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# Dial M for Murder: A case of passion killing, criminal evidence and sultanic power in Medieval India

**Abstract:** This paper considers the structures and applications of the criminal judicial system in the Islamic Later Middle Period as it developed in India under the sultans of Delhi (1200–1400 CE). A fundamental issue in crime and punishment is the relationship between sultanic power and religious authority. Particularly at stake in this relationship is the question of who can sanction the highest form of punishment, i.e. the death penalty (*siyāsa*). Contemporary historians and scholars in the study of religion investigating the relationship between *sharīʿa* and *siyāsa* to reveal the extent and limits of sultanic power show a system of governance that allowed for the delegation of authority, particularly in the area of the judiciary, from the sultan down to viziers and judges. Some scholars depict the relationship between the *ʿulamāʾ* and the sultan as a kind of stand off. The actual dynamics of legal jurisdiction were much more complex. This study proposes a new interpretive framework for understanding the relationship between political power and religious authority through a critical analysis of the criminal judicial system, law, and historical narrative. In particular, I consider a murder case described by Shams al-dīn Sirāj ʿAfīf in one of the most significant histories written in the later Delhi Sultanate, the *Tārīkh-i Fīrūzshāhī*.

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In Alfred Hitchcock's 1954 thriller film *Dial M for Murder*, Grace Kelly plays Margot Wendice, the wife of a jilted husband, who plans to murder her when he uncovers an extramarital affair. To carry out this ghastly task he contrives to hire a lowlife collegiate acquaintance with a predilection for unseemly business. Together they plot to strangle her and make it look like a break-in that went disastrously awry. Fundamentally, it is a crime of passion motivated by sexual jealousy and a desire for revenge. Crimes of passion are certainly not new or particularly unusual in history except when they occur with Hitchcockian flare in medieval Islamic his-

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toriographical literature. This was my surprise when I came across a particularly gruesome tale of murder in Shams al-dīn ʿAfīf's (b. ca. 757/1356) *Tārīkh-i Fīrūzshāhī*. ʿAfīf, like most Muslim literati of premodern India, came from a family that served in the royal court. He chose to focus his literary energies on the reign of Fīrūz Shāh (r. 752/1351–790/1388), one of the most accomplished and successful sultans of India. Although generally referred to as a history, ʿAfīf's work fits more within the biographical genre referred to as *manāqib*. It is a singular biography of the great Sultan and not the dynastic account of imperial lineages of kings. ʿAfīf was at the forefront of innovation in courtly literature, partially demonstrated by his interest in murder. Until this time, *manāqib* literature was reserved for the subjects of religious scholars, prophets, and Sufi shaykhs, but not sultans.[1] He likely composed the history during the uncertain period following Amir Timur's sacking of Delhi in 801/1398, a catastrophic event that contributed to the demise of Delhi as a center of Islamic empire in South Asia.

In his history, ʿAfīf describes a particularly atrocious crime that occurred at some point late during the reign of Fīrūz Shāh. It is found within the thirteenth chapter in a special section concerning two separate cases where the Sultan assumed the role of judge in two murder cases. This particular case is noteworthy as it is the longest legal narrative found in any of the 13th- and 14th-century histories of the Delhi Sultanate. It is a rare example that includes specific details of the criminal and investigative procedures. Particularly of interest is the fact that he details an example of *siyāsa*, the sultan's authority to administer punishment relating to cases of governance and public order.[2] The 14th century was especially important in the evolution of legal thinking on the relationship between *siyāsa* and *sharīʿa*, which also lead to important writings on *siyāsa sharīʿa*, a legal framework that further codified and legitimized the sultan's legal jurisdiction within *sharīʿa*.[3] Overall, ʿAfīf frames his description of Fīrūz Shāh's judicial involvement in these cases by emphasizing the Sultan's great compassion and careful deliberation in delivering his legal rulings. The historical narrative is given in full here to provide the background necessary to discuss what can be understood of criminal law and sultanic power during the 14th century in North India. ʿAfīf begins the story in this manner.

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1 Hardy 1960: 41.

2 For a discussion of *siyāsa* as punishment within Islamic law see Peters 2005: 67–68.

3 For a general overview of *siyāsa sharīʿa* see Hallaq 2009: 200–203. Yossef Rapoport has made a strong case for the significant role *siyāsa* played in the Mamlūk legal system saying "the *siyāsa* of the state was not only an integral and legitimate element of the shariʿah, but also an increasingly central one." (Rapoport 2012: 102).

During the last period of the reign of Fīrūz Shāh there was one Khvājah Aḥmad, an account keeper working in the royal treasury. Now, a tutor used to come to his house to educate the Khvājah's children. The tutor's own house was in the city of Delhi proper, while Khvājah Aḥmad's house was in the city of Fīrūzābād. Over time, a love affair (*qaẓīya-yi muḥabba*) developed between Khvājah Aḥmad and the tutor. As it happens, Khvājah Aḥmad became suspicious that the tutor was betraying him. Actually, the tutor was in love with a woman and heartbroken.

The tutor used to visit Fīrūzābād every Saturday. He would stay there for five days spending his time teaching the children. On Thursdays he would then return home to Delhi. One of the nights, the conniving Khvājah Aḥmad, along with two of his young slave boys (*ghulām*) with whom he had made friends, engaged the tutor in a drinking bout. As he became drunk with wine the three of them, by surprise, jumped the unfortunate tutor, wrestled him to the ground, and slit his throat. That same night they dragged the body out of the house and threw it over the Malik Bridge, which is on the road to Salora.[4] In a panic they gave their blood stained clothes to the washerman for cleaning.

By chance, the very next day, at the crack of dawn, Sultan Fīrūz Shāh passed over that bridge. He stood there looking at the corpse. Straight away, the Sultan ordered a thorough investigation of the incident, setting the gears of government in motion. During those days Malik Nek Āmidī, who was the city magistrate (*kotwāl*), had passed away. Now his son, Malik Ḥusām al-dīn, held the office. The exceptional Sultan summoned Malik Ḥusām al-dīn to that exact spot and said to him with these very words, "If you don't find this dead person's killer I will kill you instead." Malik Ḥusām al-dīn was completely and terribly shocked by this order and began to consider how he would pursue the trace of this killing in order to make the arrest.

In the meantime, the dead man's body was washed. The blood was wiped from his face and the head was reattached to the body. His corpse was put out to rest in public view in the hope that someone would identify it. An announcement was made requesting information concerning the residence, profession, and place of birth of the deceased. Soon a huge crowd of people gathered. All the inhabitants of Fīrūzābād showed up for the spectacle. Suddenly someone came forward and making a statement (*taqrīr*), testified in the name of God as to the identity of the dead man. He claimed that the dead man's house was in the Siri fort area, in such and such a neighborhood. Malik Ḥusām al-dīn having found a clue sent his men to the Siri fort. After making some inquiries they found the house of the deceased. When the unfortunate family heard the news they all set out for Fīrūzābād. Upon reaching there and seeing the body they were terribly distraught and broke down in tears. They told the *kotwāl* that he had been teaching the children of Khvājah Aḥmad. Recently, the aforementioned Khvājah secretly fancied the dead man. Perhaps it was because of his attraction to the deceased that blood was shed.

Khvājah Aḥmad was brought before the *kotwāl* of the kingdom. He flatly denied the allegations. The *kotwāl* brought these matters before his sovereign ruler. The Shāh ordered him to put pressure on Aḥmad's household servants to give information. Under pressure

4 The Archeological Survey of India identifies Salora with Sidhora, north of Delhi near Khizrabad along the Yamuna River. Cunningham 1871: 161–162.

they came out with the truth that Khvājah Aḥmad, along with two young slaves, had gone out drinking somewhere with the deceased. It was then that they killed him. Then the two slaves, who were the companions of Khvājah Aḥmad, were brought forward. They confessed (*iqrār*) saying, "We grabbed the tutor but Khvājah Aḥmad slit his throat." Khvājah Aḥmad retorted, "These slaves are lying. I didn't kill him, they did." Then the slaves countered by saying, "The Khvājah's blood-stained cloths were left with the washerman."

When the washerman was called he brought the washed clothes of the Khvājah, which were splattered all over with yellowish blood-stains. The Khvājah was questioned about this. He claimed that the stains were from an animal sacrifice. Then the Sultan ordered that the butchers be called forward. When the butchers arrived they were shown the blood-stains. When they saw them they told the Sultan, "These yellow stains are not from an animal but resembled those of a man's blood, as only human blood turns a shade of yellow after washing." After the butchers had given their statement (*taqrīr*) the Sultan sentenced the murderer Aḥmad to death (*siyāsa*) on the spot.

Khvājah Aḥmad threw himself at the feet of the Chief Minister (*khvājah jahān*). He insisted on an appeal, "I will give eighty-thousand *tankas* in blood money (*bahā'ī khūn*, the money paid to the relations of a person killed, as an atonement) as compensation." The Chief Minister brought the appeal to the attention of the Sultan noting that Khvājah Aḥmad was ready to pay eighty-thousand *tankas* in blood money. Sultan Fīrūz Shāh, with due fear of God, the Almighty and Merciful, observed, "Oh foolish Vizier! Whosoever possessed the power of wealth would shed blood without fear if they could. Muslims would turn to killing and the life of people will be put to great risk. And before the Throne of Judgment on the Day of Resurrection they would be shamed." Thereafter, the Chief Minister told the Sultan that there were thousands of *tankas* in the royal treasury that the Khvājah is accountable for. Several days would be needed to get the financial record in order so that the funds of the royal treasury not go missing. The Sultan commanded, "Do not be worried on account of thousands, put the Khvājah to death (*siyāsa*)." In short, Khvājah Aḥmad and the two young slaves were put to death (*siyāsa*) in public view. The royal justice was done.[5]

# 1 Murder cases in Delhi Sultanate historiography

This story of Khvājah Aḥmad is a unique case that provides insight and raises important questions about crime and punishment in the Delhi Sultanate.[6] Narratives detailing the crime of murder in historiography of the period are not all that common. In fact, all in all there are only five instances of documented cases of homicide in historiographical literature of the Delhi Sultanate. Ẓiyā' al-dīn Baranī (ca. 684/1285–758/1357), 'Afīf's predecessor and author of the *Tārīkh-i Fīrūzshāhī*,

5 'Afīf 1888: 504–508 and 'Afīf, 2001: 272–274.

6 For a general overview of the classical view Islamic criminal law see Peters 2005: 6–68. For a detailed discussion of punishments see Lange 2008:179–243.

a work that shares the same title as ʿAfīf's history, and considered by many to be the most important history produced during the Delhi Sultanate, documents two murder cases. The first instance that Baranī notes is the case of Malik Baqbaq, a close associate of the Sultan Ghiyās al-dīn Balban (r. 664/1266–686/1287), leader of four thousand horsemen, and landholder of Badā'ūn. He was held responsible for killing his servant under the influence of alcohol, beating him to death with a whip (*dirra*).[7] The Sultan Ghiyās al-dīn Balban ordered that Malik Baqbaq likewise be executed by flogging in front of the victim's wife. Baranī notes that the execution was performed on the determination of the victim's wife, in what appears to be an instance of *qiṣāṣ*, or retributive justice under Islamic law. In a separate case, Baranī details the murder committed by Haybat Khān, the landholder of Awadh, and vassal to Sultan Balban. He had also killed someone while drunk. The murderer was flogged upon the determination of the deceased's family members. He was then turned over to the victim's wife who was given the opportunity to execute Haybat Khan. In the end they settled on a blood price of twenty thousand *tankas*, in what also appears to be another instance of *qiṣāṣ*.[8] Barani stresses throughout that the imposition of justice in these two cases was an example of Ghiyās al-dīn Balban's impartiality even when it came to the punishment of his close associates.

Ibn Baṭṭūṭa (703/1304–770/1369), the great traveler of the premodern age, describes in his famed travelogue, the *Riḥla*, that while staying in Delhi during the reign of Muḥammad b. Tughluq (r. 724/1324–752/1351) he became aware of a case in which a slave murdered his master. It was an incident of particular concern for Ibn Baṭṭūṭa because it involved a runaway slave of his own who perpetrated the crime. Kamāl al-dīn ʿAbd Allāh al-Ghārī, an ascetic Sufi whom Ibn Baṭṭūṭa visited, dissuaded him from reacquiring the slave just before he had committed the homicide. The culprit was brought before Sultan Muḥammad b. Tughluq who turned the murderer over to the family of the deceased, who was then put to death, in another case of *qiṣāṣ*.[9]

In addition to the case of Khvājah Aḥmad, ʿAfīf documents only one other case of murder that occurred during the reign of Fīrūz Shāh. It is the story of a

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7 Baranī, 1862: 40 and Elliot / Dowson, 1871: 3:101.

8 Baranī, 1862: 40–41.

9 See Baṭṭūṭa 1971: 3: 627. Curiously Ibn Baṭṭūṭa relates, through Ibn Juzayy (ca. 721/1321–758/1357), a very similar event that supposedly occurred during his travels in Nishapur. See Baṭṭūṭa 1971: 3: 584–585. For further cases of public violence documented by Ibn Baṭṭūṭa during the reign of Muḥammad b. Tughluq see Waines 2007: 231–246.

conflict that arose between the two sons of Malik Yūsuf Bughra, a prominent member of Muhammad b. Tughluq's court. The sons of Yūsuf Bughrā were from two different mothers. The elder brother killed the younger to ensure his full inheritance. The mother of the younger son brought the allegation before Sultan Fīrūz Shāh's court. For this criminal offence the Sultan ordered *qiṣāṣ*, or retributive justice.[10] Although there is no specific mention of what punishment was delivered to Yūsuf Bughrā's elder son, as noted in the previous cases, Islamic law dictates a physical punishment equal to the crime or compensation with blood money (*bahā'ī khūn*, Pr., *diya*, Ar.). Qur'ānic justification for *al-qiṣāṣ*, or retributive justice, refers to it as a deterrent to protect lives. As it says in Q2:17 "And there is [a saving] of life for you in *al-qiṣāṣ*, O men of understanding."[11] Qur'ānic justification is also found in Q17:33 which states, "And do not kill the soul which Allah has forbidden, except by right. And whoever is killed unjustly – We have given his heir authority, but let him not exceed limits in [the matter of] taking life. Indeed, he has been supported [by the law]." According to Baranī, writing in the *Fatāvā-yi jahāndārī* (Edicts of world rule), there are only three generally agreed upon cases within Ḥanafī jurisprudence, the school of law to which the majority of Muslim scholars in South Asia adhere, where the death penalty is permitted: wrongfully killing another Muslim (*qatl-i muslim*), apostasy (*irtidād*), and unlawful sexual intercourse (*zinā*).[12] All the preceding cases were legal examples of *qiṣāṣ*, retaliatory punishment for the unlawful killing of humans, i.e. homicide and intentional bodily harm.

## 2 Criminal legal procedure in the Sultan's court

Clearly there are many dramatic elements in the murder case of Khvājah Aḥmad that make it worthy of the historian's attention. An intriguing feature of this case is the sexual motivation for committing the homicide. 'Afīf's insinuation that Khvājah Aḥmad had sexual desires for the tutor and that the tutor was in love with an unidentified woman adds to the sensational current of the story. Homosexual behavior was frowned upon in medieval Islamic societies and it found acceptance in certain contexts, "patterns of homosexuality" varying greatly

10 'Afīf 1888: 503–504 and 'Afīf 2001: 271–272.

11 For an overview of capital punishment in Islamic law see Lange 2011. Further Qur'ānic references dealing with murder and punishment are discussed in Haleem 2003: 97–108.

12 See Baranī 1961: 58–59.

across different communities.[13] Was there, for instance, another hidden purpose in the evening of drinking with the treasurer, tutor, and the two young slaves? The historian hints at a much larger undercurrent of sexual violence and exploitation. Narratives of sex, slaves, and violence are common enough in Islamic historiography and at times they involve murder. Clifford E. Bosworth notes, "In considering the personal relationship between master and slave, the sexual aspect should certainly not be neglected; the ethical climate of Persia in this period condoned homosexual liaisons [...] and the master of youthful slaves was well-placed for indulging unnatural and sadistic tastes. Resentments aroused by practices of this kind seem to have been behind the murder in 541/1146 of Zangī b. Ak Sonḳur. Zangī's personal guard was drawn from the sons of the great men of the Turks, Greeks and Armenians, whose fathers he had killed or banished; he had then kept the sons after castrating them to preserve their boyish and beardless appearance. These ghulāms had long sought an opportunity for revenge, and eventually assassinated him (Bundārī, 208–9)."[14] In another context of the Delhi Sultnate, Peter Hardy notes that "The Hindū Khusraw Khān Barwarī, recipient of the homosexually-inspired favours of Sultan Mubārak Shāh Khaldjī, murdered his master (720/1320) and assumed the throne before being deposed by the free *malik*, Ghiyāth al-dīn Tughluḳ."[15]

One of the interesting threads tying these various narratives of murder and judicial punishment together is the major role that slaves played in the social polity of the Delhi Sultanate.[16] Slaves occupied all levels of society in pre-modern India. ʿAfīf notes the ubiquity of slaves saying,

> Some of the slaves spent their time in reading and committing to memory the holy book, others in religious studies, others in copying books. Some with the Sultan's leave, went to the temple at Mecca. Some were placed under tradesmen and were taught mechanical arts, so that about twelve-thousand slaves became artisans (*kāsib*) of various kinds. Forty thousand were every day in readiness to attend as guards in the Sultān's equipage or at the

13 See Murray / Will 1997: 7. For an excellent study of various cultural attitudes towards homoerotic acts in early modern Islamic societies see Khaled El-Rouayeb, *Before Homosexuality in the Arab-Islamic World, 1500–1800*. Particularly relevant is a brief discussion of education. See El-Rouayeb 2005: 34–36.

14 Bosworth 1965.

15 See Hardy 1965.

16 Much research on the institution of slavery in premodern Islamic South Asia has focused on the pervasive use of military slaves. For instance see Kumar 2006: 83–114 and Jackson 2006: 63–82.

> palace. Altogether, in the city and in the various fiefs there were one hundred and eighty-thousand slaves, for whose maintenance and comfort the Sultān took especial care.[17]

In these murder cases, the involvement of slaves in a period of their universal presence was clearly a state issue and a deep concern for the ruling dynasties. In murder cases involving slaves legal matters were generally more complex. For instance, the blood price for a slave depended upon the value of the slave to his owner.[18] The treatment of evidence and the admission of testimony were different than in cases involving free individuals, however, under Ḥanafī law, free and slave are equally liable for murder.[19] There is also the complicating factor of the multiple participants in the murder and who is ultimately culpable.[20]

The principles regarding the *sharīʿa* legal procedures that govern cases of criminal law are given in the classical Islamic juridical works as well as important later medieval *fatāvā* collections compiled at the behest of ruling Muslim sultans and amirs during the Delhi Sultanate, such as the *Fatāvā-yi Fīrūzshāhī*, *Fatāvā-yi Ghiyāsiya*, and *Fatāvā-yi Tatarkhāniya*.[21] ʿAfīf's story contains a number of important details of criminal legal procedure regarding confession, testimony, and evidence. The involvement of the *kotwāl* in the gathering of evidence, the calling and questioning of witnesses, and documenting the facts of the case are equally important. The *kotwāl* was the key imperial officer designated to maintain law and order in the city environs. He was appointed by the sultan to gather evidence in criminal prosecutions. ʿAfīf carefully details the efforts made by the *kotwāl* to identify the victim of the crime, as well as to certify the testimony of a witness with an oath. In this case, the family members are called to properly identify the victim. It is through their testimony (*taqrīr*) that the accused, Khvājah Aḥmad, is summoned for questioning. Ḥanafī jurisprudence established guidelines on a tripartite gradation of admissible evidence: *tawātur* – complete corroboration and verification from multiple witnesses, *āḥād* – testimony of an individual, and *iqrār* – admission of guilt, confession. The legal bar for establishing evidence could differ depending upon the crime perpetrated. For instance, under *sharīʿa*, confession by the accused of a crime must be voluntary and cannot be coerced. However, during *siyāsa* proceedings there appears to be some difference of opinion

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**17** ʿAfīf 1888: 270. See Elliot / Dowson 1871: 3: 341. ʿAfīf dedicates a chapter to discussing the place of slaves during Fīrūz Shāh's reign. See ʿAfīf 1888: 267–273.

**18** Anderson 1951: 815.

**19** Hallaq 2009: 321. Also see Peters 2005: 47.

**20** Peters discusses a case of murder victim who was attacked by two assailants and the complexities of who was responsible for the cause of death. Peters 1990: 106–107.

**21** For an overview of the *fatāvā* literature of the Delhi Sultanate period and details on its development see the collected articles in Islam 2005.

about the admission of testimony obtained under coercion.[22] It was in this period that there was a shift in legal thinking on the permissibility of torture in the act of acquiring a confession.[23] Under a sultan's jurisdiction the *sharīʿa* rules of evidence need not apply.

The question of coercion in this case was in regard to the admission of evidence. Household servants were pressured to produce information concerning the murder. What exactly was the nature of that pressure is not specified. It is the young slaves that provide a confession (*iqrār*) of their participation in the crime, but do not admit to carrying out of the murder itself. There is no hint in the text that the suspects were coerced in any fashion into making this confession and their confession alone would not have been sufficient to produce a guilty verdict against the accused. Not least noteworthy, in the spectacular nature of this case, is the premeditated naked intentionality of the murder. Ḥanafī scholars distinguish between five degrees of intention in cases of murder: *ʿamd* – intentional, *shibh ʿamd* – manslaughter,[24] *khaṭāʾ* – accidental, *majrā al-khaṭāʾ* – cause of an accident, *bi sabab* – indirect, that is causing the accidental death of another through an unlawful act.[25] The choice of weapon in this case is significant, as within Hanafi law it is a further indicator of the intent of the perpetrator.[26]

The details of testimony in this case are complicated by the fact that Khvājah Aḥmad accuses the slaves of perpetrating the murder and falsely implicating him. Further evidence is needed to establish his guilt. The case then turns to a key piece of forensic evidence, the admission of the bloodstained clothing of Khvāja Aḥmad as an exhibit. The mere presence of the bloodstains, as incriminating as it may be, was not enough to conclusively shut the case. It took a further piece of forensic medicine and expert testimony to secure Khvājah Aḥmad's guilty conviction.[27] Expert testimony was an established legal practice within the Ḥanafī tradition at least as early as the 11th century.[28] Butchers were brought into the court

22 Peters 2005: 82–83.

23 See Johansen 1996: 123–168 and Johansen 1998: 173–202.

24 Cases of *shibh ʿamd* are generally determined by the use of a weapon that under usual circumstances does not cause death.

25 See Hallaq 2009: 320–321 and Anderson 1951: 818.

26 Rudolf Peters notes in a study of 19th century Hanafi law in Egypt that "criminal intent (*ʿamd*) [...] must also be apparent from the kind of weapon or object used to kill." See Peters 1990: 103. Also Knut S. Vikør notes "Ḥanafī law distinguishes between 'intent' and similarity to intent', defined by what weapon is used; a sharp weapon such as a knife or sword proves intent to kill." Vikør 2005: 288n23.

27 Fahmy 1999: 2.

28 Citing examples from the *Mabsūṭ* of Muḥammad b. Aḥmad Sarakhsī (d. ca. 490/1096). See Johansen 2002: 174.

from the community to submit their opinion on the origins of the bloodstains. The butchers' opinion concerning the bloodstains contradicted the claim of Khvājah Aḥmad and indicated that he had perjured himself before the court. The use of expert witnesses to determine the facts of the case played a critical role in determining the Sultan's legal ruling. Following this rigorous legal process and only after having established the guilt of the accused beyond a "shadow of a doubt" does the Sultan issue his final judgment of *siyāsa*, or capital punishment.

A final distinctive feature of this case is the process of appeal following the Sultan's ruling. Khvājah Aḥmad has recourse to the Chief Minister by offering to pay blood money as compensation for the murder. According to *sharīʿa*, the payment of blood money was an alternative to the death penalty in cases of murder and is indicated by the Qurʾānic passage Q4:92 which states, "blood money is to be paid to his kin" (*diyatun musallamatun ilā ahlihi*). The Chief Minister brought the request to the attention of the Sultan who rejected it. This is particularly interesting considering the example given earlier where Barani describes the acceptance of blood money in lieu of execution, in another example of *qiṣāṣ*. Khaled Abou El Fadl notes that, "Schools that considered *diya* to be a co-equal alternative to *qiṣāṣ* did not require the offender's consent to paying the *diya;* the choice was entirely that of the victim or the heirs."[29] A critical question in the case of Khvājah Aḥmad is were the family members of the victim consulted concerning the offer of compensation, or did the Sultan's judgment supersede the wishes of the relatives of the deceased? This is a particularly important detail regarding *qiṣāṣ* as Rudolf Peters notes, "According to the Hanafites and Malikites they [the victim's heirs] only have the right to demand retaliation or to forfeit this right, thereby pardoning the killer."[30] As it appears that the offer of compensation was not made to the victim's heirs, the Sultan's decision ran against the basic principles of *qiṣāṣ*. He defends his ruling by arguing that to permit the *diya* in this particular case, a well-healed courtier would elude a murder charge simply by paying his way out.[31] Fīrūz Shāh's rejection of the offer for blood money is an extension of the jurisdiction of the sultan's authority into an area of *sharīʿa* law, by reason of the position of Khvājah Aḥmad within the court and the Sultan's direct involvement in the discovery of the body.[32]

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**29** El Fadl 2004.

**30** Peters 2005: 45–46.

**31** For further of *diya* see Vikør, 2005: 287–290.

**32** Rapoport refers to the sultan's intervention through *siyāsa* justice, in a Mamlūk legal case, as a means to "plug" a "legal loophole" in Ḥanafī jurisprudence. Rapoport 2012: 84.

## 3 The Sultan as judge and jury in cases of capital punishment

What is significant in the five instances of murder cases from the Delhi Sultanate is that all are illustrations of crimes and punishments where a sultan is functioning in the role of *qāẓī*, or judge. Four of the cases fall clearly within the Islamic law of *qiṣāṣ*, but handled under the Sultan's jurisdiction. In contradistinction, the principal case of this discussion was treated under *siyāsa*. In general, *siyāsa* rulings issued from the office of the sultan were related to crimes of state, such as rebellion, and understood to be not directly discernable with reference to the Qur'ān or *ḥadīth*. These cases offered a wider range of judicial interpretation.[33] In this area of law there was frequently a jurisdictional overlap in the *sharī'a* and the body of laws subsumed within the *ẓavābit*, used variously in the Islamic middle period in the sense of imperial legal codes, and referred to as *qānūn* in the early modern period, particularly in the Ottoman context.[34] Illustrative of the context of the Delhi Sultanate, Richard Repp writes of the Ottomans,

> The thrust of kanun legislation lay broadly in three directions. The first was an area which, by the time of the Ottomans, had come to be fairly widely accepted as one lying largely outside the bounds of the seriat, one where the right of the ruler to legislate in the public interest was recognized, namely such matters as the organization of the court and army, taxation and land law, and the relationship of the individual to the state. The second important area of Ottoman kanun-making was criminal law. Less obvious outside the scope of the seriat than the first, the considerable activity of the Ottoman sultans in the field of criminal law was held (on one occasion, at any rate) to be required by an increase in crimes.[35]

As such, the medieval Islamic judicial system operated on a legal dualism that bifurcated jurisdictions into the realms covered by the *sharī'a* and court rulings or *ẓavābit*.

In specific cases that fall under the sultan's jurisdiction the rules for issuing severe punishment were more expansive under *siyāsa* than *sharī'a*. Frank Vogel writes, "[r]ulers claimed, and most *fuḳahā'* acknowledged, authority in certain circumstances to punish *siyāsat*[an], meaning that the ruler has authority to punish severely and peremptorily, without observing even the few general limits as to

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33 For further discussion of the understanding of *siyāsa* and the related punishments in the Delhi Sultanate particularly relating to rebellion see Auer 2009: 238–255.

34 Inalcik 1969: 105–138. For a case study of the influential Ottoman Hanafi jurist Ebussuud Efendi (c. 896/1490–982/1574) that details a number of his legal opinions in the cases of homicide see Imber 1997: 236–268.

35 Repp 1988: 124–125.

punishments and procedures imposed by *fiḳh*."[36] This kind of jurisdictional relationship was established early in Islamic legal texts that delineated spheres of legal influence. This was the case with the development of Mālikī law where "The Mālikīs acknowledge that the *sulṭān* is, in general, invested with judicial power, the great majority of legal cases treated in their works under the jurisdiction of the qāḍī, the *sulṭān*'s function is generally confined to that of an executive in the qāḍī's court."[37] Therefore, these examples that recorded cases treading upon jurisdictional boundaries were treated with great attention in the sources of the period. Examples of capital punishment were remarkable and if a sultan was excessive in the administration of *siyāsa* their actions were frequently viewed askance by historians as demonstrations of the abuse of power in the office of the sultan.

It has been noted in different contexts that the 14th century is distinctive in terms of developments of Islamic law. Baber Johansen demonstrates that in Mamluk Egypt there was a deviation from classical legal thinking regarding proofs and procedure during this same period. He writes, "they regard the dispensation of justice as a function to be fulfilled by all members of the political elite. Consequently, judgments can be based not only on *fiqh* norms but also on political considerations and state interest."[38] He sees the overarching thrust and object of this new legal doctrine as "serving to protect the public interest and the ability of the public authorities to control disturbances and lawlessness."[39] This judicial turn was represented in the 14th-century development of *siyāsa sharīʿa*, characteristic of the legal thought of the Ḥanbalī jurists Ibn Taymiyya (661/1263–728/1328) and Ibn Qayyim al-Jawziyya (691/1292–751/1350).

## 4 Conclusion

In the case of Khvājah Aḥmad, did the historian deliberately select two particularly different examples of murder trials with the specific intent to highlight the dual legal categories of *qiṣāṣ* and *siyāsa*? It is difficult to say with absolute certainty, but the weight of the preceding discussion would indicate that he did. ʿAfīf makes the important legal distinction himself in his retelling of the two murder cases. The Sultan's own explanation for his ruling can be read to further indicate

36 Vogel 1998.

37 Yanagihashi 1996: 42–43. Yanagihashi goes on to note that in specific cases the sultan "acted as a judge".

38 Johansen 2002: 180.

39 Johansen 2002: 180.

that the case as a whole reflects the legal development of *siyāsa sharīʿa* in 14th-century Delhi Sultanate. It is particularly more noteworthy with the effect that in Barani's history Fīrūz Shāh was said to have abandoned capital punishment (*tark-i siyāsa*) during his reign.[40] Barani distinguishes the *sharīʿa*-mindedness of Fīrūz Shāh with his predecessor Muḥammad b. Tughluq who he describes as more willing to exceed the bounds of *sharīʿa*.[41] Fīrūz Shāh expressed views on strict *sharīʿa* adherence in the *Futūḥāt-i Fīrūzshāhī*.[42] The principles of his reign were inscribed into a dome of the congregational mosque in Fīrūzābād in a public proclaiming of his religious convictions. This can also be understood as a symbol of his rule being in concert with ancient Indian forms of kingship.[43] With Fīrūz Shāh's turn towards a "purified" *sharīʿa* he was perhaps participating in the debates opposing what was perceived as the rigid normativity of the legal texts, *fiqh* legalism, in favor of the spirit of the law. Johansen notes that the principle motivation and belief in the move toward *siyāsa sharīʿa* was that "[a] return to the example of the charismatic members of the early community is the only way in which the practical validity of the sacred law in a Sunni state can be restored."[44] This is perhaps further indicated by the way ʿAfīf summarized the murder tale, quoting a *ḥadīth* of the Prophet Muhammad, "A moment of justice is better than sixty years of worship (*ʿibāda*)."[45]

In conclusion, there are many pieces of information that add to the unusual and sensational dimensions of the murder case of Khvājah Aḥmad. The depth with which the historian recounts the details of the case indicates an increased interest in legal matters and deep concern about the justice and fairness of the criminal procedure. The narrative exposition of testimony, confession, evidence, witnesses, experts, forensics, and the operations of the Sultan's judicial system makes it the most singular and systematic exposition of sultanic juridical procedures and punishments produced in the medieval period in India. It tells us much about the relationship between the ruler and the elite members of his court as well as the general populace. It is perhaps the strongest example of the legal development of *siyāsa sharīʿa* in the history of Islamic South Asia from the 14th century. While ʿAfīf's narrative of homicide never made the silver screen like

40 Barani 1862: 572.

41 For details of this discussion see Auer 2009: 241–244.

42 Fīrūz Shāh 1941a: 61–89 and Fīrūz Shāh 1941b: 449–464.

43 K. A. Nizami was the first to connect this inscription to the pillar edicts erected by Asoka. Nizami 1974: 28–35. Finbarr Flood also treats the continuity and continuation of ancient Indian notions of kingship into the Islamic period in his study of pillars and inscriptions in the context of South Asia. Flood 2003: 95–116.

44 Johansen 2002: 186.

45 ʿAfīf 1888: 508.

Hitchcock's *Dial M for Murder*, it shows that tales of murder and intrigue are more revealing than ever of the cultural and social norms of the society of the times.

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