of the early disciples of al-Qāḍī Abū Ya‘lā. The influence of al-Qāḍī Abū Ya‘lā on Ibn al-Bannā’ was mainly in the fields of *fiqh*, *uṣūl al-dīn* (principles of Islamic theology), *fiqh al-qaḍā’* (juridical training) and legal theory (Maqdisi, 1991). The interests of Ibn al-Bannā’ cover the area of Quranic sciences, traditions, jurisprudence and theology. Among other interests were history and biography, sermon-writing, philology, pedagogy and the science of dream interpretation (Maqdisi, 1991). He was acclaimed to have written about one hundred and fifty books on different fields of Islamic knowledge. This broad and active interest on his part is attested to by the statements and commentaries of his biographers, and by the list of his known works (Abu Faris, 1983).
2. Abū Ja‘far ‘Abd al-Khāliq (d. 470 A.H. / 1049 C.E): He was a *mudarris* (teacher) and a *mufīī*. He was a prominent figure in the history of the *Ḥanbalī Madhhab* in Baghdad as the leader of the movement against *al-ra’y* (rationalism). Like other Ḥanbalis of his time, he combined the fields of law and *ḥadīth*, studying under the famous al-Qāḍī Abū Ya‘lā to become one of the most celebrated fuqaha’ of the school after the death of al-Qāḍī Abū Ya‘lā. He taught *fiqh* in several great mosques and issued legal opinions (Ephrat, 2000). Among the numerous students who attended his study circles was the son of his master Abū al-Ḥusayn Muḥammad ibn Abī Ya‘lā; the most famous of the three sons of al-Qāḍī Abū Ya‘lā.
3. Abū al-Faṭḥ al-Baghdādī al-Ḥarrānī (d. 476 A.H. / 1083 C.E.): He was known as *Qāḍī Ḥarrān*. He was said to have assisted his master; al-Qāḍī Abū Ya‘lā in writing down some of the latter’s works (Abu Faris, 1983). When he completed his studies of law under al-Qāḍī Abū Ya‘lā, he was sent to Ḥarrān to assume the post of district *qāḍī*, serving at the same time as a *mufīī*, *wā‘iz* (preacher) and teacher of the *Ḥanbalī Madhhab* (Abu Faris, 1983).
4. Abū al-Faraj al-Shirāzī (d. 486 A.H. / 1094 C.E.): His full name is ‘Abd al-Wāḥid ibn Muḥammad ibn ‘Alī ibn Aḥmad al-Shirāzī al-Maqdisī. The propagation of *Ḥanbalī Madhhab* in Jerusalem and Damascus is attributed to him. He was regarded as the greatest *Ḥanbalī* scholar of his time in Syria (Ephrat, 2000).
5. Abū al-Wafā’ ibn ‘Aqīl (d. 513 A.H. / 1092 C.E.): Abū al-Wafā’ started his studies in law under al-Qāḍī Abū Ya‘lā. Due to his poor family background, he was forced to work as a domestic servant in several places. He also worked as a night guard and a gardener in order to support his quest for knowledge (Ephrat, 2000). He is attributed to more than fifty teachers who taught him various fields of learning. He is said to have written about

twenty different books on law, jurisprudence, theology, Quranic exegesis and religious devotion. The most notable among his works is *Kitāb al-Funūn*, of which Abū Fāris ‘Abd al-Qādir (1983) said that Ibn al-Jawzī reported that it contained up to four hundred and seventy volumes (Abu Faris, 1983).

6. Abū al-Khaṭṭāb al-Kalwadhānī (d. 510 A.H. / 1116 C.E.): He was one of the famous disciples of al-Qādir Abū Ya‘lā. He held extremely vast knowledge of *ḥadīth* and *fiqh*. He was said to have taught a great number of students. Al-Kalwadhānī was so learned and highly regarded that some scholars even called him *mujtahid al-‘asr*; expounder of the Islamic law of his time (Ephrat, 2000).

5.0 WORKS

Al-Qādir Abū Ya‘lā, as one of the prominent jurists of the *Ḥanbalī Madhhab*, is credited to have written many works of erudition. His proficiency in jurisprudence ethics, political science and literature proved useful in securing a respectable career for him not only as a *qādir* but also as an excellent author. Al-Qādir Abū Ya‘lā was an eminent jurist, a *muḥaddith* and a Quranic scientist. His contribution in public law and political science comprises a number of monumental books, the principle of which were listed in *Tabaqāt al-Ḥanābilah* by his son Abū al-Ḥusayn Muḥammad ibn Abī Ya‘lā al-Farrā’ (d. 527 A.H. / 1133 C.E.) (Abū Ya‘lā, n.d.). His commentary on *Mukhtaṣar al-Khiraqī* has long been highly esteemed (Abu Faris, 1983). His treatise on constitutional and public laws; *Kitāb al-Aḥkām al-Ṣulṭāniyyah* elaborates his doctrine on the imamate and the various organs of government, with special reference to the functions and duties of the *imām* (leader of a Muslim State), the ministers, the judges, the governors and other special assistants; the type of relationship which must exist between the various organs of the government and other public institutions were systematically formulated in the book. This monumental work is replete with the measures needed in order to ensure that government functionaries, facilitators and institutions perform their duties to meet the expectation of the people as required by Almighty Allah, so as to ensure that the sovereignty of the state is legally preserved either at the time of peace or during the time of war.

Al-Qādir Abū Ya‘lā was an exponent of a strong centralized caliphate government which is characterized by the power to delegate authority to governors in subordinate territories and to commanders appointed by the imam for special tasks (Gibb & Krammers, 1979). In addition to his exposition on the Islamic system of government, he propounded dynamic principles and ideals that would ensure the election of a competent and qualified imam for the benefit of all Muslims irrespective of time or place. Theories on the qualities that must be possessed by members of the electorate for the *imām* (*ahl al-ikhtiyār*) were also propounded; chief among them are the attainment of a degree of intellectual ability and purity of character (Ibn al-Farrā’, 1983). The most famous work of al-Qādir Abū Ya‘lā is his *Kitāb al-Mu‘tamad fī Uṣūl al-Dīn* (Abu Faris, 1983), modelled on the treatises of *‘ilm al-kalām* with a preamble sketching a theory of knowledge. This book is one of the first great works of its type to be written by a Ḥanbalī scholar (Gibb & Krammers, 1979). Al-Qādir Abū Ya‘lā was also responsible for several manuals that propagate the Ḥanbalī doctrine both in the field of *uṣūl al-fiqh* and its branches (*furū‘uhū*). A great number of works comprising refutations were written by al-Qādir Abū Ya‘lā, but the manuscripts have been lost. Among them are: *Rudūd* of the *Karāmiyyah*, the *Bāṭiniyyah*, the *Mujassimah*, and the *Ashā‘irah* (Gibb & Krammers, 1979). There is also a need to mention some of his notable works like *Kitāb al-Imān*, and his *Kitāb Ibtāl al-Ta‘wīlāt li Akhbār al-Ṣifāt* (Abu Faris, 1983) in which he contrasted the unquestioning faith (*taslim*) of Ḥanbalism with the semi-rationalism (*ta‘wil*) of Ash‘arism.

6.0 INFLUENCE

Al-Qāḍī Abū Ya‘lā was highly influenced by the thought, character and oddity of his famous and notable master, al-Ḥasan ibn Ḥamīd ibn ‘Alī ibn Marwān Abū ‘Abd Allāh al-Baghdādī (d. 403 A.H./1011 C.E.); one of the prominent and leading Ḥanbalī scholars of his time (Abū Ya‘lā, n.d.). It was under him that al-Qāḍī Abū Ya‘lā studied the famous *Mukhtaṣar al-Khiraqī* (d.363 A.H. / 974 C.E.), on whom he later wrote his famous commentary which has long been highly esteemed as one of the best commentaries to have been written by any scholar on *Mukhtaṣar* (Gibb, & Krammers, 1979). al-Ḥasan ibn Ḥamīd ibn ‘Alī ibn Marwān Abū ‘Abd Allāh al-Baghdādī himself was trained by eminent *muḥaddithūn* (*ḥadīth* experts) and *fuqahā*’ (jurists) of his generation like Abū Bakr ibn Mālik, Abū Bakr al-Shāfi‘ī, Abū Bakr ibn al-Najjād, Abū ‘Alī ibn al-Sawwāf, Aḥmad ibn Sālim al-Khatlī and ‘Alī Abū Bakr ‘Abd al-‘Azīz ibn Ja‘far, popularly known as Ghulam al-Khallāl (Abū Ya‘lā, n.d.). Among his famous students were prominent scholars like al-Qāḍī Abū Ya‘lā himself, Abū Ishāq Ibrāhīm ibn Ishāq al-Ḥarbī, Abū al-‘Abbās al-Barmakyanī, Abū Ṭāhir ibn Qaṭṭān, Abū ‘Abd Allāh ibn al-Faqqā‘ī, Abū al-Qāsim al-Maruqī, Abū al-Qāsim Ṭālib ibn al-‘Usharī and Abū Bakr ibn al-Khayyāṭ (Abū Ya‘lā, n.d.). al-Ḥasan ibn Ḥamīd ibn ‘Alī ibn Marwān Abū ‘Abd Allāh al-Baghdādī produced many works, the principal among them are *al-Jāmi‘ fī al-Madhhab*, *Tahdhīb al-Nafs*, *Uṣūl al-Sunnah*, *Sharḥ Uṣūl al-Dīn*, *Uṣūl al-Fiqh* and *Sharḥ Mukhtaṣar al-Khiraqī*, one of the three most celebrated commentaries on *Mukhtaṣar al-Khiraqī*; others being those of *al-Qāḍī Abū Ya‘lā* and Muwaffaq al-Dīn ibn Qudāma (Gibb, & Krammers, 1979). Al-Ḥasan ibn Ḥamīd ibn ‘Alī ibn Marwān Abū ‘Abd Allāh al-Baghdādī died in the year 403 A.H. while returning from Makkah and was succeeded on his chair by al-Qāḍī Abū Ya‘lā, who delivered lectures on ḥadīth and who devoted himself to the teaching of *Ḥanbalī fiqh* in al-Manṣūr Mosque (Abū Ya‘lā, n.d.).

Al-Qāḍī Abū Ya‘lā was a very prominent jurisconsult of the *Ḥanbalī Madhhab* in Baghdad during 5th century A.H. / 11th century C.E., and one of the most highly respected scholars of his time who played an outstanding role in imparting the knowledge of jurisprudence, legal studies and Quranic interpretation as well as Prophetic traditions, theology and other branches of knowledge (Abu Faris, 1983). He was very supportive, austere in life, pious, devout, learned, skilful, full of confidence in Allah, and well known for his patience and generous services. He was assiduous in cultivating literature and skilled in writing, prompt to justice and benevolent; attending to all claims and hardly refused any lawful thing requested from him (Abu Faris, 1983). His biographers confirmed that his authority and influence in the *Ḥanbalī Madhhab* did not only last throughout his lifetime but continued for some few centuries after his death (Syafiq, 1990).

As a religious scholar of the 11th century, *al-Qāḍī Abū Ya‘lā* not only participated actively in the administration of the affairs of the people, but also took part in providing educational, religious and legal guidance to the Muslim community. He taught *ḥadīth*, *fiqh* and *tafsīr* in al-Mansur Mosque, the same place where the leader of his *madhhab*, al-Imam Ahmad ibn Hanbal (164 – 241 A.H) used to deliver his lectures (Muḥammad, 2001). He implemented the law to its letters in the palace of Caliph al-Qā‘im bi Amr Allāh (Ephrat, 2000). His refusal to serve as *qādī* in the first instance stemmed from a deep fear of losing his pious life and devotion to the religious law while dedicating his loyalty at the same time to the ruler who had appointed him. The fear of corruption and loss of primary values in society must also have played a significant role in his decision (Abu Faris, 1983). He finally accepted to serve as *qādī* of *Dār al-Khilāfah* after constant pressure and advice mounted by eminent personalities like Muḥammad ibn Muslimah, the chief minister of Caliph al-Qā‘im bi Amr Allāh, and by Abū Manṣūr ibn Yūsuf, an eminent *fāqih* in Baghdad (Abū Ya‘lā, n.d.). Al-Qāḍī Abū Ya‘lā had systematically created a semi-autonomous judicial court system for the administration of justice in the palace of the caliph as one of the conditions of accepting the job. Hence, the political rulers of that period were given no access to interfere or intervene in the affairs of the judiciary while he was serving as a *qādī* of *Dār al-Khilāfah* (Abu Faris, 1983). His son Muḥammad al-Ḥusayn ibn Abī Ya‘lā tells us that his father al-Qāḍī Abū Ya‘lā agreed to serve as a *qādī* of *Dār al-Khilāfah* only after the Caliph al-Qa‘im bi Amr Allah accepted a series of conditions, among them was that he would neither be obliged to be present in ceremonial processions nor attend the caliph or sultan residences (Abu Faris, 1983). Even when he was favored with outstanding gifts and tributes by some of the *salāṭin* (kings) of that time, al-Qāḍī Abū Ya‘lā refused to take them to mark a certain style of piety (Abū Ya‘lā, n.d.).

This pious life style, as mentioned by his son, was maintained by his father throughout his lifetime (Abū Ya‘lā, n.d.).

Al-Qāḍī Abū Ya‘lā was so influential that almost all notable and prominent Muslim scholars passed comments and praises at one time or the other on his nobility, standard of moral life, piety, asceticism, intellectual capability, erudition and versatility. Among those who have testified to al-Qāḍī Abū Ya‘lā’s greatness in the *Hanbalī Madhhab*, especially in the fields of *ḥadīth*, *tafsīr*, and *fiqh wa uṣūluhu*, are Al-Ḥāfiẓ Shams al-Dīn al-Dhahabī, Abū al-Wafā’ ibn ‘Aqīl, Ṣāḥīb al-Manhaj al-Aḥmadī, al-Khātib al-Baghdādī, Abū al-Ḥusayn Muḥammad ibn Abī Ya‘lā, ibn al-Jawzī, Ibn Ḥamdān, Ibn Qayyim al-Jawziyyah, Ibn Kathīr, Abū ‘Alī al-Bardanī, Ibn al-Mufliḥ, and al-Imām al-Sam‘āni (Abu Faris, 1983). al-Qāḍī Abū Ya‘lā’s prestige and influence within the *Hanbalī Madhhab* was so great that he was referred to by all the *Hanbalis* simply as “*al-Qāḍī*” for three centuries following his death (Gibb, & Krammers, 1979).

7.0 CONTRIBUTIONS

Al-Qāḍī Abū Ya‘lā’s major contribution to the development of Islamic civilization can be categorized into four aspects: (i) political; (ii) educational; (iii) literary; and, (iv) legal.

- (i) Politically; the outstanding career of al-Qāḍī Abū Ya‘lā influenced the fortune of the Islamic civilization in the political theory and arena. It was during his time that the two Sunni Abbasid Caliphs; al-Qāḍir bi Allāh (381– 422 A.H. / 991–1031 C.E.) and al-Qā’im bi Amr Allāh (422– 467 A.H. / 1031–1075 C.E.) patronized the *Hanbalī Madhhab* and adopted it as the caliphate official *madhhab*. The appointment of al-Qāḍī Abū Ya‘lā as the *qāḍī* of *Dār al-Khilāfah* during the time of Caliph al-Qa’im bi Amr Allāh further influenced him in affirming the *Hanbalī* teachings as the caliphal religious policy (Abu Faris, 1983);
- (ii) Educationally; the contribution of al-Qāḍī Abū Ya‘lā to the development Islamic civilization can also be seen in his role in the *Hanbalī* tradition of learning. His study circle in al-Manṣūr Mosque in Baghdad on Fridays made him to become the pivot on which the masses revolved. It was said that his study circle was used to be attended by a large number of people from different works of life and it was used to be full to the extent that every person would have to lean at the back of the person in front of him before he could able to write (Syafiq, 1990). His position and influence in the *Hanbalī Madhhab* served as an evidence to his erudition and versatility in the sense that most of the scholars who dominated the *Hanbalī Madhhab* after his generation were said to be his students (Abū Ya‘lā, n.d.).
- (iii) Literally; the contribution of al-Qāḍī Abū Ya‘lā to the literary development of the Islamic civilization cannot be overemphasized. He was considered as one of the most productive scholars of his time. Over fifty of his works which cover different areas of learning were listed by his son in his *Ṭabaqāt al-Ḥanābilah* with *Kitāb al-Mu’tamad fī Uṣūl al-Dīn* and *al-Aḥkam al-Ṣultāniyyah* being his two prominent books (Abu Faris, 1983).
- (iv) Legally: One of the most important contributions of al-Qāḍī Abū Ya‘lā to the legal theory of Islamic civilization was that he transformed the norms of governance into legal doctrine. A thorough investigation of some of the modern-day principles of government like freedom, equality, justice, fundamental rights, franchise, electoral system, checks and balances, procedures for adjudication of cases, conflict resolution, and so on and so forth shows that they were all borrowed from the opinions of the earliest Muslim constitutional experts like al-Qāḍī Abū Ya‘lā, as it is evident that the views and thoughts of al-Qāḍī Abū Ya‘lā on the imamate are not only dynamic and adaptable but they are also relevant to the needs of mankind irrespective of colour, race, region and time (Yusuf, 2011).

8.0 CONCLUSION

From the foregoing analysis, it is asserted that al-Qāḍī Abū Ya‘lā was not only a *muḥaddith* and a Quranic scientist but a very prominent and one of the highly respected jurists of the *Ḥanbalī Madhhab* who contributed to the development of the sciences of jurisprudence, legal studies, Quranic interpretation, Prophetic traditions, theology and other branches of knowledge that contribute to the bulk of which is now known as Islamic Civilization. His educational and legal background was very useful in securing a respectable career for him serving as the *qāḍī* of *Dār al-Khilāfah*, while at the same time imparting the knowledge of *tafsīr*, *ḥadīth* and *fiqh* to his followers and disciples in Baghdad. His contribution to the development of intellectualism comprises a number of monumental works. Chief among them is his legal theory of the institution of the imamate which is embodied in his *Kitāb al-Imāmah* and *Kitāb Al-Aḥkam al-Ṣulṭāniyyah*, with the latter being regarded as one of the major contributions of the *Ḥanbalī Madhhab* to the development of theories of constitutional law and public administration in Islam, and it has long been recognised as a classic in its field, much discussed by contemporary Scholars of Islamic Civilization, quoted in courses on Islamic law and government. This monumental work is not only regarded by many scholars as one of the greatest books on the legal theory of Islamic Civilization but also the greatest contributions of the *Ḥanbalī Madhhab* to the development of sciences of jurisprudence (Gibb, & Krammers, 1979).

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