



# **The Procedures and Requirements of Issuing Fatwa**

Introduction and participation

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*In the Name of Allah, the Origin of  
Mercy, The Giver of mercy*

﴿You (people) can ask those who have  
knowledge, If you do not know﴾ (16:43)





*In the Name of Allah, the Origin of Mercy, The  
Giver of mercy*

## **Introduction**

Praise belongs to Allah, Lord of the worlds. Peace and blessings be upon the last of His Prophets and Messengers our Master Muhammad ibn 'Abdullah, his family, companions, and those who follow his guidance till the Day of Judgement.

Verily, the fatwa is a heavy trust and a special skill that requires a special linguistic and juristic qualification and preparation that contribute to building and sophisticating the jurist and Mufti (fatwa issuer).

The unqualified persons who dare to give fatwas, and the storming of the field of fatwa by non-specialist persons and those who trade with religion have inflicted our Arab and Islamic world



with unprecedented danger that requires unifying the efforts made by religious institutions and scholars to control the matter of issuing fatwa, and to make clear who is entitled to issuing it, as well as delineating the conditions that must be entertained by those who are eligible to issue fatwa.

It is also necessary to get out of the narrow circles in which some of those who are wrongly counted to be knowledgeable have placed themselves to a broader and wider world according to the requirements of the time, and to work hard to understand the text according to the realized reality, its circumstances, and developments, together with preserving the tenets of the upright Shari'a and its general purposes.

It is also necessary to consider the opinion of the specialists before issuing a fatwa. That is, the fatwa must be based on the medical opinion in medical issues, and on the economic opinion in economic issues. The same applies to all modern



sciences and issues, so that we can implement Allah’s saying: “You (people) can ask those who have knowledge If you do not know”.

It pleases us to present, as one of the “Vision” series, this publication which includes a distinguished selection of papers presented by specialized professors to the 23rd conference held by the Supreme Council for Islamic Affairs in Cairo in 2014. It also pleased me to contribute to it with a paper entitled “The procedures of issuing fatwa”, asking Our Lord to accept this effort from all of us, to accept it as devoted to Him alone, and to well-reward whomever contributed to this publication with an effort or thought.

It is Allah Whom we seek to please, He is sufficient for us, It is He Whom we ask for help.

***Prof. Dr. Muhammad Mukhtar Jum’a Mabruk***

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## The procedures of issuing fatwa

By:

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The fatwa is a heavy trust and a special skill that requires an early special linguistic and juristic qualification and preparation which contribute to building and sophisticating the Jurist and Mufti (fatwa issuer). It is not just a hobby or general knowledge, nor is it an open arena for the unqualified. Our Prophet says: “If the unqualified assumed power, then wait for the Day of Judgement”. What danger is greater than letting the unqualified and non-specialists impose themselves on the field of fatwa or allowing them to do so? If wisdom necessitates placing everything in its proper place, and describing it



with its proper description, then, releasing the word “jurist” or “mufti” to someone who is not worth of it poses a grave danger to the intellectual security of countries and societies. Each of jurisprudence and fatwa is a heavy technique that requires many tools, foremost of which are: The studies relating to the Ever-Glorious Qur’an, especially exegesis and Qur’anic studies, since no person can be called jurist or Mufti while he cannot distinguish the abrogator from the abrogated Ayas or Hadiths, the absolute from the restricted, the general from the detailed, the definite in meaning from the ambiguous, nor the relationship between the text and its reason.

The jurist should also be knowledgeable of the Sunnah of our Master Allah’s Messenger (PBUH) and the degree of judgement on the Hadith, and what he should do regarding giving preponderance or reconciling between seemingly contradicting expressions. So how if he cannot distinguish between the fixed and the



changeable and between the norms of worship and the actions of customs?

It is imperative for the jurist to master the Arabic language, for there is no correct understanding of the Qur'an and the Sunnah except by mastering it. Likewise, the jurist cannot do without sound knowledge of the Principles of jurisprudence "Usulul-Fiqh" (principles of Fiqh), knowledge of the evidence agreed upon and the evidence in which there is a difference of opinions, and the opinions of the scholars of Usulul-Fiq and the jurists on every evidence, and the methods of deduction from them.

However, it is not possible for the jurist to sophisticate his talents without a careful study of the opinions of the early jurists of the Companions, the followers, the followers of the followers, and the Imams of the four schools of thought: Abu-Hanifah, Malik, Ash-Shafi'iy, and Ibn-Hanbal, as well as the senior jurists of these schools.



The Mufti should be acquainted with the realities of the age; time and place, the conditions of the people, the realities of their lives, and the challenges and developments of the age, realizing that fatwa may change with the change of time, place, and conditions, able to differentiate between the sacred fixed and the unholy changeable, well informed of the jurisprudence of purposes, the jurisprudence of consequences, the jurisprudence of priorities, the jurisprudence of balances, the methods of deduction and analogy, and other requirements that are indispensable to the Mufti.

If ignorance is one of the deadliest diseases in our societies, the intrusion of the ignorant into the field of fatwa is the most dangerous thing to the security and peace of societies. Some of them put voluntary and desirable rites at the rank of obligatory worship, and the disliked at the rank of the forbidden and judge it as forbidden. They use the term innovation or prohibition to judge



any violation, whether it is disliked, contrary to the preferable, or even permissible, since they consider any practice that did not exist at the Prophet's time (PBUH) as prohibited, even if it is a habit or a permissible action. They do not realize that innovation is restricted only to new practices of worship such as using Azan (call to prayer) for Eid prayers, since this matter was not practiced at the time of the Prophet (PBUH). So, whoever does not abide by the Prophet's practice in Eid prayer is deemed deviant from Sunnah to innovation.

But applying the term "innovation" to any newly invented practice without distinguishing between the fixed and the changeable or between the practices of worship and the actions of habits is mere ignorance and a departure from the path of knowledge and Fiqh.

We must clearly differentiate between the fixed and the changeable. The Text, for example,



is fixed, but the explanations, footnotes, and commentaries written or said about the Text are subject to change. It is a grave mistake to replace one of them by the other, for placing the fixed in the place of the changeable demolishes the fixed and placing the changeable in the place of the fixed leads to nothing but stagnation, petrification, and drifting to the edge of abyss.

The acts of worship as a whole fall within the scope of the fixed and are closely related to the relationship holding between the servant and his Lord (SW). Therefore, the Islamic Shari'a has widely opened the doors of flexibility for dealing with the variables relating to people's dealing with each other in buying and selling, establishing a society, and choosing a system of governance, in a manner that achieves the considerable legitimate interest without neglecting the fixed rules, provided that the process of Ijtihad in these matters be carried out by the enlightened specialized scholars who are not isolated from their realities.



Th circumstances and the nature of time and place, habits, and customs of the people should be taken into consideration. Imam Al-Qarafi (may Allah’s mercy be upon him) says: “Applying rulings that are set in terms of certain customs after these customs have changed is contrary to the consensus and reflects lack of knowledge about the religion.....moreover, if we go out from that country to another where different customs prevail, we must give them fatwas according to their customs, not the customs of the country in which we were before. Likewise, if someone comes to us from another country which customs differ from ours, we must give him fatwa according to his own customs.

Ibn Al-Qayyim (may Allah’s mercy be upon him) says: “Whoever gives fatwa to the people based on what is written in books which contradict their manners, customs, habits, circumstances, then he himself has strayed and misled them”.



Ibn ‘Abdin says: “Jurisprudential rulings are either based on a clear text or based on Ijtihad and opinion. And many of them are based on the customs prevailing at the time and place of issuing the fatwa, so, if the fatwa has been issued for a different place or time, it should change accordingly. Therefore, they included in the conditions of Ijtihad: “It is necessary to know the customs of the people”, and this is why many rulings change according to the change of time and the change of customs.

We have to realize that the principle for judging matters, be they are customs or dealings, is permissibility, and that prohibition is based only on evidence. So, permissibility does not need evidence, as it is the original ruling, but prohibition needs evidence as it is the exception. Allah Almighty says: “(Prophet) say: “In all that has been revealed to me, I find nothing forbidden for people to eat, except for carrion, flowing blood, pig’s meat – it is loathsome – or a sinful offering



over which any name other than Allah’s has been invoked. But if someone is forced by hunger, rather than desire or excess, then your Lord is most forgiving and most merciful” (6:145). Our Prophet (PBUH) says: “verily, Allah has enjoined obligations, so, do not neglect them, and He has set limits, so, do not transgress them, and overlooked many things out of His mercy without forgetting them, , so do not burden yourselves with, and accept them. (Al-Mu’jam As-Saghir, by At-Tabaraniy, No 1111). It is related to Salman (RA) that he said: The Messenger of Allah (PBUH) was asked about butter, cheese, and fur, and he said: “The allowed is what Allah Has allowed in His Book, and the prohibited is what Allah Has prohibited in His Book, and what He has overlooked is what He has tolerated” (Sunan At-Tirmidhiy, Book of dress, No. 1726).

And it is related to ibn ‘Abbas that he said: “The people before Islam used to eat things and leave things out of their desire, so, Allah sent



His Prophet (PBUH) and revealed His Book, and stated what is allowed, and what is prohibited. So, what is not overtly mentioned is tolerated”, then he read Allah’s saying: “(Prophet) say: **«In all that has been revealed to me, I find nothing forbidden for people to eat, except for carrion, flowing blood, pig’s meat – it is loathsome – or a sinful offering over which any name other than Allah’s has been invoked. But if someone is forced by hunger, rather than desire or excess, then your Lord is most forgiving and most merciful»** (6:145).

**I would like to stress some points:**

**A** There are two very serious matters that are harmful to rational religious discourse. The first is a disease that must be treated with knowledge. The second is a serious disease whose advocates must be exposed together with their agency and traders with religion who lie behind their misconceptions.



One of the most serious issues with which the people of evil have played is the “actions of the ruler”, as they try to defame him either by fatwas or by trying to distort his behavior, even if he is as just as our master ‘Umar ibn Al-Khattab (RA).

Our scholars have realized the difference between the prerogative of the ruler, and the prerogative of the scholar, and carefully differentiated between the Prophet’s actions relating to his capacity as a Prophet, such as the faith, worship, values, and morals, and his actions relating to his capacity as a human being, since the Prophet (PBUH) was not only a Prophet or Messenger, but also a ruler, judge, and military commander. So, the matters on which the Prophet (PBUH) acted in his capacity as a ruler, military commander, or judge, no one is entitled to act according to them unless he is a ruler, military commander, or a judge. Among the things upon which the Prophet (PBUH) acted in his capacity as both a Messenger and a ruler



is his saying: “Whoever revived a dead land, he owns it”. Imam Abu-Hanifah (may Allah’s mercy be upon him) says explaining this Hadith: The Prophet (PBUH) acted on this matter in his capacity as a ruler, so, it is not permissible for anyone to revive a land without the permission of the ruler, because it grants ownership which is not permissible without the permission of the ruler, so is the revival”.

So, no one is entitled to put his hand on a piece of land and says it is mine because I revived it according to the Prophet’s Hadith, so, we say to him that the Prophet (PBUH) said that in his capacity as a ruler, so no one is entitled to grant this right but a ruler, because this matter relates to the public right, or the public domain, otherwise things would turn into chaos and open unlockable doors of strife and assault on the public domain, and perhaps wars and fighting between people. Here we must adhere to what is regulated by constitutions and laws that control the affairs of the country and people.



Among the most important issues that are decided by the ruler's opinion, not the judge's or the scholar's or anyone other than the ruler is the issue of declaring the states of war and peace which is expressed in the books of jurisprudence by the term "Jihad" meaning fighting for defending the homelands. So, it is not up to any individual, party, group, sect, or tribe to announce Jihad, as it is the absolute right of the one entrusted by the constitution, whether it is the president, the national security council, or the president after taking the parliament's opinion. The important thing is that the issue of declaring a state of war is not in the hands of individuals or groups, but rather it is one of the unchallengeable responsibilities of the ruler, otherwise, the matter becomes a chaos not a state.

B In fact, using the word "scholar" to describe a person who did not acquire the basics of knowledge and did not possess its tools is a grave danger which may amount to a felony



against knowledge. The scholar is a scholar, the jurist is a jurist, the historian is a historian, and the genealogist is a genealogist. Throughout our long history, groups of preachers, weeping preachers, storytellers, narrators, vocalists, and readers have appeared. However, their eras were characterized by the fact that the scholar remained a scholar, the jurist a jurist, the preacher a preacher, the reader a reader, the writer a writer, and the vocalist a vocalist. None of them assumed the personality of the others, nor did he try to usurp his role, and the people appreciated this. Each of them sought to follow whom he loved, so, whoever sought knowledge resorted to the meetings of scholars, and whoever sought preaching followed the preachers, and whoever was enthralled by vocalists joined the vocalists' circles.

- C The basic principle in Islam is peace and peaceful coexistence among human beings.



There is no compulsion in religion, and there is no killing based on belief. There is no discrimination between the people of the same country based on religion, color, race, language, or tribalism, rather, it is a matter of rights and duties according to the stipulations of the Madinah Document that laid the foundations of coexistence among all the people of Madinah, upon its inhabitant (Prophet Muhammad) the best prayers and blessings. Allah Almighty says: **«There is no compulsion in religion, true guidance has become distinct from error»** (2:256), and says: **«Had your Lord willed, all the people on earth would have believed. So, can you (Prophet) compel people to believe?»** (10:99), and says: **«If they still turn away, (remember that) We have not sent you (Prophet) to be their guardian; your only duty is to deliver the message»** (42:48), that is, the task of the scholars and jurists is to convey the message, but guidance comes from Allah alone.





## **The legality of Fatwa**

By:

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### **The first topic:**

### **The lexical and terminological meaning of Fatwa and Issuing Fatwa:**

First: The lexical meaning: a Ifta’ is the infinitive form of the verb ‘afta’, and ‘fta’ means to issue a fatwa. It is mentioned in the dictionary of Lisan Al-‘Arab that the word Ifta’ is used interchangeably with the word fatwa, and that fatwa means “to give legal rulings on matters of Shari’a”, or “to make clear the ruling for a problem which faces the people”.



## **Second: The terminological meaning of fatwa and Issuing fatwa:**

Some jurists in the past and present tend to use both terms as synonyms, since they see no difference between them, such as Al-Kamal ibn Al-Humam from the old jurists, and Ahmad Taha Rayyan from the contemporary jurists.

There are many definitions of fatwa mentioned in the books of Fiqh, and our chosen definition is: “Issuing an optional ruling relating to matters of Shari’a based on evidence to whomever asked for it”.

### **The second topic:**

#### **The meaning of Mufti and fatwa seeker:**

The Mufti is the legal jurist, who is able to extract legal rulings from the Qur’an, Sunnah, Consensus, and analogy. Ash-Shawkani said: “The Mufti is the one who applies Ijtihad for extracting a legal ruling”, and At-Tahanawi said: “The Mufti is the jurist (specialist in Fiqh)”.



On the other hand, the fatwa seeker is whoever asks a jurist for providing him with legal knowledge or an answer to a legal question.

### **The third topic:**

#### **The danger of daring to give fatwa:**

There is no doubt that issuing fatwas relating to Allah's religion is of great danger, great impact, and great merit. Due to its great danger many of the Salaf (the Companions and the generation close to them) refrained from giving it. Examples of which are the following:

It was narrated on the authority of Ibn Al-Munkadir that he said: "The scholar is between Allah and His creation, so, let him see the manner with which he enters between them"

It was narrated on the authority of Abdurrahman ibn Abi-Layla that he said: "I met one hundred and twenty of the Ansar companions



of the Prophet (PBUH), when any of them was asked a legal question, he refers it to another companion, and this refers it to another, until it goes back to the first”.

It was narrated on the authority of Ibn ‘Abbas (may Allah be pleased with him) that he said: “He who gives fatwa on everything he was asked is insane”.

It was narrated on the authority of Ash-Shafi’iy that when he was asked why he didn’t answer a question, he said: “Until I know which is better, to answer or to keep silent”.

It was narrated about Imam Malik that he sometimes was asked more than fifty questions and didn’t answer any of them and used to say: “Whoever answers a question must expose himself to Heaven and Hell before answering it, and see how his salvation would be, then answer”.

And Abu-Hanifah said: Were it not for the fear from Allah Almighty that knowledge would be lost, I would not have issued a fatwa; the



questioners would be blessed, and the burden would be on me”.

The danger of daring to give fatwa is evident in the Hadith narrated on the authority of Abu-Hurairah (may Allah be pleased with him) that he said: Allah’s Messenger (PBUH) said: “Whoever relates to me what I didn’t say, let him occupy a house in Hell”. So, if he does not know the right answer to the question being asked, it is not permissible for him to give a fatwa, so, if he gave fatwa, he would be subjected to Allah’s punishment. This is explained by Allah’s saying: **﴿People, eat what is good and lawful from the earth, and do not follow Satan’s footsteps, for he is your sworn enemy \* He always commands you to do what is evil and indecent, and to say things about Allah that you do not really know﴾** (2:168-169), and the Prophet’s saying: “He who was given a fatwa by someone who is lacking knowledge, his sin is on the one who gave fatwa”.

Whoever gives a fatwa contrary to what he knows, then he is a deliberate liar against Allah;



no one is more unjust than the one who lied about Allah and His religion. On the other hand, if he gave fatwa about something he does not know, then he mistakenly lied about Allah, Allah Almighty said: **﴿On the Day of resurrection, you (Prophet) will see those who told lies against Allah, their faces darkened﴾** (39:60).

But if the truth is clear and there is no doubt about it and the evidence is clear to the Mufti, then he should respond, as it contributes to clarifying and enhancing the truth. This may occur in two cases:

**The first:** When the issue asked about is stated in the Qur'an or Sunnah, or has the consensus of the jurists, or can be judged by a clear analogy.

**The second:** When it lacks all of this, and the scholars have differed on it, but there is a clearly preponderant opinion on it.

The Mufti should refrain from answering if he does not know the right answer, as this is the right thing to do, and it is better for him to know his



limits in order to motivate himself learn more so that he may save himself from fatal consequences.

#### **The fourth topic:**

### **The evidence for the legality of fatwa, and the ruling on addressing the position of fatwa**

**First:** The evidence of the legality of fatwa:

The texts of the Qur'an and Sunnah agreed on the legality of fatwa, for example:

#### **1. From the Ever-Glorious Qur'an:**

Allah's Almighty saying: **«From each community, a group should go out, so that they can teach their people when they return and so that they can guard themselves against evil»** (9:122). That is, if it was difficult for all the people to go out, and there was no benefit in it, then a little group of each community should go out



to learn and to be jurists in order that they can guide people to the right path when they return to them so that they may be mindful of Allah by carrying out His commands and abiding by His admonishments. This Verse shows the legality of fatwa.

Allah's saying: **﴿You (people) can ask those who have knowledge, if you do not know﴾** (16:43). Allah has commanded His servants to ask about the legal rulings they did not know in order to implement them, for knowledge is a condition for correct actions, and the commandment here denotes obligation, and since the rule is: Whatever the obligation is incomplete without it, is an obligation, then the question is a duty, and the answer is also a duty on those who know the ruling. Hence, it is clear that fatwa is obligatory on the scholar as long as he has the certain knowledge for answering it.

Allah's saying: **﴿As for those who hide the proofs and guidance We sent down after We have made them clear to people in the Scrip-**



**ture, Allah rejects them, and so do others﴾.** (2:159). Allah Almighty tells us in this Verse that who hides the proofs and guidance He sent down, Allah rejects him, and this includes whoever hid the truth. The scholars deduced from this Verse that conveying the message and clarifying it is an obligation.

## **2. From the Honorable Sunnah:**

Our Prophet's Sunnah has threatened whoever gives a fatwa without knowledge. On the authority of Abu-Hurairah that the Prophet (PBUH) said: ““He who was given a fatwa by someone who is lacking knowledge, his sin is on the one who gave him the fatwa”.

The Sunnah also contained many Hadiths that indicate the legality of fatwa, among them:

On the authority of ‘Abdullah ibn ‘Umar that Allah’s Messenger said: “Convey – on behalf of me – even one Verse and tell others the stories of



the Children of Israel as there is nothing wrong with it, and whoever intentionally relates lies to me, let him occupy his seat in the Fire”. In this Hadith, the Prophet (PBUH) commands his nation to convey what they retained of the Qur’an and Sunnah. This means that any knowledgeable person must teach the others the knowledge of the Qur’an and Sunnah that he knows, as they are the main source of Islamic legislation.

On the authority of Abu-Hurairah that Allah’s Messenger said: “Whoever was asked about knowledge, and he hid it, Allah will bridle him with a bridle of fire on the Day of Resurrection”. This Hadith denotes that conveying the knowledge of religion is obligatory.

### **Second: The ruling on assuming the position of fatwa:**

Imam Malik said: A scholar should not issue fatwa until the people see him qualified for it, and said: A man should not see himself qualified



for anything until he asks a more knowledgeable person than him. Therefore, the knowledgeable scholars see that assuming the position of fatwa by an unqualified person is an unprecedented mistake and considered it as a malicious act in this world and in the hereafter. And since the Mufti does not reach this rank and this capacity until he acquires a considerable degree of Sharia knowledge that enables him to derive legal rulings, then, it should be noted that this knowledge can only be attained by the one who devotes himself to learning and does his best and spends most of his time seeking knowledge with intelligence and acumen. But since this is not possible for every competent Muslim, acquiring Sharia knowledge and seeking it was one of the collective obligations so that there would be in the nation someone who communicates Allah's Law to His servants, otherwise, everyone would be sinning. This is indicated in Allah's saying: **«It is not right for all the believers to go out together: from each community, a group should go out,**



**so that they can teach their people when they return and so that they can guard themselves against evil» (9:122).**

The fatwa has not been one of the individual obligations because it requires the acquisition of a good number of disciplines. So, if it were enjoined on every Muslim, it would have led to the disruption of the people's business and interests due to their devotion to acquiring a particular knowledge and would distract them from other useful sciences.

Contemplating the books of 'Usul (principles of religion) that singled out chapters on fatwa, leads us to realize that the fatwa has the following five legal ruling:

Permissibility: It was proven on the authority of the Companions (may Allah be pleased with them) that they used to give fatwas to the people, and so were the followers, and those who came after them. Allah Almighty said: **﴿You (people)**



**can ask those who have knowledge, if you do not know﴾ (16:43).**

Obligation: This occurs if the Mufti is qualified to issue fatwas, and the people needed it, and there is no Mufti other than him, then, he is obligated to give fatwa, as Allah Almighty says: **﴿As for those who hide the proofs and guidance We sent down after We have made them clear to people in the Scripture, Allah rejects them, and so do others.﴾ (2:159).** And Allah’s Messenger said: “Whoever was asked about knowledge, and he hid it, Allah will bridle him with a bridle of fire on the Day of Resurrection”.

Preference: This occurs if the Mufti is qualified for fatwa, and there are other Muftis besides him, and there is no need for fatwa.

Prohibition: If the Mufti does not know the ruling, so that he may not be included in Allah’s saying: **﴿Say (Prophet), ‘My Lord only forbids disgraceful deeds– whether they be open or hidden – and sin, and unjustified aggression,**



**and that you, without His sanction, associate things with Him, and that you say things about Him without knowledge** ﴿7:33﴾. In this Verse Allah forbade saying things about Him without knowledge. Likewise, it is forbidden to issue fatwa contrary to the answer that he is certain of, otherwise, he is a deliberate liar against Allah. Allah Almighty says: **«On the Day of Resurrection, you (Prophet) will see those who told lies against Allah, their faces darkened»** (39:60), and who lies against Allah is greater in sin than the one who issued a fatwa without knowledge.

Dislikeness: It is disliked for the Mufti to give fatwas in the case of extreme anger, excessive hunger, disturbing fear, or overwhelming drowsiness, occupied heart, or urgent need to relieve nature. Rather, when he feels something of these that may divert him from the state of moderation and rationality, he must withhold himself from issuing the fatwa.

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## The status and conditions of fatwa

By:

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And former Dean of the Faculty of Islamic and Arabic Studies  
for Girl

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Issuing fatwas depends on clarifying the legal ruling based on evidence, and the Mufti is the one who is well-versed in all legal rulings, especially those agreed upon.

Nowadays, some people who are not qualified for issuing fatwas have dared to enter the field of fatwas without enough knowledge and without being aware of the consequences of that, therefore, confusion, turmoil, discord, and disagreement arose between the Muftis and their community. It suffices here for us to remember that Imam Malik perhaps was asked about fifty



questions and he did not answer even one of them and used to say: He who addresses an issue must expose himself to the Heavens and Fire and see where his salvation is before he answers, and it was narrated that Ahmad ibn Hanbal frequently said: I do not know, when he was asked.

### **The first point:**

#### **The meaning of fatwa**

Fatwa means the clarification of the legal ruling on a particular issue based on evidence, and this includes asking about actual incidents only.

The Mufti is the one whose profession is to issue fatwas, and it is required for doing this to know the general and specific meanings of the Qur'an, its abrogating and abrogated Verses, as well as Sunan and deduction. So, whoever reached this position is called Mufti and is entitled to issue fatwas.



Az-Zarkashiy said: “The Mufti is the one who is well-versed in all legal rulings”. It was also said that: He is the one who is competent in the rulings of the realities with evidence and who memorizes most of the jurisprudence.

### **The second point:**

#### **The difference between fatwa, judiciary, and Ijtihad**

**A** Judiciary: is the judge’s ruling to the litigants and is also called: decree. The judge may also be called ruler, and the judiciary is similar to fatwa, except that there are differences between them, including:

The fatwa gives the legal ruling, but the judiciary gives a decree to the disputants.

The fatwa does not obligate the questioner or anyone else to accept it, rather, he may accept it if he deems it correct, or leave it and accept fatwa from another Mufti, but the judicial ruling is



binding. Accordingly, if one of the two opponents calls the other to the fatwas of the jurists, no one can compel him to accept the fatwa, but if calls him to the court, he must accept the judge's decree and he is compelled to abide by it, as the judge is entrusted to put an end to disputes.

B Ijtihad means that the jurist exerts his ultimate effort to obtain the presumed legal ruling. The difference between it and fatwa is that fatwa is based on definite or conjecture knowledge, while Ijtihad cannot be performed in the definitive cases, and that Ijtihad is done once the jurist attains the ruling, whereas the fatwa cannot be deemed complete unless the ruling is communicated to the fatwa seeker.

### **The third point:**

#### **The binding ruling of fatwa**

Fatwa is a collective obligation, since it is necessary for Muslims to have someone who explains to them the rulings of the incidents that



happen to them, and not everyone can do that. It has not been ordained as an individual obligation because it necessitates the acquisition of many branches of knowledge. If it were an individual obligation, it would have disturbed the people's works and interests due to devoting themselves to acquiring only particular knowledge and neglecting other useful sciences. The evidence that shows that it is an obligation is Allah's saying: "Allah took a pledge from those who were given the Scripture – Make it known to people: do not conceal it", and the Prophet (PBUH) said: "Whoever was asked about knowledge, and he hid it, Allah will bridle him with a bridle of fire on the Day of Resurrection".

#### **The fourth point:**

### **The status of fatwa**

The status of fatwa in Shari'a is evident from several aspects, including:



- C Allah (SW) Has given fatwa to His servants, as He said: **«They ask you (Prophet) for a ruling about women. Say, 'Allah Himself gives you a ruling about them»** (4:127) and says: **«They ask you (prophet) for a ruling. Say: Allah gives you a ruling about inheritance of someone who dies childless with no surviving parents»** (4:176).
- D The Prophet (PBUH) used to take this position in his life, as Allah (SW) has entrusted him with it as he said: **«WE sent them with clear signs and Scriptures. We have sent down the message to you too (Prophet), so that you can explain to people what was sent for them, so that they may reflect»** (16:44).

**The fifth point:**

### **Fearing versus daring to give fatwa**

It has been related to the Prophet (PBUH) that he said: “The most daring of you to give



fatwa is the most daring to enter the Hell”. It also was related to Sufyan and Sahnun that they said: The most daring of people to give fatwa are the least of them in knowledge. So, what the jurist should do is to prepare himself to giving fatwa and does not give it unless he is quite certain that the ruling exists in Allah’s Book or his Prophet’s Sunnah, or is agreed upon, otherwise, he has to wait until the ruling becomes clear to him or refrain from answering it. It was narrated that Imam Malik used to be asked more than fifty questions, and sometimes answers none of them, and he used to say: He who addresses a question must expose himself to Paradise and Hell before he answers it, and see how his salvation would be, then answers.

Accordingly. Issuing fatwa without knowledge is forbidden, as it implies lying against Allah Almighty and His Messenger(PBUH), and misleading people which is a major sin, Allah Almighty said: **﴿And do not say falsely, that is lawful and**



**that is forbidden** ﴿16:116﴾, and said: **﴿And do not follow blindly what you do not know to be true: ears, eyes, and heart , you will be questioned about all these﴾** (17:26).. Allah Almighty has made it clear what is allowed and what is forbidden in His saying: **﴿Say (Prophet) ‘My Lord only forbids disgraceful deeds – whether they are open or hidden – and sin and unjustified aggression, and that you, without His sanction, associate thing with him, and that you say things about Him without knowledge﴾** (7:33). The Prophet (PBUH) also said: “That which is lawful is plain, and that which is unlawful is plain and between the two of them are doubtful matters about which not many people know”, and said: “Allah does not take knowledge away from people suppressively, but He takes it away by making the scholars die, until when He leaves no scholar, the people take ignorant heads who are asked and gave fatwa without knowledge, thus, they lost the way and misled others”.

Therefore, it has been repeatedly narrated that if one of the Salaf was asked about something



he does not know, he used to say “I don’t know” to the questioner. This was related to Ibn ‘Umar, Al-Qasim ibn Muhammad, Ash-Sha’biy, Malik, and many others, may Allah’s mercy be upon them.

The Mufti should do the same and get used to it. Accordingly, if the questioner did something prohibited or practiced his worship in a wrong manner based on a fatwa issued without knowledge, the Mufti is deemed sinner and bears the consequences of his fatwa. However, in case the questioner has not done his best to look for a competent Mufti, he also is deemed sinner and bears the responsibility. Abu-Hurairah related to the Prophet (PBUH) that he said: “Whoever was given a fatwa without knowledge, his sin is on the one who gave him the fatwa”.

### **The sixth point:**

#### **Leniency in issuing fatwa**

It is prohibited to be lenient in issuing fatwas, and it is also prohibited to ask whomever is known



to be lenient in issuing fatwas. Imam An-Nawawiy said: “Leniency means to be motivated by corrupt purposes to look for forbidden or disliked tricks or adhere to doubtful matters to seek permission for those whom he wants to benefit, or to seek harshness for those whom he seeks to harm”.

It is prohibited to use tricks to make the unlawful lawful, or vice versa, as this is prohibited by Allah’s saying: **﴿They schemed and so did Allah: He is the best of schemers﴾** (8:30), and His saying: **﴿(they) became so arrogant in the land and intensified their plotting of evil﴾** (35:43), and the Prophet saying: “He is cursed who harmed a believer or schemed against him”.

It is advisable not to give fatwa based on an abnormal ruling, but rather on the ruling which is supported by evidence. The Mufti should strive as much as possible when issuing a fatwa, and do not leave what is agreed upon by most of the scholars and give fatwas contrary to it. If the issue is controversial, he must consider the Shari’a as well as the questioner.



## **The seventh point:**

### **The conditions of fatwa**

It is agreed that it is not a condition for the Mufti to be male, free, able to hear, see or speak. So, fatwa is valid from free and slave, male and female, blind, dumb, if he is able to write or his signs can be understood.

It is a condition for the chief Mufti to be:

1. Muslim
2. Competent
3. Just

These three conditions are agreed upon.

4. Ijtihad: is an absolute condition for the judge and Mufti as stipulated by the three imams, As- Shafi'iy, Malik, and Ahmad. But Imam Abu-Hanifah sees that it is a priority not condition.
5. He must have a keen understanding of the purposes of speech and able to judge things



correctly.

In addition to some other conditions relating to knowing the essence of the question, and the status of the questioner and the environment in which he lives.

### **The eighth point:**

#### **Moderation as a basis for fatwa**

Moderation is the scale by which the stable can be distinguished from the changeable, and movement from stillness. It is the factor that implements the obligatory without neglecting the licenses where needed, that implements the stable without neglecting the changeable. Moderation in fatwa means comparing between the collective and the partial, between the purposes and branches, and linking the text to the interests.

To demonstrate the concept of moderation in fatwa, we extract from Al-Muwafaqaat by Ash-Shatibiy: “The exemplary Mufti is the one who



leads the people by moderate standards to what benefits them, so, he does not take them by strictness, nor leads them to the extreme dissolution. The evidence for the correctness of this is that it is the strait path which the Shari'a brought since the intent of the legislator is to implement moderation without exaggeration or negligence. So, if the Mufti deviates from that, he neglects the purpose of the legislator. Therefore, whatever departs from the moderate path is reprehensible in the views of the firmly grounded in knowledge. This doctrine was also inspired by the acts of the Prophet (PBUH) and his Companions (RA), as he (PBUH) said to Mu'az when he took a longer time in prayer: "Intimidator are you, Mu'az?", and he (PBUH) said: "Verily, among you are intimidators", and said: "Religion calls for easiness, and whoever overburdens himself in this religion will not be able to continue in that way. So, try to be near to perfection and receive the good tidings that you will be rewarded, and gain strength by



worshipping in the mornings, afternoons, and during the last hours of the night”, and said: “Do what you can since Allah will not be tired unless you get tired”, and said: “The most favorable deeds to Allah are the permanent, even if they were little”.

Also, going to the extremes is a departure from justice and people’s interests, and if the Mufti adopts stubbornness and extremism, he will make the people hate religion and abstain from taking the path to the Hereafter. On the other hand, if he adopts the opposite stand, and gives fatwa based on whims and passion, he leads the people to dissolution and debauchees which Shari’a forbids. The evidence for this are numerous, among them is Allah’s saying: **«We have made you (believers) into a just community, so that you may bear witness (to the truth) before others and so that the Messenger may bear witness (to it) before you»** (2:143), and saying: **«Believers, bow down, prostrate yourselves, worship your Lord, and do good so that you may**



**succeed \* Strive hard for Allah as is His due: He has chosen you and placed no hardship in your religion» (22:77-78).**

In conclusion: Islamic Shari'a is based on the interest of the people in this life and the next, it is all justice, all mercy, all interests, and all wise. So, every issue that departs from justice to injustice, from mercy to its opposite, from benefit to detriment, from wisdom to absurdity does not belong to the Shari'a, even if it is interpreted as such. The Shari'a is Allah's justice among His servants, His mercy among His creation, His shadow on His earth, His word that acknowledges Him and the sincerity of His Messenger (PBUH) in the most complete and truest reference. It is His light with which the people see, His guidance with which the guided people are guided, and His complete cure with which He cures every ailment.

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# **The rulings on issuing fatwas, and the manners of the Mufti and the questioner**

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All people get exposed to many matters, incidents, and accidents which they need to know the legal ruling on them, and not all people are aware or having knowledge of the legal rulings on them. Therefore, it was a sign of the wisdom of the Legislator -Glory be to Him – that He did not burden the laymen and others – who do not know the legal ruling – to look for the legal evidence in order to deduct the ruling from them, because it is not possible for them to know the legal ruling, and if they tried to deduct it by themselves, they would have fallen into error, since



they do not master the mechanism of deducting the rulings. For this reason, Allah Almighty has enjoined on them to ask in accordance with what He said: **﴿If you do not know, ask the people who know the Scripture﴾** (22:7)

**The first topic:**

## **The Mufti and the ruling on issuing fatwas, and his types**

**The first point:** The definition of Mufti, the ruling on issuing fatwas, and the types of Muftis

**First:** The Mufti is one who addresses the fatwa for people. Az-Zarkashiy said: He is the jurist. The scholars of 'Usul said: He is the one who employs Ijtihad for issuing fatwas. In our recent time: He is the one whom the ruler appoints for issuing fatwas.

**Second:** The legal ruling on fatwa. Fatwa is a collective obligation; not an individual one, that



is, if even only one person did it, the rest of the community will suffer neither sin nor blame. On the other hand, if it was an individual obligation, this would lead to the disruption of people's business and interests, as they will be devoted only to acquiring certain disciplines in order to be competent for issuing fatwas, and there will be no one left for working in industry, agriculture, commerce, medicine, engineering, or who holds a public post, a governmental job, or any other services. Hence, the fatwa was a collective obligation, and it was not an individual obligation.

If a question was addressed to the Mufti, and there was no other person in the country or the town who can answer it, he must answer it, but if there was another person, then issuing fatwa is not obligatory on the Mufti.

Issuing fatwa is prohibited to anyone who is neither qualified nor mastering the tools for issuing it. Likewise, it is not permissible to be lenient in issuing fatwas, hence, whoever is known



to be lenient in issuing fatwas, it is forbidden to ask him for fatwa.

**Third:** The divisions of Muftis. The jurists divided the Muftis in terms of being a restricted or a free Mufti into two divisions: The free Mufti, and the restricted Mufti. The rationale behind this division is that the Mufti is either bound to a certain madhhab (doctrine) that guides him to deduct rulings or is not bound to any doctrine. Here are some details:

- 1. The free Mufti:** is also known as the Mufti or the independent mujtahid (the one who employs Ijtihad for reaching a legal ruling); he is the jurist who has the competence with which he can conclude Shari'a rulings from their detailed evidence without being bound to any doctrine or a certain Imam. Free fatwas are not restricted to a certain branch of Fiqh, but the Mufti, in issuing them, has the ability to deal with any branch of Fiqh, be it worships,



dealings, criminal acts, inheritance, or others.

- 2. The restricted Mufti:** is known as the dependent Mufti or mujtahid. He is the one who follows a certain doctrine and has the ability to deduct rulings according to the principles laid down by the Imam of his doctrine. This division has four subdivisions:

**A The affiliate Mufti:** Is the one who does not imitate his Imam, his doctrine, or his evidence, but he follows his way of using Ijtihad and issuing fatwas, therefore, he is related to him. This kind of Mufti follows the general principles of his Imam, not the details.

Examples of those Muftis in the Hanafi doctrine are: Abu-Yusuf and Muhammad ibn Al-Hasan, in the Maliki doctrine: Abdur-Rahman ibn Al-Qasim and Ibn Wahb, in the Shafi'iy doctrine: Al-Mazniy and Ar-Rabi', and in the Hanbali doctrine Abu-Ya'la. These Muftis or mujtahids and others who are like them have attained a rank



of knowledge that enabled them to make Ijtihad by investigating the evidence from which rulings are derived. They followed the path of a certain Imam and used his principles for deducting rulings, so they are affiliated to him from this side, and are independent, on the other hand, in the way they scrutinized the evidence and derived the legal rulings from them.

- B **The Mufti of doctrine:** Is the one who is bound to the doctrine of his Imam and does not go beyond his principles and rules. So, he takes the texts of his Imam as principles on which he bases his fatwas. The Hanafi's call this kind of Muftis Muftis or mujtahids of the rank of authenticators like Al-Karkhiy.
- C The preponderating Mufti: Is the one who has not reached the rank of the Imam of doctrines, but he retains the doctrine of his Imam, so, he makes decisions, edits, and preponderates some opinions to others on the basis of the evidence, or its validity for



application according to the circumstances of the time and some other things which are not considered new, independent, or dependent deductions.

- D Ibn As-Salah said:** This is the rank of the Muftis who came until the end of the fifth century; they were straggling, compared with their ancestors, for promoting their doctrine, but not in issuing fatwas, since they were diligent in expanding their methodology in issuing fatwas and using Qiyas (analogy).
- E The retaining Mufti:** Is the one who retains his doctrine and understands it when dealing with clear and ambiguous questions, but he lags in promoting the evidence of the doctrine, so, he depends in issuing fatwas on the evidence of his Imam, and the branches made by the mujtahids of the doctrine. So, whenever he faces a question which answer is not found in the doctrine, he uses Qiyas



for answering it. Whoever does not possess these qualities, should not address fatwa.

Ibn As-Salah said: It is rare to miss a case like this, therefore Abu-Alma'aliy said: It is rare to meet an incident which has no ruling in the doctrine, something similar to it without any difference, or falls under the rules stipulated in the doctrine. Such a Mufti cannot be but a rational Mufti who understands the essence of the doctrine and the best rulings.

### **The second point:**

#### **The conditions of the Mufti and his manners**

**First:** The conditions that must be met by the Mufti. The Mufti's task necessitates that he must be competent, that is, he must be adult, sane, with the ability to derive the rulings from their sources. He can only do this if he meets a set of conditions:

1. He must be a Muslim, adult, and sane. This is because issuing a fatwa relating to Shari'a



matters is a worship, and Islam is a condition for the validity of worship. It is necessary for him to know Allah Almighty and all His attributes, and to know His Messenger (PBUH) and the duties and rulings that he brought. it is not right for an insane person to issue fatwa because he is neither competent nor aware of anything, whereas it is obligatory for the Mufti to be of sound mind, his conduct and deduction are correct, clever, and vigilant. Al-'Amidiy says: The first condition is to know that Allah Almighty exists, the attributes that are due to Him, the qualities that are pertinent to Him, to believe in His Messenger and the Shari'a that he brought without which faith cannot be realized, and be aware of the evidence for the rulings

2. To be of sound knowledge of the Ever-Glorious Qur'an as the first source for legislation, knowing that there is no way to



Allah but through it. It is not a condition to know all the Quran, but only to know the Ayas relevant to deriving rulings, that is, five hundred Ayas, nor is it a condition to retain them, but it is enough for him to know their places in the Qur'an so that he can refer to them when he needs them for addressing an incident.

3. To be knowledgeable of the Sunnah, whether it is verbal, actual, or acceptance of some other's acts, and that it is the second source for legislation. And to know the way it came to us, be it a recurrent, known, or narrated by only one narrator. And to know the rulings relating to this, such as knowing the status of the narrators, that is, if they are valid, invalid, of good exactitude, and uprightness, etc. . . .

It is not a condition to retain the Sunnah; it is enough for the mujtahid to know the relevant sections necessary for issuing a ruling, so that he may revise it whenever needed for Ijtihad. This can be achieved by revising the books of Hadith



that include the evidence for rulings and commentaries on them such as the commentaries of Ibn Hajar on Sahih Al-Bukhari, and the commentaries of An-Nawawi on Sahih Muslim, and Ash-Shawkani's Nailul-Awtar (reaching the targets), and As-Sun'ani's Subul as-Salam (the paths to peace), and others.

4. To be knowledgeable of the abrogating and abrogated Ayas and Hadiths, and the reasons of revelation of the texts relating to the rulings, so that he may not quote evidence for a ruling from the Qur'an or Sunnah while it is abrogated.
5. To be knowledgeable of the subject matters that gained the consensus of the scholars, such as their unanimity on the prohibited matters that are prohibited by The Ever-Glorious Qur'an and the Honorable Sunnah, and their unanimity on the principles of inheritance, and others, lest the Mufti should issue a fatwa that contradicts their unanimity.



It is noticed that consensus is a collective evidence that accords with the evidence of Shari'a, so, in case the circumstances of deriving a ruling from a text have changed due to the change of circumstances and the emergence of new events, then the change of implementing the consensus becomes a priority.

6. To be knowledgeable of the syntax and morphology of the Arabic language, as it is the language of the Ever-Glorious Qur'an and the honorable Sunnah. Hence, the mujtahid cannot derive Shari'a rulings from the Qur'an or Sunnah unless he is well acquainted with an amount of its grammar that enables him to understand the discourse and the way of using it by the Arabs, i.e., to the extent that enables him to distinguish between the ordinary language, metaphors, and figures of speech. He also must know the general and specific, the absolute and the restricted, the definite in meaning and the ambiguous, and the ways words express different meanings.



7. To be knowledgeable of the Principles of Fiqh, as it is a condition for the Mufti to know the discipline of the Principles of Fiqh, its general rules, collective evidence, and how to benefit from it. Al-Ghazali said: The major disciplines of Ijtihad are three: The discipline of Hadith, linguistics, and the discipline of the Principles of Fiqh.
8. To understand the general purposes the Shari'a aims to attain from legislation, and to have sound experience in people's interests, circumstances, customs, and habits so that his Ijtihad comes in accordance with the purposes of the Shari'a, taking into account the people's interests by deterring harm and bringing benefits. Ash-Shatbiy says: "The degree of Ijtihad can be attained by the one who has two characteristics: Sound understanding of the purposes of Shari'a, and the ability to deduct according to his understanding", then he said: "The second is like the servant of the



first, since the first is the ultimate goal, and the second is a means of reaching it”.

9. The Mufti should be just, trustworthy, and reliable. Ibn ‘Abdin summarized the conditions that must be met by the Mufti in five conditions: To be a Muslim, adult, sane, knowledgeable, and just.

Whoever does not meet these conditions must not be allowed to issue fatwas so that the people may not be deceived by him and commit errors. The Prophet (PBUH) said in the authentic Hadith: “Allah does not take knowledge away from people suppressively, but He takes it away by making the scholars die, until when He leaves no scholar, the people take ignorant heads who are asked and gave fatwa without knowledge, thus, they lost the way and misled others”.

**Second:** The manners of the Mufti: The Mufti must possess a set of manners, the most important of which are:

1. He must be qualified for issuing fatwas. Imam Malik said: “The scholar should not address



issuing fatwas until the people see him qualified for it, and he sees himself qualified for it”.

2. To refrain from seeking issuing fatwas, let alone insisting on taking up its post. So, it is incumbent on the Mufti to avoid issuing fatwa as much as possible unless it is imposed on him, in this case he must seek Allah’s help to fulfill it properly. He should not issue a fatwa on an issue if anyone else can do better unless he is appointed for issuing fatwas. The good ancestors used to avoid fatwas and wish if someone else would do it instead of them.

Ibn Abi-Laila said: “I realized to see a hundred and twenty of the Ansar; the Companions of the Prophet (PBUH). When one of them was asked a question, he referred it to another, and the other referred it to another, until it came back to the first”. I say: This applies only to the case of having more than one competent Mufti, but if he was



appointed for that job, then he must do it.

3. Not to be lenient in issuing fatwas, and whoever is known of being lenient in fatwas should not be asked. Therefore, he should not rush to issue a fatwa before he has fully considered all its aspects and deeply thought about it, rather, he must verify the ruling before issuing the fatwa. Likewise, he should not resort to using forbidden or disliked tricks to benefit or to harm whomever he wishes.

This does not mean that he should be harsh, rather, he must use what is easier for the people in order to achieve the purposes of Shari'a relating to making people's life easy as Allah Almighty said: **«Allah wants ease for you, not hardship (2:158), and said: «He has placed no hardship in your religion» (22:78), and the Prophet (PBUH) said: "Facilitate things to people (concerning religious matters), and do not make it hard for them, and give them glad tidings, and do not make them run away (from Islam).**



4. The Mufti must change his fatwa, if it was proven wrong, and he has to inform the questioner about that, and the questioner must stop working according to it. Likewise, if the questioner has not yet acted upon it, it is not permissible for him to act upon it.
5. The Mufti must sincerely and honestly turn to Allah asking to inspire him to do the right thing and guide him to the right fatwa, and to help him reach the ruling that He legislated for His servants in the subject matter of the fatwa. So, if he concluded the right ruling, he issues the fatwa and thanks Allah for guiding him to it, but if he was suspicious about it, or could not reach the right fatwa, he must hasten to repent and seek forgiveness from Allah to guide him to the right ruling.
6. He must consult the religious and knowledgeable people and do not depend on himself alone; Allah Almighty commanded His



Prophet: «**Consult with them about matters**» (3:159). The Prophet (PBUH) consulted with his companions in many cases and ordered them to consult. That is why when the Companions and the Followers and those who came after them, may Allah be pleased with them, faced some incident used to consult those who are with them. Therefore, An-Nawawi said: It is desirable for the Mufti to read the question to his attendants who are qualified for that, and to consult and discuss the question with them in a gentle and fair way, even if they are below him in rank or are his students, in order to follow the example of the predecessors (the Companions) and to hope that the hidden aspects of the question may appear, unless there is something in the question that should not be revealed, or the questioner asked to conceal it, or that it may yield some harm if it is revealed.

7. The Mufti must keep the secrets of the questioners and conceal what he knew of



their confidential matters; he is like a doctor who gets to know people's secrets and their confidential matters which no one else is aware of, and he may expose them to harm or danger if he reveals those secrets.

8. He must mention the evidence for the ruling and conclusion, since the evidence is the basis of fatwa. Mentioning the evidence strengthens the fatwa and makes it convincing to the questioner and absolves the Mufti from issuing fatwas without evidence.

Whoever contemplates the rulings of the Ever-Glorious Qur'an, and the honorable Sunnah of the Prophet (PBUH) finds a basis for that which guides to the understanding of the legal rulings and their causes, Allah Almighty says: **«They ask you (Prophet) about menstruation. Say: 'Menstruation is a painful condition, so keep away from women during it. Do not approach them until they are cleansed'»** (2:222). And the Prophet (PBUH) said: "A woman cannot be mar-



ried together with her paternal aunt to one man, neither can the paternal aunt with her niece, nor can a woman with her maternal aunt, nor the maternal aunt with her niece, nor the older with younger, nor the younger with older”

9. The Mufti must be moderate, not so lenient, or strict. The people in this regard are two kinds: Some tend to take thing easy without considering the purposes and rules of Sharia, but implement licenses thinking that this is better for people as long as there is evidence that supports his rulings, whereas others tend to be strict without considering the purposes and rules of Sharia on the basis that this is the safest and most appropriate for the conditions of the people who are predominated by leniency and misusing licenses, which in the end leads to the departure and negligence of the Sharia rulings.

Hence, it is incumbent on the Mufti to take this matter into consideration and not to incline



towards these or those. Rather, he must be with the right thing without exaggeration or negligence and do what is appropriate for the people's conditions; wherever justice exists, Allah's Sharia exists.

10. The Mufti should not issue a fatwa if he is in any situation that prevents him from verification and contemplation, such as a state of extreme anger, excessive hunger, intense anxiety, disturbing fear, severe illness, and strong need to defecation. When he senses something that deviates him from being moderate, or feels unable to verify and clarify the issue, he must withhold the fatwa, however if he issued a fatwa in this case and it was right, then his fatwa is deemed valid.

11. He must issue the fatwa based on the preponderant opinion and the consideration of the situation in order to achieve the most considerable interest. Preponderance does not mean the strength of evidence, but it means



whatever attains the considerable interest even if the opinion was not good enough according to what has been acknowledged by the scholars of the principles of religion. It is not permissible for him to give more than one opinion for each issue or give the questioner a choice and throws him into confusion and uncertainty. Rather, he must explain to him the answer in a clear manner that removes confusion and ambiguity.

12. The Mufti's words must match his deeds, so he should act according to the fatwas he gives on good deeds, and abstain from doing what he forbids people to do; Allah Almighty says: **﴿You who believe, why do you say things and then do not do them? It is most hateful to Allah that you say things and then do not do them﴾** (61:2-3). Al-Khatib related to Al-Qasim bin Muhammad bin Khallad that he said: There is no good in a saying unless it is done.



## **The second topic:**

### **The definition of the questioner, his manners, and the ruling on seeking fatwas**

**First:** The definition of the questioner:

He is the one who seeks to know a legal ruling on something he wants to do and does not know its ruling. There is no difference in this respect between being a natural person or a corporate body, a man or woman.

**Second:** The ruling on seeking fatwas:

It is incumbent on the laymen who do not know the ruling to ask for fatwa, as it is incumbent to act according to the Sharia, because if he did something without knowing its ruling, he may do something forbidden, or leaves in worship what invalidates it, thus he loses its reward and is held responsible for it. Al-Ghazali said: “It is unanimously agreed that laymen are responsible for following the Sharia rulings, and it is



impossible to impose Ijtihad on them, as it leads to the destruction of the professions and turns people's life into chaos, and ruins knowledge and knowledgeable people, therefore, there is no way out but to seek fatwas from the scholars”.

**Third:** The manners of the questioner:

1. The manners with the Mufti: The questioner must be polite with the Mufti, and reverence him in his speech and response. He should not raise his hand in his face, nor should he ask him: What have you memorized about this case, what Malik and As-Shafi'iy said about it. Neither should he tell him that someone else gave me a different fatwa, nor ask him if he is worried or anxious.
2. Choosing the more knowledgeable and pious Mufti: The questioner must seek a highly knowledgeable Mufti unless the Mufti is appointed by the state.

Therefore, the scholars made it obligatory on the questioner to query about the Mufti. An-



Nawawi says about this: “He must definitely, i.e., the questioner, search to know the eligibility of the one whom he asks for fatwa if he does not know that he is eligible for issuing fatwas. It is not permissible for the questioner to ask someone who is ascribed to knowledge and who has been appointed to teach or any other branch of knowledge just by being ascribed to it, however, it is permissible to ask who is widely known to be competent for issuing fatwas.

3. If there are two or more people who can be asked for fatwa: Is it incumbent on the questioner to query about who is more competent than the others? Two answers: One is that he is not obligated to do so, but rather it is permissible for him to ask any of them he wants if both are eligible for that. The second: He must, because he can easily do this query.

The first answer is more preponderant. However, whenever he becomes sure of who is more competent, he must follow him. On the



other hand, if one of them is more pious and the other is more knowledgeable, he must follow the more knowledgeable.

4. Is it permissible for the layman to choose and follow any doctrine he likes? The jurists said that he must distinguish between two matters: The first: If he is a follower of a certain doctrine, then, according to the majority of scholars, he must ask the scholars of his doctrine, so, if he is a Shafite, he should not ask a Hanifite, neither can he contradict his Imam since he believes that his doctrine is the right one. The second: If he does not follow a certain doctrine, then he has two choices: The first is that he must adopt a certain doctrine to follow its rules. The second: He is not obliged to do that, as none has been obligated to do so in the first centuries of Islam.

However, if this is what has been said by the jurists in their times, then the fatwas in our time must be unified, so that the people may not be disunited, and their legal rights may not



be confused, and the justice intended by Allah's Sharia may not be imperiled.

5. What is the ruling if the questioner received different fatwas? Ibn-As-Salah answered this question saying that the predecessors have many opinions on this:

**The first:** He must take the strictest of them, as it is more cautious and because the right practice is heavy.

**The second:** He can take the easiest of them according to the Prophets Sunnah

**The third:** To do his best to know the most reliable opinion and follow it.

**The fourth:** To ask another Mufti and take the opinion that conforms to the new fatwa.

**The fifth:** He chooses the opinion he likes. This opinion has been chosen by some scholars such as Ash-Shirazi.

6. Is it incumbent on him to ask again if the same incident happened to him again? Two answers: The first, yes, it is incumbent on him



as the former opinion my change. The second, which is more valid, no, it is not necessary for him to ask again as he already knew the ruling, and the Mufti should not change his fatwa.

7. Asking about what is useless: It is disliked for the questioner to ask a lot of questions, to ask about what does not benefit or help in religious matters, to ask about what has not happened yet, to ask about complicated issues, or about the rationale of some worships.
8. To ask by himself. It is also permissible for him to send a reliable person to ask instead of him. Likewise, he can rely on the Mufti's handwriting if he has no doubt that it is his handwriting.

These are the most important qualities and manners that the questioner must possess and care for whenever he asks for a fatwa according to Allah's saying: **﴿(Prophet) all the Messengers We sent before you were simply men to whom We had given the Revelation: you (people) can ask those who have knowledge if you do not know﴾** (16:43).



## Conclusion

I praise Allah Almighty for helping me write this aper, and I invoke Him to make it useful to those who read it. I concluded a number of results, the most important of which are:

1. The post of Mufti is a grand one, and it is not permissible for anyone who is not appointed for it or qualified to it to assume it.
2. This post must not be attained but by those who possess the competence of Ijtihad and issuing fatwas. Moreover, it is not permissible to be taken over by a person with political views or tendencies that encourage terrorism and coat him with religious or jurisprudential character.
3. The necessity of observing moderation in issuing fatwas, away from the two extremes: leniency and strictness.
4. The necessity of adherence to the rulings and purposes of Sharia and its tolerant teachings



that prevent unqualified people from issuing fatwas, that is, those who did not meet the parameters and conditions of issuing fatwas, and whose fatwas became a source of sedition and disagreement among people and called for terrorism and extremism.

5. The necessity of resorting to collective fatwas in contemporary calamities and novelties through jurisprudential academies as an alternative to individual fatwas, as well as respecting the bodies concerned with fatwas such as Al-Azhar, the Ministry of Awqaf (endowments) and the Egyptian academy for fatwas.

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## **The bad effects of taking fatwa from unqualified people**

By:

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It is known that authentic knowledge of the rulings of Allah on calamities that affect individuals and organizations is among the obligatory matters, just as what is necessary for fulfilling an obligation is an obligation. Deserting this right path leads to abandoning resorting to Allah's Shari'a and leads people to disagreement and following whims and prejudice, and what leads to all of this is certainly prohibited. Hence, fatwa must be cleared of the matters that corrupt it and drag people to the forbidden things. This is one of the most important issues of jurisprudence that we should discuss and remind the people of,



in order to avoid its negative effects. This will be shown in the following points:

### **The first point:**

#### **Invalidity of fatwa**

Invalidity is the opposite to legitimacy and goodness, and in the field of fatwa it means that fatwa has not been issued by a righteous person whose words and actions are motivated by observing Allah Almighty, because if he was mindful of Allah, he would have known that Allah Almighty records every word he utters. Allah Almighty says: **﴿Over you stand watchers. Noble recorders. Who know what you do﴾** (82:11-13).

The jurists defined fatwa with various definitions, but it is enough for us here to only quote the Hanbali's definition, as it is the clearest, easiest, and most understandable one. They said that fatwa "shows the legal ruling to whomever asks for it".



The Mufti is the competent scholar who can issue the legal rulings on different incidents based on evidence, and who memorizes most of the jurisprudence.

Hence, it becomes clear to us that a fatwa should be issued by a strong person who is well versed in jurisprudence, who fears no reproach in the cause of Allah, because he observes Allah in all his words and actions.

### **The second point:**

#### **The conditions that must be met by the Mufti**

The jurists agreed that the conditions that must be met by the Mufti are: To be a Muslim, mature, sane, just, knowledgeable of the abrogating and abrogated Ayas or Hadiths, knowledgeable of the sources of Sharia; the Qur'an and Sunnah. Therefore, fatwa is deemed invalid if it has been issued by a person who is non-Muslim, underage



boy, insane, libertine, unaware of the abrogating and abrogated Ayas or Hadiths or unable to distinguish between them so that he may not endorse the abrogated and leave the abrogating. Fatwa cannot be accepted also from a person who is not knowledgeable of Sunnah so that he may not endorse the weak Hadith and leave the authentic one. It is also a condition to be well-versed in Arabic in order to distinguish between the normal and metaphoric phrases.

These are the most important conditions on which they agreed and did not differ. It is not acceptable or reasonable to find a person lacking the scruples of jurisprudence then he exposes himself to issuing fatwa and feels happy to gather people around him, to give fatwas to them on what he knows and what he does not know. He wants to please himself first and foremost and does not care for pleasing Allah Almighty. He pretends to forget that the Companions of the Prophet (PBUH) who were taught by the best teacher, were never



dared to give fatwas for no reason but their care for pleasing Allah. That is why the Mufti must be a pious, mindful person who would always keep himself away from accusations so that people would not mistreat him.

### **The third point:**

#### **Reconsidering his fatwa**

The Mufti is a human being. Human beings may do the right thing or make mistakes. So, as long as he addresses the cases of issuing fatwas, then he is a mujtahid, and the mujtahid is rewarded anyway, since if he practiced Ijtihad and came to the right ruling his reward will be twofold, but if he was wrong, he will receive one reward only. This means that he is always right according to what has been agreed upon by our reverent jurists, as long as the Mufti is competent.

Therefore, if the Mufti reconsidered his fatwa and changed it, the questioner who knows that



the Mufti has retracted his fatwa, must revoke the first fatwa, and follow the new one. But if he did not know and acted according to what he knew, then he is impeccant, and there no disagreement among the jurist about that.

We have seen the Companions (may Allah be pleased with them all) have issued fatwas on different matters and then revoked them, but they used to inform the questioners of the change of the fatwas so that they may not act according to the first ones. For example: Ad-Daraqutniy narrated that our master ‘Umar (RA) wrote to Abu-Musa Al-Ash’ariy saying: “Nothing should prevent you from reconsidering a ruling that you issued today, if you rethought about it and was guided to the right one. The right is right, and nothing nullifies it, and retreating to the right is much more virtuous then insisting on the wrong”.

The evidence that can be concluded from this narration is that if the judge realized that he issued a wrong verdict because he contradicted a text or a unanimous opinion, it is incumbent



on him to revoke that verdict, and this does not discredit him, because if he shies from people, he must be shy from Allah, and he has to declare it to the people.

It was narrated in Sunan Al-Baihaqi that ‘Umar (RA) in one of his sermons commanded the people not pay more than is reasonable for women’s dowry, then a woman said to him: Which should be followed, your words or Allah’s words? Allah’s words of course, he said, then she said: you commanded the people not to exaggerate in paying dowry to women, whereas Allah says: **‘If you have given her a great amount of gold’** (4:20), then, Umar revoked his commandment.

### **The fourth point:**

#### **Change of fatwa**

Fatwa may change from time to time, from place to place, and from tradition to tradition. All of this has already happened and is acceptable if it does not entail contradiction to the Qur’an or



Sunnah, but if contradicted either, the fatwa would be invalid and cannot be enacted.

Invalidity is rejected regardless of its form or content. Therefore, our reverent jurists did all their best to reach the correct rulings that accord with Allah's Book and His Prophet's Sunnah. Had we committed ourselves to following this path, we would not have seen any corruption in fatwas at any time or place. What led to corruption in fatwa is following a whim or illegal approaches. There are many examples that show that our eminent jurists considered the change of time and place, and the people's traditions and customs. Among these examples:

- 1. Change of fatwa by the change of time:** In the era of our master Allah's Messenger (PBUH), if the husband divorced his wife three times with one word, that is, said to her: You are divorced three times, or you are divorced by three, one divorce takes effect, but the situation changed at the era of our master 'Umar (RA).



It was related in Sahih Muslim to ‘Abdullah bin ‘Abbas that he said: Divorce at the era of Allah’s Messenger, Abu-Bakr, and two years of the era of ‘Umar was counted as one even if the husband said to his wife: You are divorced three times. Then ‘Umar said: The people have become hasty in a matter in which they have had a chance to weigh it up, what if we applied to them what they say! So, he applied it.

The evidence that can be concluded from this is that at the era of Allah’s Messenger, Abu-Bakr, and two years of the era of ‘Umar divorce used to be counted as one occurrence even if the husband uttered the word ‘three’. But when ‘Umar saw the people take the matter of divorce easy, he wanted to punish them to prevent them from uttering this statement to achieve a great benefit to the society, because if the husband knew that if he said to his wife: you are divorced three, the divorce will be counted as three, and his wife will be forbidden to him, and he will



not be able to remarry her before another man seriously marries her, and he can propose to her only after the new husband divorces her, he will certainly take the matter of divorce more seriously. The Companions unanimously agreed on our master ‘Umar’s opinion.

This shows that fatwa can be changed by time, as the time of the Prophet (PBUH) was a time of piety and observing Allah Almighty, but when the people’s behavior changed, the ruling changed accordingly.

**2. Change of fatwa by the change of place:** It is proven that The Prophet (PBUH) “enjoined that the Fitr charity be a dry measure of barely or dates on the young and the old, the free and the slave”.

The evidence to be concluded from this Hadith is that the Prophet (PBUH) has defined the kinds of food a person can offer for Fitr charity, in terms of what was available at the time



and environment in which he lived. But whatever may be available in one place may not be available in another. That is why the jurists differed about what should a person offer for Fitr charity: Should he only offer what the Prophet (PBUH) defined in that Hadith? Or can he shift to other kinds as long as the interest of the poor requires that, given the environment in which the person lives, in order to achieve the interest of the charity giver and the receiver? Here we see that the difference in location has an impact on the fatwa, but this is conditional on achieving the collective interest not the individual interest. So, the Mufti who does not consider the collective interests is the cause of the invalidity of fatwa.

### **3. Change of fatwa by the change of condition:**

It is known that the jurists agreed that it is not permissible for a menstruating woman to perform Tawaf until she becomes cleansed. But change of conditions causes so many changes especially in our recent time. In the



past, for example, there was no permission needed to enter Makkah or to book a room in a hotel. But the situation changed, and it became necessary to have a passport and visa for a specific time and to book hotels, planes, or other means of transportation. So, time became limited by hours, and nobody can violate the specified time. That is, in the past there was no penalty on the person if he stayed a week, month, or year in Makkah, but after the change of situation, fatwa had to be changed.

Based on the forgoing, Sharia rulings that are proven by a Qur'anic text or a prophetic Hadith, cannot be changed or altered, because the principles of Sharia are fixed. But the people's situations are various and unlimited, so, we may find a ruling supported by evidence conditioned by achieving the people's interests, therefore, if the situation changed, the ruling must be changed accordingly to achieve the people's interests.



An example for that is ‘Umar’s stand towards those whose hearts need winning over. The Prophet (PBUH) used to give them to win their hearts, because some of them was the reason that all his people adopted Islam. But at the era of ‘Umar (RA), ‘Umar stopped paying them their due alms due to the change of situation which entailed the change of the ruling.

The Mufti must be smart towards what he is tackling so that he may not contribute to prevailing corruption. It is not permissible for him to compliment on the expense of Islam, because compliment from the Mufti is different from compliment from any other person. So, if he violated the proper approach, he becomes corrupt and mischievous.

The invalidity of fatwa is in fact one of the Signs of the Hour. This is supported by what has been related to ‘Amr ibn Al-‘As that our master Allah’s Messenger said: “Allah does not take knowledge



away from people suppressively, but He takes it away by making the scholars die, until when He leaves no scholar, the people take ignorant heads who are asked and gave fatwa without knowledge, thus, they lost the way and misled others”.

### **The fifth point:**

#### **The reasons of invalidity of fatwa**

The invalidity of fatwa is a great evil and a grave danger. Because if the fatwa issuer does not observe Allah in his words and actions, he will compliment and favor some fatwa seekers, and the Mufti must not be like this, because the basic characteristics of the Mufti is that he is like a doctor who must diagnose the disease so that he can prescribe the effective medicine for curing the patient with the permission of the Lord of heaven and earth.

There is much evidence in the Qur'an and Sunnah that show us the end of those who spread



corruption in the earth, daring to issuing fatwas without knowledge, or saying what is not true for the sake of falsehood he wants to achieve.

Therefore, Imam Ash-Shatibiy said in his book *Muwaaqaat*: “The most mature Mufti is the one who leads people to moderation. That is, he does not adopt a harsh tendency nor a lenient one”. Then he says: “The aim of the legislator is to take people towards moderation without exaggeration or negligence”. And at the end he says: “Therefore, whatever deviated from the moderate state is detested by the scholars who are firmly grounded in knowledge because this is what was understood from the behavior of the Prophet (PBUH) and his honorable Companions. The Prophet (PBUH) rejected the abstention from marriage, and said to Mu’az when he spent a longer time in prayer: “Why do you get people weary in prayers Mu’az? This means that the sound fatwa is that which is derived from the evidence that achieve people’s interests without exaggeration or negligence.



- Let's ponder on Allah's saying: **﴿Say (Prophet), 'My Lord only forbids disgraceful deeds – whether they be open or hidden -, and sin, and unjustified aggression, and that you, without His sanction, associate things with him, and that you say things about him without knowledge﴾ (7:33).**

The significance of this Verse is that Allah Almighty grouped the major sin, that is, associating things with Him, with saying things about him without knowledge together in one Verse, which means that the issuer of invalid fatwa bears its unbearable consequences before Allah Almighty.

- Let's also contemplate the following two Verses: **﴿Say, 'Think about the provision Allah has sent down for you, some of which you have made unlawful and some lawful. Say, 'Has Allah given you permission (to do this), or are you inventing lies about Allah?﴾ (10:59).**

**﴿Do not say falsely, 'This is lawful and that is forbidden, inventing a lie about Allah: those**



**who invent lies about Allah will not prosper»**  
(16:116).

The significance of the two Verses is that: These two verses remind any person who says things about Allah without knowledge of the grievous punishment that awaits him and threaten whoever dares to issue fatwa without knowledge with due torture.

Therefore, we have seen Imam Ahmad bin Hanbal (RA) explain to us the heavy burden of fatwa, and that it is not permissible for just anyone, as if he were addressing those who dare to give fatwas, and those who turned corrupt and spread corruption. Fatwa has its own men, and those who address it must be qualified and able to bear its consequences before Allah Almighty and the people. So, Imam Ahmad ibn Hanbal said;” A man should not address fatwa unless he possesses five characteristics:



**First:** He must have an intention, if he does not have an intention, neither he nor his words will have light.

This means that the Mufti's intention must be sincere to Allah Almighty when he issues a fatwa, that is, he does not intent to gain money, prestige, or power of it. The one whose intention is sincere to Allah, Allah will be with him. So, if the Mufti's intention is insincere, his fatwa will be invalid.

**Second:** He must have knowledge, forbearance, reverence, and serenity, because whoever issued a fatwa without knowledge, his fatwa is invalid, and he is exposed to the wrath of Allah. It was narrated in Sunan Ad-Daramiy that the Prophet (PBUH) said: Whoever was given fatwa without knowledge, his fault is on the one who gave him the fatwa”, and Allah Almighty said: **«On the Day of Resurrection, you (Prophet) will see those who told lies against Allah, their faces darkened. Is there no home for the arrogant in**



**Hell?** (39:60). This is the consequence of telling lies against Allah Almighty.

The Mufti should be characterized by forbearance, as it is the garment and beauty of knowledge. By knowledge a person is known, and the intense of forbearance supports him. Reverence and serenity are among the fruits of forbearance. Let the Mufti contemplate the Prophet's stand towards the Bedouin who urinated in the mosque and the Companions attacked him with sharp tongues, we saw him telling the Companions: "Leave him alone and pour a bucket of water on his urine; you have been sent to make things easy, not difficult".

**Third:** He must be strong. Because if the Mufti is not strong, he may invalidate his fatwas by retreating in a situation where he must step forward, or step forward where he must retreat.

**Fourth:** He must be self-sufficient, that is, the Mufti must be independent of what is in the



people's hands, so that he may not look at what is in their hands, and do not ask them for anything. This is because whoever asks the people for anything, will have to compliment them, and whoever is dependent on others, his fatwa will be invalid; and whoever is in this state of affairs, the people will keep away from him, and reject his knowledge and fatwas.

**Fifth:** He must be acquainted with the people's conditions, because he who does not know the people's conditions, his fatwa will be invalid.

Among the reasons that invalidate the fatwa is the brief answer that lacks explanation to the question. The Mufti should be aware of the Prophet's way of answering questions; he used to listen to the question and answer it, then add whatever is needed to remove any ambiguity that might be included in the answer. An example of this is what is narrated by At-Termiziy in his Sunan that the Prophet (PBUH) was asked about



ablution by the sea water, and he said: “Its water is clean, and its dead fish is halal to eat”.

Therefore, the Mufti must be clever, sharp, and insightful into the people’s conditions, so that the people may not be embarrassed, and the Mufti may not cause the questioner to misunderstand, of because lack of insight and lack of experience in people’s conditions lead to invalidity of fatwa.

### **Conclusion**

After we have learned about the meaning of fatwa, Mufti, the characteristics of Mufti, and the reasons that lead to the invalidity of fatwa, it becomes clear that if the Mufti does not adopt the morals Allah has ordained and behave according to the manners of our master Allah’s Messenger (PBUH), then his fatwa is invalid because he says what he does not do.

A living conscience is what leads to the pleasure of Allah Almighty, and our reverent



jurists did not fear anyone's reproach in the cause of Allah, so, they lived with the truth, and were with the truth. If this indicates anything, then it indicates that the post of the Mufti is of great significance, as the Mufti's mission is great, and his position is important. For this reason, it is the duty of everyone who finds himself qualified to issue fatwas to be very careful so that he can explain the truth to the people, no matter how diverse their questions are, and whatever the status of the questioner is, because issuing fatwas should not be effected by the private interests, rather, it should target the public interest that does not make people inclined to whims or miss the right way because of the invalid fatwas.

We also have seen that Islamic Sharia is flexible for every time and place, and that the Sharia requirements are indispensable for academic research.

Among what caused the invalidity of fatwa is that the person in charge of it is either negligent or pretends to be strict, and this contradicts the



approach of our master the Messenger of Allah (PBUH).

Among the reasons that lead to the invalidity of fatwa is the compliment at the expense of the truth, and how many are they who compliment at the expense of the truth in our time, and how many are those who think they deceive Allah while He is deceiving them as they change their color and words in councils according to what the council requires.

This bad behavior does not befit the Mufti in any way, because he utters the inheritance of the prophethood. Therefore, he must be adroit: not inclined to anyone's whims nor waiting for anyone's satisfaction, because the one who deserves satisfaction is Allah Almighty alone, He alone is the Possessor of grace and favor, the One who deserves to be worshipped without anyone else, He is the life-giver and taker, and all matters are in his hand and under his will.



Therefore, Imam An-Nawawi said: He (the Mufti) should beware not to be inclined against the questioner or his opponent. Such inclination takes many forms; one of them is to write to him less than he owes, or to inform one of the opponents how to reply to his opponent's argument, because the inclination in fatwa is a way to corruption and leads to the people's mistrust in the fatwa and the Mufti who follows whims and does not follow the truth.

Another reason for the invalidity of fatwa is the lack of clarification of the correct statement to the questioner. This makes the questioner take the fatwa according to what he understands, because the Mufti did not explain the ruling to him in a way that would prevent any suspicion or confusion to him. A man came to Al-Khalil ibn Ahmad and asked him a question, but he was so slow to answer, so, the questioner said to him: Why are you waiting? It does not need such a long thinking, so he said: I knew the issue and its



answer, but I am thinking of an answer that would be faster for you to understand.

In the end, I ask Allah for success and guidance, for He is the best Guardian and the best helper, and He is able to do whatever He wills. May Allah's blessings and peace be upon our master Muhammad, his family, and Companions.

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## **Satellite fatwas: Their rulings and impacts**

By:

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The world lives in a communication revolution today. Communication engineers invented various means by which people communicate all over the world, the matter that made the world in the reach of every human being. Any human being can know the news of all countries of the world, the disposition of the people, their behavior, their religions, and the extent of their progress or backwardness. All this takes place in moments by means of devices controlled by the fingers of human beings via satellites that transmit images and facts to different places of the world.



Hence, satellite channels have spread in all countries of the world, and their number in each country became countless. They employ huge numbers of people, who are skilled in showing everything new and exciting with the intent of gaining the largest number of viewers. The competition between these channels is at the global level, not at the level of a single country.

Each channel strives, excels, and invents new and attractive materials that it presents to the people. Religion had a large share in these channels, especially in the field of issuing fatwas. These channels compete in what they present of controversial and strange fatwas on certain subjects, which increase the number of viewers and those who participate in the conversation; the matter that has dragged these channels into serious mistakes and raised major problems in different societies.

Whatever the case is, we are investigating here what is meant by the term “satellite TV fatwas” to



pinpoint their benefits and risks, to discuss the legal rulings on these fatwas and their impacts on societies.

What is meant by satellite TV fatwas: the phrase satellite fatwas consists of two words: The word 'fatwas': a plural of fatwa and it means lexically: The answer to what constitutes a legal or Sharia issue, and terminologically means: The explanation of a legal ruling based on evidence to whomever asked about it.

The word 'satellite' lexically means something existing in the space between the heaven and earth, and terminologically means the channels that broadcast their material through space.

Based on this, what is meant by 'satellite fatwas' is an explanation of the rulings related to legal matters based on evidence for those who ask about them via satellite channels.

Among the benefits of satellite fatwas are:

1. Providing platforms for scholars.



2. Meeting the needs of the community to know religious matters.
3. Informing the scholars of all new things in people's behavior and conduct.
4. Unifying the opinion of scholars and Muftis on similar issues.
5. Spreading knowledge of the legal rulings on a wide scale in a short time.
6. Enabling the Muslim masses to increase their religious intellectual attainment.

Among the dangers of satellite fatwas are:

1. Dissemination of doctrinal disputes among the public.
2. Overlooking the particularities, place, and circumstances of the questioners.
3. Confliction between satellite fatwas on the same issue.



4. Issued by those who are not qualified to give fatwas, seeking licenses, or disseminating extreme fanatic thought out of ignorance, marketing the channel, or for supporting extremist terrorist goals.

In addition to other dangers that cause people to be perplexed, lose confidence in knowledge and scholars, and raise serious problems.

### **The ruling on satellite fatwas**

If we search for rulings on fatwas of satellite channels and scrutinize them, we find that these fatwas are subject to several rulings, be it on the fatwas per se, the Mufti, or the satellite owner, as follows:

**First:** Individual obligation: Asking for fatwa through satellite channels may be an individual obligation on the questioner if he did not find any other way to take a fatwa on his problem, like a traveler who has no connection except through



satellite dishes and faced a religious problem for which he wants to know the ruling, so he has to ask for a fatwa through satellite channels.

Also, fatwa is an individual obligation for the Mufti, if there is no other scholar who is qualified for issuing fatwas through satellite channels.

Also, it is an individual obligation on the owner of the channel or its manager to allocate time for issuing fatwas if here is no other way to give fatwas except through satellite channels, as it is the case for Muslims who live in non-Muslim countries, since the presence of a Mufti in every town is rare, therefore, it is obligatory on the owner of the channel to provide this service to those Muslims.

**Second:** Collective obligation: The fatwa is a collective obligation if there is another means by which the questioner can know the legal ruling, such as the availability of the service by phone



or through satellite channels which employ qualified person for giving fatwas.

With regard to the Mufti if there is more than one who is qualified to address the fatwa, then one of them must address it otherwise, they are sinned.

As for the owner of the channel, there is no sin on him if the service is available through other channels, but if none of them allocated time for rendering this service, all of them sinned.

**Third:** Desirable: Issuing fatwas via satellite channels is desirable for the questioner if he intends to benefit other viewers by spreading knowledge through raising legal questions on issues relevant to his reality and benefit him and others.

Issuing fatwas is also desirable for the Mufti if he intends to spread knowledge and fulfil his mission in educating people and clarifying the



legal rulings for them. It is also desirable for the owner of the channel if he intends to allocate time on his channel to provide this service for benefiting and educating people, helping them occupy their time in what benefits them in this world and in the hereafter, and achieving financial profit for him.

**Fourth:** Permissible: It is permissible for the fatwa seeker to ask for it through satellite channels if he is in need of it, while other means of obtaining fatwas are available, and his question does not provoke sedition or the like.

It is also permissible for the Mufti, if he possesses the scruples of fatwa, and is qualified for issuing it, and is aware of the reality and the contemporary issues and is motivated to spread knowledge through this means.

It is also permissible for the owner of the channel if he wants to provide a service to Muslims in exchange for the benefits he receives.



**Fifth:** Forbidden: Issuing fatwa is forbidden for the questioner if the question leads to provocation or sedition, or when he asks unqualified people and he knows that they are unqualified for issuing fatwa.

It is also forbidden for the Mufti to issue fatwa on satellite channels if it deals with issues that provoke sedition or spread discord, or when he does not know the legal rulings, their sources, or did not understand them, or if he was ignorant and unaware of the reality and that fatwa changes with the change of reality.

As for the owner of the channel, allocating time for fatwa on the air is forbidden if the fatwa or the Mufti raises forbidden issues such as sedition, conflict, or taboos, or the Mufti is ignorant.

### **The bad impacts of the satellite fake fatwas**

Certainly, the satellite fatwas that are controlled by the principles of Sharia and issued



by specialized scholars have opened a wide area for the dissemination of Sharia knowledge. It provided many commoners with an opportunity to acquire knowledge and gave societies ample space for the exchange of religious ideas, sufficient time to engage in knowledge, and a good means of eliminating religious illiteracy.

Despite all this, satellite fatwa programs and the fatwas issued by unqualified Muftis who give fatwa without knowledge certainly have negative impacts which we can summarize in the following points:

1. The phenomenon of extremism: There is no doubt that the satellite fatwas issued by non-specialists have provided the opportunity for some extremists to spread their poison and misleading thoughts in the form of fatwas that boast fanaticism and encourage radicalism.
2. Addressing fatwas by unqualified people: We see some people who address fatwa without



having any knowledge or qualifications, but only relying on a fake appearance of short white garments and big beards. Many simple people get deceived by those people, and due to lack of knowledge, those fake Muftis resort to provoking problems, and insulting people instead of taking about what benefits the viewers.

3. Answering all random questions: It is noticeable that these pretenders answer all questions that are put to them in various fields of knowledge, be it economy, worship, transactions, marital law, inheritance, or technical matters. I have never heard one of them say: I do not know or ask for a chance to investigate the issue well. They have not acquired the culture of Ibn Mas'ud's (RA) who said: He who gave fatwa on everything that people ask is insane.
4. Giving fatwa without evidence: As a result of



answering all the questions addressed to the one who gives fatwa on air – many of which are random questions – the answer comes without evidence from the Ever-Glorious Qur'an or the Prophet's Sunnah, and without detailing and deepening it, which makes the questioner fall into clear errors.

5. Utilizing fatwa on air to provoke serious problems: Some people take advantage of the opportunity that they are on air to raise a specific issue with the intent of slandering, insulting, and provoking problems, be it: social, political, scientific, or even religious.
6. Difference in rulings on one issue: The multiplicity of satellite channels that allocate programs for fatwas and their different orientations definitely result in different rulings, which lead to a difference of judgment for one issue, and then confusion to the people regarding which ruling is worth following.



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