
THE FORMULATION OF FATWA: IN THE LIGHT OF DEVELOPMENT OF ISLAMIC EXPERTISE

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ABSTRACT

The article approaches this matter by presenting a concise account of how fatwa-issuing has evolved across time, its theological basis, how it has fulfilled and continues to perform various functions of the caliphate and the mosque in different geographies, the contemporary challenges it confronts, and how to move forward. It illustrates the flexible interaction that exists between social contexts from the early Islamic period to modernity, while highlighting key turning points in history across these ages during which it interfaced with trade and commerce, technology, the ruling state and the needs of the wider Muslim community. Attention is drawn to the justification of and the increasing reliance on Muftis to interpret and address the needs of the people; the impact of the digitalization and globalization of thought driven by the proliferation of the Internet; the increased role of women in Islamic reading the Quran and Hadith; and how in modern times Muftis make use of concise bullet points rather than bulky texts. The essay promotes further research onto comparative legal studies on jurisprudence, the impact of the Internet in the changing times, interfaith relations in the modern period, and research on female scholars and their contributions through case studies towards empirically documenting and broadening the sources that address the anxieties of modern times.

Keywords: Fatwa, Muftis, Ijtihad, Taqlid, Usul al-Fiqh, Islamic law

Introduction

The formation of the fatwa in Islamic jurisprudence is not just a procedure but an expression of the plural and intellectual richness of Islamic legal tradition and skill. The development of Islamic legal skill and Muftis holds the key, as with the role and claims of Fatwa, to reveal a rich seam in the life of the Muslim community that until now has not been recorded, or wherever it has been investigated and discussed, has been so wrongly described as to beg for correction. The hope is to produce a clear, interesting and accessible account that could serve a student or researcher of law well not just in India, but in other countries where the relationship between various legal systems and methods of establishing truth and facts are entangled in complex ways, but not yet understood, analyzed or described, much less appreciated.

So, Islamic law, also familiarly known as Fiqh (understanding) is a comprehensive realm of jurisprudential enquiry and praxis. Fiqh, in a word, is the human understanding and implementation of the Sharia (divine law). It is that law revealed by God in the Quran and in the revelation of the Sunnah (the practices and teachings) of the Prophet Muhammad (peace be upon him). The dimensions of Fiqh deal with proper Islamic ritual worship and personal conduct, family life, prohibitions and obligations, business and economics, matters of penal justice, penal punishments, crimes and wrongs, matters of government and politics, and international relations. It is also known as Sacred Law. This is a comprehensive system of legal jurisprudence, regulating a multifaceted human life in every conceivable circumstance. It provides the normative guidance for a wide range of human activities. At the heart of Fiqh stands the well-ordered normalization and normalizing of Islamic ritual worship focusing on ibadah, the act of worship, and conducting and conducting one's personal and family life as understood by God and demonstrated by His beloved Prophet Muhammad (peace be upon him). Among the matters regulated are issues pertaining to personal freedom and responsibilities, with emphasis on matters of ritual purity and impurity, the prescribed daily rituals, fasting, pilgrimage, civil transactions, crimes and criminality, holy war and matters of public welfare. The moral-ethical dimensions of Islamic life are also regimented under a system of solemnized law termed Sharia. As I have explained in some detail elsewhere, Fiqh, theoretically organized, can be grouped into seven areas: 1) foundations of law; 2) sources of religious law; 3) branches of Islamic law; 4) methods of legal reasoning; 5) schools of jurisprudence; 6) institutions and authorities; and 7) processes of codification.

A fatwa is a legal opinion (or, literally, a decree) authored by a Mufti or an Islamic legal expert responding to an enquirer's question about a specific Islamic law issue. A fatwa is not binding, but might or might not advise or solve the problem of the questioner from one or more sources of Islamic law – the Quran, the Hadith and the principles of Fiqh. Islamic law is inconceivable without fatwas. Fatwas are the greatest examples of the flexibility and evolution of Islamic law in its ability to answer and give guidance to new issues and problems as time and social contexts change. Historically, fatwas have helped Muslims navigate the complexities of the modern age, keeping Islamic law 'live' and 'relevant'.

A mufti is an Islamic scholar who, due to his learning in Islamic law, theology and jurisprudence, is qualified to derive religious injunctions from the sacred texts and principles of jurisprudence. This knowledge is put to use in issuing a fatwa. Why is the work of a Mufti so important to the Muslim community? First, because legal and religious answers are important for anyone who endeavors to live an Islamic life. The questions are of course wide-ranging, from very basic matters such as our ritual obligations towards God ('five daily prayers!') to more complex ethical questions.

Second, Muftis also automatically participate in building up and expanding Islamic juridic knowledge. Through their fatwas, they take part in the living, breathing process of the continual interpretation and commentary, sometimes reinterpretation, of Islamic Law, called Fiqh. Thus, the process of Ijtihad (independent reasoning), issuing fatwas, makes Islamic jurisprudence, continuously, a living and breathing branch of knowledge.

Nothing captures the theological, social and intellectual dynamism of Islam more than the ever-changing formation of fatwa and the evolution of Islamic legal expertise. These are the clear signs of a vibrant and living tradition with a rich heritage of intellectual and spiritual capabilities; a hallmark of religious and societal robustness – a reliable method of adaptation to new times and contexts. Hopefully, with a more nuanced and historical understanding of the development, theological bases and challenges related to fatwa, Muftis and their work, the Muslim community as well as the general global society would gain a deeper appreciation for its importance.

Historical Development of Fatwa

The story of fatwa's evolution in the Islamic tradition shows how the precepts of the sharia

functioned dynamically with respect to the historical circumstances of the times. This section picks up where the previous one left off, charting how the science of fatwa evolved from the first three Islamic centuries to the classical era and came under urgent reforms in the days of the Ottoman empire, highlighting what I consider to be four crucial stages in the development of Islamic juristic expertise.

Early Islamic Period

There was fatwa from the time of the Prophet Muhammad (peace be upon him). He gave legal decrees, *ijtihad*, fatwa, from the revelation that he got from God and also from his practical rationalization. After the Prophet's death, the Companions (*Sahaba*) began to issue fatwas. *Ijtihad* (independent reasoning) began, and the foundations of Islamic law began.

Fatwa in early Muslim society was crucial in developing mechanisms of application by rendering Islamic law adaptable to the new realities of practice. This proved instrumental in realizing the collective agency contained within the social contract. However, this was not its only role. The fatwa's adaptive function was to adjudicate new and unprecedented forms of legal and ethical questions. It was a means in which Islamic law rendered itself applicable to new realities and new circumstances of practice, from simple early agrarian structures of the Arabian Peninsula, to the diverse, plural, and multi-ethnic realities of Islamic empires.

Another such example was a fatwa issued in the 7th century by Caliph Umar bin al-Khattab (RA) suspending the amputation of hands for theft during a period of famine. As Islam had implemented the capital punishment of cutting off the hands of someone who steals, Caliph Umar thought it just and merciful to suspend its punishment until circumstances improved. This is but one example of the flexibility of Sharia and the role of fatwa in the welfare of the community.

One of the most important of such cases was that of Imam Malik, the founder of one of the four major Sunni legal schools (*Madhahib*) that influenced generations of Muslims. Malik developed his legal vision in the city of Medina, the 'city of the Prophet', and produced the first great compilation of Hadith, legal opinions and juristic reasoning, known as the *Muwatta*.

Classical Islamic Era

During this classical Islamic period rose the crystallization of Islamic legal thought and the

formation of the Madhahib, the legal schools that played an important role in the expression and application of Islamic law. Founders, such as Abu Hanifa, Malik ibn Anas, Muhammad ibn Idris al-Shafi'i and Ahmad ibn Hanbal continued the same spirit Beit mirrored in the constructions of their own individual methodology of jurisprudence. As a result of the classical period, a tremendous increase in legal literature transpired, compiling fatwas into juristic tomes that brought about the solidification of Islamic law and jurisprudential principles.

Aspects of the classical period include the institutionalization of Ifta', the process of fatwa-issuance, through formalization and bureaucratization – the Muftis' informal positions were made into more formal posts – and instituting their legal authority to interpret Islamic law and provide fatwa answers to the inquiries (or questions) of people and state alike. All this was quite important to enhance adherence to past legal practices while fostering independent reasoning in the face of new challenges.

The Ottoman Empire and Islamic Legal Reform

Furthermore, this effort was complemented by extensive Ottoman reforms to the Islamic legal system, such as the code of the Ottoman Majalla, a civil code that summarized Hanafi jurisprudence into a universal framework that would standardize the study and practice of Islamic law in the hopes of establishing it as the governing law throughout the huge Ottoman possessions. It marks an unprecedented union of Islamic legal reasoning with the needs of modern statehood. The Ottoman Majalla (or Mecelle) evoked and marked a pioneering synthesis between Islamic jurisprudence and modern empire. As the Majalla codified previous Islamic legal rulings and became more widely available towards the end of the Ottoman empire, it introduced a more uniform basis for fatwa-giving.

These efforts also included the modernization and reform of the Islamic legal order to make it more responsive to the administrative needs of the state, especially its interactions with modern European legal frameworks. This modernization entailed the creation of new legal institutions (such as the infamous Nizamiye Courts) that operated in parallel with existing Sharia courts. This development required higher standards of legal expertise from Muftis and jurists, as they had to learn not only Islamic law but also the new modern legal regimes.

This change in how fatwa was issued also reflected broader socio-political developments. The growing need for technical expertise in responding to complex and intricate questions of law

and ethics due to technological change, economic development and interaction between Islamic and non-Muslim legal and cultural systems also encouraged a greater capability among muftis and other jurists to engage with the Islamic disciplines of jurisprudence and legal interpretation, as well as to reach into other legal systems and fields of knowledge.

Theological Foundations of Fatwa

Every so-called fatwa (out of the sea) issued within the Islamic tradition taps into the very core of the theology of Islam – its rationale, often textually derived from the Quran and Hadith, filtered through centuries of scholarly debate and reasoning. It is that rationale that must inform our understanding of the development of Islamic legal science and expertise, in all its considerations in terms of addressing the formation of a fatwa.

Quranic and Hadith Sources

Scriptural Basis for Fatwa Issuance

Like the Old Testament for Jews, or the Bible for Christians, the central text of Islam is the Quran; it is the literal word of Allah transmitted to his last prophet, Muhammad (peace be upon him) from heaven in Mecca and when the Prophet retreated with his followers in Medina. With the oral tradition of the sayings and actions of the Prophet Muhammad (peace be upon him), the Hadith, the Quran represents the two central sources of Islamic law and ethics. Together these books would guide the Muftis to the decreeing of fatwas.

Though ‘fatwa’, the word, does not appear in the Quran, the idea does. ‘O you who have believed, ask of those who know if you know not’ (21:7); ‘But when there comes to them some matter touching (them) pertaining to security or fear, they spread it abroad. But if they had referred it back to the Messenger or to those of authority among them, the chastisement for what they would have earned would have befallen them’ (4:83).

The Hadith literature supplements these juristic principles and provides many more detailed examples of how the Prophet gave fatwas, and how he delegated to others the authority to make legal judgments (fatwa) on behalf of Islam. For example, the Prophet himself turned to some of his Companions when people asked him about a point of law and, accepting their advice, gave different responses to the same question on other occasions.

Interpretative Methodologies (Usul al-Fiqh)

Usul al-Fiqh, or the principles of Islamic jurisprudence, is the methodology that Islamic scholars use to derive legal norms from the Quran and the Hadith. It is a specialized discipline with its own distinct rules for deriving legal norms through the use of analogy (Qiyas), consensus (Ijma') and individual effort (Ijtihad) that aim to ensure that the fatwa is reached in a rigorous and systematic manner, through the application of a sound process to scriptural sources. There are a host of basic concepts in Usul al-Fiqh that together offer a series of guiding principles for addressing new and novel legal questions.

Principles of Islamic Jurisprudence (Fiqh)

This human understanding of Sharia is called Fiqh, and it comprises the practical application of the theological epistemes that structure the Quran and Hadith. It covers a vast array of legal problematics, with guidelines ranging from ritualistic and ritualistic ornamentation to the minutiae of worship; from crime and criminal punishment to social justice; from family law and personal status to international relations and treaty-making.

Ijtihad (Independent Legal Reasoning) and Its Criteria

Ijtihad is the most authoritative type of Islamic legal reasoning, in which a mujtahid – or jurist – independently derives rulings applicable to a new situation, when no relevant precedent exists in the Quran and Hadith. Anyone seeking to perform Ijtihad must, firstly, possess a specialized knowledge of the Quran, the Hadith and the Sunna, and secondly, be trained in classical Arabic, the Maqasid al-Sharia – or purposes of Islamic law – and the principles of Usul al-Fiqh – the basis of Islamic jurisprudence.

For the relevance and dynamism of Islamic law, Ijtihad is continuously needed for scholars to develop rulings for questions of the day that are relevant to people's lives under the lens of Islamic ethics and values.-- Not everyone can do Ijtihad. To qualify for Ijtihad, a scholar needs to spend his or her life apprenticing with other scholars to achieve Ijtihad. Through this process, the scholar must travel a long journey enveloped by exertions of the heart and mind.

Taqlid (Adherence to Legal Precedent) vs. Ijtihad Debate

The tension between the two types of engagement is the focus of the debate on the legitimacy

of Taqlid vs Ijtihad, between conserving legal precedent or engaging reluctantly in individual reasoning in light of new circumstances. After forsaking the acceptable familiarity of the world one inherits from one's parents, young people who come of age as Muslims are bound to theologially justify in a public forum their decisions about marriage, the wearing of the hijab outside the home, the age of marriage for their daughters, whether to cut off ties with a brother or sister who has abandoned the faith, participation in electoral politics, or limiting physical intimacy with their husbands. Both can claim religious legitimacy but one is deemed to be preferable the outstanding achievement of the Salafi school is the valorization of men as the vanguards of the authentic correct and legitimate religion. Taqlid is unreflective compliance with the legal rulings of prior jurists, a matter of following their example as formal legal rulings in themselves and without any attempt to scrutinize the reasoning underpinning them. This approach is premised on the belief that the reasoning of all preceding jurists has always been correct in interpreting the divine will in the Quran and Hadith.

It is a system of author-following, or of thinking along the lines of the opinions of those authors whose opinions have been regarded as deeply informed; critics of Taqlid would say that it stultifies intellectual creativity, and that it embraces an unchanging tradition that does not address itself to the needs of contemporary Muslims; supporters of Taqlid would claim that this means that it is a consistent, stable system in which those who are not qualified to make judgments of God's law cannot twist God's law into trickery or perversion.

This tension between Taqlid and Ijtihad is an ongoing, ever-changing dialogue in Islamic legal scholarship, an embodiment of the larger anxiety in Islam between tradition and modernity. In the fatwa, in essence, the Mufti must give a ruling for the vagaries of modern life without changing the eternity of Islamic jurisprudence.

The Role of Muftis in Society

In addition to issues around the actual issuance of fatwas themselves, what is the specific function of Muftis in terms of providing them from within the broader Islamic civil space? What are the qualifications for issuing a fatwa? What specific training prepares a Mufti forio-political functions of Muftis? And what are the expected standards of ethics and accountability that are nursed within these qualifications for and practices of issuing fatwas? Indeed, the meaning of a fatwa is incomplete if divorced from these qualifications and functions.

Qualifications and Training

He had to emerge from rigorous education and engagement with Islamic jurisprudence, theology and the Arabic language. The average trajectory is one of extensive study. He started, like everyone else, with the memorization and study of the Quran before moving on to the Hadith (sayings of the Prophet Muhammad), Fiqh (Islamic jurisprudence), and Usul al-Fiqh (principles of Islamic jurisprudence). He would have acquired the basic Islamic sciences in many teaching circles and renowned madrasas (schools) or Islamic universities around the world. In these institutions, aspiring Muftis study the classical texts of Islamic learning with the guidance of senior scholars.

Most Muftis hold advanced degrees in Islamic law and jurisprudence, and some have pursued further, highly specialized studies of over 10 years. Their academic rigor, including recognized degrees, distinguish Muftis from other religious types; and from their apprenticeships to senior Muftis comes their practical experience in giving legal opinions. All this positions a Mufti to delve into the intricacies of a question and emerge with a fatwa that is juristically correct and socially meaningful. Moreover, when he cannot do so, he can reason honestly about his inability to know, and even apologies for the difficulty of the question.

Tight ethics and checks of accountability keep the Mufti's office clean the candidate for the Mufti office has to show not only an academic knowledge of Islamic jurisprudence, but also a high degree of personal integrity, fairness and genuine spirit of service in the interest of the Muslims. His commitment to the letter of Sharia has to be matched with sensitivity to the realities of the world and the exercise of maximum discretionary space for personal judgment.

Oversight mechanisms differ depending on the society in question and may include review by religious authorities, scholarly councils or panels, even state oversight bodies, all to assure that Muftis follow the established legal methodologies and ethical standards, thereby providing some of the checks and balances that preserve the integrity and legitimacy of the Mufti position.

Socio-political Influences

Although the relations between Muftis and politico-administrative powers are not infrequently tense – indeed, although they are often vague, there are many differential contexts – the Mufti might be in opposition to the State; he might belong to the State; he might be an organ of the

State international apparatus, all of which can profoundly impact the games, the fatwa would of course give itself to be understood as a political fiction.

Nevertheless, most Muftis struggle to retain meaningful independence, when it comes to asserting the superiority of Islamic law and ideals over political expediency. The credibility with which a Mufti addresses Islamic matters depend on his ability to swim against the opposing currents of socio-political pressures. Islamization has vastly transformed the politics of religion in Turkey, to the disadvantage of Islam the author's research on the Turkish courts and religious discourse is supported by the European Research Council.

However, it is worth noting that Islam has a long history of Muftis, who have not just elevated Islamic jurisprudence but the society at large. For example, Ibn Taymiyyah (d 1328), a Jurist from the 14th century, authored a significant number of fatwas, which offered counter-Karl Popperian solutions to the socio-political issues of the day, including the Mongol invasions throughout the then contemporary Islamic world. Ibn Taymiyyah's writings are still widely read in Islamic legal thought, and show how the Mufti plays an integral part in responding to the issues of the day.

Today, for example, the Mufti of Egypt, Shawki Allam, has published fatwas on matters from economics to medicine, showing the continued relevance of juristic thought to modern life. He has also digitized the practice of issuing fatwas to make it accessible to the many Muslims who are much younger than previous Muftis.

Contemporary Issues in Fatwa Formation

The production of fatwa in the modern world is walking the line between an era of technological innovations and globalization on the one side, and the establishment of a global information society, free flow of ideas (from home to abroad and vice versa), and a flourishing civil society on the other. All these developments provide new opportunities and challenges for the development of the Islamic legal expertise in the realms of digital communications, and cross-cultural exchanges and influences.

The Digital Age and Information Technology

With the rise of the internet and digital communicative technologies, as well as social media, the routine issuance of fatwas has changed. Muslims worldwide can readily access fatwa about

almost anything, on their mobile phones or from their homes with a click. This is the ease of access, but there is also a problem: the rise of the digital and social media has witnessed the emergence of ‘cyber-Muftis’ who may not necessarily be qualified enough to offer fatwas to global audiences.

The ease of access to such online fatwas begs questions about who is qualified to issue them. Questions about the authenticity and authority of the issuer become relevant once users are granted access, as they now have direct access to fatwas by partially or wholly illiterate Muftis as well as clerics who fail the test. The issue of who can be a Mufti and who cannot have never been more important than it is now.

Globalization and Cross-Cultural Issues

Globalization fueled heavy Muslim migration to the four corners of the world, such that Muslims congregate and form their own diasporas in almost every corner of Earth; and the urgency for formulating fatwa becomes most acute when Muslims find themselves living in countries with non-Muslim dominant majorities.

Experts like these muftis are today called upon to issue fatwas that conform not only to Islamic jurisprudence but also to the legal, social and cultural realities of these varied environments – to be aligned not just to one but to many conditions of Sharia and/or society. Contextualized fatwas demand sophisticated understandings of both Sharia and social laws and customs.

The Role of International Islamic Organizations in Fatwa Standardization

Beginning in the 1980s, the challenges of globalization created an opening in the field for international Islamic organizations to play a central role in the standardization of fatwa issuance. Today, the Islamic Fiqh Academy, part of the Organization of Islamic Cooperation (OIC), sets the agenda for addressing emerging topics that impact the global ummah.

They seek to standardize the process of issuing fatwas with criteria and rules adapted to the various living circumstances of Muslims around the world. By holding international conferences, workshops and summits of Muslim scholars, they promote dialogue and achieve consensus across different regions of the Muslim world for the benefit of the entire community and its needs.

Comparative Study of Fatwa Issuance Across Different Cultures

Middle East

In the Middle East, the birthplace of Islam, the practice of issuing fatwas is historically more engrained in the region's rich Islamic tradition. In countries such as Saudi Arabia and Egypt, the formulation and dissemination of fatwas are channeled through old Islamic institutions, including Al-Azhar University in Egypt. The scholars (ulama) in these institutions often enjoy a significant control over public life, and their fatwas can have tangible social and political effects. The Middle Eastern style of fatwa issuance emphasises attachment to the traditional schools of Islamic jurisprudence or Madhahib. Gulf scholars, for example, hew to the tradition of the school founded by the eighth-century scholar Ahmad ibn Hanbal (known as the Hanbali school), whereas in other parts of the Middle East there is a more significant emphasis on the Maliki, Hanafi and Shafi'i schools.

South Asia

Situated in countries such as India, Pakistan and Bangladesh, Islamic legal thought in the subcontinent is shaped by the region's varied cultural heritage. The Deobandi and Bareilvi movements, both of Indian origin, were hugely influential in shaping Islamic thought and fatwa issuance in the region. Fatwas from South Asian Muftis concern matters that are relevant to subcontinental social and economic conditions, spanning the norms of banking and finance to social customs and inter-religious relations. The presence of Sufism in South Asian Islamic legal tradition also arguably gives fatwa issuance and interpretations of the Shariah a distinct character.

South-east Asia

States such as Indonesia and Malaysia, for instance, display Islamic jurisprudence as a highly localized phenomenon where scholars (ulema) sometimes issue fatwas that reflect these local identities, such as in the Indonesian Nahdlatul Ulama's moderate and inclusive approach to Islam where fatwas often reflect the pluralistic societies of Indonesia. In Southeast Asian contexts, fatwas are sometimes given from the Shafi'i school but also in dialogue with local traditions to reflect the identity needs of the different people of the region. The state-sponsored religious councils in Malaysia are a pertinent example of how councils sponsor the practice of

fatwa-issuing and function as community governments in a nation where legality is based on both Islamic and secular principles aiming to guide Muslim population in their challenges of living in states where the state and law are both secular and non-secular.

Western Context

Due to the Western context and its nature as a minority religion in the midst of secularized liberal societies, Muslim Fiqh and, as a consequence, modern fatwa in Europe, North America and Australia, are often deeply concerned with questions of integration, religious perception and practice in majority non-Islamic environment, and interfaith relations. The need for (ijtihad) – independent reasoned analysis – is most acute in the Western context, where Muslim scholars must apply classical Islamic jurisprudence to novel situations and problems.

Controversial Fatwas and Public Reaction

However, the issuance of fatwas has also proved to be controversial since public fatwas issue opinions that deviate broadly from contemporary mores or are perceived to be in tension with modern values. The relationship between public opinion and fatwa-issuance is complex, and mirrors broader debates within the Muslim world concerning tradition, reform and the proper role of religion in public life.

In doing so, controversial fatwas or their application create wider public debate that often highlights the tension between competing interpretations of Islamic law and their underlying, diverse Muslim constituencies. Fatwas on gender, interfaith relations and attitudes towards non-Muslim societies, for instance, often receive wide public backlash – both within Muslim-majority countries and in the global Muslim diaspora. This controversy is not simple ‘think-piece’ ideology: debates over the declarative and apologetic value of fatwas can have considerable social consequences for public concord, religious identification and integrative ambitions.

The public’s response to incendiary fatwas further validates the necessity of a more carefully contextualized guidance, grounded in the ethical fabric of the Islamic legal tradition and the challenges of modern life, and by bringing Muslims and non-Muslims together in a dialogue that seeks to overcome misunderstandings and broaden the Islamic tradition to embrace diversity in both practice and intellectual commitment.

Challenges

Given these circumstances, there are many challenges, and some potential opportunities, facing the composition of fatwa and the practice of the development of Islamic legal expertise and jurists in the modern age. Those challenges, and possibilities for their resolution and steerage, pertain to dimensions that are educational, ethical, gender-related, and inter-cultural in nature, reflective of the broadly diverse contexts in which Islamic jurisprudence occurs today. This part reflects on these areas, discussing the need for training and standards of ethical conduct for Muftis, and key roles for women in Islamic legal scholarship, and further questions relating to the impact innovations, interfaith, and multiculturalism may have on Ifta'.

The Need for Comprehensive Training and Ethical Guidelines for Muftis

Another important challenge for the Islamic legal profession is that Muftis have had a very lack structured training. The fast pace of development at the international level from technological, medical, scientific development to sophisticated socio-political issue, requires Ifta to have a level of knowledge and adaptation that would only be possible with intensive education, not only in the very technicalities of the legal and jurisprudential literature, but also of contemporary legal, social and scientific issues. The emergence of a body of clear and ethical standards also needs to be addressed to ensure that the ethos of fatwa is one of propriety and objectivity, and indeed, responsibility to the Ummah.

The Role of Women in Islamic Legal Scholarship

This rise in the number of women contributing to Islamic legal scholarship is also indicative of changing gender dynamics in fatwa-issuance. It would be inaccurate to claim that their contributions cause a radical disruption in the field and the tradition as a whole, which remains largely patriarchal. Even so, their interventions expand the Islamic legal tradition by aligning it with the lived experiences, the voices and contributions of women historically haven't been audible in classical Sunni Islam, their numbers are rising today within circles, proving themselves to be a powerful force wherever their work is heard and accommodated. In places where reform is required, cultural and institutional barriers to entry are holding back the visibility of women's Mufti schools.

Future of Ifta' in the Modern World

It is perhaps through these kind of innovations in Islamic legal scholarship and education that the future trajectory of Ifta' – the future of Islamic legal knowledge – will be shaped. Digital technologies, as well as other developments, bring new possibilities of disseminating Islamic knowledge and educating future Muslim scholars. The textual world of Islam is more accessible than ever before. Islamic law and its historical literature are available for consultation through virtual libraries and digital archives, available at the touch of a button. Development in education, such as the coordination of interdisciplinary programmes for theologians, psychologists and medical doctors, might one day lead to future jurists with a deeper understanding of the issues they deal with.

Some work on interfaith dialogue and a lived experience of culturally diverse societies can also significantly influence the manner and expectations of Ifta'. A dialogue with people of other faiths and living in culturally diverse societies argues for Muftis to be more open and sympathetic in terms of the issues at hand and the issuance of fatwas. This demands a principled pragmatism (although an oxymoron in the strict juristic sense) that is equally respectful of the sensitivities of one's own as well as other cultures. The problem is that there is tension between the integrity of the classical Islamic law vis-à-vis the realities of a culturally diverse context.

Conclusion

The resulting issuance of fatwa, and the expansion of Islamic legal expertise, reflect a dynamic and transformative interaction between tradition and modernity, with roots deep in the soil of Islamic jurisprudence, yet continuously maturing in the global ecology of the modern world. In our exploration, we have traced the development of Islamic legal expertise through many strata of this complex yet versatile matrix, from the historical contours of fatwa issuance to the current questions raised by the digital era, globalization and gender. From these conversations, this conclusion summarizes our key findings, evaluates their meaning for the evolution of Islamic legal expertise, and suggests further areas for investigation.

The study of how the fatwa was created taught us several important things about the exercise of Islamic juridical authority.

As technology and the processes of globalization have transformed the world, so has this

practice shifted and the product of the fatwa changed shape; the century-long history cited and discussed here illustrates ‘fatwa evolution’ in a variety of contextual affiliations, emphasizing that Islamic jurisprudence is – and always has been – a dexterous and dynamic process eminently suited to social and political changes.

Fatwa issuance is also grounded in scriptural bases of the Quran and Hadith, explained through the laws of Usul al-Fiqh and Fiqh. The continuous tensions regarding the balance of Ijtihad (independent reasoning) and Taqlid (adherence to precedent) are the defining intellectual and normative debates of Islamic legal thought today. The Mufti – the court-appointed scholar – is a mediator between society and Islamic law’s claim to relevance. His training, accreditation and integrity define how Ifta’ goes on in the political fielding of his fatwa, and this has bewildering consequences. Fatwa-issuing in the digital age, to a globalized diaspora, and to a multicultural society poses new questions and presents new challenges and options as well. Issuing online fatwas, catering to the world Muslim diaspora and engaging with multi-cultural settings demand innovations and creative adaptation. Their presence in the tradition of fatwa-giving improves the understanding of Islam in society, as well as catering to the requirements of the whole Muslim community.

The conclusions have implications for how Islamic legal expertise can be developed, emphasizing the centrality of training and education that combines study in classical Islamic jurisprudence and of contemporary subjects, while rules regulating the issuance of fatwas are chronicled, scrutinized and refined for every era, and spaces are created for diverse men as well as women voices. As such, the formulation of fatwa and the creation of Islamic legal expertise represent an intrinsic aspect of the Islamic tradition which continues to provide Muslims with the resources necessary to engage with the challenges and possibilities of the contemporary world. Islamic jurisprudence will continue to develop and expand, enriching the wider global systems of legal and moral thought and concern. This overview provides a taste of the degree to which continued research in these areas will continue to enhance the conversation and contribute to our knowledge of the nature and role of fatwa in the lives of Muslims everywhere.

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