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A Hanafi law manual in the vernacular: Devletoğlu Yūsuf Balıḳesrī's Turkish verse adaptation of the *Hidāya-Wiqāya* textual tradition for the Ottoman Sultan Murad II (824/1424)

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Abstract
This study examines how Devletoğlu Yūsuf Balıḳesrī's versified Hanafi law manual, written in Anatolian Turkish and dedicated to the Ottoman sultan Murad II (d. 855/1451), engages in a complex relationship between the nascent vernacular, Anatolian Turkish, and the Classical Arabic religious textual tradition. Devletoğlu Yūsuf's work, *Manẓūm fiḳh,* is a Turkish paraphrase of the *Wiqāya*, a popular abridgement of the major Hanafi law handbook, the *Hidāya*, in the form of a *mathnawī* (verse work of rhymed couplets). Several passages from the "Book on the Affairs of the Qadi" in Devletoğlu Yūsuf's work are analysed in order to gain insight into how the work functions as a normative text in the Classical Hanafi tradition set within a localized context. Furthermore, this study explores how the work expounds upon the benefits of transmitting religious knowledge in the vernacular and justifies the use of Turkish for religious texts by drawing on Hanafi-approved Persian language practices of religious devotion. Of particular interest is how Devletoğlu Yūsuf grounds his argumentation on the rhetorical theories of the Classical Arabic grammarian, ʿAbd al-Qāhir al-Jurjānī.
Keywords: Islamic law, Hanafi law, Early Ottoman legal texts, Vernacularization, Islamization, Wiqaya, Arabic grammar and rhetoric, ʿAbd al-Qāhir al-Jurjānī

Introduction

Religious texts comprise the bulk of works composed in the newly emerging literary language of Anatolian Turkish in the fourteenth and early fifteenth centuries. These texts have been studied primarily by Turcologists interested in philological and lexical data, but have seldom been examined in the context of the wider Islamic tradition, or with attention to larger historical,

1 The research leading to these results has received funding from the European Research Council under the European Union's Seventh Framework Programme (FP/2007–2013) / ERC Grant Agreement n.208476, "The Islamisation of Anatolia, *c.* 1100–1500". Many thanks go to A.C.S. Peacock for his invaluable suggestions on previous drafts of this article, and to Sooyong Kim for his advice on translating tricky passages of Old Anatolian Turkish verse into English.

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socio-cultural, intellectual and institutional developments. The use of the Turkish vernacular by the authors of these texts was motivated by the growing need among Turcophone Muslims for basic literacy in the Islamic textual tradition. In addition to the corpus of mystically oriented works, such as hagiographies of celebrated Sufis, mystical verse and rhymed couplets (*mathnawī*s), and guides for Sufis, texts of religious learning in the Anatolian Turkish vernacular sought to introduce to Turcophone audiences the meaning of the Quran and basic Islamic tenets, beliefs and practices. Many of these early Turkish works are translations and/or adaptations of authoritative Arabic texts, presented in a variety of formats and genres: interlinear translations of the Quran (Arabic text with Turkish word-by-word glosses),[2] Quran commentaries,[3] explanations of *ḥadīth*, and handbooks of law. Turkish translations and adaptations of authoritative Arabic Islamic religious texts often reshaped the original works upon which they were based according to the concerns and perspectives of their Turcophone audience. Vernacularizing and adapting Arabic religious texts according to the needs of their audience constituted an important element in the process of the Islamization of Anatolia and the neighbouring Balkan regions under Ottoman rule.

Devletoğlu Yūsuf Balıḳesrī's verse Hanafi law manual, written in Anatolian Turkish, is a striking example of the vernacularization of classical Islamic learning in the early fifteenth-century Ottoman realm. Dedicated to the Ottoman sultan Murad II (r. 823–848/1421–44, 850–855/1446–51), the work reduces the contents of the *Wiqāya,* a major epitome of the well-known Hanafi manual of substantive law, the *Hidāya*, to a simplified, easily memorizable verse format of rhymed couplets (*mathnawī*) in the Turkish idiom. In this study, I argue that Devletoğlu Yūsuf's work is a pragmatic religious text that engages in a complex relationship with the Classical Arabic sacred textual tradition. Often described as a translation of the *Wiqāya*, in fact, the text loosely paraphrases

2 The practice of glossing Qurans in Turkic languages originated in Central Asia, and can be traced back to the Eastern Turkish of the Karakhanid period. See Aysu Ata, "İlk Türkçe Kur'an Tercümesi", in Aysu Ata and Mehmet Ölmez (eds), *Dil ve Edebiyat Araştırmaları Sempozyumu 2003. Mustafa Canpolat Armağanı* (Ankara: Şafak Matbaası, 2003), 44; Hendrik Boeschoten, "Translations of the Koran: sources for the history of written Turkic in a multilingual setting", in Lars Johanson and Christiane Bulut (eds), *Turkic–Iranian Contact Areas: Historical and Linguistic Aspects* (Wiesbaden: Harrassowitz Verlag, 2006), 70.

3 A certain Muṣṭafā b. Muḥammed penned a series of partial Quranic commentaries in Turkish, dedicating them to different patrons. The *Yāsin Suresi Tefsīri* was first composed in the name of Ḫızır b. Gölbey, an unknown figure, and later presented to İnançoğlu Murād Arslan Bey (d. before 761/1360), the local ruler of Denizli in southwestern Anatolia. Although it is not dated, the work must have been composed sometime in the mid-fourteenth century. Muṣṭafā b. Muḥammed's Turkish *Mülk Suresi Tefsīri* was composed for Orhan Bey's young sons Süleymān and Murād, presumably for pedagogical use. The work was later presented to the İnançoğlu ruler Murad Arslan's son, İshak Bey (Mustafa Özkan, "Eski Anadolu Türkçesi Döneminde Ortaya Konan Kuran Tercümeleri Üzerine – I", *Türk Dili ve Edebiyatı Dergisi* 39, 2005, 136, 140). There are several extant manuscripts of the *Yāsin Sūresi Tafsīri*. Ayşe Hümeyra Aslantürk published the Süleyman Library, MS İbrahim Efendi 140 as *Hızır Bey Çelebi ve Yāsin-i Şerif Tefsiri* (Edisyon Kritik ve Sadeleştirilmiş Metin) (İsparta: Fakülte Kitabevi, 2007).

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the *Wiqāya* tradition, conveying the essentials of Hanafi law. I examine several passages from one section of Devletoğlu Yūsuf's work, the "Book on Judicial Procedure" (*Kitābu'l-Ḳażā'*)[4] with special attention to the inclusion of new material. The author locates the work at the centre of the Ottoman Empire by adding a theoretical law case set in the Thracian towns of Yanbolu and Edirne. I also analyse Devletoğlu Yūsuf's extensive prologue, the *sebeb-i telīf*, or "reason for composition", in which he discusses the benefits of transmitting religious knowledge in the vernacular and justifies the use of the Turkish vernacular for Islamic learning by drawing on Hanafi-approved Persian practices of religious devotion and notions of rhetoric and grammar elaborated by the eleventh-century Classical Arabic grammarian ʿAbd al-Qāhir al-Jurjānī (d. *c*. 471–474/1078–81).[5]

Devletoğlu Yūsuf's law manual and the *Hidāya-Wiqāya* tradition

We know almost nothing about Devletoğlu Yūsuf other than the information he provides in his Turkish law manual. At the age of 28 in the year 827/1424, he composed the work and dedicated it to Murad II in an effort to gain favour at court.[6] Curiously, since Devletoğlu Yūsuf did not specify a title for his work, it has been given a variety of titles by Ottoman copyists, readers and librarians, e.g. *Terceme-i Viḳāye, Viḳāye tercümesi, Kitābu'l-beyān, Murād-nāme* and *Manẓūm fiḳh*;[7] for convenience, I refer to it as *Manẓūm fiḳh* (versified *fiqh*). The work survives in at least 70 manuscript copies, which suggests a fairly wide readership. Despite its common designation as *Terceme-i Viḳāye* or

4 Although not published, the text has been reproduced in transliteration by Bilal Aktan, "Devletoğlu Yūsuf'un Vikāye Tercümesi (İnceleme-Metin-Dizin)", Erzurum Atatürk Üniversitesi: PhD Dissertation, 2002 (hereinafter cited as Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan). I follow Aktan's edition for all textual references and citations. All English translations are mine.

5 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 455–73. This section paraphrases the *Wiqāya*'s chapter 23, *Kitāb Adab al-Qaḍā'*.

6 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 112, lines 47–8. Aktan conflates Devletoğlu Yūsuf with a certain Yūsuf Efendī (Yūsuf b. Ḥuseyin Kirmāstī), identified in the Ottoman bibliographical tradition as a renowned Bursan religious scholar associated with Ḫocazāde Muṣliḥuddīn Efendī and a prolific author with many works on *fiqh* and grammar, including a commentary on the *Wiqāya*. Devletoğlu Yūsuf states that he was 28 years old in 827/1424 when he composed his *Manẓūm fiḳh*. If he had died in 920/1514, Yūsuf Efendī's death date, then he would have been at least 118 years old. Furthermore, Aktan's assumption that Ḫocazāde was Devletoğlu Yūsuf's teacher is highly improbable, in as much as Ḫocazāde was born a decade after Devletoğlu Yūsuf presented his work to Murad II. See Mecdī Meḥmed Efendī, *Hadaiku'ş-şakaik*, ed. Abdülkadir Özcan (Istanbul: Çağrı Yayınları, 1989), 1: 330; Bursalı Meḥmed Ṭāhir, *ʿOṣmānlı Muʿellifleri* (Istanbul: Maṭbaʿa ʿĀmire, 1333/1914–15), 2: 53–4; Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 2–5; Safet Köse, "Hocāzade, Muslihuddin Efendi", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*.

7 Âmil Çelebioğlu, "Balıkesirli Devletoğlu Yusuf'un Fıkhī bir Mesnevīsī", in Zeynep Kerman (ed.), *Mehmet Kaplan İçin* (Ankara: Türk Kültür Araştırma Enstitüsü, 1988), 43. Among the various titles given to Devletoğlu's work is *Manẓūme-i Bidāyetü'l-Hidāye*, as in Bursa İl Halk Library, MS Haraççıoğlu 558, copied in 949/1542. See Tuncer Gülensoy, "Bursa Haraççıoğlu Kitaplığında Bulunan Türkçe Yazmalar Üzerine Notlar", *Türk Dili Araştırmaları Yıllığı Belleten* 102, 1971, 238.

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Vikāye tercümesi (translation of the *Wikāya*), Devletoğlu Yūsuf does not refer to his work as a translation nor does he make any reference to the *Wiqāya*.[8] Indeed, the *Manẓūm fiḳıh* greatly resembles the *Wiqāya*, employing the same standard organizational format (see Table 1) and imparting more or less the same legal information. It nevertheless includes passages not found in the *Wiqāya*, suggesting that Devletoğlu Yūsuf was more an author-compiler than translator.[9]

Devletoğlu Yūsuf's *Manẓūm fiḳıh* may be situated within an authoritative Hanafi tradition of law that had developed over several centuries in Transoxania, standardized in Burhān al-Dīn ʿAlī al-Farghānī al-Marghīnānī's (d. 593/1197) *al-Hidāya fī Sharḥ al-Bidāya* (Guidance in the Commentary of the *Bidāya*).[10] A basic manual of Hanafi rites, observances, and law, the *Hidāya* has remained a central legal text for Hanafis until the present.[11] The

8 Although Devletoğlu Yūsuf makes no reference to the *Wiqāya*, he cites many other authorities. In addition to the three founders of the Hanafi school, Devletoğlu Yūsuf makes reference to eleven other religious authorities or works: al-Shāfiʿī (116, line 96) and Aḥmad ibn Ḥanbal (*İmām-ı Ḥanbal*, 192, line 1123); ʿAmr b. Sharāhil al-Shaʿbī (d. 103/721), one of Abū Ḥanīfa's teachers (465, line 4812); Abū'l-Ḥasan al-Karkhī (d. 340/951) (189, line 1090); ʿAbd al-Qāhir al-Jurjānī (d. 471/1078) (190, line 1091), Qāḍī-Khān (d. 1196) (275, line 2225); the *Hidāya* (332, line 2993); the *Muḥīṭ*, most likely by Burhān al-Sharīʿa (d. 616/1219) (123, line 190); the *Fatāwā*, possibly by Tāj al-Sharīʿa or Qāḍī-Khān (d. 592/1196) (217, line 1455); the *Ṣiḥāḥ al-Lugha* (or *Tāj al-Lugha*) by the Arabic grammarian al-Jawharī (386, line 3716); the *Mukhtār Sharḥ Ikhtiyār* (likewise known as *al-Ikhtiytār li-taʿlīl al-mukhtār*) by ʿAbdullāh b. Maḥmūd al-Mawṣilī (d. 683/1284) a commentary on his own work, *al-Mukhtār li'l-fatwā* (496, line 5239).

9 In the first modern study of the work, Âmil Çelebioğlu suggests that Devletoğlu Yūsuf did not actually draw upon the *Wiqāya* but rather made use of other *fiqh* works. Çelebioğlu claims that Devletoğlu based his work on a versified Arabic *fiqh* work consisting of 2,600 couplets, composed by a certain Abū Hafṣ ʿUmar in 504/1110. Çelebioğlu, however, does not provide a name or demonstrate how these texts are related, but simply provides reference to two manuscripts, one from the Ankara National Library (Milli Kütüphanesi), MS Cebeci İl Halk 370, copied in 854/1450, and the other housed at Topkapı Palace Library, MS Revan 1997, 96a–111b. Çelebioğlu, "Balıkesirli Devletoğlu Yusuf'un Fıkhī bir Mesnevīsī", 45–7.

10 Variations of this work's name include *al-Hidāya fī'l-furūʿ* and *al-Hidāya al-burhāniyya fī'l-fiqh al-nuʿmāniyya*. For a published version of the *Hidāya*, see Abū Bakr b. ʿAlī al-Marghīnānī, *al-Hidāya: sharḥ bidāyat al-mubtadā*, 4 vols (Cairo: Maṭbaʿah Muṣṭafā al-Bābī al-Ḥalabī, 1975). The Arabic text has also been edited by Muḥammad Darwīsh as *Al-Margīnānī al-Hidāya: Sharḥ Bidāyat al-Mubtadiʿ* (Beirut: Dar al-Arqam, 1997). It has been partly published in English translation in a two-volume set by Imran Ahsan Khan Nyazee as *al-Hidāyah: A Classical Manual of Hanafi Law* (Bristol: Amal Press, 2008). Charles Hamilton and Standish Grove Grady first translated the *Hidāya* into English, albeit selectively, and omitting, for example, the chapters on prayer and purification. It was first published in London in 1871 in four volumes.

11 The *Hidāya* is al-Marghīnānī's shorter commentary on his *Bidāyat al-Mubtadiʿ*, itself a commentary on the foundational text for Hanafi *fiqh* scholarship, al-Qudūrī's (d. 428/1037) *Mukhtaṣar fī al-fiqh al-Ḥanafī*. Like many later Hanafi texts, al-Marghīnānī's *Hidāya* reproduces the text of al-Qudūrī's *Mukhtaṣar* word for word. See Brannon M. Wheeler, "Identity in the margins: unpublished Hanafi commentaries on the *Mukhtaṣar* of Aḥmad b. Muḥammad al-Qudūrī", *Islamic Law and Society* 10/2, 2003, 184–5. Wheeler argues: "By relying on the text of the *Mukhtaṣar*, al-Marghīnānī makes the *Mukhtaṣar* into a sort of 'canonical text': it is through the medium of this text that readers of al-Marghīnānī are taught how to interpret the opinions of the Ḥanafī authorities" (ibid. 187).

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Table 1. Chapter headings of the *Hidāya, Wiqāya,* and *Manẓūm fiḳh*

Kitāb	*al-Hidāya* *Five pillars of Islam*	*al-Wiqāya*	*Manẓūm fiḳh*
1	Ṭahāra (Ritual purity)	Ṭahāra	Ṭahāret
2	Ṣalāt (Prayer)	Ṣalāt	Ṣalāt
3	Zakāt (Alms and tithes)	Zakāt	Zekāt
4	Ṣawm (Fasting)	Ṣawm	Ṣavm
5	Ḥajj (Pilgrimage)	Ḥajj	Ḥacc
	Household relationships		
6	Nikāḥ (Marriage)	Nikāḥ	Nikāḥ
7	Raḍāʿ (Foster kinship based on suckling)	Raḍāʿ	Bābu'l-rażāʿ
8	Ṭalāq (Repudiation)	Ṭalāq	Talaḳ
9	ʿItāq (Manumission)	ʿItāq	ʿİtāḳ or ʿAtāḳ
10	Aymān (Vows, oaths)	Aymān	Eymān
	Punishments for Crimes		
11	Ḥudūd (Fixed penalties for Quranic crimes)	Ḥudūd	[bāb] Ḥudūd
12	Sariqa (Theft, larceny)	Sariqa	[bāb] Sariḳa [bāb] Ḳuṭāʿi'l-ṭarīḳ
	Other relations		
13	Siyar (Relations with non-Muslims)	Jihād	Siyer
14	Laqīṭ (Foundlings)	Laqīṭ	Laḳīṭ
15	Luqaṭa (Found objects or property)	Luqaṭa	[bāb] Luḳaṭat
16	Ibaq (Runaway slaves)	Ibaq	[bāb] Ābiḳ
17	Mafqūd (Lost objects, missing persons)	Mafqūd	Mefḳūd
	Property and commercial transactions		
18	Sharika (Partnership)	Sharika	Şarike
19	Waqf (Pious endowment)	Waqf	Vaḳıf
20	Buyūʿ (Contract of sale: buying and selling)	Buyūʿ	Buyūʿ
21	Ṣarf (Exchange of money and precious metals)	Ṣarf	[bāb] Ṣarf

Continued

Table 1. Continued

Kitāb	*al-Hidāya* *Five pillars of Islam*	*al-Wiqāya*	*Manẓūm fiḳh*
22	Kafāla (Guarantee, surety, bail) [Guaranteeing that a defendant appears in court or is handed over to the authorities]	Kafāla	Kefālet
23	Ḥawāla (Transfer) [Assignment of debt; transfer of a debt from one debtor's charge to another]	Ḥawāla	Ḥavālet
	Legal procedures and contractual situations		
24	Adab al-Qaḍāʾ (Court procedure)	Qaḍāʾ	Ḳażāʾ
25	Shahāda (Witnessing, evidence) [based on oral testimony]	Shahāda [wa'l-rujūʿ ʿanhā]	Şehādet
26	Wakāla (Agency, representation)	Wakāla	Vekālet
26	Daʿwā (Lawsuit, caims)	Daʿwā	Daʿvā
27	Iqrār (Acknowledgement) [Formal binding acknowledgements and recognition of rights and acceptance of charges, as in *iqrār bi'l-nasab*, the acknowledgement of paternity]	Iqrār	İḳrār
28	Ṣulḥ (Amicable agreement)	Ṣulḥ	Ṣulḥ
29	Muḍāraba (Sleeping partnership)	Muḍāraba	Muḍarebe
30	Wadīʿa (Consignment, trust, deposit)	Wadīʿa	Vedīʿet
31	ʿĀriya (Lending) [Loan of the use of non-fungible property without interest]	ʿĀriya	ʿĀriyet
32	Hiba (Donation, gifts)	Hiba	Hibet
33	Ijāra (Lease, hire)	Ijāra	İcāret
34	Mukātib (Manumission) [For a slave who has contracted to buy his freedom against a future payment to his owner]	Mukātib	Mükātib
35	Walāʾ (Patronage) [The inheritance rights of manumitted household slaves]	Walāʾ	Velāʾ
36	Ikrāh (Coercion, compulsion, duress)	Ikrāh	İkrāh
37	Ḥajr (Interdiction, legal incapacity) [Loss of the right to use one's property due to incapacity]	Ḥajr	Ḥacir

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38	Maʾdhūn (License to trade) [Granted to a slave]	Maʾdhūn	Meʾẕūn
39	Ghaṣb (Unauthorized use) [Usurpation; rulings regarding unlawful transactions or seizures of property]	Ghaṣb	Ġaṣb
40	Shufʿa (Pre-emption) [Priority in the sale of immovable property]	Shufʿa	Şufʿat
41	Qisma (Inheritance assessment) [Division of property]	Qisma	Ḳısmet
	Authorized use of property and animals		
42	Muzāraʿa (Share-cropping on uncultivated land)	Muzāraʿa	Muzāraʿat
43	Musāqāt (Sharecropping on cultivated lands)	Musāqāt	Bābu'l-Musāḳāt
	Dhabāʾiḥ (Ritually slaughtered meat for consumption)	Dhabāʾiḥ	Ẕebāyiḥ (Note: rulings on highway robbery, theft and murder are randomly added here)
44	Uḍḥiyya (Sacrificial animals)	Uḍḥiyya	Użḥiyet
45	Karāhiyya (Permissible and impermissible uses of luxury items such as gold, silver, silk)	Karāhiyya	Kerāhiyyet
46	Iḥyāʾ al-mawāt (Revivification of agricultural land, cultivation of wastelands) = Iḥyāʾ al-arḍ al-mawāt [Rulings regarding reviving agricultural land in the hinterland]	Iḥyāʾ al-mawāt	Iḥyāʾu'l-mevāt
	[*faṣl*: Shirb] (Water, rivers, and sources of potable water)	[*faṣl*: Shirb]	Şirb
47	Ashriba (Drinking; prohibition of alcoholic drinks)	Ashriba	Eşribet
	Miscellany		
	Ṣayd (Hunting)	Ṣayd	Ṣayd
48	Rahn (Surety, pledge, security)	Rahn	Rehin
49	Jināyāt (Criminal offences and injuries, including homicide)	Jināyāt	Cināyāt
50	Diyāt (Monetary compensation, fines, blood money)	Diyāt	Ḳaṣāmet (Oath of accusation) [for unsolved murders; this section also refers to Diyāt and Muʿāqil]
51	Muʿāqil (Blood money)	Muʿāqil	X
52	Waṣāyā (Legacy, will, bequests)	Waṣāyā	Veṣāyā
53	Khunthā (Hermaphrodites: specifically inheritance rights, and other rulings in situations where gender is not clear)	Khunthā	Ḫunṯā

Hidāya was widely commented upon,[12] and its reception in the Ottoman empire is well attested. According to the seventeenth-century Ottoman bibliophile Hājjī Khalīfa (Kātib Çelebī, d. 1067/1657), the *Hidāya* should serve as the Muslim's principle guide through life.[13]

The *Hidāya* is a fairly concise *fiqh* text, comprising two to four large volumes in modern printed editions.[14] For reasons of economy and utility, lower-level madrasa students needed brief synopses and radically abridged versions of the work, shorn of jurisprudential discussions and chiselled down to a set of laws suitable for memorization and easy reference – hence, the great popularity of Burhān al-Sharīʿa Maḥmūd's *Wiqāya al-riwāya min masāʾil al-Hidāya* (The Trusted Narrative on Issues in the Guidance)[15] which, in turn, spurred a large number of commentaries and glosses.[16] Composed in the thirteenth century

12 A pupil of Burhān al-Dīn al-Marghīnānī, Husām al-Dīn Ḥusayn b. ʿAlī, composed the first commentary on the *Hidāya*, the *Nihāya*, which added the law of inheritance to the *Hidāya*. Another important commentary was produced by the fifteenth-century scholar Kamāl al-Dīn Muḥammad al-Siwāsī, known as Ibn al-Humām (d. 861/1456–57). Ibn al-Humām's *al-Fatḥ al-kabīr l'il-ajāʾiz al-faqīr* is one of the most comprehensive commentaries on the *Hidāya* (Thomas Patrick Hughes, *A Dictionary of Islam* (London: W.H. Allen & Co., 1885), 288).

13 Hughes, *A Dictionary of Islam*, 288.

14 Compare, for instance, the *Hidāya* with al-Sarakhsī's (d. 483/1090) *Kitāb al-mabsūṭ*, a 30-volume commentary on the *Kitāb al-Kāfī fī'l-fiqh*, which, in turn, is based on the legal writings of al-Shaybānī. See Udovitch, *Partnership and Profit in Medieval Islam*, 15. On the *Hidāya* and *Wiqāya*, see further Norman Calder, *Islamic Jurisprudence in the Classical Era*, ed. Colin Imber (Cambridge: Cambridge University Press, 2010), 32 ff., 42 ff.

15 Alternatively entitled *Wiqāya al-riwāya fī masāʾil al-Hidāya*, the *Wiqāya* omits the theoretical aspects of Hanafi law, such as discussions of conflicting views (*ikhtilāf*) and the indication of right views, as found in the *Hidāya*. The *Wiqāya* has not been published and exists in manuscript form only. I have consulted the following manuscripts: Balıkesir İl Halk Library, MS 807; Süleymaniye Library, MS Ayasofya 1505 (dated Rajab 975/January 1568); Manisa İl Halk Library, MS Akhisar Zeynelzade 428 (dated 893/1487).

16 Of the many commentaries of the *Wiqāya*, the most famous is the *Sharḥ al-Wiqāya* by Tāj al-Sharīʿa's grandson, ʿUbayd Allāh al-Maḥbūbī, known as Ṣadr al-Sharīʿa II (d. 747/1346), who also produced the *Niqāya*, an abridged version of the *Wiqāya*. ʿUbayd Allāh al-Maḥbūbī's *Sharḥ al-Wiqāya* was usually studied together with the *Wiqāya*, which was reproduced together with its gloss with special attention to the chapters dealing with marriage, dower and divorce. Numerous other commentaries and supercommentaries on the *Wiqāya* were penned in the fourteenth and fifteenth centuries. The *Wiqāya*, in fact, generated more commentaries than any other legal or religious text in the Ottoman realm during the fifteenth and sixteenth centuries. See Abdurrahman Atçıl, "The formation of the Ottoman learned class and legal scholarship (1300–1600)", (University of Chicago: PhD Dissertation, 2010), 295–6. A survey of these works is beyond the scope of this essay. Several of the better known works are: al-Sighnaqī (d. 714/1314), *al-Nihāya*; the Aydınid scholar İbn Melek (Fireşteoğlu) (d. after 821/1418), *Sharḥ al-Wiqāya*; the *Kifāya* by ʿImād al-Dīn Amīr Kātib b. Amīr ʿUmar; the Cairene Akmal al-Dīn Muḥammad al-Bābartī (d. 786/1384), *ʿInāya*; the *ʿInāya fī sharḥ al-wiqāyat al-riwāya* by ʿAlāʾeddīn el-Esved (d. 800/1396–97), a scholar from Amasya; al-Kūrlānī, *al-Kifāyat al-muntahā*, a commentary in eight volumes; Muṣannifek (d. 875/1470), *Sharḥ al-Wiqāya*; and *Ḥāshiyāʾ ʿalā sharḥ al-Wiqāya* by Ḫaṭībzāde [Ibn al-Khaṭīb] (d. 901/1495).

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by the Bukharan scholar, Burhān al-Sharīʿa Maḥmūd,[17] the *Wiqāya* is a digest of selections from the *Hidāya* designed to assist the beginning student in studying and understanding the authoritative text upon which it is based by presenting laws and rulings in a simple-to-consult format designed for easy memorization.[18] The *Manẓūm fiḳıh* was composed with similar pedagogic aims in mind.

The *Manẓūm fiḳıh* and classical Hanafi substantive law in the early Ottoman context

Although the *Manẓūm fiḳıh* follows the same format as the *Wiqāya* and *Hidāya*, and largely reproduces the same juridical points, it sometimes does so in quite a different manner, and not only because of the syntactic and semantic constraints imposed by its format of rhyming verse couplets. In the book of judicial procedure (*Kitābu'l-Ḳażā'*), which treats the post and conduct of the qadi,[19] Devletoğlu Yūsuf illustrates abstract legal points with concrete examples not found in the *Wiqāya*. These examples provide a local context for his intended audience, which may have been Turcophone children studying at the *maktab*, where they were introduced to the basics of *fiqh* before having acquired enough Arabic to read the standard textbooks.

Devletoğlu Yūsuf prefaces the section on judicial procedure with a statement on the hierarchical relationship between rulership, the post of the qadi, and the carrying out of justice according to the *sharīʿa*:[20]

17 Based on careful consideration of the manuscript evidence, Murteza Bedir reviews the problem of the correct name of the author of the *Wiqāya*, Burhān al-Sharīʿa Maḥmūd b. Ṣadr al-Sharīʿa al-Akbar Aḥmad b. Jamāl al-Dīn ʿUbaydullāh al-Maḥbūbī al-Bukhārī, whose death date remains unknown. Bedir points out that Burhān al-Sharīʿa has often been confused with his brother Tāj al-Sharīʿa ʿUmar (d. 709/1309), who is often referred to erroneously as Tāj al-Sharīʿa Maḥmūd in Arabic biographical dictionaries. Much of the confusion seems to stem from their complicated family relations: Tāj al-Sharīʿa's son Masʿūd married the daughter of Burhān al-Sharīʿa, and from that union was born the grandson of both, Ṣadr al-Sharīʿa al-Asghar (or al-Thānī) ʿUbaydullāh b. Maʿsūd (d. 747/1346), for whom Burhān al-Sharīʿa wrote the *Wiqāya*. Ṣadr al-Sharīʿa al-Asghar ʿUbaydullāh is confusingly referred to by western scholars as Maḥmūd b. ʿUbayd Allāh al-Maḥbūbī. Ṣadr al-Sharīʿa al-Asghar ʿUbaydullāh later wrote a *sharḥ* on the *Wiqāya*, as well as producing a summary of the text, the *Nuqāya*. See M. Bedir, "Tācüşşerīa", *Türkiye Diyanet Vakfı İslam Ansiklopedisi; idem.*, "Viḳāyetü'r-Rivāye", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*; Ş. Özen, "Sadrüşşerīa", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*. See also Ahmed Akgündüz, *Introduction to Islamic Law* (Rotterdam: IUR Press, 2010), 49.

18 Hughes, *A Dictionary of Islam*, 288.

19 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 455–73. This section covers *Qaḍā'*, Book 23 of the *Wiqāya*, which abridges the *Kitāb Adab al-Qaḍā'* of the *Hidāya*.

20 A comparison with the Arabic text of the *Wiqāya* confirms the absence of discussion of the sultan as appointed as God's representative and as the one responsible for appointing the qadi for the implementation of religious law. See Balıkesir İl Halk Library, MS 807, 99b–100a; Süleymaniye Library, MS Ayasofya 1505, 103a–107a; Manisa İl Halk Libary, MS Akhisar Zeynelzade 428, 115a–118a.

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The Lord of all creatures is
The reason for order in this world.[21]

From among mortals He chooses someone as sultan
To rule over all people by edict.[22]

He will be God's representative among the faithful
Who will accept his authority.[23]

Then he will immediately appoint qadis
So that the realm will prosper with religious law.[24]

He [viz., the qadi] will put into effect the rulings of religious law
So that all injustice in the world disappear.[25]

These remarks are not found in the original text of the *Wiqāya* composed in Bukhara in the thirteenth century, but are unique to Devletoğlu Yūsuf's fifteenth-century Turkish text, and impart the author's particularly Ottoman understanding of the relationship between the ruler and the qadi. Although since early Abbasid times the ruler (whether caliph or sultan) or his representatives were responsible for appointing qadis,[26] the intimate association of the qadi with the sultan appears to be a new historical development. Guy Burak has recently argued that a major change occurred in the nature of Islamic law in the eastern Islamic lands in the post-Mongol period. Burak points out that in the Sunni successor states of the post-Mongol lands, such as the Ottomans, Timurids and Mughals, a new relationship emerged between the ruling dynasty and Islamic law: ruling dynasties attempted to regulate the structures, doctrines and authorities of law schools.[27] Islamic law was no longer the sole province of jurists, free from intervention by political rulers, but rather became closely tied to the prerogatives of a sultan, and in turn constituted an important element of dynastic and political legitimacy.[28] Devletoğlu Yūsuf's insertion of the sultan

21 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 455, line 4664: *Bir daḫı bu ʿālem içinde niẓām / Kim sebeb ḳıldı aña rabbu'l-enām*.
22 Ibid. 455, line 4665: *Ḳullarından birisin sulṭān ider / Cümle ḫalḳı ḥükmine fermān ider*.
23 Ibid. 455, line 4666: *Nāyibullāh olur ol beyne'l-ʿibād / Pes iderler buyruġına inḳıyād.*
24 Ibid. 455, line 4667: *Ḳāżılar naṣb eyler ol daḫı hemān / Tā ki maʿmūr ola şerʿ-ile cihān*.
25 Ibid. 455, line 4668: *Ḥükm-i şerʿi ol daḫı icrā ider / Pes cihānda ẓulm kalmaz hep gider*.
26 Muhammad Khalid Masud, Rudolph Peters and David S. Powers, "Qāḍīs and their courts: an historical survey", in Muhammad Khalid Masud, Rudolph Peters and David S. Powers (eds), *Dispensing Justice in Islam. Qadis and their Judgments* (Leiden: Brill, 2005), 15; *EI*^{2}, s.v. Ḳāḍī (E. Tyan).
27 Guy Burak, "The second formation of Islamic law: the Post-Mongol context of the Ottoman adoption of a School of Law", *Comparative Studies in Society and History* 55/3, 2013, 579–602.
28 During the classical and late Ottoman periods, the *kadıasker,* who was under the direct authority of the *şeyhülislam*, was responsible for appointing, dismissing and supervising qadis in the provinces. The *şeyhülislam* and his representatives, however, had no authority to interfere in the judgments or procedures of the qadi. In regard to administrative issues, only the sultan had the authority to issue, through an imperial *fermān*, a legally binding order on the qadi. As Ronald C. Jennings observed, the qadi was autonomous of

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into his text – with an emphasis on the sultan's intermediary role between God and the implementer of God's law, the qadi – indeed reflects the above changes described by Burak in the ideology and practice of Islamic law.

The bulk of the chapter on *Ḳażā'* contains the same legal precepts and principles mentioned in the *Wiqāya*. Thus, we are told that a qadi should be knowledgeable, and preferably a scholar who has attained the status of *müctehid* (Ar. *mujtahid*),[29] that is, a jurist authorized to use independent legal reasoning (*ijtihād*);[30] in the post-classical period, a qadi who held the rank of *mujtahid fī'l-madhhab* was required to be capable of making judgments based on the established rulings and opinions of his school. Devletoğlu Yūsuf writes:

> [The qadi] must possess the qualifications of a witness
> He must be learned and just as well.[31]
>
> That is, he [viz., the qadi] must be learned not ignorant
> and if he is a *mujtahid*, even better.[32]

Devletoğlu Yūsuf's discussion of a qadi's ethical behaviour also closely follows the *Wiqāya*. He says:

> He who gains his appointment through bribery
> May his rulings be considered null and void.[33]
>
> If a qadi accepts a bribe after taking up his office,
> He is a sinful offender (*fāsiḳ*), his rulings untrustworthy.[34]
>
> The qadi must not be crude or violent
> Nor forceful or stubborn.[35]

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imperial authority in the judicial sphere. See Ronald C. Jennings, "Limitations of the judicial powers of the kadi in 17th c. Ottoman Kayseri", *Studia Islamica* 50, 1979, 155, 155–6 note 1, 164. On the notion of justice as a mechanism of political legitimization in the early-modern Ottoman Empire, see Boğaç A. Ergene, "On Ottoman justice: interpretations in conflict (1600–1800)", *Islamic Law and Society* 8/1, 2001, 52–87.

29 Calder, *Islamic Jurisprudence in the Classical Era*, 64; Omer Awass, "Fatwa: the evolution of an Islamic legal practice and its influence on Muslim society" (Temple University: PhD Dissertation, 2014), 252.

30 On *ijtihād* and *mujtahid* see further Wael B. Hallaq, "Was the gate of ijtihad closed?", *International Journal of Middle East Studies* 16/1, 1984, 3–41, and *EI²*, s.v. "Mudjtahid" (J. Calmard). The *Hidāya* points out that some have stipulated that a qadi must be a *mujtahid* but that the more approved doctrine is that this is merely preferable, but not indispensable. See Charles Hamilton and Standish Grove Grady (trans.), *The Hedaya or Guide: A Commentary on the Mussulman Laws* (Lahore: Premier Book House, 1871, reprinted 1963), 334.

31 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 455, line 4670: *Bir kişi ehl-i şahādet olsa ger / ʿĀlim u ʿādil daḫı olsa meger*.

32 Ibid. 455, line 4670: *Yaʿnī cāhil olmaya ʿālim gerek / Müctehīd olursa daḫī yigirek*.

33 Ibid. 456, line 4677: *Rişvet-ile ḳāżılıḳ almaḳ kişi / Ḥükmi nāfiẕ olmaya bāṭīl işi*.

34 Ibid. 456, line 4678: *Ḳāżı olup ṣoñra rişvet alsa ger / Fāsıḳ olur ḥükmi olmaz muʿteber*.

35 Ibid. 456, line 4682: *Ḳāżı olan olmaya faẓẓ u şedīd / Hem daḫı olmaya cabbār u ʿanīd*.

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He should not begin to accept gifts from anyone
so that it will not become a habit.[36]

Gifts are allowed only from his relatives
and those from whom he has already received gifts.[37]

When he becomes qadi
He must hold court in an appropriate place,[38]

Such as a *masjid* or Friday mosque
or the like, oh esteemed one.[39]

These verses on the characteristics and ethical behaviour of a qadi, as well as where he may hold court, faithfully summarize the contents of the *Wiqāya*.[40] Devletoğlu Yūsuf diverges significantly from the *Wiqāya* in a subsection (*bāb*) of this chapter dealing with the impermissibility of using written correspondence between qadis (*kitāb-i ḥukmī*) as evidence for reclaiming lost movable property.[41] Rather than explaining the regulations, Devletoğlu Yūsuf introduces a hypothetical case involving the loss of a horse by someone residing in the Thracian town of Yanbolu.[42]

Let us suppose someone from Yanbolu
went before a qadi to file a lawsuit,[43]

[Claiming that] a certain individual in Edirne
found a horse of his and undoubtedly took possession of it.[44]

'That horse is mine, it was stolen from me;
I have brought forth witnesses regarding the matter, it is true.'[45]

The qadi [viz., of Yanbolu] listened to his witnesses
and recorded a detailed description of that horse.[46]

36 Ibid. 456, line 4683: *Hem kimesneden hedāyā almaya. / Yaʿnī evvelden ki ʿādet olmaya.*
37 Ibid. 456, line 4684: *ʿĀdet olmış kimse olursa revā / Hem ḳarībinden daḥı olsa n'ola.*
38 Ibid. 456, line 4685: *Çünki ḳāżı oldı imdi n'eyleye / Bir muʿayyen yirde meclis eyleye.*
39 Ibid. 456, line 4686: *Şöyle kim mescīd ve cāmiʿ gibi hem / Yā daḥı bunuñ gibi iy muḥterem.*
40 *Wiqāya*, Süleymaniye Library, MS Ayasofya 1505, 101a.
41 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 463: *Bāb Kitābi'l-Ḳāżı ilā'l-Ḳāżı*. The *Wiqāya* does not provide a subdivision (*bāb*) of this section on the correspondence between judges in the book of judicial procedure (*Kitāb al-Qaḍāʾ*), as is found in both the *Hidāya* and in Devletoğlu's *Manẓūm fiḳıh* (*Wiqāya*, Süleymaniye Library, MS Ayasofya 1505, 102a).
42 Yanbolu is today's Yambol in Bulgaria, some 90 kilometres north of Edirne. Yanbolu was conquered in the 1370s by the Ottomans. See M. Kiel, "Yanbolu", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*.
43 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 464, line 4793: *Şöyle kim Yanbolıdan bir kişi ger / Ḳāżı ḳatında varur daʿvī eder.*
44 Ibid. 464, line 4794: *Edrene şehrinde yaʿnī şol fulān / Bir atum buldum elinde bī-gümān.*
45 Ibid. 464, line 4795: *Benden oğurlandı benümdür ol at / Aña ṭanuḳlar getürdüm uş uñat.*
46 Ibid. 464, line 4796: *Ḳāżı diñledi anuñ ṭanuḳların / Yazdı ol atuñ ṣıfātın her birin.*

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Then immediately for the qadi of Edirne
he prepared a judicial letter.[47]

[When] the judicial letter was received by the qadi of Edirne
with a record of the oral testimony of the witnesses.[48]

He [viz., the qadi of Edirne] did not record it in the *sijil* but rejected it,
For he followed the school of law of the two Imāms [i.e. Abū Yūsuf and Muḥammad al-Shaybānī].[49]

If it [viz., the disputed object] were a piece of land or a house, [then it would have been admissible],
That is to say, only immovable property is admissible.[50]

These verses explain that the admissibility of judicial letters of evidence (*kitāb-i ḥukmī*) is limited to cases involving immovable property for, as the *Hidāya* more fully explains, only immovable property may be defined by a description of its boundaries – whereas movable property must be physically exhibited at court.[51] Here Devletoğlu Yūsuf uses a concrete example to ease the beginner student's introduction to the complexities of law. By referring to Edirne, the Ottoman capital, and the Ottoman Balkan town of Yanbolu, Devletoğlu Yūsuf also imparts local colour into the text. Devletoğlu Yūsuf probably created the case for pragmatic pedagogical purposes: qadis regularly dealt with the recovery of lost horses and other livestock.

Aside from an occasional interpolation as in the above example, the *Manẓūm fiḳh* closely paraphrases the *Wiqāya,* sometimes verbatim. Curiously, Devletoğlu Yūsuf is silent with regard to his work's intimate relationship with the *Wiqāya*. He does, however, cite as sources eleven other authors and texts, belonging primarily to the Transoxanian Hanafi tradition, such as the *Muḥīṭ al-Burhānī* by Burhān al-Sharīʿa (d. 616/1219).[52] He also notes in his preface

47 Ibid. 464, line 4797: *Edrene ḳāżısına yaʿnī hemān. / Bir kitāb-ı ḥükmī yazdı ol zamān.* Here *kitāb-i ḥukmī* refers to a letter produced by one qadi and sent to another if a defendant, involved in a case involving the first qadi's jurisdiction, resides in the second qadi's jurisdiction, and is not present during the proceedings officiated by the first qadi. The letter includes a transcription of the oral testimony of the plaintiff's witnesses, given in the absence of the defendant. It is considered "a transcript of real evidence" (Hamilton and Grady (trans.), *The Hedaya or Guide*, 340).

48 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 464, line 4798: *Edrene ḳāżısına vardı kitāb / Kim odur naḳl-i şahādet bi'l-ḥiṭāb*.

49 Ibid. 464, line 4799: *Ol bitiydi dutmadı redd itdi ol / Pes imāmeyn meẕhebin ḳıldı ḳabūl*.

50 Ibid. 464, line 4801: *Līki bir pāre yir olsa yāḫū dār / Yaʿnī menḳūl olmaya ola ʿaḳār*.

51 Hamilton and Grady (trans.), *The Hedaya or Guide*, 339–40.

52 *Bu rivāyetdür İmām-ı Ṣānīden / kim Muḥīṭden naḳl ḳılmış naḳl iden* (Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 123, line 190). The *Muḥīṭ* here is most likely *Muḥīṭ al-Burhānī fī al-Fiqh al-Nuʿmānī* by Burhān al-Dīn Maḥmūd b. Aḥmad b. Abd al-ʿAzīz al-Bukhārī al-Marghīnānī, commonly known as Burhān al-Sharīʿa (d. 616/1219). Usually referred to as *Muḥīṭ al-Burhānī* or simply *Muḥīṭ*, the work is essentially an expanded version of the *Ẓāhir al-Riwāya*, the six canonical Hanafi treatises compiled by al-Shaybānī. The popularity of *Muḥīṭ al-Burhānī* among Ottoman scholars is well attested, and it constituted a major source for the *fiqh* work, *Jāmiʿ al-fuṣūlayn* by

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that he made limited use of material from *fatāwā* works which he does not identify.[53] Devletoğlu Yūsuf emphasizes the legal authority of the three leading Hanafi jurists: Abū Ḥanīfa (d. 150/767), the eponymous founder of the Hanafi school of law; his foremost disciple, Abū Yūsuf (d. 182/798),[54] who is often referred to in the text as the "Second Imām" (*İmām-ı Ṯānī*); and their student, Muḥammad b. al-Ḥasan b. al-Shaybānī (d. 189/805), simply called Muḥammad as is customary in classical Hanafi judicial literature.[55] Devletoğlu Yūsuf specifies that his work is an explication of the Hanafi school of law as found in the rulings of the two *Imāms*, i.e. Abū Ḥanīfa and Abū Yūsuf.[56] And, to remind his audience, presumably young readers, of the three founders of Hanafism, Devletoğlu Yūsuf refers to them throughout the work using the following formula in myriad variations: "this is Abū Ḥanīfa's, Abū Yūsuf's or Muḥammad's position" (*ḳavl*, from the Arabic *qawl,* literally, word).[57] At the end of his work, Devletoğlu Yūsuf emphasizes Abū Ḥanīfa as his primary source and authority, highlighting his eminence as *imām* and *mujtahid*:

> Know [that] this is the position of Abū Ḥanīfa
> Be struck with awe, for you may not know the original [text];

Maḥmūd b. İsrāʿīl Simavna Kadısı-oğlu Şeyḫ Bedreddīn, Devletoğlu Yūsuf's near contemporary. The *Muḥīṭ al-Burhānī* is not to be confused with al-Sarakhsī's *al-Muḥīṭ*. See M. Uzunpostalcı, "Burhāneddin el-Buhārī", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*; Hacı Yunus Apaydın (ed.), *Yargılama Usulüne Dair: Câmiu'l-Fusûleyn. Şeyh Bedreddin* (Ankara: T.C. Kültür ve Turizm Bakanlığı, 2012).

53 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 114, lines 66–7: *Hem fetāvādan daḫı naḳl eyledüm / Çok degüldür hem daḫı az söyledüm; Her fetāvānuñ velīkin adını / dimege ʿözr oldı dimedüm anı*. Calder argues that so-called *fatāwa* collections, such as Qāḍī Khān's *Fatāwā Qāḍī Khān*, were normative texts providing theoretical examples of rulings rather than *fatwā*s that were actually issued (Calder, *Islamic Jurisprudence in the Classical Era*, 72).

54 Abū Yūsuf. See J. Schacht, "Abū Yūsuf Yaʿḳūb b. Ibrāhīm al-Anṣārī al-Kūfī", *EI*^{2}.

55 The works of Muḥammad b. al-Ḥasan b al-Shaybānī (d. 804) serve as the foundational texts of the Ḥanafī tradition. See *EI*^{2}, s.v. al-Shaybānī (E. Chaumont); *EI*^{2}, s.v. al-Sarakhsī (N. Calder).

56 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 113–4, lines 64–5: *Bū Ḥanīfe meẕhebi üzre hemān / Yaʿnī anuñ ḳavlini ḳıldum beyān; Hem imāmeyn ḳavlini daḫı meger / baʿżī yirde kim gerekdür iy piser*. It is clear from this couplet that the "two imams" (*imāmeyn*) refers to Abū Yūsuf and Muḥammad al-Shaybānī as distinct from Abū Ḥanīfa, as this couplet from the section of inheritance indicate: *Bū Ḥanīfe bunı cāyizdür didi / Pes imāmeyn bunı cāyiz görmedi* (ibid. 624, line 6972). When there was disagreement between Abū Ḥanīfa and his disciples, the two imams, Abū Yūsuf and Muḥammad al-Shaybānī, the view of the latter prevailed in Hanafi law. This reference to the differing opinions between the jurists is unique to Devletoğlu Yūsuf's text and is not found in the *Wiqāya*.

57 Examples of variations of this formula are: *Bū Ḥanīfe ḳavli budur iy dedem* (Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 129, line 271); *Bū Ḥanīfe hem Ebū Yūsuf daḫı / Bunlaruñ ḳavli budur kim iy aḫı* (ibid. 593, line 6567); *Bu rivāyetdür İmām-ı Ṯānīden* (ibid. 123, line 190); *Bu Muḥammed ḳavlidür diñle bunı / Bū Ḥanīfe ḳavlidür añla anı* (ibid. 584, line 6445); *Hem Muḥammed ḳavli budur bī-gümān* (ibid. 121, line 164).

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That Imām, the exemplar of the *mujtahids*–
His judgment was perfect, the foundations sound – the end.[58]

Thus, rather than associating himself with his main source, the *Wiqāya*, Devletoğlu Yūsuf locates his textual authority with the *aṣḥāb al-madhhab*, the founding fathers of the Hanafi school – Abū Ḥanīfa, Abū Yūsuf and Muḥammad al-Shaybānī, presenting them as the primary mediators between the Word of God and the wider public of believers.

Justifying the vernacular: Devletoğlu Yūsuf's prologue

Devletoğlu Yūsuf's decision to compile a Hanafi legal handbook in Anatolian Turkish verse needed not only explanation but also justification, on both cultural and religious grounds.[59] Like other fifteenth-century Ottoman authors writing in Turkish, Devletoğlu Yūsuf prefaces his *Manẓūm fiḳıh* with a self-conscious statement justifying his use of Turkish for imparting religious knowledge usually rendered in Arabic. With respect to vocabulary and expression, Anatolian Turkish was at a disadvantage compared to Arabic and Persian.[60] Anticipating detractors, authors in the Turkish vernacular offered justifications for their choice of language, usually arguing that they were serving the common good by making knowledge accessible to those otherwise denied its benefits. In his prologue, Devletoğlu Yūsuf offers a detailed and sophisticated argument for the use of Turkish.

Devletoğlu Yūsuf begins his preface with a pragmatic argument. The use of Turkish, he claims, is necessary for the edification of Turkish readers not proficient in Arabic. He then cites the precedent of religious scholars who composed in Turkish:

Now listen to a book in Turkish verse,
Censure me not for this!

We have seen many great scholars,
Diligent and perfect in their learning,

58 Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 626, lines 7005–6: *Bū Ḥanīfe ḳavli budur añla sen / Çünki aṣlın bilmeyesin ṭañla sen / Müctehidler muḳtedāsı ol imām / Rāyı kāmil aṣlı muḥkem ve's-selām*.

59 The extended preface or "reason for the composition of the book" (*Faṣl fī beyān-i sebeb-i naẓmi'l-kitābı*) consists of 89 couplets. See Devletoğlu Yūsuf, *Viḳāye Tercümesi*, ed. Aktan, 110–6, lines 17–104.

60 Early authors writing in the Anatolian Turkish vernacular often commented on the difficulties of composing in Turkish. In the late fourteenth century, Aḥmed-i Dāʾī discusses in the prologue of his *Çeng-nāme* the difficulties of translating the original Persian work into Turkish. See Gönül Alpay, *Ahmed-i Dāī ve Çengnāmesi* (Cambridge, MA: Department of Near Eastern Languages and Civilizations Harvard University, 1993), 327–8. Also in the late fourteenth century, Şeyḫoğlu Muṣṭafā complains that Turkish is ungrammatical, cold and without flavour. Kemāl-i Zerd describes Turkish as a harsh language (*bu Türkī dil be-ġāyet sert dildür*) in his *Selātinnāme-i ʿĀl-i ʿOs̱mān* (composed in 1490). See Kemal Yavuz, "XIII.–XVI. Asır Dil Yādigārlarının Anadolu Sahasında Türkçe Yazılış Sebepleri ve Bu Devir Müelliflerinin Türkçe Hakkındaki Görüşleri", *Türk Dünyası Araştırmaları* 27, 1983, esp. 35–7, 46.

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Who composed works in Turkish,
Thus removing the veil obscuring meaning's face.[61]

Although these earlier authors often offered apologies for the use of the vernacular (*ʿözrini hem anda ḳıldılar beyān*),[62] this was not because they were ashamed to use Turkish (*hem idenler daḫı hiç ʿār etmedi*).[63] Rather, Devletoğlu Yūsuf suggests, these apologetics were nothing more than conventional literary topoi. Indeed, these authors were motivated by the desire to serve the people (*ḫayr-ı nās olmaḳ dilediler hemān*)[64] by providing them with access to knowledge that was otherwise inaccessible. By acknowledging the long-standing prejudice against Turkish as a literary medium, specifically for religious texts, Devletoğlu Yūsuf attempts to put to rest these biases by emphasizing the public benefits of rendering religious knowledge in Turkish.

Devletoğlu Yūsuf presents a two-pronged argument for the use of the written Turkish vernacular. While on the one hand, he refers to Abū Ḥanīfa's position on the permissibility of using Persian instead of Arabic for religious acts of devotion as a way to legitimize his own use of Turkish in the place of Arabic, on the other, he invokes notions of Classical Arabic grammar and rhetoric with a discussion on the superiority of meaning (*maʿnā*) over utterance or verbal form (*lafẓ*). Rendering religious knowledge in the Turkish vernacular, argues Devletoğlu Yūsuf, reveals meaning otherwise obscured: thus "meaning becomes unambiguously clear" (*yaʿnī maʿnā fehm olur bī-iltibās*),[65] like that of "lifting the veil off the face of meaning" (*maʿnā yüzinden götürdiler nikāb*).[66] Devletoğlu Yūsuf claims that his vernacular work thus transcends the limitations of mere words or utterances (*alfāẓ*), and renders into Turkish the meaning (*maʿnā*) located in the linguistic medium of Arabic. In this context, Devletoğlu Yūsuf plays upon the meaning of *naẓm*, which refers not only to verse, but also to composition or construction, in the sense of the arrangement of words into a meaningful order.[67]

With these [words] my apology ends.
The orderly arraying of verses suffices for poetry.

61 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 110, lines 17–9: *Diñle imdi Türkçe manẓūm bir kitāb / itdügümçün siz baña itmeñ ʿitāb / İy nice gördük ulu ʿālimleri / ʿilmi ile ʿāmil u kāmilleri / Türk dilince düzdiler bunca kitāb / maʿnī yüzinden götürdiler nikāb*.
62 Ibid. 110, line 21.
63 Ibid. 110, line 20.
64 Ibid. 110, line 21.
65 Ibid. 110, line 22.
66 *EI*^{2}, s.v. Maʿnā. 1. Grammar (C.H.M. Versteegh). In Classical Arabic grammar/rhetoric circles, opposition "between *alfāẓ* as the linguistic expression, and *maʿānī* as the underlying meaning" was hotly debated.
67 Margaret Larkin, "Al-Jurjani's theory of discourse", *Alif: Journal of Comparative Poetics* 2, 1982, 79. Rebecca Gould defines *naẓm* as "the order that binds together all the elements that comprise a literary text", noting that it can be translated as concinnity, "the harmonious reinforcement of the various parts of a work of art". According to Gould, *naẓm* "is situated at the foundation of Arabo-Persian poetics as well as of Qurʿānic exegesis". See Rebecca Gould, "Inimitability versus translatability: the structure of literary meaning in Arabo-Persian poetics", *The Translator* 19/1, 2013, 86.

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That is, they say a book is composed according to order;
what it relates is true as a result of its arrangement.[68]

Devletoğlu Yūsuf's use of *naẓm* echoes theories of Arabic rhetoric originally developed by Abū Bakr ʿAbd al-Qāhir al-Jurjānī (d. 474/1078). Al-Jurjānī succinctly summarizes these theories in his *Dalāʾil iʿjāz al-Qurʾān*, pointing out that "stylistic superiority resides in the meanings or ideas (*maʿānī*) of words and how they are associated with each other in a given composition (*naẓm*), and not in the utterances or words (*alfāẓ*) themselves".[69] Drawing on al-Jurjānī's theory of rhetoric, Devletoğlu Yūsuf highlights his own poetic skills, which successfully render the *maʿnā* of the Arabic tradition into a Turkish composition produced according to the correct conventions of versification:

He who has composed has created order
And thus has received disapproval from none.

All scholars have approved of it;
And he has gained fame among the people.[70]

Fifteenth-century Ottoman scholars were familiar with al-Jurjānī's theories as developed by the master of Arabic rhetoric, Sīrāj al-Dīn al-Sakkākī (d. 626/1228), author of the *Miftāḥ al-ʿulūm*, a digest of al-Jurjānī's two major works on rhetoric and grammar, *Dalāʾil al-iʿjāz* and *Asrār al-balāgha*. Al-Sakkākī's *Miftāḥ* spurred a flurry of epitomes and commentary-writing in the fourteenth and fifteenth centuries. For instance, Khaṭīb al-Qazwīnī's (d. 739/1338) *Talkhīṣ al-Miftāḥ fīʾl-ʿilm al-balāgha* presents a summary al-Sakkākī's *Miftāḥ al-ʿulūm*. His *Talkhīṣ al-Miftāḥ* in turn was expansively commented on by al-Taftāzānī (d. 792/1390) in his *Sharḥ Talkhīṣ al-Miftāḥ*.[71] Muṣliḥuddīn Muṣṭafā Ḫocā-zāde (d. 893/1488), the *muftī* of Bursa, subsequently produced a gloss on al-Taftāzānī's commentary on al-Qazwīnī's summary of the *Miftāḥ*. Ḫocā-zāde's work is one example of the wide interest among fifteenth-century Ottoman scholars in Arabic grammar and rhetoric as established by al-Jurjānī and reworked by al-Sakkākī.[72]

Devletoğlu Yūsuf concludes his discussion of *maʿnā* and *naẓm* by pointing out that the use of verse and Turkish are both legitimate forms by which to render religious knowledge:

68 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 110, lines 23–4: *Pes bularuñla özrüm biter; / naẓm içün daḥı manẓūme yiter. / Yaʿnī kim manẓūme dirler bir kitāb, / Naḳli anuñ naẓm ile olmış ṣavāb.*

69 Larkin, "Al-Jurjani's theory of discourse", 77.

70 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 110–1, lines 25–6: *Anı manẓūm eylemiş teʾlīf iden. / Aña hem ṭaʿn olmadı hiç kimseden. / Ḳamu ʿālimler anı ḳıldı ḳabūl. / Cümle ḫalḳ içinde meşhūr oldı ol.*

71 William Smyth, "Controversy in a tradition of commentary: the academic legacy of Al-Sakkākī's *Miftāḥ Al-ʿUlūm*", *Journal of the American Oriental Society* 112/4, 1992, 590–2.

72 Ḫocā-zāde, Süleymaniye Library, MS Antalya Tekelioğlu 838, 1b–50a. On al-Sakkākī's *Miftāḥ* as the basis of Ottoman rhetoric, see İbrahim Şaban, "Osmanlı Ālimlerinin Arap Belagatine Dair Eserleri", *Şarkiyat Mecmuası* 17, 2011, 108–33.

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> It thus suffices that the words are in Turkish as well as in verse,
> For there is no shame in either, and so be it![73]

Why would an author render a legal text, with its dry factual presentation of content, into verse? While such a textual practice seems counterintuitive to the modern mind, which conceives of verse as an imaginal practice, in the pre-modern world verse served multiple functions, especially relating to the internalization of texts when the principal mode of reception was auditory. It has been pointed out that medieval European textual culture, initially shaped largely in a monastic setting, involved the internalization and absorption of texts through memorization.[74] The literary culture of the Muslim world was also conditioned by memorization and endless repetition of scripture and its exegesis, especially at the elementary level of education. Books thus served as mnemonic devices at the *mektep* (Ar. *maktab*) where they were recited and their contents memorized under the guidance of the teacher. The versification of prose religious texts is a phenomenon common to a literary culture where canonical works were internalized through largely auditory means.[75] It is difficult, nevertheless, to know if a *fiqh* text, even when rendered into verse to facilitate memorization, was part of the *mektep* curriculum.[76] In addition to pedagogical purposes, a shorter versified and memorizable version of a legal manual may have been useful for practising Turcophone jurists, considering the possible difficulties of access to libraries and books, especially in rural areas.

In a reference to madrasa pedagogical practice, Devletoğlu Yūsuf describes a symbiotic relationship between Arabic and the Turkish vernacular. Turkish

73 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 111, line 27: *Türkī olmaḳ manẓūm olmaḳ bes kelām / Añа hiç ʿayb olmaz-ımış ve's-selām!*

74 Duncan Robertson, "Writing in the textual community: Clemence of Barking's *Life of St. Catherine*", *French Forum* 21/1, 1996, 5.

75 Verse was used frequently for pedagogical purposes in both Arabic and Turkish texts. Ibn al-Ḥājib's (d. 1249) *al-Kāfiya* is a salient example of this phenomenon: the popularity of this Arabic grammar textbook was a result of its conciseness and verse format, which facilitated the memorization of Arabic grammar rules. Abdü'l-Muḥsīn Muḥammed el-Ḳayserī's (d. 761/1360) Arabic *Jāmiʿ al-durar* (composed in 736/1335) is a versified adaptation of Muḥammad al-Sajāwandī's *al-Farāʾiḍ al-Sirājiyya*. See Recep Cici, "XIV. Yüzyılda Kayserili Bir Fakih: Abdülmuhsin Kayseri ve Çalışmaları", in *XIII. ve XIV. Yüzyıllarda Kayseri'de Bilim ve Din Sempozyumu* (Kayseri: Erciyes Üniversitesi İlahiyat Fakültesi, 1998), 95, 98–100; R. Cici, "Muhsin-i Kayserî", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*. There are other examples. M.J.L. Young, John Derek Latham and Robert Betram Serjeant (eds), *Religion, Learning and Science in the 'Abbasid Period* (Cambridge: Cambridge University Press, 1990), 134.

76 The Ottoman *mektep* curriculum traditionally focused around the Quran and primarily involved the memorization of certain verses as well as of popular lines of *ḥadīth*. By the time of Bayezid II in the late fifteenth century it included Turkish works of catechism (*ʿilm-i ḥāl*) (Nebi Bozkurt, "Mektep", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*; Cahit Baltacı, "Mektep (Osmanlılar'da Mektep)", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*. See also Aslıhan Gürbüzel's discussion of Baḫtī's versification of Birgivī Meḥmed Efendī's *Vaṣiyyetnāme* in 1052/1647 in order to facilitate the instruction of this popular work of catechism to children by rendering it into a memorizable form (Aslıhan Gürbüzel, "Teachers of the public, advisors to the sultan: preachers and the rise of a political public sphere, 1600–1670", Harvard University: PhD Dissertation, 2016).

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served as the main language of instruction in madrasas, where students studied the textual tradition in Arabic, even in higher institutions specializing in the instruction of *ḥadīth* and *tafsīr*:

> Brother, the professor's lessons are held in Turkish
> As are the lessons of the scholars of *ḥadīth* and *tafsīr*.[77]

Since the oral explication of the Classical Arabic religious textual tradition was customarily done in Turkish, Devletoğlu Yūsuf argues that written Turkish likewise legitimately served as an exegetical language.

Devletoğlu Yūsuf then situates *maʿnā* within the context of Hanafism. He refers to Abū Ḥanīfa's positive position on the permissibility of the translation of the Arabic sacred text, the Quran:

> He considered the Quran lawful in Persian;
> If [when] you recite it during prayer, [you] become filled with pious zeal.[78]

As reported by al-Shaybānī in his *Ẓāhir al-riwāya*, Abū Ḥanīfa considered it permissible to read translated portions of the Quran during prayer based on a tradition that Salmān al-Fārisī, one of the Prophet Muḥammad's closest companions, translated the *Fātiḥa*, the first sura of the Quran, into Persian for use in prayers by Persian Muslims.[79] By drawing on the precedent of Persian translations of the Quran deemed permissible by Abū Ḥanīfa, Devletoğlu Yūsuf attempts to legitimize Turkish as an "auxiliary" religious language along similar lines to Persian.

Devletoğlu Yūsuf concludes his prologue with reference to *maʿnā* and *lafẓ*, thus situating himself in a centuries-old debate over the relation "between *alfāẓ* as the linguistic expression, and *maʿānī* as the underlying meaning".[80] Devletoğlu Yūsuf aligns himself with al-Jurjānī's position of privileging *maʿnā* over *lafẓ*:

> As such, it must be so with any other language;
> Utterance is just a means; it is meaning that counts.[81]

By prioritizing intended meaning over mere verbal utterance – a position which, taken to the extreme, would justify the translation of the Quran[82] – Devletoğlu

77 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 111, line 28: *Türkçedir dersi müderrisler aḫı / Hem muḥaddiṣler müfessirler daḫı.*

78 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 111, lines 29–30: *Bū Ḥanīfe kim odur ṣāḥib-uṣūl / maʿnīdür Ḳurʾān didi bir ḳavli ol. / Pārsiçe Ḳurʾānı cāʾiz gördi bes, / kim namāzda oḳusañ ḳılsañ heves.*

79 Khadiga Karrar El-Shaykh El-Tayeb, "Principles and problems of the translation of scriptures: the case of the Qurʾān" (Temple University: PhD Dissertation, 1985), 3–6; Mohammad Jafar Yahaghi, "An introduction to early Persian Qur'anic translations", *Journal of Qur'anic Studies* 4/2, 2002, 105.

80 C.H.M. Versteegh, "Maʿnā: 1. Grammar", *EI*^{2}.

81 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 111, line 31: *Eyle olsa her ne dilce olsa ger / Lafẓı ālet maʿnī olur muʿteber.*

82 Gould provides an extensive and stimulating examination of ʿAbd al-Qāhir al-Jurjānī's hermeneutics on *iʿjāz*, the doctrine of Quranic inimitability, and its relationship with *naẓm* (structure). See Gould, "Inimitability versus translatability", 81–104.

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Yūsuf thus points out that the actual linguistic medium becomes irrelevant; it is the meaning of the words that counts:

> Thus when words are full of meaning and truth,
> Does it matter whether they are uttered by a Türk or a Tat (i.e. Iranian)?[83]

The use of the written vernacular in place of Arabic for exegetical purposes likewise provoked great anxiety in the Islamic world, as exemplified by the late tenth-century Persian translation of al-Ṭabarī's Arabic *tafsīr*, the religious permissibility of which was affirmed by a *fatwā* issued by the ulema of Transoxania.[84] Yet, despite this anxiety, Travis Zadeh points out that the linguistic leniency shown to new converts with regard to the use of Persian as a religious language in place of Arabic "may have suited the cosmopolitanism of an empire in the process of expanding deeper into Anatolia and Central Asia".[85] Indeed, Devletoğlu Yūsuf's constant invoking of the authority of Abū Ḥanīfa and his two disciples serves as a trope for putting to rest the recurrent anxieties associated with the vernacular rendering of religious works usually composed in Arabic.

Conclusion

Devletoğlu Yūsuf presented his work to Murad II in the year 827/1424; this year is significant in that it was by this time that it had become clear that Murad would indeed remain on the throne as the Ottoman sultan after several years of intense warfare in Anatolia against Byzantine-supported contenders.[86] Indeed, the following two decades of Murad II's reign proved to be a watershed period in Ottoman history for the transference of Perso-Islamic culture to Turcophone Anatolia, with an explosion in the production of literary works primarily through translation and the composition of imitative works. This literary development, as Âmil Çelebioğlu first argued, coincided with Murad II's consolidation of his rule and Ottoman consolidation of its Anatolian and Balkan

83 Devletoğlu Yūsuf, *Vikāye Tercümesi*, ed. Aktan, 111, line 32: *Pes ḳaçan söz olsa maʿnīlü uñat [oñat] / N'ola Türk ola anı diyen yā Tat*.

84 A.C.S. Peacock, *Mediaeval Islamic Historiography and Political Legitimacy: Bal'ami's Tarikhnama* (London and New York: Routledge, 2007), 44.

85 Travis Zadeh, *The Vernacular Qur'an: Translation and the Rise of Persian Exegesis* (Oxford: Oxford University Press, in association with the Institute of Ismaili Studies, 2012), 2.

86 Murad II was faced with an unstable political situation when he ascended the throne in 823/1421. His uncle, Mustafa, referred to as Düzme Mustafa in the Ottoman sources, who was held in detention by the Byzantines, was set free to challenge Murad II's sovereignty by armed struggle, with Byzantine support and according to a plan intended to weaken the Ottomans. Düzme Mustafa was accompanied by the deposed Aydınid prince, Cüneyd, who had also been Byzantine captivity. Likewise, in Anatolia several local princes simultaneously rose in rebellion, including Murad II's younger brother, Mustafa, the princely governor of Hamidili in south-west Anatolia. By early 826/1423, all forces of opposition were quelled, and both Mustafas had been executed. Halil İnalcık, "Murad II", *İslam Ansiklopedisi*; Halil İnalcık, "Murad II", *Türkiye Diyanet Vakfı İslam Ansiklopedisi*. See also Barbara Flemming, "The reign of Murad II: a survey (I)", *Anatolica* 20, 1994, 249–67.

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territories. Devletoğlu Yūsuf's *Manẓūm fiḳıh* constitutes an early work in a growing trend of Turkish vernacular works patronized by Murad II during the first half of the fifteenth century.[87]

Devletoğlu Yūsuf's *Manẓūm fiḳıh* likewise provides us with a rare glimpse into the interactive linguistic landscape between Turkish and Arabic in the early religious education of Turcophone Anatolians. Although it would be inaccurate to characterize the work as a translation of the *Wiqāya*, Devletoğlu Yūsuf did in a certain sense "translate" the Arabic textual tradition of the *Wiqāya* into the Anatolian Turkish idiom. His translation thus involves not only linguistic movement from Arabic to Turkish, but also the localization of his narrative in his own time and place. This strategy not only made Hanafi *fiqh* principles more concrete, but also, in essence, indigenized classical Hanafi practice.

In his preface, Devletoğlu Yūsuf justifies his rendering into the newly emerging literary language of Anatolian Turkish, a religious tradition normally composed in Arabic. According to the author, the translation of the Classical Arabic *fiqh* tradition into the Turkish vernacular finds support in Classical Arabic grammatical–rhetorical theories of meaning and form, as first articulated by al-Jurjānī, combined with the Hanafi precedent of substituting Arabic with Persian as a religious linguistic medium. A law manual drawing on the thirteenth-century synthesis of the Hanafi tradition as it appears in the standard epitome of substantive law, the *Wiqāya*, Devletoğlu Yūsuf's *Manẓūm fiḳıh* repeatedly assures its readers that it represents a pure and unadulterated version of the law as first conceived by the three pre-eminent founding fathers of Hanafism. It may well be that Devletoğlu Yūsuf's emphasis on the hermeneutical authority of Abū Ḥanīfa and his disciples related to the anxieties the author faced in translating the Hanafi tradition into Turkish.

Rethinking the emergence of early Anatolian Turkish as a vernacular literary language along broader comparative perspectives and in the context of larger conceptual issues may help us to formulate new questions as well as new methodological approaches for dealing with language and cultural transfer. For instance, what triggers the emergence of a vernacular literary culture?[88] Observing that "the practices of literary culture are practices of attachment and belonging",[89] Pollock proposes that "vernacular literary cultures were initiated by the conscious decisions of writers to reshape the boundaries of their cultural universe by renouncing the larger world for the smaller place, and they did so in full awareness of the significance of their decision".[90] In seeking a legitimate literary role for Turkish in the composition of religious

87 For more on literary production during Murad II's period, see Çelebioğlu, *Türk Edebiyatı'nda Mesnevi XV. yy.'a kadar*, 15–6.

88 Sheldon Pollock points to historical symmetry between South Asia and Western Europe in connection with the rise of the vernacular during "the early second millennium" (which is equivalent to the medieval period in the post-Roman world). On these implications, see further Sheldon Pollock, "Cosmopolitan and vernacular in history", *Public Culture* 12/3, 2000, 595.

89 Ibid. 594.

90 Ibid. 592.

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texts, authors such as Devletoğlu Yūsuf firmly grounded themselves in the greater Islamic tradition, but translated it into localized versions. Classical Arabic grammar and rhetoric, combined with Hanafi justifications for the use of the vernacular, provide Devletoğlu Yūsuf with the heuristic tools for carving out a smaller yet legitimate space for the Turkish vernacular as a religious textual medium.

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