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SONRA GELEN DOKÜMAN

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The Fatāwā al-Hindiyya.
J. Pakistan Hist. Soc. 14 (1966),
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Fatāwā al-Hindiyya

ALEMGIRIYYE

A. ÖZEL (m. 1906) 22. 10. 27
S. KASSA (m. 1906) 31.5.89 - 14.6.89
B. E. (m. 1906) 17. 2. 89

al-FATĀWĀ al-HINDIYYE

Shah

66 Alemgiriyye
موسوعة حجاز عبد الناصر

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al-Alemgiriyye

14530. d. 31

KĀDĪ-KHĀN (Hasan ibn Mansūr al-Ūzjandī al-Farghānī)

NIZĀM, Shaikh, and others.

الفتاوى العالمية

al-Fatāwī 'l-'ālemgiriyyah. [A collection of
legal decisions by Hanafī jurists, also known
as al-Fatāwī 'l-hindiyyah. With, on the margin
of pts. 1-3, Fatāwī Kādī-Khān by Hasan ibn
Mansūr al-Ūzjandī al-Farghānī al-Hanafī,
called Kādī-Khān, and, on the margin of pts.
4-6, al-Fatāwī 'l-bazzāziyyah, also entitled
al-Jamī' al-wajīz, by Muhammad ibn Muhammad,
called Ibn al-Bazzāz, also of the Hanafī
school. Second edition.] 6 pts.

Bulac. 1892.

08 KASIM 8°

I FATĀWĀ... ALEMGIRIYYE 1190 79

[Fatāwā (Al-) al-hindiyya.] [الفتاوى الهندية]

الفتاوى الهندية [أو الفتاوى العالمية] في مذهب
الامام الاعظم ابي حنيفة النعمان، تاليف الشيخ نظام
و جماعة من علماء الهند... [الشيخ وجيه الدين، الشيخ
جلال الدين محمد، القاضي محمد حسين، ملا حامد
وأخرون] وبهامشه فتاوى قاضيخان الازجندي [وهو
فخر الدين حسن بن منصور الازجندي الفارسي] والفتاوى
البرزانية [السماء بالجامع الجيزي ل محمد بن شهاب المعروف
بابن البرزاز الكردي] الطبعة الثالثة.

[4° F. 10988

2 [Fatāwā (Al-) al-hindiyya] [الفتاوى الهندية]

الفتاوى الهندية... [4° F. 10988

-Diyār Bakr, al-Maktaba al-Islāmiyya, 1393/1973.
- 6 vol., 30cm. [Acq. 74-8202

[4° F. 10988
(Fatāwā [Al-] al-hindiyya, connu aussi sous le ti-
tre: Fatāwā [Al-] al-'ālemgiriyya. Abrégé de droit
hanéfite compilé par un comité présidé par al-
sayh Nizām al-Dīn Muḥammad, assisté par al-sayh

3 [Fatāwā (Al-) al-hindiyya.] [الفتاوى الهندية]

الفتاوى الهندية... [4° F. 10988

... Waḡīh al-Dīn, al-Sayh Ḥalāl al-Dīn Muḥammad, Mullā
Ḥamid et autres. En marge: Fatāwā Qadīhan de Ḥa-
san ibn Mansūr al-Ūzjandī et Fatāwā (Al-) al-Baz-
zāziyya ou Jamī' (Al-) al-wajīz de Muḥammad ibn
Shihab ibn al-Bazzāz. 3e éd. - Reproduction de l'éd.
de Bulac (Le Caire), 1310/1893.)

Fiqh. Ecole hanéfite.

Alemgiriyye

Seyh Nizam

(Alemgiriyye Fetavası, m. garanlar) can

1814.1

Zübeyd Ahmed
el-Adabul-arabiyye

I. 108-109

Alummah

'Alemgiriyye (Fatava)

(Seyh Nizam)

1814.1

Zübeyd Ahmed
el-Adabul-arabiyye

I. 108-109

of the motif of the magic sari to ensnare a heavenly nymph, see the Kannada folktale 'Adventures of a Disobedient Son', in A.K. Ramanujan, *Folktales from India* (New Delhi: Viking Penguin, 1991), pp. 274-85.

22. Gorakhnath, *Gorakhbānī*, ed. P.D. Barthwal (Prayag: Hindī Sāhitya Sammelan, 1979), p. 9.

23. Homer, *The Odyssey*, ed. W.B. Stanford (London: St. Martin's Press, 1959), IX. 105-566, Vol. 1, pp. 134-48.

24. K.N. Choudhuri, *Trade and Civilization in the Indian Ocean*, p. 34.

25. See my *Shadows of Paradise: An Indian Islamic Literary Tradition*, Chapter III.2.

26. Henry James, *The American* (New York: Charles Scribner's Sons, 1907), p. xvii.

27. Robert Irwin, *The Arabian Nights: A Companion* (London: Penguin Books, 1994), p. 182.

28. Raghib al-Isfahani, *al-Mufradāt fī Gharīb al-Qur'ān*, ed. M. Kailani, p. 322, cited in Roy P. Mottahedeh, 'Ajā'ib in *The Thousand and One Nights*', in Richard G. Hovannisian and Georges Sabagh, eds., *The Thousand and One Nights in Arabic Literature and Society* (Cambridge: Cambridge University Press, 1997), p. 30.

29. For Bluebeard, see Charles Perrault, 'La Barbe Bleue', in Andrew Lang, ed., *Perrault's Popular Tales* (Oxford: Clarendon Press, 1888), pp. 23-9. For extensive parallels in European folklore, see Lang's introduction to the collection, pp. ix-lxiv. For the literary origin of the European Bluebeard in Charles Perrault's tale, see 'Bluebeard', in D.A. Leeming and M. Sader, eds., *Storytelling Encyclopedia: Historical, Cultural, and Multiethnic Approaches to Oral Traditions Around the World* (Phoenix, Arizona: Oryx Press, 1997), pp. 81-2.

30. Robert Warshow, *The Immediate Experience* (Garden City, New York: Doubleday Anchor Books, 1964), p. 85, cited in Cawelti, *Adventure, Mystery, and Romance*, p. 9.

31. Cawelti, *Adventure, Mystery, and Romance*, p. 10.

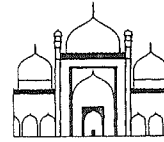
32. See R.H. Major, 'Introduction', *India in the Fifteenth Century. Being a Collection of Narratives of Voyages to India, in the Century Preceding the Portuguese Discovery of the Cape of Good Hope; from Latin, Persian, Russian, and Italian Sources, Now First Translated into English* (London: Hakluyt Society, 1857), pp. xxxi-xlv.

03 Ağustos 2017

MADDE YAYIMLANDIKTAN
SONRA CELEN DOKÜMAN

ISAM DN-251031

10



Hanafi Fiqh in Mughal India: The *Fatāwā-i 'Ālamgīrī*

Alan M. Guenther*

et-Ālamgīrī

011374

From the time of the earliest caliphs, Muslim scholars had been active in producing legal opinions from which the ruler could draw assistance in formulating laws. This ideal was seldom realized to the fullest extent because the ruler was reluctant to compromise his supreme authority, and the 'ulama refused to be fully assimilated into the state structure. Thus while some of the 'ulama would accept, or even at times pursue, appointments as qazis with responsibilities to make legal judgements, others preferred to retain their independence of the state and function as legal advisors. These advisors were *fuqahā* (plural of *faqīh*), men skilled in the study of jurisprudence (*fiqh*), who provided *fatwās*, or legal judgements to questions put to them by the qazis in the courts or by the populace in general.²

Various approaches to the sources of Islamic law, the *sharī'a*, and to the role of reason in deciding matters of law led to the development of several schools of law, or *madhhabs*. The Hanafi madhhab, which came to dominate in India, had its origins in the teachings of Abu Hanifa (d. 767) and his disciples, Abu Yusuf (d. 798) and Muhammad al-Shaibani (d. 805). These early teachers of Islamic law tended to favour a living legal tradition that gave a more prominent role to reason in determining Islamic law and had a looser reliance on direct quotations from the Hadith, the growing body of traditions regarding the Prophet Muhammad that were viewed as authoritative in matters of Islamic practice.³ Their followers, however, adopted a style similar to those of other schools in investing primary authority in the interpretations of past *fuqahā*, and in refusing to diverge from them.⁴ Nevertheless, the *sharī'a* as interpreted by all the

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DİA

el-ÂLEMGÎRİYYE

Madde Yayınlandıktan Sonra Gelen Doküman

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Guenther, Alan M.

Hanafi fiqh in Mughal India: the Fatāwā-i 'Ālamgīrī .-- Oxford University Press, Delhi, 2003 : India's Islamic traditions, 711-1750 / ed. by Richard M. Eaton , pp. 209-230,

Hanafis | Law | Mughals | Fatwas | South Asia - 18th century | South Asia - 17th century

الدكتور عبد الوهاب ابراهيم ابو سليمان
كتابة البحث العلمي، ص ٣٤٣، ١٩٨٣ مكتة المكرمة.

الهند الأعلام بأمر السلطان أبي المظفر محي الدين محمد أورنك زيب بهادر
عالم كبير:

١ el-ALEMAIRIYYE

قصد السلطان أبو المظفر إلى تأليف كتاب موافق للمفتي به من مذهب
أبي حنيفة، وأن تكون الفروع المعتبرة مجموعة في كتاب واحد، ليسهل
أخذها ودركها ومعرفة مظانها لكل قاصد، فأمر مشاهير علماء الهند وعلى
رأسهم الشيخ نظام بوضع كتاب في الفقه على مذهب الإمام أبي حنيفة يحقق
تلك الأغراض، فصار ما حصلوه كتاباً جامعاً حاوياً للفروع الصحيحة
المنقحة، وسموه (بالتاوى العالمكيرية).

واختاروا في ترتيب كتبه وموضوعاته ترتيب كتاب (الهداية) تاركين لما
تكرر في الكتب من الروايات والزوائد، معرضين عن الدلائل والشواهد،
إلا دليل مسألة يوضحها، أو يتضمن مسألة أخرى، واقتصروا في الأكثر على
ظاهر الروايات، ولم يلتفتوا إلا نادراً إلى النوادر والدرايات، وذلك فيما إذا
لم يجدوا جواب المسألة في ظاهر الروايات، أو وجدوا جواب النوادر موسوماً
بعلامة الفتوى، ونقلوا كل رواية من المعتبرات بعبارتها مع نسبتها إلى قائلها،
ولم يغيروا العبارة إلا لضرورة تقتضيها، ولإشعار الفرق بينها أشاروا إلى
الأول بـ(كذا)، وإلى الثاني بـ(هكذا)، وإذا وجدوا في المسألة جوابين مختلفين
كل منهما مما جرت به الفتوى، أولم يكن واحد منها مصحوباً بما يعلم به قوة
الدليل أثبتوها في هذا الكتاب.

تنوير الأبصار وجامع البحار: تأليف شمس الدين محمد بن عبد الله بن أحمد
ابن تمرتاش الغزي الحنفي (ت ١٠٠٤هـ):

جمع فيه مسائل المتون المعتمدة عوناً لمن ابتلى بالقضاء والفتوى قال عنه
ابن عابدين:

«وهو في الفقه جليل المقدار، جمّ الفائدة، دقق في المسائل كلّ التدقيق.

7 MART 1997

MASDE YAYINLANDIKTAN
SONRA GELİN GÖKÜMAN

Editor; C.E. BOSWORTH
IRAN AND ISLAM, 3. 475-478,
1971 - Edinburgh

J. SCHACHT



On the Title of the *Fatāwā al-‘Ālamgiriyya*

I knew the late Professor Minorsky for more than thirty years and have always admired his scholarly work, but our fields of research have hardly ever coincided. So in order not to remain quite outside the scope of this commemorative volume, I venture to offer the following slight remarks on a subject which has at least some Indian and Iranian connotations.

The *Fatāwā al-‘Ālamgiriyya*, compiled by order of the Mogul emperor Awrangzib ‘Ālamgīr (1067/1658–1118/1707) during the years 1075/1664–1083/1672, is not a collection of *fatwās* but of authoritative passages and accepted decisions from the recognized works of the Ḥanafī school. It is in this sense, which corresponds to the expression ‘*alayhi l-fatwā*, that the terms *afiā* and *fatwā* are used in the preface twice: *an yu‘allifū kitāban ḥāmishan li-ẓāhīr al-riwāyāt allatī ttafaqa ‘alayhā wa-afyā bihā l-fuḥūl*, and *mawsūm bi-‘alāmat al-fatwā wa-simat al-rujhān*. No one who has opened the work, can be in doubt about its character.¹ I should not insist on this were it not that the erroneous view that it is a collection of *fatwās* is still being given currency in certain writings. Al-Murādi, too, although he uses the term *fatwā* somewhat loosely, is really unequivocal (*Silk al-durar*, IV, 114):

‘He commanded the Ḥanafī scholars of his country to collect under his name *fatwās* which should comprise the totality of the doctrine of their school concerning the rules of the sacred law of which people were in need; they were collected in a number of volumes, and he called them *al-Fatāwā al-‘Ālamgiriyya*; the work became famous in Hijaz, Egypt, Syria and Rūm, it was widely used, and became a work of reference for muftis.’²

The *Fatāwā al-‘Ālamgiriyya* thus presents two extraordinary features: that a prince should appear officially as the sponsor of a work of Islamic law in its title, and that, being in reality a collection of extracts from authoritative works, it should be called *Fatāwā*.

THE FATĀWĀ-I-ĀLAMGĪRĪ

ANWAR AHMAD QADRI

Ālamgir ascended the throne of Delhi in 1659. A stern puritan in private life he was an enlightened monarch who once wrote to his father, Shāhjahān: "Sovereignty is the guardianship of the people, not self-indulgence and profligacy." He often recited Sa'di's couplets: "Cease to be a King! Oh, Cease to be a King! or determine that your dominions shall be governed only by yourselves." This philosophy led others to call him "an ocean of justice". He was well versed in the *Shari'ah* law, and was a great patron of learning: he founded a number of *Madrasas* all over the territories of his Empire and gave stipends to the teachers and the students.

By the time he ascended the throne, Islam as a temporal power, had touched its zenith. With the expansion of the Empire the functions and responsibilities of the judiciary had increased considerably. The Emperor who was anxious to raise the standard of efficiency in the dispensation of justice decided to have a new code of Islamic Law, which would be more comprehensive and up-to-date than the several collections of *fatāwās* in use at the time. For this purpose he appointed a Board of law commissioners from among Muslim jurists to compile a compendium of the *Shari'ah* law and theology. His intention was to arrange in a methodical manner the most authoritative decisions of the previous legists of Islam, which were scattered in a number of books of *Fiqh*.¹

For the compilation of his code the Emperor assembled a number of eminent lawyers and theologians from the Panjab, Shāhjahānābād, Akbarābād, Allahābād, Jaunpur and the

1 Orders were issued in the eleventh year of the reign (1669 A.C.) The *Fatāwā* was completed in 1672 A.C.

Deccan. Shaykh Nizām of Burhānpūr (d. 1090 A.H./1679 A.C.) was the convener of the Board; he had four superintendents under him: namely Shaykh Wajih al-Din of Gūpāmaw, Shaykh Jalāl al-Dīn Muḥammad of Machhlīshahr, Qāḍi Muḥammad Husayn and Mulla Ḥamid of Jaunpur. Shāh 'Abd al-Rahīm, the father of Shāh Walī Allah, was also associated with the Board. Each member was assisted by a team of ten or more '*ulamā*'. It has been estimated that six lakhs of rupees were spent in the preparation of the work, which was originally compiled in Arabic. The Emperor personally supervised the work of the Board, and later at the instance of his daughter, Zīb al-Nisā, it was translated into Persian.¹

The compilers of the *Fatāwā* cited their authorities and invariably gave reasons, often with comments of the learned *muftis* and the courts. The compilation embraced the entire field of Muslim law and became an authoritative work of reference on *Fiqh*. The contents of the *Fatāwā* touched every aspect of the individual and collective life of Muslims. Separate chapters were allotted to matters relating to, among others, individual and social transactions, religious conduct, administration of justice and matters relating to rules of government and administration, according to the Ḥanafī law. In reality, it has been stated that no other work of similar nature was equal to it in excellence, for it became a celebrated authority not only in the various parts of the Muslim world, but also in the West. Emperor 'Ālamgir ordered it to be utilised by the State departments, chief among them being, (1) the Exchequer and Revenue under the *Dīwān*; (2) the Imperial Household under the *Khān-i-sāmān*; (3) pay and accounts offices under the Imperial *Bakhshī*; (4) Administration of Justice under the Chief *Qāḍi*; (5) Religious endowments and charity under the Chief *Ṣadr*; and (6) Censorship of public morals under the

1 *Encycl. of Islām*, (New Ed., 1964), Vol. II, p. 837; Harrington's *Analysis*, Vol. I, 241; H. M. Elliot, *History of India*, Vol. VII, 160; M.B. Ahmad, *The Administration of Justice in Medieval India* (1941), 41; N.B.E. Baillie, *Mohammadan Law of Sale*, Prelim. Remarks (1850).

الفتاوى الهندية

تأليف جماعة من علماء الهند المشهورين برئاسة الشيخ نظام الدين .
وتسمى الفتاوى العالمكية ، وهي مجموعة من الأحكام الفقهية المأخوذة من
مذهب الحنفية ، تقع في ستة مجلدات ضخمة ، قام بتأليفها جماعة من علماء الهند
المشهورين ، برئاسة الشيخ نظام الدين ، بأمر من سلطان الهند أبي المظفر محيي الدين
محمد أورتك زيب ، من أعيان القرن الثاني عشر الهجري (١١١٩هـ/١٧٠٧م) ويلقب
باسم عالمكير أي فاتح الهند .

والهدف من تأليفها أن يسهلوا على الناس الوقوف على الروايات الصحيحة في
المذهب الحنفي، والأقوال المعتمدة والراجحة فيه ، وما تجرى عليه الفتوى من أحكام المذهب .
والتزم المؤلفون أن يحافظوا على عبارات الكتب التي نقلوها عنها ، ولا يتصرفون
بها إلا عند الضرورة مع التفريق في الإحالة بين الحالتين ، وأسندوا كل حكم نقلوه إلى
الكتاب الذي أخذ عنه ، وأغلب الأحكام مجردة عن الأدلة ، وختموا هذه المجموعة بكتاب
المحاضر والسجلات وكتاب الشروط .

وهذه الفتاوى من أشهر الكتب المطولة في الفقه الحنفي ، واحتوت من الأحكام التي
لا توجد في كتاب سواها ، وشارك في إنجازها ٢٣ فقيهاً من كبار علماء الهند ، بطلب
وقبول الملك محمد أورتك زيب، الملقب عالمكير، أي فاتح الهند، ولذا سميت الفتاوى العالمكية .
وطبعت هذه الفتاوى عدة مرات بمصر ، إحداها الطبعة الأميرية بالقاهرة سنة
١٣١٠هـ في ست مجلدات ، وطبع على هامش الأجزاء الثلاثة الأولى الفتاوى الخانية
لقاضي خان (٥٩٢هـ) ، وطبع على هامش الأجزاء الثلاثة الأخيرة الفتاوى البزازية لابن
البزاز (٨٢٧) (١) .

(١) تاريخ التشريع للشهاوي ص ٢٦٩ ، لمحات ص ٢٤٧ هامش ، المدخل الفقهي العام ١٦٧/١ هامش ،
مجلة الوعي الإسلامي العدد ٧١،٧٠ السنة ٦ لعام ١٣٩٠هـ في مقال أحمد القادري الحقوقي
الباكستاني ، الموسوعة الفقهية ٥٢/١ .

of the motif of the magic sari to ensnare a heavenly nymph, see the Kannada folktale 'Adventures of a Disobedient Son', in A.K. Ramanujan, *Folktales from India* (New Delhi: Viking Penguin, 1991), pp. 274-85.

22. Gorakhnath, *Gorakhbānī*, ed. P.D. Barthwal (Prayag: Hindī Sāhitya Sammelan, 1979), p. 9.

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25. See my *Shadows of Paradise: An Indian Islamic Literary Tradition*, Chapter III.2.

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30. Robert Warshaw, *The Immediate Experience* (Garden City, New York: Doubleday Anchor Books, 1964), p. 85, cited in Cawelti, *Adventure, Mystery, and Romance*, p. 9.

31. Cawelti, *Adventure, Mystery, and Romance*, p. 10.

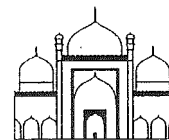
32. See R.H. Major, 'Introduction', *India in the Fifteenth Century. Being a Collection of Narratives of Voyages to India, in the Century Preceding the Portuguese Discovery of the Cape of Good Hope; from Latin, Persian, Russian, and Italian Sources, Now First Translated into English* (London: Hakluyt Society, 1857), pp. xxxi-xlv.

Edit. Richard M. Eaton, *India's Islamic Traditions*, Oxford 2003.

ISAM DU
160332

10

el-Alamgiriyat 011374



Hanafi *Fiqh* in Mughal India: The *Fatāwā-i 'Ālamgīrī*

Alan M. Guenther*

From the time of the earliest caliphs, Muslim scholars had been active in producing legal opinions from which the ruler could draw assistance in formulating laws. This ideal was seldom realized to the fullest extent because the ruler was reluctant to compromise his supreme authority, and the 'ulama refused to be fully assimilated into the state structure. Thus while some of the 'ulama would accept, or even at times pursue, appointments as qazis with responsibilities to make legal judgements, others preferred to retain their independence of the state and function as legal advisors. These advisors were *fuqahā* (plural of *faqīh*), men skilled in the study of jurisprudence (*fiqh*), who provided *fatwās*, or legal judgements to questions put to them by the qazis in the courts or by the populace in general.²

Various approaches to the sources of Islamic law, the shari'a, and to the role of reason in deciding matters of law led to the development of several schools of law, or *madhabs*. The Hanafi madhhab, which came to dominate in India, had its origins in the teachings of Abu Hanifa (d. 767) and his disciples, Abu Yusuf (d. 798) and Muhammad al-Shaibani (d. 805). These early teachers of Islamic law tended to favour a living legal tradition that gave a more prominent role to reason in determining Islamic law and had a looser reliance on direct quotations from the Hadith, the growing body of traditions regarding the Prophet Muhammad that were viewed as authoritative in matters of Islamic practice.³ Their followers, however, adopted a style similar to those of other schools in investing primary authority in the interpretations of past fuqahā, and in refusing to diverge from them.⁴ Nevertheless, the shari'a as interpreted by all the

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ascription survives today. Shafī‘ī Kadkanī (b. 1939) described some features of Farrukhī’s poetry in the chapter devoted to him in his *Šwar-i khiyāl dar shi‘r-i Fārsī* (“Imagery in Persian poetry”): repetition balanced by an able development of the parts of the *qaṣīda*; originality; efficacy and strength of his description of nature in both its static and its dynamic aspects; his special ability in the construction of hyperboles in the *madīh*; his invention of analogies between man and nature; and his use of dialogue between the poet and the elements of nature. As to form, his language is fluent and clear, free of difficult words and learned allusions. Worthy of note, besides the wealth of comparisons and metaphors, is his ample use of figures of speech, such as *tajnīs* (paronomasia), *tarṣī‘* (rhythmic and syntactic parallelism), *su‘āl-u jawāb* (question and answer), and *tikrār* (repetition). His interest in rhetorical devices is also seen in the presence of one *qaṣīda maṣnū‘* (artificial *qaṣīda* designed to excite the reader’s admiration of the poet’s poetical skill) in his *Dīvān* (no. 40). The frequent citation of Farrukhī’s verses in the annotations of ancient dictionaries and as examples in manuals of rhetoric testify to the exemplary value of his poetry.

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al-Fatāwā l-‘Ālamgīriyya

Al-Fatāwā l-‘Ālamgīriyya (also known as *al-Fatāwā l-Hindīyya*) is a compendium of Ḥanafī legal opinions commissioned by the Mughal sultan Awrangzīb ‘Ālamgīr (r. 1068–1118/1658–1707; ‘Ālamgīr means “world conqueror”) and written by a board of more than forty Ḥanafī scholars. The text was compiled between 1664/1074 and 1672/1082 in Delhi, capital of the Mughal empire from 932/1526 to 1171/1758, under the supervision of Shaykh Nizām of Burhānpūr (d. 1089/1678), a prominent scholar and close friend of the sultan. Shaykh Nizām was joined by four associates, each assisted by ten scholars. The project was financed generously and supervised by Awrangzīb, who participated in the revision and editing of the book.

Al-Fatāwā l-‘Ālamgīriyya was compiled during a critical period, in which the Mughals faced several political and cultural challenges. Awrangzīb ‘Ālamgīr was motivated to commission the compilation by his desire to preserve his hegemony