

**FATĀWĀ AND THEIR DEVELOPMENT SINCE THE EARLY ISLAMIC ERA**

**MOHAMMED SUBHAN DALVI (LLB HONS)**

SUPERVISED BY: PROFESSOR GARY R. BUNT

SUBMITTED IN PARTIAL FULFILMENT FOR THE AWARD OF THE DEGREE OF MRES ISLAMIC STUDIES

UNIVERSITY OF WALES TRINITY SAINT DAVID

2018



## ACKNOWLEDGEMENTS



I would like to take this opportunity to thank Professor Gary R. Bunt for his endless wisdoms, dedicated management and general guidance.

My greatest thanks are reserved for my wife and two children – the newest addition being born two weeks before the designated submission date and thus giving me extra incentive to be stressed!

**NOTE:** Text cited from Arabic literature and found within quotation marks have been translated into English by the author of this research paper unless otherwise stated.

## TRANSLITERATION KEY

ء	' <sup>1</sup>	ز	z	ك	k		<b>SHORT VOWEL</b>
ا	a	س	s	ل	l	ـَـ	a [fatḥah]
ب	b	ش	sh	م	m	ـُـ	u [ḍammah]
ت	t	ص	ṣ <sup>7</sup>	ن	n	ـِـ	i [kasrah]
ث	th <sup>2</sup>	ض	ḍ <sup>8</sup>	ه	h <sup>14</sup>	ـِـ	<b>LONG VOWEL</b>
ج	j	ط	ṭ <sup>9</sup>	و	w	أ	ā
ح	ḥ <sup>3</sup>	ظ	ẓ <sup>10</sup>	ي	y	و	ū
خ	kh <sup>4</sup>	ع	ʿ <sup>11</sup>			ي	ī
د	d	غ	gh <sup>12</sup>				
ذ	dh <sup>5</sup>	ف	f				
ر	r <sup>6</sup>	ق	q <sup>13</sup>				

<sup>1</sup> A distinctive glottal stop made at the bottom of the throat. At times, it is also used to indicate the running of two words into one, e.g. Abu'l Ḥassan.

<sup>2</sup> Pronounced like the *th* in think.

<sup>3</sup> Harsh *h* sound made at the middle of the throat.

<sup>4</sup> Pronounced like the *ch* in Scottish *loch*.

<sup>5</sup> Pronounced like the *th* in this.

<sup>6</sup> A slightly trilled *r* made behind the front teeth which is trilled not more than once or twice.

<sup>7</sup> An emphatic *s* pronounced behind the upper front teeth.

<sup>8</sup> An emphatic *d*-like sound made by pressing the entire tongue against the palate.

<sup>9</sup> An emphatic *t* sound produced behind the front teeth.

<sup>10</sup> An emphatic *th* sound, like the *th* in this, made behind the front teeth.

<sup>11</sup> A distinctive Semitic sound made in the middle throat and sounding to a Western ear more like a vowel than a consonant.

<sup>12</sup> A guttural sound made at the top of the throat resembling the untrilled German and French *r*.

<sup>13</sup> A hard *k* sound produced at the back of the palate.

<sup>14</sup> This sound is like the English *h* but has more body. It is made at the very bottom of the throat and produced at the beginning, middle, and end words.

**ABSTRACT**

In recent years, the study of Muslims and Islam has increased due to the current political climate and various conflicts around the world. The issuing of Islamic legal rulings, otherwise known as *fatāwā*, has drawn interest from Muslims and non-Muslims. This paper seeks to discuss the development of *fatāwā* from the early Islamic era and its importance to Muslims throughout history. The prominence of the internet and social media has been integral in the dissemination of Islamic rulings throughout the world in the current age. In effect, this has given a platform to many individuals who possess varying levels of Islamic scholarship to issue legal reasoning at will. The author discusses polarisation and confusion within the Muslim community due to Islamic legal rulings being so vastly available on the internet. Several *fatāwā* are presented to show the disparity in interpreting Islamic jurisprudence; as a result, a single enquiry regarding ritual worship by a layman may produce multiple answers based on different understandings of the Qur'ān and Hadīth (Prophetic statements). Likewise, the author discusses the classical Islamic ideal regarding the role of a *mufti* (an issuer of Islamic legal rulings) and how this has changed. Classically, a *mufti* was perceived as an individual who possessed knowledge of various sciences and exhibited great piety; his views would be highly instrumental in shaping the methodology practiced by Muslims. At present, the credentials of a web *mufti* are obscure which has made their work difficult to accept or critique. This research paper details such issues and highlights how the concept of *fatāwā* has changed from the early Islamic era to the current, digital age.

## CONTENTS



<b>PART I: THE DEVELOPMENT OF FATĀWĀ AMONG THE EARLY MUSLIMS.....</b>	<b>1</b>
FATĀWĀ AND ITS ORIGINS.....	4
LEGISLATIVE FATWĀ (AL-FATĀWĀ AT-TASHRĪ'ĪYYAH).....	4
THE JURISTIC FATĀWĀ (AL-FATĀWĀ AL-FIQHĪYYAH).....	6
THE SPECIFIC FATĀWĀ (AL-FATĀWĀ AL-JUZ'ĪYYAH).....	7
THE DIFFERENCE BETWEEN ISSUING LEGAL RULINGS (FATWĀ) AND ADJUDICATION/JUDGEMENT (QADĀ').....	7
SCHOLARLY APPREHENSION REGARDING FATĀWĀ AMONG THE EARLY MUSLIMS.....	8
FATĀWĀ DURING THE PROPHET MUḤAMMAD'S LIFETIME.....	12
THE AFTERMATH OF THE PROPHET MUḤAMMAD'S DEMISE.....	16
FATĀWĀ DURING THE ṢAḤĀBAH'S ERA.....	17
THE DEVELOPMENT OF FATĀWĀ AFTER THE ṢAḤĀBAH.....	19
THE DEVELOPMENT OF ISLAMIC LAW THROUGH THE FOUR SCHOOLS OF ISLAMIC THOUGHT.....	24
THE ḤANAFĪ SCHOOL OF THOUGHT.....	26
THE MĀLIKĪ SCHOOL OF THOUGHT.....	28
THE SHĀFI'Ī SCHOOL OF THOUGHT.....	30
THE ḤANBALĪ SCHOOL OF THOUGHT.....	32
THE IMPACT OF SCHOOLS OF THOUGHT ON FATĀWĀ.....	33
WRITTEN FATĀWĀ AND THE DOCUMENTATION OF LEGAL EDICTS.....	36
ṬABAQĀT AL-FUQAḤĀ' (THE RANKINGS OF THE JURISTS).....	37
FATĀWĀ REGARDING ISLAMIC DOCTRINE.....	41
<b>PART II: THE MUFTĪ.....</b>	<b>43</b>
GIVING PRIORITY TO SENIOR AUTHORITIES.....	44
CERTAINTY WHEN ISSUING A LEGAL RULING.....	45
ENSURING EQUILIBRIUM.....	46
PATIENCE UPON BEING DISRESPECTED.....	47
PRESENTATION.....	48
BREVITY IN FATĀWĀ.....	50

USING THE TERM ‘ḤARĀM’ (PROHIBITED) WITH COMPLETE CERTAINTY .....	50
ATTRIBUTING NEW RULINGS TO THE TEACHING OF CREDIBLE AUTHORITIES	51
DESISTING FROM AL-FATĀWĀ ASH-SHĀDHAH (SPORADIC LEGAL RULINGS) ...	52
AUTHENTICATING OR DISAPPROVING OF ANOTHER’S FATWĀ.....	55
A MUFTĪ MUST LOOK INTO THE BEST INTERESTS OF THE QUESTIONER .....	57
THE PIOUS MUFTĪ.....	58
ARE CLASSICAL IDEALS APPLICABLE TO MODERN DAY MUFTĪS? .....	60
<b>PART III: FATĀWĀ TODAY.....</b>	<b>63</b>
ISLAM IN THE 21 <sup>ST</sup> CENTURY.....	63
SOCIAL MEDIA AT THE FOREFRONT OF DISSEMINATING FATĀWĀ.....	66
FACEBOOK FATWĀS .....	67
YOUTUBE SENSATIONS & ABUSE OF AUTHORITY .....	70
DEOBANDI DOMINANCE.....	75
DEOBANDĪ FATWA.....	76
THE E-FATĀWĀ.....	78
ISLAM QA .....	80
OTHER NOTABLE MENTIONS.....	81
POLARISATION IN FATĀWĀ.....	82
SUNNI WARS.....	82
FATĀWĀ AND EXTREMISM .....	85
<b>CONCLUSION.....</b>	<b>90</b>
<b>BIBLIOGRAPHY.....</b>	<b>96</b>
BOOKS.....	96
<b>INDEX.....</b>	<b>104</b>

*“They ask you [Prophet] for a ruling concerning women. Say, ‘God Himself gives  
you a ruling...”*

*Qur’ān 4:127*



## PART I: THE DEVELOPMENT OF FATĀWĀ AMONG THE EARLY MUSLIMS

The Qur'an ushers its adherents to seek answers regarding things they do not know. *Fatāwā* is an integral part of Islamic law and holds great importance within the Muslim community. Today, Muslims around the world access databases searching for answers to their questions regarding ritual worship, transaction, marriage, divorce and so on. However, a 21<sup>st</sup> century shift towards online networking and social media has given a new dimension to the dissemination of Islamic legal rulings. As such, a plethora of varying legal opinions surrounding a single matter have caused polarization within Muslim communities. This treatise seeks to discuss the development of *fatāwā* from the early Islam era; it seeks to highlight the importance given to it by the Prophet Mohammed and his Companions, and how it was developed further with the formulation of the Islamic schools of thought (*madhab*). Essentially, Islam not only scrutinizes an issued legal ruling, but it also thoroughly examines the whether the issuer has adhered to scholarly etiquettes. Such conduct later became known as *Ādāb al-Muftī* (the conduct of a *Muftī*) and was crucial to success within the field of Islamic jurisprudence. Quite simply, the greater one adhered to Islamic ideals and conduct in issuing legal rulings, the greater credence their edicts would hold.

As such, this dissertation aims to discuss the perceptive and physical changes to *fatāwā* and their issuers throughout history. It presents a paradigm shift regarding the dissemination of Islamic rulings due to the advancement of technology and social media. Quite simply, a concept which was initially limited in its outreach has become a worldwide tool for broadcasting one's person Islamic opinion. Previously, both the statement

and its issuer would have been scrutinized greatly, but due to modern day, online anonymity, it can be incredibly difficult to investigate – especially if the ruling is wayward or one that incites terrorism.

In pursuit of this, I have divided this thesis into three parts. The first section discusses the concept of *fatāwā* and its types. It seeks to introduce key concepts and how they developed through the early Islamic era and after the demise of the Prophet Mohammed. Likewise, it discusses the impact the four schools of Islamic thought had on legal rulings and the restrictions it placed upon *muftīs* who subscribed to their teachings.

The second part discusses the *Ādāb al-Muftī* and its importance to *fatāwā*. It aims to highlight the codes which were considered to be binding upon a *muftī* if his edicts were to be given any credibility. As such, his piety and scholarly acumen would be investigated and scrutinized severely. Finally, this section links in with the previous discussion to provide a holistic view of the development of *fatāwā* within the context of codified Islamic jurisprudence.

Lastly, the third part of this thesis presents the shift in ideas pertaining to both *fatāwā* and *muftīs* in the 21<sup>st</sup> century. It discusses how Islamic jurisprudence has broken away from classical ideals and conservative values and has become a point of great discussion on social media. It provides examples of modern-day scholarship and how it contrasts with the principles mentioned in the previous segments. Finally, it discusses where Islamic legal rulings may be developed further in future.

Islam places an emphasis on three forms of worship: (i) bodily worship; as seen in prayer and fasting; (ii) monetary worship; which is found in the payment of *zakah* and charity; (iii) worship which merges the first two types together and this is exemplified by the performance of *Ḥajj* for which

financial and physical strength are incumbent. These forms of worship are legislated and discussed in various passages found in the Qur'ān and the *ḥadīth*<sup>7</sup> of the Prophet Muḥammad. Many a time, the passages appear obscure and require further study to truly grasp them. For example, al-Shāfi'ī (d. 204/820) was questioned as to whether the Qur'ān substantiates *ijmā'* (juristic consensus) but was unable to give an evidential answer until three days later. During this time, he had gone into seclusion and read the Qur'ān thrice in search of proof. He eventually inferred evidence from the verse, "If anyone opposes the Messenger, after guidance has been made clear to him, and follows a path other than that of the believers, We shall leave him on his chosen path..."<sup>8</sup> The purpose of this discussion is to merely highlight the difficulty in interpreting the primary sources of the Islamic faith which form the basis of its jurisprudence. Subsequently, the Qur'ān exhorts its adherents to seek answers when they are confounded by a religious matter. It beckons, "You [people] can ask those who have knowledge if you do not know."<sup>9</sup> Likewise, at a later point, the Qur'ān ushers once more, "And even before your time [Prophet], all the Messengers We sent were only men We inspired – if you [disbelievers] do not know, ask people who know the Scripture."<sup>10</sup> Likewise, the Prophet Muḥammad spoke

---

<sup>7</sup> A *ḥadīth* relates to something the Prophet Muḥammad permitted or prohibited verbally, performed in action or allowed to be done in his presence without a rebuttal. See: Speight, R. Marston . "Ḥadīth." In *The Oxford Encyclopedia of the Islamic World*. Oxford Islamic Studies Online. 15-Dec-2018.

<<http://www.oxfordislamicstudies.com/article/opr/t236/e0286>>.

<sup>8</sup> Ad-Dimashqī, 'Imād ad-Dīn Abū al-Fidā' Ismā'īl b. Kathīr., *Tafsīr ibn Kathīr*, (Lebanon: Maktaba Dar-us-Salam, 2003) 5/580

<sup>9</sup> Abdel Haleem M.A.S, *The Qur'an* (Oxford World's Classics), (USA: Oxford University Press 2008) Qur'ān 16:43. All future references to the Qur'ān are made from this source unless otherwise stated.

<sup>10</sup> Qur'ān 21:7

highly of the one who searches for knowledge regarding his faith. He said, “If anyone pursues a path in search of knowledge, Allāh will thereby make easy for him a path to paradise.”<sup>11</sup> Thus, it can be concluded that there is a great emphasis on seeking answers in the absence of knowledge and furthermore, both of the aforementioned Qur’ānic verses usher towards, ‘those who have knowledge’ or ‘people who know the Scripture’.

The following discussion is largely based upon a Sunni model of religious authority although Shiite sources have been alluded to where necessary.

#### FATĀWĀ AND ITS ORIGINS

The term *fatwā* or *futyā* (pl. *fatāwā*) both bear the meaning of giving an answer to a question whether it be linked to a legal injunction or otherwise. The term was used in the pre-Islamic period as highlighted in the chapter of Yūsuf (Joseph); after seeing a vivid dream, the King of Egypt exclaimed to his courtiers, “Counsellors, if you can interpret dreams, tell me (*aftūnī*) the meaning of my dream.”<sup>12</sup> Similar verses are further found in 12:46<sup>13</sup> and 14:32<sup>14</sup> where an answer (*fatwā*) to a question has been sought. In each of these verses, *fatāwā* has been used for a matter which bears little to no relevance with legal injunctions. It is used purely in its literal sense.<sup>15</sup>

#### LEGISLATIVE FATWĀ (AL-FATĀWĀ AT-TASHRĪ‘ĪYYAH)

Thereafter, the term *fatwā* bears a secondary meaning by which it has become recognised by Muslims and non-Muslims alike; it is considered to

---

<sup>11</sup> As-Sijistānī, Abū Dāwūd Suleimān b. al-Ash‘ath., *Sunan Abī Dāwūd*, (Beirut: Dār ibn Ḥazm, 1997) Ḥadīth #3641

<sup>12</sup> Qur’ān 12:43

<sup>13</sup> “Truthful Joseph! **Tell us** the meaning of seven fat cows being eaten by seven lean ones, seven green ears of corn and [seven] others withered...”

<sup>14</sup> “She said, ‘Counsellors, **give me your counsel** in the matter I now face: I only ever decide in your presence.”

<sup>15</sup> Messick, Brinke. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 4

be an answer to a question which is specifically linked to the legal injunctions and jurisprudence highlighted by the Sharia. Thus, a legislative *fatwā* is defined as a ruling which has been sanctioned by the law-maker (in this case, God). This may be realised by Qur'ānic verses or by traditions (ḥadīth) which document legislative responses to questions posed by the Muslim community during the prophetic era. For example, there are multiple verses<sup>16</sup> which suggest that the Muslim community had approached the Prophet Muḥammad with a query and sought a categorical answer for their disputes. Accordingly, Revelation from the God which bore answers is believed by Muslims to have then been bestowed upon him.<sup>17</sup> Likewise, examples of Legislative *Fatāwā* can also be found in the ḥadīth; ‘Abd Allāh b. ‘Abbās (d. 687) narrated that a woman approached the Prophet and enquired, “Indeed, my mother had undertaken an oath to perform the *Ḥajj* but then passed away [i.e. without fulfilling her oath]. Am I [permitted] to perform the *Ḥajj* on her behalf?” He replied, “Yes, perform the *Ḥajj* on her behalf.”<sup>18</sup>

This form of Islamic governance ceased upon the demise of the Prophet

---

<sup>16</sup> See: “**They ask you** about wine and gambling. Say, ‘In both there is great sin, and some benefits for people. And their sin is greater than their benefit.’ And they ask you as to what they should spend. Say, ‘The surplus.’ This is how Allāh makes His verses clear to you, so that you may ponder.” 2:219, “**They ask you** about women. Say, ‘Allāh answers you about them, and so does what is recited to you from the Book regarding orphaned women whom you do not give what is prescribed for them and tend to marry them, and regarding the weak from the children, and that you should maintain justice for the orphans. Whatever good you do, Allāh is aware of it. 4:127 & “**They ask you** about the mountains. So, say (to them), ‘My Lord will crush them into dust thoroughly, then will turn them into a levelled plain in which you will see neither a curve nor an even place.’” 20:105-107, Qur’ān

<sup>17</sup> See: Qur’ān 2:218-219, 8:1, 58:1 for further legislative rulings which were bestowed upon the Prophet Muḥammad.

<sup>18</sup> Al-Bukhārī, Abū ‘Abd Allāh Muḥammad b. Ismā‘īl., *Ṣaḥīḥ al-Bukhārī*. (Riyadh: International Ideas Home For Publishing & Distribution, 1998) Ḥadīth #1628

Muḥammad as divine Revelation requires a prophet to receive the message and then promulgate it. Subsequently, the Prophet Muḥammad issued guidelines for his successors to follow when developing the foundations that he had set. Mālik narrated that the Prophet Muḥammad said, “I have left behind two things, you will never go astray as long as you fasten unto them – the Book of Allāh (the Qur’ān) and the traditions of his Prophet [i.e. ḥadīth].”<sup>19</sup> Thus, the demise of the Prophet paved way for a new form of *fatāwā* to be advanced – namely, Juristic *Fatāwā* (*al-Fatāwā al-Fiqhīyyah*).<sup>20</sup>

#### THE JURISTIC FATĀWĀ (AL-FATĀWĀ AL-FIQHĪYYAH)

A Juristic *Fatāwā* is typically issued by a jurist in accordance to his understanding of the primary sources named above (i.e. the Qur’ān and *Sunnah*). This is distinguished from the previous type as it is not exclusively documented as answers to communal questions. Rather, a jurist would compile his views on various matters related to Islamic jurisprudence, or alternatively, provide rulings after hypothesising possible situations about which people may ask. Subsequently, the compilation of these *fatāwā* would be published as a book, treatise or exposition on a particular matter. For example, an exposition may have be titled, “What is the ruling of one who exclaims ‘I divorce you’ to his wife during his sleep? Has the divorce been issued?”

This form of *fatāwā* was kept generic and was usually a response to frequently asked questions. Subsequently, an individual who formulates the

---

<sup>19</sup> Mālik b. Anas., *Muwaṭṭa’ al-Imām Mālik* (UAE: The Zayed Bin Sultan al-Nahayan, 2004) Ḥadīth #3338

<sup>20</sup> Messick, Brinkey. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 5

questioner's answer came to be known as a *mufti*.<sup>21</sup>

#### THE SPECIFIC FATĀWĀ (AL-FATĀWĀ AL-JUZ'ĪYYAH)

Quite simply, a specific *fatwā* is an exclusive ruling which may be issued to a particular person, in a certain situation. A common example is of a person who queries regarding the distribution of their inheritance; the *fatwā* which is issued would be in accordance with the questioner's family and their details. Thus, it is of a bespoke nature.

#### THE DIFFERENCE BETWEEN ISSUING LEGAL RULINGS (FATWĀ) AND ADJUDICATION/JUDGEMENT (QAḌĀ')

At this juncture, it is important to distinguish between two concepts: (i) *Fatwā* (issuing legal rulings) (ii) *QaḌā'* (adjudication/judgement) as they bare similarity but remain different. The difference between them are as follows:

A *fatwā* merely seeks to elucidate a Sharia ruling regarding whether something is *halal* (permitted), *ḥarām* (prohibited), desirable or disliked. It is not binding upon the one seeking the *fatwā* to abide by it. On the contrary, a judgement (*qaḌā'*) is a binding decision made by a Muslim judge upon an individual who must adhere to the verdict. However, despite this, a *fatwā* would hold a moral implication for a believer, especially in highly religious communities.

A *fatwā* is dependent upon a juristic question from a questioner or perhaps the issuer himself; the *mufti*<sup>22</sup> will issue an Islamic ruling as to its permissibility or prohibition etc. On the contrary, a judgement may be passed without a query being raised. Consider the example of a curfew or a prohibition on female drivers, which has been the cause of great

---

<sup>21</sup> Messick, Brinkey. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 8

<sup>22</sup> See pg. 2

controversy in Saudi Arabia.

A *fatwā* may be issued regarding matters beyond Islamic jurisprudence (*fiqh*) and law; it is common to have *fatwā* regarding various Islamic sciences such as *‘aqā’id* (core beliefs), dream interpretations and so forth. Contrastingly, *qaḍā’* primarily, if not exclusively, focuses on Islamic law and bears no great influence over other Islamic sciences.

#### SCHOLARLY APPREHENSION REGARDING FATĀWĀ AMONG THE EARLY MUSLIMS

However, it would be incorrect to say that Muslims scholars classically welcomed issuing *fatāwā* despite their expertise. The great *shāfi’ī*<sup>23</sup> scholar, an-Nawawī<sup>24</sup> (d. 1277), writes, “Know that issuing *fatāwā* is incredibly perilous; [it bears an] opportunity to gain mastery; and bears great excellency. This is because a *muftī* is an inheritor of the Prophets [of God], may God’s blessings and peace be upon them. It is adhering to a communal obligation but nevertheless, it is a hazardous position. This is why it said, ‘a *muftī* is God’s signatory.’” This highlights that issuing legal rulings was seen as a communal obligation which bore great responsibility. A wayward edict or an unsubstantiated ruling was seen as a crime worthy of divine

---

<sup>23</sup> In reference to the founder of the *Shāfi’ī* school of thought, Muḥammad b. Idrīs ash-Shāfi’ī (d. 204/280).

<sup>24</sup> An-Nawawī: Yaḥya b. Sharaf an-Nawawī, the Sheikh, the Imām, the Knowledgeable, Muḥī ad-Dīn Abū Zakariyyā?. He was born in the year 631/1222 in Nawā (modern day Syria) and proceeded to Damascus at the age of nine where he commenced his education. His student, Ibn al-Aṭṭār stated, “The Sheikh (an-Nawawī) related to me that he would not waste time during the night, nor the day. He would remain busy, even when he was walking on the streets. He remained like this for six years and thereafter, he busied himself in writing, disseminating knowledge, counselling etc.” He spent most of his life authoring famous publications in a variety of fields, from among them is his commentary of *Ṣaḥīḥ Muslim*. Towards the end of his life, he returned to Nawā where he fell ill for a number of days. He then died in the year 676/1277 at the age of forty-five.



reprimand. Subsequently, *muftīyūn* (pl. *Muftī*) were found to show great trepidation when issuing legal rulings. This may be due to the statement of the Prophet Muḥammad who said, “The most brazen from among you in giving *fatāwā* will be the swiftest in being put in the Fire.”<sup>25</sup> As a result, the early Muslims and in particular those who were the disciples of the Prophet Muḥammad, almost bore enmity towards issuing rulings. There are various narratives which suggest this; ‘Uqbah b. Muslim who was a friend to ‘Abd-Allāh b. ‘Umar (d. 73/693) mentions, “I accompanied ‘Abd-Allāh b. ‘Umar for thirty-four months and he would answer the majority of enquiries [for *fatāwā*] with, ‘I don’t know the answer.’ He [once] turned to me and said, ‘Do you know what all these people intend? They intend to make our backs a bridge over the Fire [upon which they can traverse safely into Paradise].’”<sup>26</sup> The idea presented by ‘Abd-Allāh b. ‘Umar is that a general Muslim may be pardoned in the hereafter as they were following the guidance of a *muftī*. However, the *muftī* may not be pardoned as he caused deviance, interpolation and misinterpretation of the divine scripture and prophetic maxims. As a result, he would be held culpable for the communities he misled. Such a notion has been further elaborated upon by al-Khaṭīb al-Baghdādī (d. 464/1071)<sup>27</sup> who has used verses of the Qur’ān to highlight the

---

<sup>25</sup> Ad-Dāramī, Abū Muḥammad ‘Abd Allāh b. ‘Abd ar-Raḥmān., *Sunān ad-Darāmī* (Riyadh: Dār al-Mughnī, 2000) Ḥadīth #159

<sup>26</sup> Usmānī, Muḥammad Taqī., *Usūl al-Iftā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 18

<sup>27</sup> Al-Baghdādī: Aḥmad b. ‘Alī b. Thābit b. Aḥmad b. Maḥdī Abū Bakr al-Khaṭīb, the Great Memoriser [of Islamic narrative]. He was born in the year 392/1002 and he was a speaker along with his father in Iraq. He gained knowledge of Islamic jurisprudence in Baghdad from al-Qāḍī Abū aṭ-Ṭayyib aṭ-Ṭabarī who was considered to be a master of the *Shāfi’ī* school of thought. He is considered to be one of the greatest memorisers of ḥadīth and is renowned for his work in the same field. He has authored over sixty publications among which are his famous works, ‘*Tārīkh Madīnah as-Salām*’ and ‘*Tārīkh al-Baghdād*’. He passed

culpability attributed to a *mufti*. He writes under the title, ‘Caution Regarding the Issuing of *Fatāwā* Recklessly Due to Haste’: God has said, ‘Their claim will be put on record and they will be questioned about it’<sup>28</sup>, ‘God will question [even] the truthful about their sincerity...’<sup>29</sup>, ‘He does not utter a single word without an ever-present watcher.’<sup>30</sup> The Companions, may God be pleased with them, did not come close to issuing legal rulings about things besides which verses had already been revealed...each from among them hoped that their colleague’s *fatwā* would suffice.”<sup>31</sup>

Such apprehension filtered through to the generations which succeeded the Prophet’s era and those of his companions. Sufyān b. ‘Uyainah (d. 198/814)<sup>32</sup> had been particularly vocal in voicing his opposition to issuing legal edicts. He is documented having stated, “The most learned individual regarding *fatāwā* is the one who is most silent about it and the most ignorant one [regarding *fatāwā*] is the one who is most vocal about it.”<sup>33</sup> Such a statement is considered to be profound in a scholarly context; despite his

---

away in 464/1071 in Baghdad and was buried beside the great mystic, Bishr al-Hāfi. (*Siyar A‘lām an-Nubalā’* 18:270)

<sup>28</sup> Qur’ān 43:19

<sup>29</sup> Qur’ān 33:8

<sup>30</sup> Qur’ān 50:18

<sup>31</sup> Al-Baghdādī, Abī Bakr b. Aḥmad b. ‘Alī b. Thābit al-Khaṭīb., *Kitāb Al-Faqīh wa al-Mutafaqqihah li al-Khaṭīb* (KSA: Dār b. al-Jawzīyyah, 1996) 2/349

<sup>32</sup> Sufyān b. ‘Uyainah; Abū Muḥammad b. Abū ‘Imrān Maymūn Mawlā Muḥammad b. Mazāḥim. The Great Imam, the Memoriser of the Generation, and the leading authority of Islam. He was born in the year 107/725 Makkah after his father had fled Kufa due to political strife. Sufyān b. ‘Uyainah became an authority in the field of ḥadīth and exegesis of the Qur’ān and the famous biographer, ad-Dhahabī (d.748/1348) describes him as *Sheikh al-Islam* (the leading authority of Islam). It is said that Sufyān b. ‘Uyainah perform the Ḥajj seventy times during his lifetime and would supplicate for the ability of make the pilgrimage once more the following year. After having completed seventy Ḥajj, he is said to have felt too shy to make the same supplication again. Thus, he passed away within the next year.

<sup>33</sup> Usmānī, Muḥammad Taqī., *Usūl al-Iftā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 15

proficiency and eligibility in issuing legal rulings, Sufyān b. ‘Uyainah disliked doing so. Such was Sufyān’s scholarly acumen, the great Imam Muḥammad b. Idrīs ash-Shāfi‘ī (d. 204/820), the founder of the *Shāfi‘ī* school of thought (one of the four main schools of Islamic thought), stated, “I have never seen an individual in whom God has imbued the tools of issuing legal verdict more than Sufyān b. ‘Uyainah.”<sup>34</sup> However, the fear of making a mistake was severe and the religious accountability, which was understood to be scrutinised in this world and after death, was chilling. Subsequently, Sufyān b. ‘Uyainah famously said, “Seventy errors of an ignorant man are pardoned before one mistake of a scholar is forgiven.”<sup>35</sup> Furthermore, one of the students of Mālik<sup>36</sup> said, “By God! If Mālik was queried regarding an issue, it was as if he was standing between heaven and hell.”<sup>37</sup>

In reality, there are numerable statements attributed to various imams all of whom have shown great apprehension in issuing legal verdicts. As mentioned previously, this was primarily down to the responsibility of being a legislator after God and His Prophets. There was a genuine fear of

---

<sup>34</sup> Abū Bakr b. al-Ḥussain b. ‘Abd Allāh al-Ājurī., *Akhlāq al-‘Ulamā’* (The Characteristics of the Scholars), (KSA: The General Presidency of Scholarly Research and Ifta) pg. 104

<sup>35</sup> Al-Munāwī, Zain ad-Dīn, Muḥammad ‘Abd ar-Ra’ūf., *Fayḍ al-Qadīr Shārḥ al-Jāmi‘ aṣ-Ṣaghīr*, (Lebanon: DKI, 1994) 6/480

<sup>36</sup> Al-Aṣbahī; Abū ‘Abd Allāh Mālik b. Anas. He was the authority of Madinah and its imam. Mālik was born in Medina between 90/708 and 97/715 and lived for approximately eighty to eighty-seven years. As mentioned by Wymann-Landgraf, Mālik was known for his personal acumen and charisma, but his standing as a jurist was fundamentally predicated on his direct association with the Medinese tradition and personal mastery of it. His rise to prominence was rapid as was his study of the Islamic sciences, and his precocity and intellectual insight was widely acknowledged by even the senior scholars of Medina. Reports indicate that Medinese scholars permitted him to issue independent *fatāwā* despite his young age; some dictate this to be as early as seventeen. He passed away in the year 179/795 in Madinah and was buried in Jannah al-Baqī‘ adjacent to the Prophet’s Mosque.

<sup>37</sup> Usmānī, Muḥammad Taqī., *Usūl al-Iftā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 16

divine chastisement and disgrace in both this life and the next. Ultimately, such apprehension was to be lauded by later scholars who point out that this type of trepidation highlights scrupulousness and piety. In fact, classical Muslim scholars have been commended by their contemporaries and latter scholars for simply admitting, ‘I do not know.’ It has been famously reported regarding Mālik that he would respond with, ‘I do not know’ to the majority of the questions he was asked. In fact, he was once asked a question to which he replied, “I do not know.” The questioner retorted, “Verily, the matter is small and simple. I wish to inform the Muslim leader [of my community] of it.” Mālik was infuriated and exclaimed, “A small, easy matter?! There is no knowledge that is ‘small’. Have you not heard God’s statement: We are going to send down to you a weighty discourse.<sup>38</sup> Verily, knowledge is weighty in its entirety [i.e. it bears great consequence]. Especially the knowledge which will be asked about on the Day of Judgement.”<sup>39</sup>

#### FATĀWĀ DURING THE PROPHET MUḤAMMAD’S LIFETIME

The Prophet Muḥammad was naturally the first person to issue *fatāwā* from an Islamic perspective. The revelation that he received was at times a direct response to an earlier enquiry and so his interpretation, and application of Qur’ānic verses would form a binding *fatwā*. This would come to be known as the *Sunnah*<sup>40</sup> which translates to ‘manners’ or ‘ways’. The

---

<sup>38</sup> Qur’ān 73:5

<sup>39</sup> Usmānī, Muḥammad Taqī., *Usūl al-Ifṭā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 31

<sup>40</sup> Established custom, normative precedent, conduct, and cumulative tradition, typically based on Muḥammad’s example. The actions and sayings of Muḥammad are believed to complement the divinely revealed message of the Quran, constituting a source for establishing norms for Muslim conduct and making it a primary source of Islamic law. In the legal field, Sunnah complements and stands alongside the Quran, giving precision to

*Ṣaḥābah* (his disciples) would memorise and document the *Sunnah* which subsequently along with the Qur'ān, formed the primary source of Islamic legislation.<sup>41</sup>

It should be noted that none from among the *Ṣaḥābah* issue *fatāwā* during the lifetime of the of the Prophet Muḥammad.<sup>42</sup> This is understandable as the Prophet Muḥammad undertook the position of God's deputy upon the earth. Therefore, it was inconceivable for the *Ṣaḥābah* to precede him in any issue. In fact, the Qur'ān warns against this in the 49<sup>th</sup> chapter: Believers, do not push yourselves forward in the presence of God and His Messenger – be mindful of God: He hears and knows all – believers, do not raise your voices above the Prophet's, do not raise your voice when speaking to him as you do to one another, or your [good] deeds may be cancelled out without you knowing.<sup>43</sup> Such sentiment is also found in a later verse where in the Qur'ān states: And be aware that it is God's Messenger who is among you: in many

---

its precepts. Sunnah encompasses knowledge believed to have been passed down from previous generations and representing an authoritative, valued, and continuing corpus of beliefs and customs. Early Muslim scholars developed and elaborated the concept of Prophetic Sunnah in order to capture as complete a picture of Muḥammad's exemplary life as they could authenticate on the basis of hadith reports. The quest to memorialize Muḥammad's life and ground it in historically verifiable process led to the biographical tradition known as *sirah*. This literature informed and inspired Muslim communities' interpretations of Islam as they sought to ground their own juridical, doctrinal, and historical identities in what they perceived to be normative Sunnah. Sunnah serves as a common template for Muslim groups and individuals, permitting them to represent a connection with the beginnings of Islam and acting as a common referent in the religious discourse of community formation and identity. It fosters self-identity and enhances the private moral lives of Muslims.

"Sunnah." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. Oxford Islamic Studies Online. 01-Sep-2018. <<http://www.oxfordislamicstudies.com/article/opr/t125/e2279>>.

<sup>41</sup> See: El Shamsy, Ahmed., *The Canonization of Islamic Law: A Social and Intellectual History* (London: Cambridge University Press, 2013)

<sup>42</sup> Messick, Brinkey. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 7

<sup>43</sup> Qur'ān 49:1-2

matters you would certainly suffer if were to follow your wishes.<sup>44</sup> These verses are said to have been revealed to the Prophet Muḥammad following an altercation between his two senior disciples, Abū Bakr aṣ-Ṣiddīq (d.13/634) and ‘Umar b. al-Khaṭṭāb (d. 23/644), in his presence. Qurṭubī<sup>45</sup> (d.671/1273) narrates that a delegation from the Tamīm tribe came to Madinah. Abū Bakr said, ‘Make al-Qa‘qā‘ b. M‘abad their leader.’ ‘Umar [disagreed] and said, ‘Rather, make al-Aqra‘ b. Ḥābis their leader.’ They then disputed with one another until their voices were raised. Thus, the verses mentioned above were revealed to the Prophet Muḥammad.<sup>46</sup>

However, the Prophet Muḥammad did permit the *Ṣaḥābah* to issue legal verdicts and judgements based upon the Qur’ān, his precedent (*Sunnah*) or by drawing an inference from the two. The prohibition of issuing *fatāwā* or *qaḍā’* was primarily directed towards new matters which had not yet been commented upon by God or the Prophet. There is ample amount of evidence to suggest that the Prophet was happy for his companions to issue legal verdicts in accordance with already known jurisprudence. ‘Abd-Allah b. ‘Amr<sup>47</sup> (d. 65/684) narrated that two men brought their dispute to the

---

<sup>44</sup> Qur’ān 49:7

<sup>45</sup> Al-Qurṭubī: Abū ‘Abd Allāh Muḥammad b. Aḥmad. He was born in Cordoba during the year 612/1214. He was a follower of the Mālikī school of thought and was a renowned commentator of the Qur’ān and a leading authority on it. He also specialised in the study of ḥadīth and was known ascetic. He famously authored *al-Jāmi‘ li Aḥkām al-Qur’ān* (*the Compendium of the Qur’ān’s Rulings*), a comprehensive exegesis of the Qur’ān which analyses its language, legal rulings, contextual background, rules of cantillation and the views of other prominent scholars. He travelled to Egypt, where he died in 671/1273.

<sup>46</sup> Al-Qurṭubī, Muḥammad b. Aḥmad al-Anṣārī., *al-Jāmi‘ li Aḥkām al-Qur’ān* (Beirut: Mu’assasah ar-Risālah, 1993) 19/353

<sup>47</sup> ‘Abd-Allah b. ‘Amr b. al-‘Āṣ was a companion of the Prophet Muḥammad and was shown great preference due to his skills and knowledge. He was permitted by the Prophet to write down his statements and in turn, he compiled a compendium of the Prophet’s ḥadīth which numbered close to one thousand statements.

Messenger of God. He [the Prophet] ordered ‘Amr (‘Abd-Allāh’s father) to adjudicate between them. He exclaimed, “How can I adjudicate between them whilst you are present, O Messenger of God?” The Prophet replied, “Indeed, upon this that you will receive ten rewards if you adjudicate correctly and one reward if you apply your knowledge and make a mistake.”<sup>48</sup>

Likewise, as Islam spread through the Arab peninsula, a need for governance, education and spiritual development arose. Subsequently, the Prophet Muḥammad sent several of his companions who possessed scholarly acumen and knowledge in his ways to neighbouring communities. Famously, he sent Mu‘ādh b. Jabal (d. 19/639) to Yemen and questioned him before his departure as to how he would govern his community. The Prophet said, “How would you pass a judgement if a matter was presented to you?” Mu‘ādh b. Jabal replied, “I will adjudicate using the Book of God (i.e. the Qur’ān).” The Prophet asked, “What if you do not find it (the answer) in the Book of God?” He replied, “I will adjudicate using the *Sunnah* of the Messenger of God.” The Prophet asked, “What if you are unable to find the answer in the *Sunnah* of the Messenger of God, nor in the Book of God?” Mu‘ādh stated, “I will apply independent reasoning (*ijtihād*)<sup>49</sup> and I will not desist.” The Prophet patted his chest [in approval] and said, “All praise is for God who guided the Messenger of God’s messenger towards that which pleases the Messenger of God.”<sup>50</sup>

---

<sup>48</sup> An-Naisāpūrī, Muḥammad b. ‘Abd Allāh al-Ḥākim., *Mustadrak al-Ḥākim* (Beirut: DKI, 1990) Ḥadīth #7004

<sup>49</sup> "Ijtihad." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. *Oxford Islamic Studies Online*. 01-Dec-2018. <<http://www.oxfordislamicstudies.com/article/opr/t125/e990>>.

<sup>50</sup> As-Sijjstānī, Abū Dāwūd Suleimān b. al-Ash‘ath., *Sunan Abī Dāwūd*, (Beirut: Dār ibn Ḥazm, 1997) Ḥadīth #3592

Thus, many from among the *Ṣaḥābah* dispersed to communities who had recently accepted Islam and were in need of answers to their many queries. The *Ṣaḥābah* would primarily use the Qur'ān and *Sunnah* when issuing *fatāwā* but would also apply independent reasoning to draw inferences from the two primary sources.

#### THE AFTERMATH OF THE PROPHET MUḤAMMAD'S DEMISE

The Prophet Muḥammad passed away in 11/632 and was succeeded by Abū Bakr aṣ-Ṣiddīq for two years and then ʿUmar b. al-Khaṭṭāb for twelve.<sup>51</sup> Consequently, there was a greater responsibility upon the newly appointed caliph and his senior colleagues to provide answers to socio-economic developments and theological differences.<sup>52</sup> In fact, after the death of ʿUmar in 23/644, differences of opinion in hermeneutics and Islamic creed reared its head. It was during the reign of the third Caliph, ʿUthmān b. ʿAffān (d. 35/656), that such differences lead to violent conflicts. Eventually, ʿUthmān was assassinated by a separatist cult known as the *Khawārij* (the Separatists) and the years that followed forced the *Ṣaḥābah* to fight civil wars against one another.<sup>53</sup> Quite simply, there were varying interpretations of the faith which led to many denominations; some, like the *Muʿtazilah* (the Isolationists) and *Khawārij* (the Separatists) would be legislate that a person who fails to perform ritual worship is warranted a place in the fire. On the other hand, the *Jahmiyyah* (or Jahmites; known as the Deniers) would affirm that there is no requirement to perform ritual worship and that it is

---

<sup>51</sup> Silverstein, Adam J., *Islamic History - A Very Short Introduction*. (USA: Oxford University Press, 2010), pg. 10

<sup>52</sup> Messick, Brinkey. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 8-10

<sup>53</sup> Mangera, Abdur Rahman b. Yusuf, *Imām Abū Ḥanīfah's al-Fiqh al-Akbar Explained* (USA: White Thread Press), pg. 14-22



inconsequential to one's final abode.<sup>54</sup> Thus, it was necessary for the *Ṣaḥābāh* and the generations who followed them to issue *fatāwā* and clarify juristic and theological differences.

#### FATĀWĀ DURING THE ṢAḤĀBAH'S ERA

There were approximately one hundred and thirty individuals (male and female) who had learnt the Prophet's legal rulings from his Companions. From among them, there were seven who were prominent in issuing *fatāwā*: 'Umar b. al-Khaṭṭāb, 'Alī b. Abī Ṭālib (d. 40/661), 'Abd-Allāh b. Mas'ūd (d. 32/653), 'Ā'ishah (d. 58/678) - the wife of the Prophet Muḥammad, Zaid b. Thābit (d. 46/665), 'Abd-Allāh b. 'Abbās (d. 67-68/687) and 'Abd-Allāh b. 'Umar (d. 693/74).<sup>55</sup> Thereafter, there were others famous disciples who issued *fatāwā* moderately and then those who would merely mention a couple of juristic rulings.<sup>56</sup>

The *fatāwā* issued by the *Ṣaḥābah* were in line with the guidelines highlighted by Mu'ādh b. Jabal in the narration mentioned earlier. After having exhausted the primary sources, many of the companions would seek to apply their *ijtihād* and consider what is already readily practiced by their communities. Shurayḥ al-Qāḍī<sup>57</sup> (d. 86-87/705-706) states that 'Umar b. al-Khaṭṭāb wrote the following to him: If a matter comes to you, adjudicate by the Book of God and do not let men deviate you from its use. If a matter is

---

<sup>54</sup> [Ibid]

<sup>55</sup> Al-Jawzīyyah, Muḥammad b. Abī Bakr b. Qayyim., *Flām al-Muwaqqi'in* (Cairo: Dār ibn al-Jawzīyyah, 2012) pg. 11

<sup>56</sup> See: Ibid

<sup>57</sup> Al-Qāḍī: Abū Ummayah Shurayḥ b. al-Ḥārith. He was the judge of Kūfah, Iraq and was known of his knowledge of Islamic law and its application. He was handed his judicial position throughout the Rashidun Caliphate. 'Alī b. Ṭālib praised him and said, "You are the best judge of the Arabs." Thereafter, he was removed from his position by Ḥajjāj b. Yūsuf when he had reached one hundred and twenty years of age. Thereafter, he only lived for a year. There is a difference of opinion in the year of his demise; among the opinions are 78AH, 86AH and 99AH.

presented to you which isn't found in the Book of God, analyse the Messenger of God's *Sunnah* and pass a judgement in accordance to it. If a matter is presented to you which is not found in the Book of Allāh and nor in the Messenger of God's *Sunnah*, observe what the people have made a consensus upon and assume it [as your position]. If a matter is presented to you which is not found in the Book of Allāh and nor in the Messenger of God's *Sunnah*, and upon which people have not yet deliberated before you – then you have two options which you can choose from. If you wish, you may apply independent reasoning (*ijtihād*) and then proceed forward. [Alternatively,] if you wish, you may delay, and I only see good in that.”<sup>58</sup>

Generally, there are similar statements regarding the *Ṣaḥābah*'s practice; they would generally formulate *fatāwā* using the same framework. However, it has been documented that some would use the legal precedents set by former caliphs too. This was due to the statement of the Prophet Muḥammad before his demise where he advised, “I counsel you to have reverential fear of God, and to listen to and obey [your leader] even if a slave were to become your ruler. Verily, he from among you who lives long will see great disputes – [in such a time] you must keep to my *Sunnah* and to the ways of the rightly guided caliphs, those who guide to the right way. Hold onto it with your molar teeth [i.e. cling to it stubbornly].”<sup>59</sup> Subsequently, senior figures among the *Ṣaḥābah* would also include the precedent of Abū Bakr, ʿUmar, ʿUthmān and ʿAlī, who were considered to be the rightly guided caliphs. It is known regarding ʿAbd-Allāh b. ʿAbbās that if he could

---

<sup>58</sup> Ad-Dāramī, Abū Muḥammad ʿAbd Allāh b. ʿAbd ar-Raḥmān., *Sunān ad-Darāmī* (Riyadh: Dār al-Mughnī, 2000) Ḥadīth #169

<sup>59</sup> At-Tirmidhī, Muḥammad b. ʿĪsā ʿAbū ʿĪsāʿ., *Sunan at-Tirmidhī* (Beirut: Dār Iḥyāʿ at-Turāth al-ʿArabī) Ḥadīth #2676

not find an answer to a query in the Qur'ān or *Sunnah*, he would refer to the precedents of Abū Bakr and 'Umar. It was only then, after having exhausted readily available sources, that he would exercise his own reasoning.<sup>60</sup>

#### THE DEVELOPMENT OF *FATĀWĀ* AFTER THE *ṢAḤĀBAH*

After the generation of the *Ṣaḥābah*, the science of *fatāwā* was then handed to the *Tābi'ūn* (the Successors). The name of this era is drawn from a ḥadīth wherein the Prophet Muḥammad said, “The best people are those of my generation, then those who succeed them and then those who succeed them.”<sup>61</sup> However, from an academic perspective, the *Tābi'ūn* split themselves into predominantly two groups: (i) the *Muḥaddithūn* (ḥadīth specialists) and (ii) the *Fuqahā'* (the jurists). The first group busied themselves with authenticating transmissions of ḥadīth by scrutinising chains of narration back to the Prophet Muḥammad. They would withhold from making decisions regarding jurisprudence except when its ruling was explicitly mentioned with the Qur'ān and *Sunnah*. The reason for this was because the *Muḥaddithūn* assumed a purist position regarding Islamic law. Their anxiety and trepidation, which has been discussed earlier, to develop new rulings on an existing framework hindered their use of *ijtihād*. As a result, they viewed those who would excessively extrapolate rulings for hypothetical situations as innovators of faith – which is considered a great sin.<sup>62</sup> A famous incident is narrated regarding Abū Ḥanīfah (d. 150/767) who

---

<sup>60</sup> Ad-Dāramī, Abū Muḥammad 'Abd Allāh b. 'Abd ar-Raḥmān., *Sunān ad-Darāmī* (Riyadh: Dār al-Mughnī, 2000) Ḥadīth #168

<sup>61</sup> Al-Bazzār, Abū Bakr b. Aḥmad b. 'Amr b. 'Abd al-Khāliq., *Musnad al-Bazzār*. (Medina: Maktabah al-'Ulūm wa al-Ḥikam) Ḥadīth #8689

<sup>62</sup> See: El Shamsy, Ahmed., *The Canonization of Islamic Law: A Social and Intellectual History* (London: Cambridge University Press, 2013)

See also: Messick, Brinkey. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 8-15

was the founder of the Ḥanafī school of thought and referred to as *al-Imām al-A‘ẓam* (the Greatest Imam) by many Muslim scholars; details regarding the formation of his school of thought are forthcoming. Abū Ḥanīfah was known for his use of *ra’y*<sup>63</sup> (opinion/inferred analogy) and praised by his supporters for his unorthodox approach in developing Islam’s legal code. However, many of his opponents, especially from among the *Muḥaddithūn*, heralded him a fanatic, mischief maker and innovator! In fact, news of Abū Ḥanīfah’s methodology reached Al-Awzā‘ī<sup>64</sup> (d. 158/774) who also criticised him; the latter asked Ibn al-Mubārak (d. 180/797), “Who is this innovator who has appeared in Kufa and goes by the cognomen ‘Abū Ḥanīfah’?!” Ibn al-Mubārak remained quiet but presented various, complicated Islamic rulings and their answers. When al-Awzā‘ī saw that the rulings were ascribed to a Nu‘mān b. Thābit [i.e. Abū Ḥanīfah’s actual name which was not well known at the time], he asked, “Who is this individual?” Ibn al-Mubārak replied, “He is a scholar I met in Iraq.” Al-Awzā‘ī said, “This is a noble individual from among the scholars. Proceed to him and acquire much [knowledge] from him.” Ibn al-Mubārak then informed him that Nu‘mān b. Thābit is in fact, Abū Ḥanīfah and so he began to analyse the legal rulings further. Before he parted, al-Awzā‘ī stated, “I envy this man, due to his copious knowledge and extensive intelligence. I seek forgiveness from

---

<sup>63</sup> Expedient and free reasoning in the field of Islamic law. Practiced as a means of exercising *ijtihād* in the early years of Islam but was soon replaced by emphasis on careful analogical or syllogistic reasoning (*qiyās*).

"Ray." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. Oxford Islamic Studies Online. 02-Sep-2018. <<http://www.oxfordislamicstudies.com/article/opr/t125/e1989>>.

<sup>64</sup> Al-Awzā‘ī: ‘Abd ar-Raḥmān b. ‘Amr b. Muḥammad. He was known as the Scholar of Shām (the Great Syria region) and is referred to as *Sheikh al-Islām* (the Leading Authority of Islam) by ad-Dhahabī. He was born in Damascus but later travelled to Beirut where he passed away.

Allāh, the Exalted, as I was in evident error. Devote yourself to this man for he is different to what has reached me regarding him.”<sup>65</sup>

The *Fuqahā'* were more accepting of *ijtihād* and *ra'y*. They endeavoured to use the framework provided by their predecessors to develop new legal rulings for unprecedented issues. It was for this reason that they were labelled innovators of the faith as they were seen to be introducing rulings for which there was no definite Qur'ānic verse or ḥadīth. However, the *Fuqahā'* then split into two groups. The first prohibited exercising *ijtihād* and *ra'y* for hypothetical situations due to their interpretation of the Prophet Muḥammad's statement, “Do not hasten with tests before they transpire [i.e. do not hasten with hypothesising legal verdicts which will test a jurist]. For if you do so, people will remain who agree and disagree. And if you hasten towards it [i.e. issuing a ruling] before it transpires, your desires will cause you confusion. Thus, you will take this and this [i.e. sporadic rulings].”<sup>66</sup>

This idea is supported by many statements attributed to 'Umar b. al-Khaṭṭāb who has cursed the individual who hypothesises and enquires about issues that have not yet transpired.<sup>67</sup>

The second group of *Fuqahā'* did not take issue with hypothesising and providing answers for issues that have not yet transpired. Subsequently, Al-Khaṭīb al-Baghdādī interpreted the prohibition in the ḥadīth as follows:

“As for the Messenger of God's, may God's peace and blessings be upon him,

---

<sup>65</sup> Al-Haytamī, Muḥammad b. 'Alī b. Ḥajar, *Al-Khairāt al-Ḥisān fī Manāqib al-Imām al-A'zam Abī Ḥanīfah al-Nu'mān* (Cairo: Maṭba' as-Sa'ādah, 1906) pg. 33-34

<sup>66</sup> Ad-Dāramī, Abū Muḥammad 'Abd Allāh b. 'Abd ar-Raḥmān., *Sunān ad-Darāmī* (Riyadh: Dār al-Mughnī, 2000) Ḥadīth #116

<sup>67</sup> Ad-Dāramī, Abū Muḥammad 'Abd Allāh b. 'Abd ar-Raḥmān., *Sunān ad-Darāmī* (Riyadh: Dār al-Mughnī, 2000) Ḥadīth #123-126

*disapproval of [issuing] rulings. That was out of compassion, kindness and concern for his community and out of fear that [one] may prohibit something God has permitted before the question had been asked to the Messenger of God. Subsequently, it would cause the Muslim community difficulty where in fact, there was benefit in its permissibility. As a result, they would be left troubled. However, this notion ceased upon the demise of the Messenger of God, may God's peace and blessings be upon him. Sharia rulings had assumed its place. After him, there was no cautioner nor a promoter."*

Thereafter, al-Khaṭīb al-Baghdādī presents a ḥadīth to substantiate his view. Rāfi' b. Khadij<sup>68</sup> (d. 73-74/693-694) narrated, "I asked: O Messenger of God! Indeed, we fear that we [may] meet our enemies tomorrow whilst we are not in possession of our blades. Should we then slaughter animals with reeds? The Messenger of God said, "If the slaughtering tool causes blood to gush forth and if God's name is mentioned, eat [of the slaughtered animal]. But do not slaughter with a tooth or nail..."<sup>69</sup> In this ḥadīth, Rāfi' had asked the Prophet Muḥammad regarding a matter which had not yet transpired and received an answer. Likewise, in another ḥadīth, a man asked the Prophet Muḥammad as to what one should do if a time comes where rulers usurp the wealth of their subjects and refuse them their rights – would it be permissible to fight them? A man by the name of Ash'ath b. Qays<sup>70</sup> (d.

---

<sup>68</sup> Al-Anṣārī: Rāfi' b. Khadij al-Awsī al-Ḥārithī. He was a companion of the Prophet Muḥammad. He was the leader of his tribe in Madinah and also participated in the Battle of Uhud wherein he was struck by a spear. The Prophet Muḥammad loved him and it is reported that he said, "I will testify for you on the Day of Judgement." He passed away in Madinah in around 73-74/693-694.

<sup>69</sup> Al-Bukhārī, Abū 'Abd Allāh Muḥammad b. Ismā'īl., *Ṣaḥīh al-Bukhārī* (Riyadh: International Ideas Home For Publishing & Distribution, 1998) Ḥadīth #5503

<sup>70</sup> Al-Kindī; Abū Muḥammad Ash'ath b. Qays. He was the leader of the Kindah tribe prior to Islam and after it too. A delegation of sixty men approached the Prophet Muḥammad headed by Ash'ath in the year 10AH. They accepted Islam and returned to Yemen. Ash'ath

40/661) rebuked him and said, “You question the Messenger of God, may God’s peace and blessings be upon him, regarding a matter that has not yet transpired?!” The man replied, “I will certainly ask unless he stops me.” Thereafter, the man repeated his question. The Prophet Muḥammad said, “Listen to them and obey them, for on them shall be the burden of what they do and on you shall be the burden of what you do.”<sup>71</sup>

Again, this narration clearly provides evidence that the *Ṣaḥābah* would ponder over scenarios that had not yet transpired in order to store a *fatwā* as a precedent for future reference. Had this been prohibited, the Prophet Muḥammad would have forbade them.

As for ‘Umar’s cursing of such individuals, it is possible that his intention was to curse individuals who ask questions to cause confusion, mischief and doubt in the hearts of believing Muslims. This may be proven by ‘Umar’s behaviour towards Ṣabīgh b. ‘Isl who would regularly confuse Muslims by asking them tricky questions about highly abstruse verses of the Qur’ān. When news of his line of questioning reached ‘Umar, he beat Ṣabīgh and prohibited him from attending his gatherings.<sup>72</sup> ‘Umar’s objective was not to prevent the development of *fatāwā* or Islamic jurisprudence but rather, it was to prevent needless discussions from becoming a means of causing confusion.

Thus, by the time the era of the *Tābi‘ūn* commenced, scholars were divided in their methods of issuing *fatāwā*. The *Muḥaddithūn* were clearly against

---

apostatized after the Prophet’s demise and so the Abū Bakr, who was elected as the caliph, dispatched an army to Yemen. Ash‘ath was captured and brought back to Madinah where he reverted once more. He died in Iraq in the year 40/661.

<sup>71</sup> Al-Qushairī, Abū al-Ḥussain Muslim b. Ḥajjāj., *Ṣaḥīḥ Muslim* (Beirut: Dār al-Afāq al-Jadīdah) Ḥadīth #4888

<sup>72</sup> Ibn al-‘Asākir, Abū al-Qāsim ‘Alī b. al-Ḥassan. *Tārīkh ad-Dimashq* (Beirut: Dār al-Fikr) 23/408-414

developing Islamic jurisprudence and issuing *fatāwā* through reasoning and *ijtihād*. The *Fuqahā'* permitted it but as mentioned above, they too disagreed in their methods of issuing new legal rulings.

At this juncture, it is necessary to discuss the formulation of the four schools of Islamic thought as they were key to the development of *fatāwā* and codification of Islamic law. The generations that succeeded the *Ṣaḥābah* gave prominence to many scholars who devised their own methodologies in deducing rulings from the framework left by the Prophet Muḥammad and his companions. Subsequently, many imams gained large followings; from among them, only four remain.

#### THE DEVELOPMENT OF ISLAMIC LAW THROUGH THE FOUR SCHOOLS OF ISLAMIC THOUGHT

The four schools of Islamic law hold a great position in the eyes of many Muslims today; for many, the legislations articulated by their founders, and in turn, their successors provide a solid foundation upon which rulings of a divine and pecuniary nature can be adhered too. At the head of each of these schools of thought are the Four Imams, Abū Ḥanīfah (d. 150/767), Mālik b. Anas (d. 179/795), Muḥammad b. Idrīs al-Shāfi'ī (d. 204/820) and Aḥmad b. Ḥanbal (d. 241/855) who were seen by Sunni scholars as individuals who provided 'sophisticated techniques for avoiding innovation'.<sup>73</sup>

The era of the Successors (*tābi'ūn*) can be said to have begun after Ḥasan b. 'Alī (d. 50/670) relinquished leadership to Mu'āwiyah b. Abī Sufyān (d. 60/680) in 41/661 and culminated with the end of the Ummayyad caliphate

---

<sup>73</sup> Murad, Abdul Hakim, *Understanding the Four Madhabs* (London: The Muslim Academic Trust, 2012) pg. 8



or thereabout.<sup>74</sup> During this time, the *ṣaḥābah* had dispersed throughout the Muslim realm and spread their knowledge to their new surroundings.<sup>75</sup> Ibn al-Qayyim (d. 750/1350) states, “[Knowledge] was spread throughout this Nation (*ummah*) by the followers of Ibn Mas‘ūd [i.e. the scholars of Kufa], the followers of Zaid ibn Thābit and Ibn ‘Umar [i.e. the scholars of Madinah] and the followers of Ibn ‘Abbās [i.e. the scholars of Mecca].”<sup>76</sup>

From among the students of ‘Abd Allāh b. Mas‘ūd were his two acclaimed disciples, al-Aswad b. Yazīd (d. 74-75/693-694) and ‘Alqamah ibn Qays (d. 62/681) with the former being described as bearing complete similarity with his teacher.<sup>77</sup> He was in turn the teacher of Ibrāhīm b. Yazīd an-Nakha‘ī (d. 95/713) who taught Ḥammād b. Sulaimān al-Kūfī (d. 120/738), the teacher of Abū Hanīfah.

During this era, which is considered by many Muslims as a golden era in Islamic history due to the ḥadīth, “The best of nations is my nation and then those who succeed them and those who succeed them”,<sup>78</sup> Islamic scholarship flourished. Numerous scholars had reached the level of *ijtihād* (independent reasoning)<sup>79</sup> as mentioned previously in regards to al-Aswad

---

<sup>74</sup> Al-Ashqar, ‘Umar Sulaimān, *at-Tārīkh al-Fiqh al-Islāmī* (Jordan: Dār an-Nafā’is, 1991) pg. 81

<sup>75</sup> ‘Alī (d. 41/661) and ‘Abd Allāh b. Mas‘ūd (d. 33/653) resided in Kufa, ‘Umar (d. 23/644), his son ‘Abd Allāh (d. 73/693) and Zaid ibn Thābit (d. 40/660) remained in Medina whilst ‘Abd Allāh b. ‘Abbās (d. 67-69/686-88) was situated in Mecca. Other notable Companions such Mu‘ādh ibn Jabal (d. 18/639) took residence in Basra whereas ‘Abd Allāh ibn ‘Amr al-‘Āṣ (d. 63/683) was situated in Egypt. (Al-Jawzīyah, Muḥammad b. Abī Bakr b. al-Qayyim, *Flām al-Muwaqqi‘īn* (Cairo: Dār ibn al-Jawzīyah, 2012) 1/19

<sup>76</sup> *Ibid*

<sup>77</sup> Kacholwī, Ismā‘īl, *Mabādiyāte Fiqh* (India: Maktaba Ḥijāz) pg. 32

<sup>78</sup> Al-Bukḥārī, Muḥammad ibn Ismā‘īl, *Ṣaḥīḥ al-Bukḥārī* (Riyadh: International Ideas Home for Publishing & Distribution, 1998) Ḥadīth #2652

<sup>79</sup> "Ijtihad." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. *Oxford Islamic Studies Online*. 01-Dec-2018. <<http://www.oxfordislamicstudies.com/article/opr/t125/e990>>.

who was compared with his master.<sup>80</sup> In fact, the luminary jurists of each city were given the collective title *Fuqahā' al-Amṣār* – The Jurists of the [Great] Cities.<sup>81</sup>

#### THE ḤANAFĪ SCHOOL OF THOUGHT

Abū Ḥanīfah, after whom the Ḥanafī school of Islamic law was named, was born during the year 80/699 and rose to prominence in Kufa, Iraq. Ad-Dhahabī described him as the Imam, the Jurist of the Faith, the Scholar of Iraq although he is referred to by many of his proponents as the Great Imam (*al-Imām al-A'ẓam*).<sup>82</sup>

Despite Abū Ḥanīfah being revered by many, there were others who were severely critical of him and his methodology. The Muslim community were partisan in regards to him; while some heralded him as the 'lamp of his community, due to the prophecy made in the ḥadīth,<sup>83</sup> others held him to be a heretic and accused him of deviation from the *Sunnah* and corrupting

---

<sup>80</sup> Likewise, individuals such as Layth b. Sa'd (d. 175/791) were considered highly formidable in Islamic law to the extent that al-Shāfi'ī commented, "Al-Layth has greater understanding than Mālik..." Similarly, the likes of al-Awzā'ī (d. 158/775) and Sufyān ath-Thawrī (d. 161/778) were held in high esteem due to their knowledge of Islamic law and general piety. Mālik compared the pair and said, "One of them [Sufyān] is more knowledgeable than the other but is not fit to be the Caliph. On the contrary, the other is [suitable for the caliphate]." See Ad-Dimashqī, Ibn 'Asākir, *Tārīkh Dimashq*. (Cairo: Dār al-Fikr, 1995) 7:107 & Adh-Dhahabī, Muḥammad b. Aḥmad, *Siyar al-A'ālām an-Nubalā'* (Beirut: Mu'assasah ar-Risālah, 1981) 7:107

<sup>81</sup> Abū Ḥanīfa, Sufyān ath-Thawrī and Ibn Abī Layla (d. 148/765) of Kufa, Ibn Juraij (d. 150/767) of Mecca, Mālik and Ibn al-Mājjishūn (d. 164/780) in Medina, al-Awzā'ī in Syria and Layth b. Sa'd in Egypt. See: Merad, A., "al-Layth b. Sa'd", in: *Encyclopaedia of Islam*, Second Edition, Edited by: P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs. Consulted online on 30 November 2018

<[http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912\\_islam\\_SIM\\_4656](http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912_islam_SIM_4656)> First published online: 2012 | First print edition: ISBN: 9789004161214, 1960-2007

<sup>82</sup> Adh-Dhahabī, Muḥammad b. Aḥmad, *Siyar al-A'ālām an-Nubalā'* (Beirut: Mu'assasah ar-Risālah, 1981) 6:391

<sup>83</sup> "If the religion [i.e. knowledge of faith] were [present] in the Pleiades, even then, a person from Persia would take hold of it." (Ṣaḥīḥ Muslim #6177)

the religion.<sup>84</sup> This was largely due to Abū Ḥanīfah's utilisation of *ra'y* (opinion/inferred analogy), a method of deducing Islamic legal rulings which was considered revolutionary. Many of his critics felt that he had deviated from the primary sources of the Sharia, the Qur'ān and Sunnah. Thus, his legal rulings (*fatāwā*) were scrutinised and his knowledge of ḥadīth was scorned. However, there are many accounts which highlight the esteem in which other notable jurists held Abū Ḥanīfah, but misinformation and misunderstanding circled his name and was the reason why disparaging comments were made about him and in turn, the people of Kufa. Thus, the formulation of the Ḥanafī school of thought was one which was tainted with controversy to some degree. However, the same can be said of the other schools of Islamic law and many may argue that this was primarily down to partisanship.<sup>85</sup>

In outlining the formulation of the Ḥanafī school of thought, it is also important to make mention of Abū Ḥanīfah's two celebrated students, Abū Yūsuf Ya'qūb b. Ibrāhīm al-Anṣārī (d. 181/798) Abū 'Abd Allāh Muḥammad b. al-Ḥasan al-Shaybānī (d. 188/804) who further propelled the methodology and legal thought of their master despite having reached a level of *ijtihād* and scholarship. 'Abd al-Ḥayy al-Laknawī (d. 1304/1886) writes, "In reality; the two were *mujtahids* in their own right and had reached a rank of independent reasoning (*al-ijtihād al-muṭlaq*) but due to their great reverence and abundant homage for their teacher, they strengthened his foundations [i.e. the methodology he laid]. Thereafter,

---

<sup>84</sup> Abū Zahrah, Muḥammad, *The Four Imams* (Norwich: Dār al-Taqwā, 2001) pg.118

<sup>85</sup> Abū Zahrah, Muḥammad, *The Four Imams* (Norwich: Dār al-Taqwā, 2001) pg. 120

they focused on transmitting his methodology and attributing it to him.”<sup>86</sup>

Al-Marjānī (d. 1307/1889) stated, “Their position in jurisprudence, even if they weren’t superior than Mālik and al-Shāfi‘ī, was no less than them.”<sup>87</sup>

Likewise, Ibn ‘Ābid ad-Dīn al-Shāmī (d. 1252/1836) wrote:

*“The opinion of the Imam [Abū Ḥanīfah] will be given complete preference in every chapter pertaining to worship... The opinion of Abū Yūsuf will be selected in every matter pertaining to legislation... the Fatwā will be given in accordance to what has been said by Muḥammad (al-Shaybānī) in matters of inheritance.”*<sup>88</sup>

Thus, the legal thought of the Ḥanafī school of law was fortified by the two students of Abū Ḥanīfah and their verdicts held weight. As a result, their endeavours contributed in further formulating the school of thought and was then supplemented by others such as Zufar al-Hudhayl (d. 158/775).<sup>89</sup>

#### THE MĀLIKĪ SCHOOL OF THOUGHT

After the demise of the Prophet, Medina held great importance in terms of Islamic scholarship. This is because most the Companions resided there more than any other state; in particular, there were seven individuals in Medina who possessed authority in Islamic law and many of the Medinese would follow their opinions.<sup>90</sup>

---

<sup>86</sup> Usmānī, Muḥammad Taqī., *Usūl al-Ifṭā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 94 - 96

<sup>87</sup> Ibid

<sup>88</sup> Ibn ‘Ābidīn al-Shāmī, Muḥammad b. Amīn, *Sharḥ ‘Uqūd Rasm al-Muftī* (Pakistan: al-Bushrā, 2009) pg. 55

<sup>89</sup> Ibid.

<sup>90</sup> They were: Sa‘īd b. al-Mussayib (d. 94/ 712), ‘Urwa b. Zubair (d. 94/712), Abū Bakr b. ‘Abd ar-Raḥmān al-Makhzūmī (d. 94/712), ‘Ubaid Allāh b. ‘Abd Allāh b. ‘Utbah b. Mas‘ūd (d. 98/ 716), Khārijah b. Zaid b. Thābit (d. 99/717), al-Qāsim b. Muḥammad b. Abī Bakr (d. 107/ 725), Sulaimān b. Yassār (d. 107/725). These individuals were known by the title, the Seven Jurists (*al-Fuqahā’ as-Sab’ah*) and they formed the foundation which was transmitted down to Mālik b. Anas. (See: Al-Ashqar, ‘Umar Sulaimān, *at-Tārīkh al-Fiqh al-Islāmī* (Jordan: Dār an-Nafā’is, 1991) pg. 85)

Mālik was born in Medina between 90/708 and 97/715 and lived for approximately eighty to eighty-seven years.<sup>91</sup> As mentioned by Wymann-Landgraf, Mālik was known for his personal acumen and charisma, but his standing as a jurist was fundamentally predicated on his direct association with the Medinese tradition and personal mastery of it.<sup>92</sup> His rise to prominence was rapid as was his study of the Islamic sciences, and his precocity and intellectual insight was widely acknowledged by even the senior scholars of Medina. Reports indicate that Medinese scholars permitted him to issue independent *fatāwā* despite his young age; some dictate this to be as early as seventeen.<sup>93</sup>

Despite Mālik's prominence in Medina, and by extension, the greater Islamic community, his legal position was further solidified by the formulation of the *Muwaṭṭa'*; in turn, this formed the basis of his legal thought as it was considered to be both the first book written on ḥadīth and Islamic jurisprudence.<sup>94</sup> Essentially, this provided the basis of Mālik's law and served as a point of reference for those, primarily the Medinese, to abide by. In describing Mālik's approach in *Muwaṭṭa'*, Shāh Walī Allāh ad-Dehlāwī (d. 1175/1762) commented:

*“Indeed, the Imam, Mālik made the foundation of his methodology elevated (marfūʿ) accounts of the Prophet whether they were directly transmitted (mowṣūlah) or indirectly (mursalāh). Thereafter, [he based his methodology] upon the legal rulings of Umar and then the opinions of the people of Medina.”*<sup>95</sup>

---

<sup>91</sup> Khāndalwī, Muḥammad Zakariyyāʿ, *Awjaz al-Masālik ilā Muwaṭṭa' Mālik* (Beirut: DKI, 1999) vol.1 pg. 99

<sup>92</sup> Wymann-Ladgraf Abd-Allah, Umar F. *Mālik in Medina* (USA: Brill, 2012) pg. 33

<sup>93</sup> Abū Zahrah, Muḥammad, *Mālik* (Cairo: Dār al-Fikr) pg. 42-45

<sup>94</sup> Khāndalwī, Muḥammad Zakariyyāʿ, *Awjaz al-Masālik ilā Muwaṭṭa' Mālik* (Beirut: DKI, 1999) vol.1 pg. 115

<sup>95</sup> Ibid

Most importantly, the *Muwaṭṭaʿ* was supported by the caliph Hārūn al-Rashīd (d. 193/809) who informed Mālik of his intention to hang his book upon the Kaʿbah and then make its rulings binding upon the Muslim community. However, Mālik rejected this citing that the Companions had differed with one another but despite this, they were all correct in their methodology.<sup>96</sup>

Alongside the *Muwaṭṭaʿ*, Mālik’s reliance upon the consensus or actions of the people of Medina aided in formulating his legal opinion; in fact, the city’s jurists would also cite it as a reference. Subsequently, the actions of the Medinese were held as a legal source by Mālik from which he based his legal rulings. He would often allude to this by various expressions after narrating ḥadīth; for example, he would say, “the agreed precept among us” “the agreed precept without dissent among us” and so forth.<sup>97</sup> It had become evident that adherence to Mālik’s school of law was the preferred practice of the Medinese.

#### THE SHĀFIʿĪ SCHOOL OF THOUGHT

From among the students of Mālik was Muḥammad b. Idrīs al-Shāfiʿī, who coincidentally was born in the year Abū Ḥanīfah died. Prior to his emergence as an authority in Islamic law, al-Shāfiʿī attended circles in both Ḥanafī and Mālikī law; in fact, it could be said that al-Shāfiʿī’s school of Islamic law represented the most comprehensive paradigm of Islamic jurisprudence when it emerged. His legal opinion was seen to unite the people of *raʾy* and the people of ḥadīth due to his familiarity with the law of

---

<sup>96</sup> Khāndalwī, Muḥammad Zakariyyāʿ, *Awjaz al-Masālik ilā Muwaṭṭaʿ Mālik* (Beirut: Dar al-Kotob al-Ilmiyya, 1999) vol.1 pg. 111

<sup>97</sup> Hallaq, Wael B., *The Origins and Evolution Islamic Law*, (London: Cambridge University Press, 2005) pg. 110

Abū Ḥanīfah and Mālik.<sup>98</sup>

Nevertheless, al-Shāfi‘ī was an adherent and a student of the Mālikī school of law for a greater part of his life, whilst also being a devoted disciple to its founder. In fact, his devotion was such that he was almost seen as an ambassador of the Mālikī school of thought when he travelled to Baghdad in the year 184/800 and began to debate with the Ḥanafī master, Muḥammad b. al-Ḥasan al-Shaybānī whilst defending the praxis of Mālik.<sup>99</sup> Thus, he remained in Iraq and would attend al-Shaybānī’s circles, study his books and engage with him in public debates thus developing personal respect for al-Shaybānī and a passionate critique of the latter’s legal approach – thus he was labelled “The Helper of the Traditions”.<sup>100</sup>

It was in Iraq that al-Shāfi‘ī began to diverge from the school of Mālik and become an authority in his own right. Exposure to the jurists of Iraq and the utilisation of *ra’y* may have led him to, despite his devotion, to see faults within the methodology of Mālik. He thus travelled to Mecca and established a circle of jurisprudence, which in turn marked the beginning of his school of thought, in the Grand Mosque.<sup>101</sup> Thereafter, al-Shāfi‘ī’s legal opinions promulgated among the Muslim community by his return to Baghdad and his stay in Egypt. During this time, his expressions developed and were later described as ‘*qadīm*’ (previous opinion) and ‘*jadīd*’ (recent opinion) in congruence with his preferred legal approach.<sup>102</sup>

Prior to al-Shāfi‘ī’s death, his school of Islamic law had gained followers

---

<sup>98</sup> Abū Zahrah, Muḥammad, *Al-Shāfi‘ī* (Cairo: Dār al-Fikr) pg. 25-30

<sup>99</sup> Ibid

<sup>100</sup> El Shamsy, Ahmed., *The Canonization of Islamic Law: A Social and Intellectual History* (London: Cambridge University Press, 2013) pg. 45

<sup>101</sup> Abū Zahrah, Muḥammad, *The Four Imams* (Norwich: Dār al-Taqwā, 2001) pg. 339

<sup>102</sup> Abū Zahrah, Muḥammad, *Al-Shāfi‘ī* (Cairo: Dār al-Fikr) pg. 29-30

throughout Egypt but this was not without controversy. A group from among the Mālikīs saw him as a dissenter who criticised Mālik and caused division among the Muslim community. ‘Īsā b. al-Munkadir (d. after 215/830), an opponent of al-Shāfi‘ī is reported to have prayed in public for his death and is reported to have said, “O you nothing! When you came to our country, we were united and our doctrine was one [i.e. the Mālikī school of law]; but then you sowed division and spread evil, so may God separate your body and soul!”<sup>103</sup> This highlights that by al-Shāfi‘ī’s death in 204/820, his school of Islamic law had spread within the Muslim community, although not favourably in some areas.

#### THE ḤANBALĪ SCHOOL OF THOUGHT

Aḥmad b. Ḥanbal was born in Baghdad, Iraq during the year 164/780 and studied under the notable disciple of Abū Ḥanīfah, Abū Yūsuf Ya‘qūb b. Ibrāhīm al-Anṣārī. At a later time, he was also influenced by the legal thought of al-Shāfi‘ī who was residing in Mecca.

It is difficult to truly ascertain the depth of Aḥmad’s legal opinion and understanding of jurisprudence; whereas Abū Ḥanīfah, Mālik and al-Shāfi‘ī were, to varying extents, jurists of great acumen, Aḥmad b. Ḥanbal was recognised more so for his affinity with ḥadīth. Hallaq mentions that the distinguished Ḥanbalite jurist Najm al-Dīn al-Ṭūfī (d. 716/1316) openly acknowledged that Ibn Ḥanbal “did not transmit legal doctrine, for his entire concern was with ḥadīth and its collection.” Yet, within less than a century after his death, Ibn Ḥanbal emerged as the founding imam of a legal school of some prominence.<sup>104</sup> This was largely down to the disciples of

---

<sup>103</sup> El Shamsy, Ahmed., *The Canonization of Islamic Law: A Social and Intellectual History* (London: Cambridge University Press, 2013) pg. 115-16

<sup>104</sup> Hallaq, Wael B., *The Origins and Evolution Islamic Law*, (London: Cambridge University Press, 2005) pg. 159



Aḥmad b. Ḥanbal, most notably, Abū Bakr al-Khallāl (d. 311/923) who collated the scattered legal opinions of his master.

Another contributing factor to the formulation of the Ḥanbālī school of law was the *Musnad* of Aḥmad which transmits ḥadīth he had collected throughout his travels. Despite there being an evident lack of juristic writing, Aḥmad enjoyed documenting ḥadīth; this is evident in his answer to a question posed to him by his son who said, “I asked my father, ‘Why do you dislike writing books when you have compiled the *Musnad*?’ He replied, ‘I created this book as a model for people to consult when they disagree about a *Sunnah* from the Messenger of Allāh.’”<sup>105</sup>

Thus, Aḥmad’s collection of ḥadīth served to further strengthen his legal opinion and when coupled with al-Khallāl’s endeavour, he was able to produce the first major corpus of Ḥanbalite law. In fact, for Aḥmad b. Ḥanbal to emerge as a founding authority is a great tribute to al-Khallāl’s constructive efforts. Hallaq writes, “To say that Khallāl and his associates (*aṣḥāb*) were the real founders of the Ḥanbalite school is merely to state the obvious.”<sup>106</sup>

By the time of Aḥmad’s demise, the four schools of Islamic thought flourished within the Muslim community and were then developed further by later scholars such as Ibn al-Qāsim and Saḥnūn in the famous Mālīkī code of Islamic law, *al-Mudawwanah*.

#### THE IMPACT OF SCHOOLS OF THOUGHT ON FATĀWĀ

At this juncture, it is important to highlight that the development and subsequent polarisation in Islamic law had a naturally profound impact on

---

<sup>105</sup> Abū Zahrah, Muḥammad, *Ibn Ḥanbal* (Cairo: Dār al-Fikr) pg. 183

<sup>106</sup> Hallaq, Wael B., *The Origins and Evolution Islamic Law*, (London: Cambridge University Press, 2005) pg. 160

the application of *Fatāwā*. This is because documented Islamic legal theory and jurisprudence became the basis from which *muftīs* would issue their *fatāwā*. As the schools of thought developed, scholars would find themselves partisan to the camp they subscribed to. Likewise, the layman would enquire legal rulings from scholars as they would not possess the skill to extract rulings from Islam's primary sources. Furthermore, the Qur'ān exhorts its adherents to seek knowledge: *You [people] can ask those who have knowledge if you do not know.*<sup>107</sup> It is for this reason that Islamic schools of thought came to be known as *madhabs* which literally means 'destination' and drawn from the verb '*dhahba, yadhabu*' which means 'to go'.<sup>108</sup> The idea was that one would 'go' towards the 'destination' (i.e. school of thought) they understood to be closest to the understanding of the Prophet . Subsequently, a *muftī* would generally issue *fatāwā* in accordance with the school of thought they had gained some form of mastery in. Likewise, the layman would seek clarification in Islamic jurisprudence in conformity with the school of thought that they followed; this would either be inherited from one's parents or geographic location. For example, the Ḥanafī school of thought had spread from Kufa, Iraq and thus was adhered to by its communities. Likewise, the citizens of Madinah were followers of Mālik who held a distinguished position in their eyes. The concept of following a reputable scholar, without investigating legal theory, came to be known as *taqlid* (imitation).<sup>109</sup> Thus, a *muftī* would largely only issue a ruling in

---

<sup>107</sup> Qur'ān 16:34

<sup>108</sup> Hallaq, Wael B., *The Origins and Evolution Islamic Law*, (London: Cambridge University Press, 2005) pg. 150

<sup>109</sup> Imitation. Conformity to legal precedent, traditional behaviour, and doctrines. Often juxtaposed by reformers with *ijtihad*, independent reasoning based on revelation. Traditionally, legal precedent is considered binding in Islamic law, but *taqlid* has acquired

accordance with his own school of thought. As a result, a single query would receive vastly different edicts due to varied interpretations of the Qur'ān and *Sunnah* by scholars of their school of thought.

For example, the Qur'ān states: *You who believe, when you are about to pray, wash your faces and our hands up to the elbows, wipe your heads, wash your feet up to the ankles and, if required, wash your whole body. If any of you is sick or on a journey, or has just relieved himself, or had intimate contact with a woman, and can find no water, then take some clean sand and wipe your face and hands with it.*<sup>110</sup>

The Shāfi'ī and Ḥanafī schools of thought have differed regarding the interpretation of this verse. The difference in interpretation is incredibly vast and results in legal edicts which are complete opposites of one another. The Shāfi'ī have understood the term, '...or had intimate contact with a woman...' to be in reference to touching the other gender. The Arabic word used in this verse is *'lams'* which denotes contact or touching. As a result, they have understood the verse to mean that the touching of the other gender causes one's purity<sup>111</sup> to be nullified. As a result, one would be

---

a negative connotation among modern reformers, who use the term to refer to cultural and intellectual stagnation and unwillingness to experiment with new ideas. Reformist criticism has taken both fundamentalist and modernist directions.

"Taqlid." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. *Oxford Islamic Studies Online*. 11-Sep-2018. <<http://www.oxfordislamicstudies.com/article/opr/t125/e2339>>.

<sup>110</sup> Qur'ān 5:6-7

<sup>111</sup> Impurity in Islam is of two types: (i) major (ii) minor. An individual who is in the state of major impurity due to coitus or the emission of semen is required to bathe. It would not be permitted for such an individual to pray or handle the Qur'ān until they have become pure again. The second type of impurity is in relation to the one's state after having urinated, excreted, passed wind, slept or bled (although there is a difference of opinion regarding the final issue). Muslim's are required to perform ablution before prayers so that they are in a 'state' of purity. By passing urine, one's 'state' of purity would be nullified although they would physically be considered pure in terms of their body. To pray again, they would be required to perform ablution. This differs from major impurity which not only nullifies one's 'state' of purity but also body's cleanliness. Such impurity can only be removed by bathing. (See: Sabiq, As-Sayyid. *Fiqh as-Sunnah*,

required to perform ablution to handle the Qur'ān or initiate their prayer. However, the Ḥanafī school of thought have understood the term '*lams*' to be metaphoric and in reference to coitus. Thus, according to them, a man's 'state' of purity would not be nullified after having touched his wife. Subsequently, he would not be required to perform the ablution as he is understood to have remained in a pure state. This is a very simple explanation of the disagreement between the two schools and both have vast evidences to suggest that their interpretation is correct. My purpose is not to highlight the difference of opinion but the subsequent effects of polarisation within Islamic legal theory. A single enquirer of this issue would receive varying answers depending on where they had been raised and which school of thought was the dominant *madhab* in the community.

In essence, the issuing of *fatāwā* became the art of knowing the methodology, precedents and interpretations of the forefathers of the school of thought and then reissuing edicts upon their guidelines.

#### WRITTEN FATĀWĀ AND THE DOCUMENTATION OF LEGAL EDICTS

Initially, Islamic jurisprudence was understood from its source; the Qur'an and Sunnah. As such, Qur'anic verses and scattered Ḥadīth transmissions would be presented as evidence. However, as Islamic scholarship developed, there was a need to present a codified version of the faith for the layman who was unable to understand the juristic connotations of Qur'anic verses or Ḥadīth transmissions. Likewise, students of a particular school of thought were required to understand the views of their guiding authorities. As such, a movement was made towards codifying the legal opinions of a *madhab* so that it may be used as reference or citation by adhering muftis. Thus, jurists

---

(Maktaba al-Khadamat al-Hadithath, 1987) and Nadwi, Mohammad Akram., *Al-Fiqh al-Islami: Purification, Prayers and Funerals*, (London: Angelwing Media, 2007)

began to publish books wherein they would collate Ḥadīth under titles relating to juristic rulings. For example, ‘The Chapter of Prayer’ would typically contain Ḥadīth related to prayer which would be further divided by sub-headings such as, ‘The Chapter Regarding Ablution’. As such, this movement became the first instance in which Islamic jurisprudence was documented, providing muftis with a tangible citation to include as references. Thus, the first person to have reportedly chaptered jurisprudence in such a manner was Rabīʿ b Sabīḥ (d. 160/776) in Basra. He was then followed by Sʿad b. Abī Arūbah (d. 155-159/771-776) and Maʿmar b. Rāshid (d. 153/770) in Yemen. Thereafter, the likes of Mālik and Abū Ḥanīfah followed in pursuit.<sup>112</sup>

#### **ṬABAQĀT AL-FUQAḤĀ’ (THE RANKINGS OF THE JURISTS)**

As Islam developed, communities failed to produce the likes of Abū Ḥanīfah, Mālik, ash-Shāfiʿī and Aḥmad. This is not to say that Islamic scholarship failed but rather, scholars opted to adopt a school of thought and then further develop its methodology. Subsequently, generations would pass where scholars would merely develop ideas that they inherited as opposed to pioneering new frameworks or methodologies. As a result, it is obvious to note that the calibre of scholars from later centuries did not bear any comparison with those from the generations that followed after the Prophet Muhammad’s demise. To highlight this, the Ottoman scholar, Ibn Kamāl al-Bāshā<sup>113</sup> (d. 940/1533) ranked the scholars of the Ḥanafī school

---

<sup>112</sup> Usmānī, Muḥammad Taqī., *Usūl al-Iftāʾ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 73

<sup>113</sup> Al-Bāshā: Aḥmad b. Sulaymān b. Kamāl. His father was among the rulers of the Ottoman Empire. He busied himself in gaining knowledge after witnessing an incident whilst he was travelling with Sultan Bayezid Khan II. The sultan was accompanied by his minister, Aḥmad Bik when the latter was approached by a scholar who was shabby in his

of law in accordance with their level of expertise. He categorised them as follows:

1. The *Mujtahid*<sup>114</sup> of the Sharia – for example, the founders of the four schools of thought who are referred to as the Four Imams and others like them. They did not follow any other in terms of extrapolating rules, formulating a juristic methodology or laying down their principles of interpreting jurisprudence. They were considered to have acquired complete mastery over the Islamic sciences and were unparalleled in their scholarship.
2. The *Mujtahid* of the School of Thought – this category refers to scholars who gained a high level of mastery over the Islamic sciences but used their knowledge to further develop the school of thought they subscribed too. They worked within the framework set by the forefathers of the school of thought and differed with them only on some issues.
3. The *Mujtahid* of Juristic Rulings – this refers to jurists who do not differ with the forefathers of the school of thought to any degree.

---

appearance. He sat in a seat above the minister which stunned Ibn Kamāl. He asked his confidantes as to who the man was and how possessed the courage to supersede the minister. They informed him that he was a scholar and teach who was known as Molla Lutfi (d. 1494). He was granted a salary of thirty dirhams and was revered by the minister because of his knowledge. In fact, the minister disliked keeping him waiting. Ibn Kamāl was taken aback by this and he subsequently enrolled himself in to the service of Molla Lutfi to become a scholar. (See: Tāshkuprī, *ash-Shafā'iq an-Nu'māniyyah* (Beirut: Dār al-Kutub al-Arabī 1975) pg. 226)

<sup>114</sup> *Mujtahid*: One who exercises independent reasoning (ijtihād) in the interpretation of Islamic law. Qualifications include training in recognized schools of Islamic law and extensive knowledge of the *Qur'ān* and ḥadīth. In Sunni Islam, the title is reserved for the founders of the four official schools of Islamic law, although modern Islamic reformers call for the revival of ijtihad as a means of accommodating new ideas and conditions. See: "Mujtahid." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. Oxford Islamic Studies Online. 16-Sep-2018.

<<http://www.oxfordislamicstudies.com/article/opr/t125/e1596>>.

They would largely produce rulings for new matters by following the guidelines and principles set by earlier scholars. Thus, they too would apply a degree of *ijtihād* (independent reasoning) in issuing legal rulings.

4. Those who would extract rulings from previous scholars – these were individuals who did not exercise *ijtihād* at all as they did not possess the ability to do so. However, due to their understanding of the principles set by their school of thought and recognition of its evidences, they were able quote senior authorities of their school.
5. Those who would give preference – like the group that preceded them, they too did not possess the ability to perform *ijtihād*. They would largely use their knowledge of their school of thought to state which ruling is more preferred. They would typically use statements such as, “this is better”, “this is a sounder narrative”, “this is better for the people”, “this is clearer” and so on.
6. Those who would be able to distinguish between the strongest and weakest opinions of the school of thought. Likewise, they would highlight the *zāhir al-riwāyah* i.e. the popular and acted upon edict of the school of thought.
7. Those who are not able to apply themselves in any of the above categories. Ibn Kamāl al-Bāshā speaks of them harshly stating, “These individuals cannot discern between fat and thin nor distinguish between their right and left. Rather, they gather what they find [i.e. their legal edicts] like the lumberjack who collects firewood at night. Woe to those who follow such individuals, a

great woe!”<sup>115</sup>

It should be understood that similar to the Ḥanafī position, others have also ranked the scholarship of their school of thought to. For example, the Shāfi‘īs have listed fourteen categories that breakdown their jurists into further categories. Above, it is evident that the usage of the *ijtihād* became limited and some have argued that the ‘doors of independent reasoning’ were closed during the ninth century.<sup>116</sup> Thereafter, scholars largely worked with what was made available by previous scholars and focused on producing a linear school of thought that advocates a mainstream opinion. Essentially, what is found in jurisprudence now is a compilation of just that – mainstream opinions from which contemporary scholars issue answers. In reality, it may be argued that they are not ‘*muftīs*’ in the true meaning of the word but rather, are transmitters or researchers of previously issued edicts, precedents and judgements.

Thus, it can be concluded that Islamic scholarship initially flourished after the demise of the Prophet Muḥammad but with trepidation. The early Muslim jurists took it upon themselves to formulate schools of thought in order to codify divine legislation from the Qur’ān and *Sunnah*. *Muftīs* would pass verdicts but would do so in accordance with their school of thought, as a result, a single juristic enquiry would receive multiple answers due to various interpretations highlighted by other schools of thought. Whilst early scholars used *ijtihād* to issue *fatāwā*, later *muftīs* would heavily rely on the work of previous scholars. All the while, they would do so whilst fearing

---

<sup>115</sup> Ibn ‘Ābidīn al-Shāmi, Muḥammad b. Amīn, *Sharḥ ‘Uqūd Rasm al-Muftī* (Pakistan: al-Bushrā, 2009)

<sup>116</sup> See: Hallaq, Wael B., *The Origins and Evolution Islamic Law*, (London: Cambridge University Press, 2005) & Schacht (1964)



divine reprimand in both their worldly life, and hereafter.

#### FATĀWĀ REGARDING ISLAMIC DOCTRINE

After having discussed the various types *fatāwā* and their development during the early era of Islamic scholarship. It is important to note that *fatāwā* were exclusive to the field of Islamic jurisprudence and a *muftī* would not venture into issuing legal edicts pertaining to philosophy, eschatology and polemics. Whilst jurisprudence remained the same, or similar for many factions and sects, there were huge difference in core beliefs. As such, scholars who would contribute to discussions surrounding this topic were known as *mutakallimūn* and their purpose was to elucidate Islamic doctrine in order to defend the religion from spurious narratives projected by doubters and detractors. This aspect of knowledge became known as *‘Ilm al-Kalām* – The Science of Discourse. As such, individuals such as the Jahmites would claim that religion does not require ritual practice and that the declaration of one’s faith is sufficient for perpetual bliss in the hereafter. On the contrary, the Mu‘tazilites held that one who discards ritual worship falls into disbelief.<sup>117</sup>

As such, the *mutakallimūn* presented various treatises that highlighted the tenets of Islam. Again, this discussion bears contextual relevance as the field of *Kalām* was distinguished from jurisprudence altogether. Though there are examples of scholars indulging in both sciences, the two would not generally mix. For example, Abū Ḥanīfa, who was an illustrious authority regarding jurisprudence, also wrote his famous treatise, *al-Fiqh al-Akbar* (The Greatest Science) which relates to core beliefs. Consequently, this impacted the issuing of *fatāwā* which would only be drawn from

---

<sup>117</sup> Mangera, Abdur-Rahman., *Imām Abū Ḥanīfah’s al-Fiqh al-Akbar Explained*. (USA: White Thread Press, 2007) pg. 20-24

jurisprudence. The knowledge of Islamic doctrine was not largely required to be known in depth by the lay Muslim – the declaration of faith (i.e. there is no deity but Allāh and Muḥammad is His messenger) was held to be sufficient. However, even the lay required knowledge of Islamic jurisprudence. Perhaps it was for this reason that *fatāwā* were largely sought in this area.

It appears that an area where Islamic doctrine and jurisprudence do cross-over for a *muftī* is where the Muslims community's faith is being subjected to alteration or influenced by non-Islamic ideals. For example, there are ample Sunni *fatāwā* which discuss the prohibition of a Muslim marrying a Zoroastrian or Shiite due to their beliefs. Likewise, the ruling issued to one who has apostatised will be given by a *muftī* even though it relates more to Islamic doctrine.

## PART II: THE MUFTĪ

As mentioned earlier, the *muftī* has a significant role within the community. Whilst the discussion of Islamic jurisprudence is central to the development of *fatāwā*, it would be negligent to bypass the importance that a *muftī* played in promulgating edicts. In the classical sense, a *muftī* was almost seen as God's viceroy upon this earth. He would be responsible for the spiritual and ritual guidance of those who followed his methodology. Subsequently, not only would he be followed in matters of jurisprudence, but he would also be seen as a role model for righteousness. Thus, the early Muslim scholars wrote thoroughly about the manners and etiquettes a *muftī* should possess to make him eligible, and credible, to issue legal edicts; similar to a solicitor's code of conduct. A *muftī* who parted ways from such a code would be seen as being rebellious, deviant and his research would bear little importance.

Subsequently, a *muftī*, even today, is largely subject to critique regarding his knowledge and also his level of piety which primarily consists of his adherence to ritual worship, reverential fear of God and his meticulous emulation of the Prophet Muḥammad. Such a notion came to be known as the literary genre '*Adāb al-Muftī (the Muftī's Etiquette)*'.<sup>118</sup>

From an academic perspective, there appears to be limited literature available in the English language regarding the subject matter. This may be because of the greater importance attached to modern day *fatāwā* as opposed to the one issuing them. At present, it appears that Muhammad

---

<sup>118</sup> Masud, Muhammad Khalid, "Adab al-muftī", in: Encyclopaedia of Islam, THREE, Edited by: Kate Fleet, Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson. Consulted online on 10 December 2018 <[http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912\\_ei3\\_COM\\_26301](http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912_ei3_COM_26301)>

Khalid Masud's Brill Reference entry under the heading under '*Adab al-Muftī*' provides a fair summary on the topic. However, at only 2,129 words, it is largely a succinct compilation of etiquettes rather than a detailed analysis of the *muftī's* position. On the contrary, Messick<sup>119</sup> has dedicated a considerable section to it but omits integral reasons as to why such a code was produced and its origins that are deeply rooted in the Qur'ān and ḥadīth. Subsequently, I have used primary sources<sup>120</sup> in order to document the skills a *muftī* requires to issue *fatāwā*.

The following are ideals and etiquettes that a *muftī* must keep in mind when issuing a ruling:

#### GIVING PRIORITY TO SENIOR AUTHORITIES

It is important that a *muftī* does not hasten to answer a question when there is another in the gathering who is more knowledgeable than he is. However, if that individual permits it, then he may. This has been understood from a narrative transmitted by Ibn 'Umar who states that the Prophet Muḥammad stated, "Indeed, the example of a believer is like a green tree, the leave of which do not fall." The people said, "It is such-and-such tree: It is such-and-such tree." I intended to say that it was the date-

---

<sup>119</sup> See: Messick, Brinkey. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 15-20

<sup>120</sup> *Al-Iḥkām Fī Tamyīz Al-Fatāwā 'an Al-Aḥkām* by Shihāb al-Dīn Aḥmad al-Qarāfī (Mālikī, d. 684/1285), *Ṣifat Al-Fatwā Wa-L-Muftī Wa-L-Mustaftī* by Aḥmad b. Ḥamdān (Ḥanbalī, d. 695/1295), *Fīlām Al-Muwaqqi'īn* by Ibn Qayyim al-Jawziyyah (Ḥanbalī, d. 751/1350), *Adab Al-Fatwā By Muḥammad B. Muḥammad Al-Maqdisī* (Shāfi'ī, d. 808/1405), *Adab Al-Futyā By Jalāl Al-Dīn Al-Suyūṭī* (d. 911/1505), *Mu'īn Al-Muftī 'alā Jawāb Al-Mustaftī* by Muḥammad b. 'Abdallāh al-Khaṭīb al-Timirtāshī (Ḥanafī, d. 1004/1596), and *Sharḥ 'Uqūd Rasm Al-Muftī* by Muḥammad Amīn ibn 'Ābidīn (Ḥanafī, d. 1258/1842) See: Masud, Muhammad Khalid, "Adab al-mufti", in: Encyclopaedia of Islam, THREE, Edited by: Kate Fleet, Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson. Consulted online on 10 December 2018 <[http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912\\_ei3\\_COM\\_26301](http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912_ei3_COM_26301)>

palm tree, but I was a young boy and felt shy (to answer). The Prophet said, “It is the date-palm tree.” Ibn ‘Umar added, “I told that to ‘Umar [i.e. he informed his father that he knew the answer] who said, ‘Had you said it, I would have preferred it to such-and such a thing.’”<sup>121</sup> Likewise, there is an obligation to respect elders due to the ḥadīth, “He who does not show mercy to our young ones or recognise the rights of our elders is not one of us.”<sup>122</sup>

By extension, it is also necessary that a *muftī* respects the order of those who are enquiring from him. Ḥāfiẓ ad-Dīn an-Nasafī<sup>f-123</sup> (d. 710/1310) stated, “And from among its conditions is that he [the *muftī*] should maintain order and fairness between enquirers. He should not incline to the rich and the assistance of sultans or rulers. Rather, he should write his response accordingly whether the enquirer is rich or poor.”<sup>124</sup>

#### CERTAINTY WHEN ISSUING A LEGAL RULING

It is necessary that a *muftī* responds only after being certain that his answer is correct. It is necessary that he does not respond if there is a shred of doubt in his heart. This usually occurs when a *muftī* has been hasty in his answer due to the enquirer’s pressure. Thus, among the jurists is the famous statement, “It is not permitted to issue *fatāwā* whilst walking.” Scholars would show great dislike towards enquirers who would lobby them for

---

<sup>121</sup> Al-Bukhārī, Abū ‘Abd Allāh Muḥammad b. Ismā‘īl., *Ṣaḥīḥ al-Bukhārī*. (Riyadh: International Ideas Home For Publishing & Distribution, 1998) *Ḥadīth* #6122

<sup>122</sup> At-Tirmidhī, Muḥammad b. ‘Īsā’ Abū ‘Īsā’, *Sunan at-Tirmidhī* (Beirut: Dār Iḥyā’ at-Turāth al-‘Arabī) #*Ḥadīth* 1921

<sup>123</sup> He was known as the ‘Protector of the Faith’ and a master of the Ḥanafī school of thought. He was born near Samarkand, Turkestan and had studied under prominent authorities of his time. He has authored over a hundred books on jurisprudence, Qur’ānic commentary and ḥadīth. He is well-known for his famous treatise, ‘*Āqā’id an-Nasafī*’ which details Islamic beliefs.

<sup>124</sup> An-Nasafī, Abū al-Barakāt ‘Abd Allāh b. Aḥmad b. Maḥmūd. *Al-Baḥr Rā’iq, Kitāb al-Qaḍā’* (Beirut: DKI, 1997) 6:448

answers. It is transmitted regarding Muhammad b. Salām Abū Naṣr al-Balkhī (d. 305/917) that a questioner insisted that the jurist swiftly answers him. In fact, he also mentioned that he had come from a distant place to meet him. The scholar replied with a couplet: We did not call you from where you came, and nor do we blindly narrate the school of thought unto you.<sup>125</sup>

Likewise, Saḥnūn<sup>126</sup> (d. 767/855) was approached by a man who had come to him from a distant land. He asked Saḥnūn for a *fatwā* but the latter asked leave for three days. The man retorted, “May God rectify you! My single enquiry [answered] in three days?!” He replied, “What else can I do for you? What is my way out? The matter is a problematic one, there are many opinions about it. I am confused regarding it.” The man responded, “May God rectify for you for every problematic ruling!” Saḥnūn exclaimed, “No, O son of my brother! Your words have surrendered me to the fire! I do not know the majority of things! If you remain patient, I hope I can bring your answer from elsewhere.” The man remained stubborn and insisted that he would only accept a response from Saḥnūn. It was only then that Saḥnūn issued a ruling.<sup>127</sup>

#### ENSURING EQUILIBRIUM

A *muftī* must be poised when issuing a legal ruling. It is important that his edict is not influenced by his feelings or mood. Scholars who have written

---

<sup>125</sup> Ibid

<sup>126</sup> At-Tanūkhī: Saḥnūn b. Saʿīd b. Ḥabīb. He was born in Kairouan in modern day Tunisia. He had compiled the famous manual of Mālikī law, *al-Mudawwanah*. Towards the end of his life, he was elevated to the position of a judge and was a prominent figure in the dissemination of the Mālikī school of thought in North Africa and Andalusia, Spain.

<sup>127</sup> Al-Shahrazūrī, Ibn aṣ-Ṣalāḥ. *Adab al-Muftī wa al-Mustaftī* (Beirut: Maktabah al-ʿUlūm wa al-Ḥikam) 1/15

regarding the topic *Adab al-Muftī* have drawn this ruling from the ḥadīth, “A judge should not judge between two persons while he is angry.”<sup>128</sup>

#### PATIENCE UPON BEING DISRESPECTED

Scholars have highlighted that a *muftī* must be forbearing towards those who enquire from him. They take their evidence from the account of Dāwūd (David) which has been transmitted in the Qur’ān. It relates: *Remember Our servant David, a man of strength who always turned to Us. We made the mountains join him in glorifying Us at sunset and sunrise: and the birds, too, in flocks, all echoed in his praise. We strengthened his kingdom; We gave him wisdom and a decisive way of speaking. Have you heard the story of the two litigants who climbed into his private quarters? When they reached David, he took fright, but they said, ‘Do not be afraid. We are two litigants, one of whom has wronged the other: judge between us fairly – do not be unjust – and guide us to the right path. This is my brother. He had ninety-nine ewes and I just the one, and he said, “Let me take charge of her,” and overpowered me with his words.’ David said, ‘He has done you wrong by demanding to add your ewe to his flock. Many partners treat each other unfairly. Those who sincerely believe and do good deeds do not do this, but these are very few.’*<sup>129</sup>

Some commentators have mentioned that the litigants had brought a case but were actually alluding to a matter related to Dāwūd’s marriage. It follows that Dāwūd had cast a glance at the wife of Uriah, who was a military commander under his power, and thereafter desired to marry her. In order to achieve this, he entrusted Uriah with a dangerous mission in which he was killed. Subsequently, he married his wife. In order to admonish him,

---

<sup>128</sup> Al-Bukhārī, Abū ‘Abd Allāh Muḥammad b. Ismā‘īl., *Ṣaḥīḥ al-Bukhārī*. (Riyadh: International Ideas Home For Publishing & Distribution, 1998) *Ḥadīth* #7158

<sup>129</sup> Qur’ān 38:18-24

two angels took the form of the litigants and presented their case to him.<sup>130</sup>

Nevertheless, Al-Ālūsī commented on these verses and said, “In this account there is boorish behaviour [i.e. in that the litigants entered upon Dāwūd without his permission and then made such an allusion] ... and it also shows Dāwūd’s tolerance which is an evidence that it is necessary for a judge to show similar forbearance towards litigants. It is amazing how those in authority whether it a *muftī*, a judge or those who are being judged, are not able to emulate this tolerant prophet, may peace and blessings be upon him. Rather, they show great anger at the smallest of words.”<sup>131</sup>

#### PRESENTATION

A *muftī* is to present a clear answer first and then bring about his evidence. This is because the layman is generally not concerned with lengthy conversations of a juristic nature. However, if the enquirer is a scholar, there is no harm in relating the evidences first and then drawing a conclusion. Some jurists have disagreed regarding the presentation of evidence in one’s answers. This is because they are of the opinion that a *muftī*’s responsibility is limited to simply answering a question or issuing a

---

<sup>130</sup> Many Muslim exegetes have rejected this narration. Muftī Muḥammad Shafī‘ ʿUthmānī (d. 1396/1976) has mentioned several famous commentators all of whom have rejected this narrative. Among them are Ḥāfiẓ b. Kathīr (d. 774/1373), Ibn al-Jawziyyah (d. 597/1200), Qāḍi al-Baydāwī (d. 685/1286), Fakhr ad-Dīn ar-Rāzī (d. 606/1210), al-Khāzin (d. 741/1341) and others who have declared it to be a lie and fabrication. Ḥāfiẓ b. Kathīr has further commented, “Some commentators have mentioned a tale at this point most of which has been taken from Judaic narrations [the allusion is towards the Bible, the Book of Samuel II, chap. 11]. Nothing the following of which is obligatory is proved in this matter on the authority of the Holy Prophet, may peace and blessings be upon him. Only Ibn Abī Ḥātim has reported a ḥadīth here, but its authority is unsound.” See: ʿUthmānī, Muḥammad Shafī‘, *Maʿārif al-Qurʾān* (Karachi: Maktaba e Darul-ʿUloom) 7/506

<sup>131</sup> Al-Ālūsī, Maḥmūd b. ʿAbd Allāh al-Ḥusaynī al-Badghdādī, *Rūh al-Maʿānī* (Beirut: Iḥyāʾ at-Turāth al-Arabī) 23/172



legal verdict. This opinion has been adopted by al-Māwardī<sup>132</sup> (d. 450/1058) and al-Qarāfi<sup>133</sup> (d. 684/1285) with the latter stating, “[A *muftī* should withhold evidence] unless he knows that the *fatāwā* will be rejected by some of the legal theoreticians and cause disrepute. Thus, he should intend to explain his evidences to these jurists with whom he suspects a dispute and subsequently guide them by it. Otherwise, he should protect his honour from criticism of him.”<sup>134</sup> However, others such as al-Khaṭīb al-Baghdādī and Ibn aṣ-Ṣalāh<sup>135</sup> (d. 643/1245) were of the opinion that a *muftī* should present his evidence when it was drawn from an unambiguous, clear source [i.e. from the Qur’ān or *Sunnah*]. However, he would omit his evidence if it was based on independent reasoning and analogical deductions.<sup>136</sup> Again, the basis of presenting limited evidence is so that the layman would not be confused by the intricacies of jurisprudence.

On the other hand, Ibn al-Qayyim (d. 751/1350) held that a *muftī* should be transparent in his approach and that he should present his evidences as far as possible.<sup>137</sup> Ibn al-Qayyim’s view and those who similarly support the idea

---

<sup>132</sup> Al-Māwardī: Abū al-Ḥasan ‘Alī b. Muḥammad b. Ḥabīb al-Basrī. He was born in Basra, Iraq in the year 972. He rose to prominence as key authority in the Shāfi‘ī school of thought and was appointed as a chief judge in Baghdad. He was held in high esteem by the Caliph al-Qā’im (d. 467/1075)

<sup>133</sup> Al-Qarāfi: Shihāb al-Dīn Abu al-‘Abbās. Al-Qarāfi was a famous Mālikī jurist who resided in Egypt of Berber origin. He is seen as one of the greatest Mālikī jurists of his time.

<sup>134</sup> Al-Qarāfi, Shihāb ad-Dīn Abū’l ‘Abbās Aḥmad b. Idrīs al-Miṣrī., *Al-Iḥkām* (Beirut: Dār al-Bashā’ir, 1995) pg. 249

<sup>135</sup> Al-Shahrazūri: Abū ‘Amr ‘Uthmān b. Abd al-Rāḥmān Ṣalāh al-Kurdī. He was born in the year 577/1181 and was of Kurdish origins. He was a follower of the Shāfi‘ī school of thought and was a renowned specialist in the field of ḥadīth. His famous publication, *‘Muqaddimah Ibn aṣ-Ṣalāh fī ‘Ulūm al-Ḥadīth’* (Introduction to the Science of Ḥadīth) has won great acclaim. He passed away in Damascus at the age of sixty-six.

<sup>136</sup> Usmānī, Muḥammad Taqī., *Usūl al-Iftā’ wa ‘Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 367

<sup>137</sup> See: Al-Jawzīyah, Muḥammad b. Abī Bakr b. Qayyim., *Flām al-Muwaqqi‘in* (Cairo: Dār ibn al-Jawzīyah, 2012), Chapter 6

of a *muftī* documenting his evidences base their view on the fact that it should be clear as to where one's opinion is drawn from – essentially, for many of the scholars of the lower *ṭabaqāt* (ranks), they would simply transmit *fatāwā* that they had inherited from *mujtahids* of their school of thought. Thus, it was necessary to know whom they were transmitting their legal edicts from.

#### **BREVITY IN FATĀWĀ**

A *fatwā* was classically seen as an answer to a question and not a theological exposition. The idea was to present one's answer in a succinct way which would satisfy the questioner. It was common to see questions given short answers such as, 'it is not permitted', 'it is permitted', 'it is true' and 'it is false'. al-Māwardī stated, "Indeed, it is necessary for a *muftī* to be succinct in his response. It is enough for him to say, 'it is permitted' or 'it is not permitted'... he should not elongate [the *fatwā*], nor should he present extensive evidence. This is to ensure that there is a distinction between a *fatwā* and an exposition. If he permits [himself] to proceed a little, he will proceed a lot and thus the *muftī* will become a teacher [i.e. due to his explanation]." Another reason as to why brevity was so popular among many from among the early scholars is because it would likely ensure that the questioner would be satisfied and would not ask another question. As mentioned in part one, issuing *fatāwā* was seen as a communal obligation which bore significant ramifications. A *muftī* would be content in giving a linear answer and refrain from discussing anything beyond the questioner's enquiry.

#### **USING THE TERM 'ḤARĀM' (PROHIBITED) WITH COMPLETE CERTAINTY**

*Muftīs* are encouraged to only use the term *Ḥarām* for things that are expressly forbidden by categorical evidences. The same is applicable to the

term *Ḥalāl* (permitted). These two terms were seen as exclusively divine and therefore, it would not befit a *muftī* to apply such terminology to a matter which had not been mentioned in the Qur’ān or ḥadīth. Mālik writes, “It has not been from the ways of the people, nor of those who have passed, nor of our pious predecessors who are followed and due to whom, Islam flourished that they would say, ‘this is Ḥarām and this is Ḥalāl.’ Rather, they would say, ‘I dislike such and such, I prefer such and such.’ As for the usage of ‘Ḥalāl and Ḥarām’, [its usage] is a fabrication upon God! Have you not heard God’s statement? [He said:] Say, ‘Think about the provision God has sent down for you, some of which you have unlawful (Ḥarām) and some lawful (Ḥalāl).’ Say, ‘Has God given you permission [to do this], or are you inventing lies about God? What will those people who invent lies about Him think on the Day of Resurrection? God is bountiful towards people, but most of them do not give thanks.”<sup>138</sup>

#### ATTRIBUTING NEW RULINGS TO THE TEACHING OF CREDIBLE AUTHORITIES

Classically, a legal edict would be given greater weight if it was attributed towards the frameworks or precedents of previous, credibly scholars. The basis of such an idea is based on the ‘Alī b. Ṭālib’s transmission wherein he asked the Prophet Muḥammad , “O Messenger of God! What do you instruct us to do regarding a situation for which there is no instruction or prohibition?” The Prophet replied, “Consult the believing jurists and do not pass an opinion [based] on a single view.”<sup>139</sup> Thus, scholars, even today, attribute their opinions towards scholars of a godly, pious nature. For example, followers of the Ḥanafī school of thought are swift to cite the

---

<sup>138</sup> Qur’ān 10:59-60

<sup>139</sup> Al-Baghdādī, Abī Bakr b. Aḥmad b. ‘Alī b. Thābit al-Khaṭīb., *Kitāb Al-Faqīh wa al-Mutafaqqihah li al-Khaṭīb* (KSA: Dār b. al-Jawzīyyah, 1996) 2/83

Syrian jurist, Muḥammad Amīn b. ‘Ābidīn (d.1252/1836)<sup>140</sup> due to his clarification of the *madhab*’s position regarding issues wherein there has been an inner-*madhab* disagreement. Effectively, Ibn ‘Ābidīn documented legal opinions of previous Ḥanafī scholars and thereafter explained which opinion was the official *fatwā* or position of the *madhab*. This has come to be indispensable for *muftīs* even today, who regularly rely on Ibn ‘Ābidīn’s views as supporting evidence for their *fatāwā*.

#### DESISTING FROM AL-FATĀWĀ ASH-SHĀDHAH (SPORADIC LEGAL RULINGS)

Islam condones orthodoxy and in essence, a unified position; despite there being clear issues of difference between the schools of thought, they are all considered to be correct from a Sunni point of view and are permitted to be followed. However, a *muftī* is required to ensure that his *fatāwā* follows a linear approach which is supported by his *madhab* and its scholarly majority. There are a few situations which permit a *muftī* to forgo the provision of his *madhab* and issue a legal ruling based on another school of thought’s research, but this is generally frowned upon. However, such strained flexibilities are made entirely stringent when legal *fatāwā* follow an opinion which has not been articulated by any scholar from among the four school of thoughts. Thus, a *muftī* who issues sporadic rulings would be open to great criticisms from the Islamic world. This is perhaps symptomatic due to the ḥadīth, “Indeed, my *Ummah* (nation) will not gather upon

---

<sup>140</sup> Ash-Shāmī; Muḥammad Amīn b. ‘Ābid ad-Dīn. He was born in Damascus, Syria in the year 1783 and lived through the Ottoman era. He was considered to be a master of the Ḥanafī school of thought and was employed as the grand *muftī* of Syria by the state. His masterpiece, *Radd al-Muḥtār*, is considered to be arguably the greatest authority within the Ḥanafī school of thought wherein the author has highlighted the soundest opinion of the *madhab* by issuing the term ‘*wa ‘alayhi al-fatwā*’ (and the *fatwā* is upon this [opinion]). He died at the age of 54 in the year 1252/1836.

misguidance. Thus, when you see a differing view, hold to the overwhelming majority.”<sup>141</sup> Subsequently, some legal edicts have been the subject of great criticism by the scholarly majority due to their non-conformist nature. Likewise, scholars have issued statements against such unorthodox understandings of the faith. Al-Awzā’ī<sup>142</sup> stated, “Whoever takes from scholarly rarities [i.e. *al-fatāwā ash-shādhah*] has left Islam.” Adh-Dhahabī has elucidated this statement further by explaining, “Whoever follows the *madhab*’s margins [i.e. rarities], and the errors of the *mujtahids* has indeed enfeebled his faith.” He then proceeded to give examples of such *fatāwā* that were rife during his era. He said, “Verily, those who have taken the Meccan’s view on [the permissibility of] *mut‘ah*<sup>143</sup>; the Kufan’s view on *nabīdh*<sup>144</sup>; the Medinese on the [permissibility of] music and the Syrian view

---

<sup>141</sup> Al-Qazwīnī, Muḥammad b. Yazīd ‘Abd Allāh., *Sunan Ibn Mājah* (Beirut: Dār al-Jayl, 1998) *Ḥadīth* #3950

<sup>142</sup> Adh-Dhahabī, Shams ad-Dīn Muḥammad b. Aḥmad b. ‘Uthmān., *Tadhikrah al-Huffāz*, (Beirut: DKI) See: al-Awzā’ī

<sup>143</sup> Mut‘ah; private and verbal marriage contract between a man and an unmarried woman for a specified period of time; a temporary marriage. A pre-Islamic tradition that still has legal sanction among Twelver Shiis, predominantly in Iran. The length of the contract and the amount of consideration must be specified. The minimum duration of the contract was hotly debated. Some required a three-day minimum; others required three months or one year. The object of Mut‘ah is sexual enjoyment and not procreation. After dissolution of the Mut‘ah, the wife must undergo a period of sexual abstinence (‘iddah); in case of pregnancy, ‘iddah serves to identify a child’s legitimate father. Sunni jurists reject the validity of this type of marriage. See: "Mutah." In *The Oxford Dictionary of Islam.*, edited by John L. Esposito. Oxford Islamic Studies Online, <http://www.oxfordislamicstudies.com/article/opr/t125/e1662> (accessed 04-Nov-2018).

<sup>144</sup> *Nabīdh*; *Intoxicants*; *The Quran* prohibits fermented drinks because of their intoxicating effect. For Muslims all association with intoxicating drinks—including buying, selling, and delivering them—is forbidden. Drinking spread with Muslim territorial victories, leading ‘Umar I to fix a punishment of eighty lashes for consuming intoxicating drinks. In Muslim courts such drinks became common nevertheless, and poetry in praise of wine blossomed as a literary tradition. *Nabīdh* refers to wine or nonintoxicating drinks made from soaked fruits. *Khamr* refers to the product of fermentation. In the modern world, the prohibition on intoxicants has been extended to include narcotics. See: "Intoxicants." In *The Oxford*

of the infallibility of the caliphs have amassed evil.”<sup>145</sup> Others jurists such as Aḥmad b. Ḥanbal have highlighted similar issues with some even criticizing contingents from among the Medinese i.e. followers of Malik, of permitting anal sex which is widely prohibited among Muslim jurists.<sup>146</sup>

However, rarities in legal edicts were not simply a case of individual mistakes or an unorthodox approach to jurisprudence; in some cases, *fatāwā* were disseminated for sinister purposes such as a monetary return, or to arm a despot with vote of confidence. At times, ḥadīth were fabricated to support the mischief of sects considered deviants by mainstream Islam.<sup>147</sup> For example, groups such as the Zanādiqah who were classed as heretics but behaved as Muslims forged ḥadīth to cause confusion and by extension, dissension among the Muslim community. This was done by clandestinely interpolating heresy into matters of jurisprudence by manipulating its source, primarily the ḥadīth as the Qur’ān had been memorised verbatim thus making it impossible to alter. It is known regarding the famous heretic, ‘Abd al-Karīm b. Abī al-‘Awjā’ who was from among the early Zanādiqah that he had forged approximately four thousand ḥadīth. The impact of his actions from the point of jurisprudence and *fatāwā* were ascertained upon his execution where he exclaimed, “I have disseminated four thousand fabricated ḥadīth among you. I have made the unlawful, lawful and prohibited what is permitted. Verily, [its effect is that you] do not fast on

---

Dictionary of Islam. , edited by John L. Esposito. Oxford Islamic Studies Online, <http://www.oxfordislamicstudies.com/article/opr/t125/e1058> (accessed 04-Nov-2018).

<sup>145</sup> Adh-Dhahabī, Shams ad-Dīn Muḥammad b. Aḥmad b. ‘Uthmān., *Siyar A‘lām an-Nubalā’*, (Beirut: Mu’assasah ar-Risālah, 1993) See: Mālik b. Anas

<sup>146</sup> Usmānī, Muḥammad Taqī., *Usūl al-Iftā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 370

<sup>147</sup> Falātah, ‘Umar b. Ḥassan b. ‘Uthmān., *Al-Waḍu‘ fī al-Ḥadīth* (Beirut: Mu’assasah Manāhil al-‘Irfān, 1981) 1/218

fasting days and fast on non-fasting days.”<sup>148</sup> In fact, Ḥammād b. Salamah<sup>149</sup> (d. 167/783) spoke further about their impact by highlighting that the heretics had forged approximately fourteen thousand ḥadīth.<sup>150</sup>

Quite simply, a *muftī* was classically encouraged to follow a linear approach and abstain from deviating from the scholarly majority. ‘Abd ar-Raḥman b. Maḥdī<sup>151</sup> (d. 198), an illustrious early Muslim jurist, spoke out against such *muftīs* by stating, “Whoever takes *al-fatāwā ash-shādhah* is not an authority in knowledge; nor is the one who takes knowledge from any random person; nor is the one who narrates everything he hears [i.e. without validating it].”<sup>152</sup>

#### AUTHENTICATING OR DISAPPROVING OF ANOTHER’S FATWĀ

Inevitably, jurists would be presented with the *fatwā* of another for critiquing purposes; this was something prevalent even during the times of the Companions. Scholars would either retract their edicts and issue a new one based upon newer research of another *muftī*, or disagree and present a rebuttal. For example, al-Bukḥārī narrates that the people of Madinah asked the companion, ‘Abd Allāh b. ‘Abbās whether it is permitted for a

<sup>148</sup> Falātah, ‘Umar b. Ḥassan b. ‘Uthmān., *Al-Waḍu‘ fī al-Ḥadīth* (Beirut: Mu’assasah Manāhil al-‘Irfān, 1981) 1/221

<sup>149</sup> Al-Baṣrī; Ḥammād b. Salamah b. Dīnār. He was the appointed *muftī* of Basra and was from among the early generations of Islam (the Tab‘ Tābi‘īn). He was also a prominent narrator of Ḥadīth from whom both al-Bukḥārī and Muslim have transmitted from in their respective books.

<sup>150</sup> Al-Qurashī, Abū al-Faraj ‘Abd ar-Raḥmān b. ‘Alī b. al-Jawzīyyah. *Al-Mowḍū‘āt* (KSA: Muḥammad ‘Abd al-Muḥsin, 1966) 1/38

<sup>151</sup> Al-‘Anbarī; ‘Abd ar-Raḥmān b. Maḥdī b. Ḥassan. He was a follower of the Mālikī school of thought and from among the successors (*Tābi‘īn*). ‘Abd Allāh b. al-Mubārak said of him “This is a man who increased in good every day since we met him.” He died in Basra in 198 at the age of 63.

<sup>152</sup> Al-Mālikī, Ibn ‘Abd al-Barr., *Jāmi‘ Bayān al-‘Ilm wa Fadlihi* – (Damam: Dār ibn al-Jāwzī, 1994) pg. 1120 - 1128

menstruating woman to return to her town after performing *Ṭawāf az-Ziyārah*<sup>153</sup> and before the performance of *Ṭawāf al-Widā'*.<sup>154</sup> He replied that it is permitted for her to return and omit the second *Ṭawāf*. However, they rejected his opinion and said, “We will not take your opinion and leave the view of Zaid [b. Thābit] (who opposed this view).” Some transmissions have it that they said, “It doesn’t bother us whether you pass a *fatwā* or not; Zaid [b. Thābit] has said [of the menstruating woman] that she cannot return.”<sup>155</sup> Thereafter, Zaid retracted his statement after he came across new evidence which supported ‘Abd Allāh b. ‘Abbas’s ruling and said to him, “I only see that you are right.”<sup>156</sup>

Consequently, if a *muftī* is presented with a *fatwā* of another, it is necessary that he checks whether its issuer is worthy of passing judgements. If he was not worthy, a *muftī* was required not to sign the *fatwā*, which would thus show his disapproval. Al-Qarāfī stated, “It is necessary that a *muftī* does not write anything on a *fatwā* given to him [for approval] from one who is not worthy of issuing judgements. Indeed, writing upon it would tantamount to partaking in his ruling and adorning his *fatwā* when it is not suitable to support it.”<sup>157</sup> However, if the answer is correct, a senior *muftī* was required to write, ‘the answer is correct’. Al-Qarāfī has highlighted that a *muftī* who

---

<sup>153</sup> This is in reference to the circumambulation of the Ka‘bah during the Ḥajj; pilgrims are required to walk around the Ka‘bah several times after the casting of stones, animal sacrifice and shaving of hair. The performance of this ritual is considered an essential part of the Ḥajj. Its exclusion would nullify the pilgrimage.

<sup>154</sup> This is in reference to the circumambulation of the Ka‘bah which is performed before a pilgrim leaves Mecca. Its performance is necessary but unlike the *Ṭawāf az-Ziyārah*, a pilgrim’s Ḥajj will not be nullified by its omission.

<sup>155</sup> ‘Asqalānī, Abū’l Faḍl Aḥmad b. ‘Alī b. Ḥajar., *Fath al-Bārī* (Beirut: Dār al-Ma‘rifah, 1960) 3/588

<sup>156</sup> Ibid

<sup>157</sup> Al-Qarāfī, Shihāb ad-Dīn Abū’l ‘Abbās Aḥmad b. Idrīs al-Miṣrī., *Al-Iḥkām* (Beirut: Dār al-Bashā’ir, 1995) pg. 247



possesses seniority, greater knowledge and piety should write a statement such as the one above or one similar to it such as ‘my answer is the same’ as it was considered to be closer to humility<sup>158</sup> – which again, was seen as a defining quality of a godly scholar.

#### **A MUFTĪ MUST LOOK INTO THE BEST INTERESTS OF THE QUESTIONER**

Aṣ-Ṣaymarī<sup>159</sup> (d. 436/1047) stated, “It is necessary for a *muftī* to guide the questioner towards a leeway if he is able to see one or rouse him towards it. However, this should not be to the detriment of another person. For example, if a man took an oath not to spend upon his wife for a month, the *muftī* should say, ‘he should pay her from her alimony [i.e. as it belongs to her] or as a loan and thereafter pardon her.’” Likewise, it is narrated regarding Abū Ḥanīfah that a man said to him, “I have taken an oath that I will have sexual intercourse<sup>160</sup> with my wife during the month of Ramadan [i.e. during fasting hours, which is categorically prohibited]; however, I do not want to pay *kaffārah*<sup>161</sup> and nor do I want to sin.” Abū Ḥanīfah replied, “Travel with her.” In this scenario, it was difficult for the man to keep his intended oath (of sexual gratification) as it would entail a major sin which

---

<sup>158</sup> Ibid

<sup>159</sup> Aṣ-Ṣaymarī; Abū ‘Abd Allāh Ḥussain b. ‘Alī. He was born in 351/962 in Khorasan and a renown jurist and judge. He was known for transmitting ḥadīth and followed the Ḥanafī school of thought. He lived during the Abbasid Caliphate and worked in Baghdad. He passed away in the year 436/1047.

<sup>160</sup> The Arabic verb used here is *a-ṭ-ou* which is from the root letters *w-ṭ-a*. In this context it denotes sexual gratification, but it also bears the meaning of walking.

<sup>161</sup> *Kaffārah*; Reparation; expiation from wrongdoing; atonement; penance. To be preceded by remorse for having done wrong or forgotten religious requirements. Consists of self-inflicted punishments of a religious character, which courts are not authorized to enforce. The Quran provides numerous expiations for various sins, including fasting, emancipation of slaves, and donations to charity. See: "Kaffarah." In The Oxford Dictionary of Islam. Ed. John L. Esposito. Oxford Islamic Studies Online. 06-Nov-2018. <<http://www.oxfordislamicstudies.com/article/opr/t125/e1228>>.

would result in a hefty reparation. Thus, Abū Ḥanīfah sought another interpretation<sup>162</sup> for his oath which would prevent him from committing a religious crime.

In essence, a *muftī* is encouraged to look for flexibilities if it will require one being saved from being disgraced by sin. Such a notion is also found in a ḥadīth found in *Ṣaḥīḥ Muslim* wherein a companion by the name of Māʿīz b. Mālik approached the Prophet Muḥammad and confessed to having committed adultery. The Prophet turned away from him after which Māʿīz faced him from another angle. He again confessed to his sin; the Prophet turned away from him four times, but the man testified against himself four times. The Prophet addressed him and said, “Are you mad?” The man said, “No.” The Prophet asked, “Are you married?” He said, “Yes.” He was then taken to be stoned.<sup>163</sup> The ḥadīth is a clear example that a *muftī* should look for every flexibility to save the questioner from committing a sin for as long as it does not break the Sharia rules. In the transmission above, the Prophet’s questioning of the man’s sanity was in order to see whether his autonomy could be questioned, thus preventing him from being stoned. When the man replied negatively, he asked him as to whether he was married or not, as being a bachelor would only warrant one hundred lashes. Both questions were asked in order to find a legitimate way to prevent Māʿīz b. Mālik from being subjected to *rajm* (stoning).

#### THE PIOUS MUFTĪ

A *muftī* has classically been someone who bears great piety and

---

<sup>162</sup> He took the verb to mean ‘walking’ and so he advised the man to travel with his oath – subsequently, he would have fulfilled his oath and also saved himself from being subjected to reparations.

<sup>163</sup> Al-Qushairī, Abū al-Ḥussain Muslim b. Ḥajjāj., *Ṣaḥīḥ Muslim* (Beirut: Dār al-Afāq al-Jadīdah) *Ḥadīth* #1691

spirituality. As such, they have naturally been considered role models for the Muslim community due to their meticulous emulation of the Prophet Muḥammad and adherence to the Sharia. Whilst aspects of piety cannot truly be grasped, Islamic literature is rife of instances where *muftīs* have expended themselves in worship and developed a good reputation among their communities. For example, it is well documented regarding Abū Ḥanīfah and ash-Shāfi‘ī that they would complete the recital of the Qur’ān sixty times during Ramadan.<sup>164</sup> Such feats have given impetus to the notion that a *muftī* should be godly in his nature and that his knowledge is directly impacted by his piety. However, it is impossible to truly gauge the piety of a person as it largely relates to one’s intrinsic values and intentions. Likewise, it is difficult to discern between sincere worship and ostentation. Furthermore, a *muftī* may well replicate the worship of previous godly, scholars but it may never contribute towards public perception of him as it was done in private. Thus, even though it was impossible to truly measure a *muftī*’s piety, communities paid great attention to their outward appearance and meticulous following of the *Sunnah* i.e. the customs and traditions of the Prophet Muḥammad.

Consequently, a *muftī*’s appearance contributed greatly towards the credibility of his research and similarly, it was seen as an outward manifestation of his inner piety.<sup>165</sup> Hence, a *muftī* was not permitted to breach any of the Sharia guidelines that regulated a male’s appearance. For example, he was expected to remain in a state of purity, wear clothing that

---

<sup>164</sup> Aṭ-Ṭayyār, Aḥmad b. Nāṣir., *Ḥayāt as-Salaf* (The Lives of the Predecessors), (KSA: Dār ibn al-Jawziyyah, 2009) pg. 210

<sup>165</sup> Al-Qarāfi, Shihāb ad-Dīn Abū’l ‘Abbās Aḥmad b. Idrīs al-Miṣrī., *Al-Iḥkām* (Beirut: Dār al-Bashā’ir, 1995) pg. 253

would cover his *‘awrah*,<sup>166</sup> abstain from wearing gold and silk and the appropriation of clothing synonymous to non-Muslims and flagrant sinners.<sup>167</sup> As such, it was inconceivable for a *muftī* to openly liaise with women lest he be accused of philandering and promiscuity.<sup>168</sup> Al-Qarāfī states, “It is necessary for a *muftī* to wear beautiful clothes in accordance with Sharia guidelines. Indeed, mankind is attracted to extolling the outward appearance. When this is not the case, people will refrain from [a *muftī*’s] guidance and from following him.”<sup>169</sup> Additionally, he was seen to act upon what he has issued otherwise be the subject of great condemnation and be labelled a hypocrite. By extension, he was also required to abstain from doubtful matters so that his righteousness was not questioned or compromised.<sup>170</sup>

Quite simply, a *muftī* was under scrutiny in every aspect of his life; not only was his knowledge scrutinised by the community, but his private affairs were also examined with great interest. It can only be concluded that such a lifestyle must have been difficult to conform to, particularly in intolerant communities.

#### ARE CLASSICAL IDEALS APPLICABLE TO MODERN DAY MUFTĪS?

The above highlights the expectations a *muftī* was largely expected to

---

<sup>166</sup> ‘Awrah was generally defined as that part of a man’s or woman’s body that may not be revealed; conversely, it is that part of the body that must be covered. However, each jurist defined and determined the ‘awrah of individuals based on his school of law and the subject under consideration (infant, child, adult, slave, free, etc.) See: Omar, Sara . "Dress." In The [Oxford] Encyclopedia of Islam and Law. Oxford Islamic Studies Online. 12-Dec-2018. <<http://www.oxfordislamicstudies.com.ezproxy.uwtsd.ac.uk/article/opr/t349/e0040>>.

<sup>167</sup> Usmānī, Muḥammad Taqī., *Usūl al-Ifṭā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 375

<sup>168</sup> Ibid

<sup>169</sup> Al-Qarāfī, Shihāb ad-Dīn Abū’l ‘Abbās Aḥmad b. Idrīs al-Miṣrī., *Al-Iḥkām* (Beirut: Dār al-Bashā’ir, 1995) pg. 253

<sup>170</sup> Usmānī, Muḥammad Taqī., *Usūl al-Ifṭā’ wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 375

adhere too; however, are such ideals applicable in the modern day? To a degree, arguments may be presented in its support and rejection.

For example, the landscape in which a British-born or Western *muftī* resides in is completely different; as per Fundamental British Values, many establishments seek to provide environments conducive to gender mixing. Consequently, a *muftī* would be forced to regularly liaise with women, at times in private, or through digital correspondence. Such situations are rarely documented in Islamic history where jurists were usually based in Muslim communities where Islamic sensitivities such as gender mixing were regulated.

Likewise, questions may be asked as to what is considered to be the clothing of the pious in the West? Is it to dress oneself in a lengthy thobe and shemagh as done by Saudi Arabian scholars, or is it to wear a salwar kameez and turban, synonymous to scholars from the subcontinent? Such a discussion has been hotly debated by scholars.<sup>171</sup> Is it a breach of the Sharia and *Sunnah* for a British-born *muftī* to wear a suit when issuing legal rulings or otherwise? Scholars are in dispute as to whether the prophetic dress code was reflective of the customary dress or with an intent to legislate a legal ruling for the community and affirm that it was an obligatory dress code.<sup>172</sup> As such, conservative communities would absolutely abhor following an individual who has *prima facie* discarded the Prophet Muḥammad's appearance as highlighted in the ḥadīth. Likewise, other communities may feel that such a rigid, and stringent understanding has produced

---

<sup>171</sup> See: Ustadh Salman Younas, "Does the Sunna Entail Dressing as the People of the Land I Live In?" SeekersHub, 18 September 2016. <http://seekershub.org/ans-blog/2016/09/18/sunna-entail-dressing-people-land-live/> [Accessed 28<sup>th</sup> November 2018]

<sup>172</sup> Ibid

inaccessible mullahs.

Finally, aspects of professionalism can be applied by *muftīs* today and are apparent in their writings which bear the hallmarks of the guidelines discussed above. However, some guidelines require development and at times reform, especially for tech-privy, computer literate scholars living in Western communities. This discussion will now be further elaborated upon in Part III.

## PART III: FATAWĀ TODAY

ISLAM IN THE 21<sup>ST</sup> CENTURY

Society has developed to the extent that being ‘tech-free’ is near impossible; a smartphone is no longer a simple device to facilitate a conversation with another but is a mailable key to many doors. Ideas, suggestions, images, videos, *fatāwā* and more may be shared at the ‘tap of a screen’. Thus, just as Islam lives as a major world religion in real life, its reputation precedes it from a technological point of view. Most primarily, this is found online and through social media.

The internet has become a portal of networking for the world; not just Muslims. However, communities tend to bond with their own and with the advent of websites such as Facebook, MySpace, and Twitter, Muslims within the United Kingdom are able to connect with people all around the world. This has brought about great ease in advertising events, seeking knowledge, finding a spouse and accessing scholars. On the contrary, it has also largely been a medium by which Muslims can correspond with jihadists and in some cases, even be recruited.<sup>173</sup>

Professor Gary Bunt argues that there is a ‘sense of specific Islamic identity associated with aspects of cyberspace’ and ‘may be intentionally designed Muslim only zones’<sup>174</sup>. While this may not be the case in regard to websites such as Facebook and Twitter which are universally acclaimed and trump Islamic social networking sites in both expansiveness and popularity; it is most certainly correct with regard to Muslim dating websites. Where

---

<sup>173</sup> The Independent, ‘How exactly does Twitter take on ISIS’s cyber jihadists?’ February 2016 <http://www.independent.co.uk/life-style/gadgets-and-tech/features/how-exactly-does-twitter-take-on-isis-cyber-jihadists-a6857731.html> [Accessed 13<sup>th</sup> November 2018]

<sup>174</sup> Bunt, Gary R. *iMuslims*, The University of North Carolina Press, 2009. Pg. 7

other dating/marriage websites are open to all religions, Muslim dating websites such as SingleMuslim.com immediately highlight within their terms and conditions, “We are a private members club and will only accept membership applications from single, widowed, divorced or legally separated adults of the Muslim religion...” – this immediately isolates other faiths. However, it can also be argued that it allows Muslims within the United Kingdom to filter and access others purely of their own faith. The website itself claims a success rate of approximately four matches per day.<sup>175</sup> Quite importantly, social networking allows Muslims to circumvent cultural and religious barriers which prevent prospective partners from speaking freely in public. Thus, many are resorting to having initial conversations that they would normally have been done face-to-face in a private, online medium.<sup>176</sup> Consequently, the internet as a networking tool is indispensable for single Muslims living in the United Kingdom.

The use of the internet also extends to mobile phones which have previously been used for blogging discussions on the Islamic theology, politics and general topics;<sup>177</sup> however, with the advent of various apps such as WhatsApp in particular and Telegram, Islamic groups are now formalised and innovative ways to access Islamic material is being developed. As of recent, contemporary scholars such as Dr. Mufti Abdur Rahman Mangera, a research fellow at the Cambridge Muslim College, encouraged Muslims to create WhatsApp groups dedicated to allocated readings of the Qur’ān.<sup>178</sup> In

---

<sup>175</sup> BBC News ‘Why millions of Muslims are signing up for online dating?’ December 2014 <http://www.bbc.co.uk/news/magazine-30397272> [Accessed 13<sup>th</sup> November 2018]

<sup>176</sup> Ibid

<sup>177</sup> Bunt, Gary R. *iMuslims*, The University of North Carolina Press, 2009. Pg. 132

<sup>178</sup> ZamZam Academy ‘Using WhatsApp to Benefit the Dead’ October 2016 <http://www.zamzamacademy.com/2016/10/using-whatsapp-to-benefit-the-dead/> [Accessed 13<sup>th</sup> November 2018]



fact, it would be worth noting that he had made a short YouTube video in order to propagate his message – another method by which the internet is being used as a networking tool. In fact, it would not be an understatement to highlight that the internet, and apps that are supported by it, have provided a new dimension to Islamic scholarship. It has become a way for scholars to easily advertise their speeches, writings and advice. Encouragement to become a digital scholar are ever present in the ḥadīth, “One who guides to good will be rewarded its equivalent.”<sup>179</sup> Likewise, Muslims are no longer required to travel to their mosque in order to ask the Imam a quick question, they can merely upload their query onto a group or various *fatāwā* websites such as IslamQA.com and AskImam.com.

Nevertheless, as innovative as the internet has become as a networking tool for Muslims, it has also been a key instrument utilised by Islamic terrorists around the world for recruitment and propaganda. Professor Bunt writes about how the internet has been applied by diverse jihadi platforms to conflicts in Iraq and Palestine<sup>180</sup> but the current conflict in Syria and the emergence of ISIS has transcended the use of the internet for Muslims in the United Kingdom. This can perhaps be highlighted, quite harrowingly, by the departure of four school girls from Bethnal Green.<sup>181</sup> The school girls were believed to have been radicalised online and

---

<sup>179</sup> Al-Bukhārī, Muḥammad ibn Ismā‘īl. *Ṣaḥīḥ al-Bukhārī*. Riyadh: International Ideas Home for Publishing & Distribution, 1998.

<sup>180</sup> Bunt, Gary R. *iMuslims*, The University of North Carolina Press, 2009. Pg. 243

<sup>181</sup> The Guardian ‘Four London schoolgirls who left UK for Syria married men approved by ISIS’ January 2016 <https://www.theguardian.com/world/2016/jan/19/four-london-schoolgirls-who-left-uk-for-syria-married-men-approved-by-isis> [Accessed 13<sup>th</sup> November 2018]

encouraged to join ISIS.<sup>182</sup> Since mid-2015, Twitter has deleted more than 125,000 accounts linked to terrorists and there is no doubt that users have been using similar networking sites to attract Muslims in the United Kingdom and continue a cyber-jihad.<sup>183</sup>

In conclusion, the internet has become an indispensable networking tool which is currently being used by Muslims across the United Kingdom in many ways. As technology is rapidly developing, so are the avenues by which Muslims can connect with one another and share ideas whether it be videos, documents, voice clips or images. Whilst there are many positives for Muslims in terms of dating websites, scholarly interaction and general socialising, there are sinister undertones due to the emergence of ISIS and the lure of their propaganda. Likewise, the usage of smartphones has contributed greatly to keeping individuals in correspondence with one another, regardless of where they may be in the world. Regardless of the motive, the internet has become invaluable to British Muslims of every denomination.

#### **SOCIAL MEDIA AT THE FOREFRONT OF DISSEMINATING FATĀWĀ**

Islam is a religion which to a great degree, gravitates around jurisprudence as it is directly linked to ritual worship. On the other hand, it also focuses on hermeneutics and theology which are directly linked to core beliefs. For Muslims of all inclinations, there is always something to ask about from the permissibility of taking an interest-based mortgage to the

---

<sup>182</sup> The Independent 'Isis' British Brides' August 2016

<http://www.independent.co.uk/news/uk/home-news/isis-british-brides-kadiza-sultana-girls-women-syria-married-death-killed-aqsa-mahmood-islamic-state-a7187751.html>  
[Accessed 13<sup>th</sup> November 2018]

<sup>183</sup> The Guardian 'Twitter deletes 125,000 ISIS accounts and expands anti-terror teams' February 2016 <https://www.theguardian.com/technology/2016/feb/05/twitter-deletes-isis-accounts-terrorism-online> [Accessed 13<sup>th</sup> November 2018]

consumption of food containing e-numbers. Thus, the *e-fatāwā* has become an integral part of a common Muslim's life; there is no longer a great need to visit a local scholar and seek a ruling as was done classically. Even the usage of letters or e-mails seem relatively outdated; at present, huge databases of answered questions are vastly available on the internet. The onus is upon a Muslim to find a questioner whose scenario is synonymous to their own and apply the *fatwā* accordingly. Subsequently, various websites have emerged in the past decade which attempt to answer questions in accordance to the *madhab* of the *muftī* or team behind the rulings. However, the dissemination of *fatāwā* has not merely transitioned as a digital text but has also shown its impact through the usage of YouTube, Snapchat, Facebook and any other such interface which possesses the ability to play video recordings. In essence, a *muftī* no longer needs a pen and paper or keyboard and mouse to promulgate his views.

#### **FACEBOOK FATWĀS**

For instance, Muftī Abū Layth al-Mālikī, a Birmingham based scholar, has transcended the concept of issuing legal rulings greatly. Abu Layth has caused a great stir among the Sunni community for his unorthodox *fatāwā* – this is a matter that I previously mentioned in the last chapter. Classically, a *muftī* was expected to issue edicts within constraints identified by previous, credible scholars. However, in my opinion, Abu Layth has used Facebook as a platform to successfully challenge classical views of Islam. However, this has caused his condemnation by traditional scholars who are also prominent figures on social media such as Shaykh Mohammed Yasir al-

Hanafi<sup>184</sup>, who is well known for his support of traditional values and the Ḥanafī school of thought. In fact, such is the animosity between the two that the latter refuses to refer to Abu Layth by his cognomen by which he has become famous and cites his actual name, Nahiem Ajmal. Such is the condemnation that Muhammad Yasir al-Hanafi has labelled Abu Layth, ‘*Dajjāl*’<sup>185</sup> due to the latter’s satire of Islam<sup>186</sup>.

What has earned Abu Layth such scathing criticisms which are beyond scrutiny of scholarship and are actually insults on his character? Abu Layth has used Facebook to disseminate rulings which are considered to be highly questionable by mainstream scholars. In the past, he has permitted sexual intercourse with sex dolls; the usage of cannabis; celebrating non-Islamic festivals such as Christmas and Halloween and so forth. In fact, his rejection

---

<sup>184</sup> Muhammad Yasir al-Hanafi, “Nahiem Ajmal’s (Abu Layth) Disparaging His Opponents”, Facebook, 20 April 2018, <https://www.facebook.com/shaykhmohammadyasir/posts/nahiem-ajmals-abu-layth-disparaging-his-opponentsnahiem-ajmal-doesnt-like-his-sh/1834178639960661/>. [Accessed 14<sup>th</sup> November 2018]

<sup>185</sup> *Dajjāl* literally means the greatest liar and is in reference to the Anti-Christ who is believed by Muslims to emerge towards the end of times. He is known as the greatest liar due to his deception and claim of divinity. See: Anti-Christ, Oxford Islamic Studies: Known as *Dajjāl* (the deceiver). Supposed to appear during the age of injustice preceding the end of the world, causing corruption and oppression to sweep over the earth for a period of either forty days or forty years. Appearance is one of the sure signs of the last days. Will deceive many by false teachings and miracles, bringing with him food and water to tempt those who have been suffering. Not mentioned in the Quran, but prominent in hadith and later Islamic literature. Correlates to Christian apocalyptic legends about the Antichrist. Medieval Christians often portrayed Muhammad as the Antichrist. Many evangelical Christians today portray Muslims as agents of the Antichrist. "Antichrist." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. Oxford Islamic Studies Online. 14-Nov-2018. <<http://www.oxfordislamicstudies.com/article/opr/t125/e173>>. [Accessed 17<sup>th</sup> November 2018]

<sup>186</sup> Muhammad Yasir al-Hanafi, “Nahiem Ajmal’s (Abu Layth) Disparaging His Opponents”, Facebook, 20 April 2018, <https://www.facebook.com/shaykhmohammadyasir/posts/nahiem-ajmals-abu-layth-disparaging-his-opponentsnahiem-ajmal-doesnt-like-his-sh/1834178639960661/>.

of classic, widely held jurisprudence has caused a popular YouTuber, Farid of the Sunni Defense Channel, to compile twenty minutes worth of footage documenting Abu Layth's non-linear views of Islam.<sup>187</sup> Essentially, Abu Layth has gained a huge following; 11,732 Facebook followers with 9,897 liking his profile<sup>188</sup>, 5,670 followers on Twitter.<sup>189</sup> Despite his widespread denunciation at the hands of traditionalists, his satirical approach to juristic intricacies have appealed to many Muslims. This is especially seen in his weekly *Fatāwā* streams which is aptly titled, '#MondayNightsWithMufti Q&A Live and Unrestricted'. The comment section allows for followers (or even critics) to bombard Abu Layth with a variety of questions to which he responds accordingly. For example, on 24<sup>th</sup> September 2018, Abu Layth streamed a two-hour session where he tackled questions pertaining to the acquisition of seventy two virgins in Paradise; compulsion in faith; differences between the jurisprudence of Mālik and al-Awzā'ī; Islamic stance of marriage to minors; the Islamic ruling regarding cryptocurrencies and many other contemporary and old issues.<sup>190</sup> Interestingly, each session attracts 800+ viewers weekly on average; this not only shows Abu Layth's emergence and sustained impact as an *e-muftī*, but it also shows the interest garnered by his style of issuing legal edicts.

Abu Layth is simply a scholar among many others who have used Facebook's networking capabilities to connect with people around the

---

<sup>187</sup> The Sunni Defense, "Islam According to Abu Layth", YouTube, 24 October 2018, <https://www.youtube.com/watch?v=qglo-oVb9QE>. [Accessed 17<sup>th</sup> November 2018]

<sup>188</sup> Mufti Abu Layth al-Maliki, <https://en-gb.facebook.com/MuftiALMaliki/> [Accessed 17<sup>th</sup> November 2018]

<sup>189</sup> Mufti Abu Layth (@MuftiAbuLayth), <https://twitter.com/muftiabuslayth?lang=en> [Accessed 17<sup>th</sup> November 2018]

<sup>190</sup> Mufti Abu Layth al-Maliki, "#MondayNightsWithMufti", Facebook, 24 September 2018, <https://www.facebook.com/MuftiALMaliki/videos/vb.574637672633950/508538406276187/?type=2&theater>. [Accessed 17<sup>th</sup> November 2018]

world. Others such as Shaykh Hamza Yusuf, Shaykh Yasir Qadhi, Nouman Ali Khan, Mufti Menk have all used their access to social media as a means of issuing Islamic information to a greater audience.

Overtly, it is easy to state that Abu Layth bears very little commonality with the classical concept of a *muftī* which I've highlighted in the previous chapter. His appearance alone has received scrutiny by others of the same school of thought such as Abdus Shakur Brooks, a Canadian Mālikī scholar.<sup>191</sup> Likewise, it is evident that Mufti Abu Layth disregards many of the classical codes by which a *muftī* is expected to behave but his methods in broadcasting his views have proven to be highly effective – his average count of weekly views testifies to this. He has shown personability to the common layman and has endeared himself to western Muslims.

#### **YOUTUBE SENSATIONS & ABUSE OF AUTHORITY**

The use of visual media as a tool for propagating Islamic thought has not been without its failures. Some scholars have attained a celebrity like status which has drawn attention from the opposite gender. For example, Nouman Ali Khan, who is considered widely to be reputable scholar and an authority of Qur'anic exegesis, was accused of having 'inappropriate interactions with various women, violating agreed-upon bounds of Islamic law'.<sup>192</sup> Khan later posted a rebuttal to the claims made against him but his authority as a scholar was called into question by many. Why was a scholar behaving in such an un-Islamic way? How could his opinions ever be accepted? To put

---

<sup>191</sup> Mufti Abu Layth al-Maliki, "Mufti Abu Layth & Abdus Shakur Brooks: A discussion on Maliki Fiqh.", Youtube, 09 May 2018, <https://www.youtube.com/watch?v=hcsudhD8bU>.

<sup>192</sup> Zeba Khan, "Navigating the Nouman Ali Khan Scandal.", MuslimMatters.org, 24 September 2017, <https://muslimmatters.org/2017/09/24/navigating-the-nouman-ali-khan-scandal/> [Accessed 17<sup>th</sup> November 2018]

this in perspective, Nouman Ali Khan is followed by 2.1 million followers on Facebook<sup>193</sup> and 301,000 on Twitter<sup>194</sup> - an alleged affair would have incredible ramifications to his credibility of being a scholar which, as mentioned previously, is based upon his scrupulousness, piety and Islamic character. Despite the claims being denied and unproven (although many would question what an investigation would look like), many accused Khan of being a ‘vile filthy liar’, ‘misogynistic’, ‘hypocrite’ and worthy of divine reprimand.<sup>195</sup>

Regardless of the outcome, the Nouman Ali Khan situation has highlighted a key issue for scholars; previously, a scholar would hardly have any direct interaction with a female. His presence would be limited to a short time; in some instances, he would deliver talks, issue legal edicts behind a barrier to prevent him from seeing female questioners or being seen by them. The topic of Islamically inappropriate relationships between scholars and the opposite gender has been documented by several authors<sup>196</sup>. Dr Gary Bunt analyses the situation and says, “The emergence of celebrity religious

---

<sup>193</sup> Nouman Ali Khan, Facebook, <https://en-gb.facebook.com/noumanbayyinah/> [Accessed 20<sup>th</sup> November 2018]

<sup>194</sup> Nouman (@noumanbayyinah), Twitter, <https://twitter.com/noumanbayyinah?lang=en> [Accessed 20<sup>th</sup> November 2018]

<sup>195</sup> Zeba Khan, “Navigating the Nouman Ali Khan Scandal.”, MuslimMatters.org, 24 September 2017, <https://muslimmatters.org/2017/09/24/navigating-the-nouman-ali-khan-scandal/> [Accessed 20<sup>th</sup> November 2018]

<sup>196</sup> See: Ismail Kamdar, “Shaykhy Crushes: Trials in the Lives of Men of Knowledge, MuslimMatters.org, 06 June 2018, <https://muslimmatters.org/2011/06/06/shaykhy-crushes-trials-in-the-life-of-men-of-knowledge/>; Ustadha Zaynab Ansari, “Drawing a Line in the Sand: Student-Teacher Relationships in the Digital Age.” MuslimMatters.org, 30 May 2015, <https://muslimmatters.org/2015/05/30/drawing-line-sand-student-teacher-relationships-digital-age/>; Ustadha Zaynab Ansari, “Blurred Lines; Women, “Celebrity” Shaykhs, and Spiritual Abuse, MuslimMatters.org, 27 May 2015, <https://muslimmatters.org/2015/05/27/blurred-lines-women-celebrity-shaykhs-spiritual-abuse/>.

figures has challenged norms, through development of profiles beyond traditional concepts of authority into the realms of fandom.”<sup>197</sup> Ustadha Zaynab Ansari has discussed this issue thoroughly: “The celebrity Shaykh has become enthroned on a pedestal, the pedestal of unimpeachable piety and character, the pedestal of ‘see no wrong, do no wrong’, in which we, the adoring students, have cast this very fallible human beings as larger than life.”<sup>198</sup>

Due to the ease of disseminating Islamic rulings over the internet, a *muftī* is no longer in need of a constitutional, institutional or scholarly backing. Rather, a detailed biography and well-presented video is enough to captivate the masses. Bunt continues: “Internet materials on Islamic issues have been described elsewhere as a form of entertainment, which trivializes significant issues and knowledge. According to their website Muslimology, “The internet does create a beguiling sense of ‘know-it-all’ when really, most Muslims can rarely quote a hadith precisely and on the spot, which of course is what counts. We forget, all that information can be deleted instantly off the internet, forever gone.”<sup>199</sup>

The prominence of the internet as a tool for communicating *Fatāwā* has transformed methods by which communities can communicate with scholars. As mentioned earlier, cities would find themselves with a designated *muftī* who would lead them in their religious affairs; at times, such a person would be appointed on behalf of the state. However, there are two striking features of following a *muftī* in the modern day. Firstly, a person

---

<sup>197</sup> Bunt, Gary., *Hashtag Islam*, (USA: University of North Carolina Press, 2018), pg. 72

<sup>198</sup> Ustadha Zaynab Ansari, “Blurred Lines; Women, “Celebrity” Shaykhs, and Spiritual Abuse, MuslimMatters.org, 27 May 2015, <https://muslimmatters.org/2015/05/27/blurred-lines-women-celebrity-shaykhs-spiritual-abuse/>. [Accessed 20<sup>th</sup> November 2018]

<sup>199</sup> Bunt, Gary., *Hashtag Islam*, (USA: University of North Carolina Press, 2018), pg. 83



who is a resident of London may easily find themselves following a *muftī* from South Africa, this will be discussed further shortly. Secondly, and more relevant to this particular section, the interaction between female questioners and male *muftīs* has totally transformed from the early Islamic era. Classically, Muslims have considered the intermingling of genders quite reprehensible; despite it not being strictly practiced during the Prophet's era, later scholars had prohibited it to prevent fornication, adultery and unchastity.<sup>200</sup> The argument is that the Prophet's era was one of piety and righteousness, hence people acted in accordance to their faith. However, scholars argue that as times have changed, corruption has spread and subsequently apply Qur'anic verses and ḥadīth which infer such interactions are prohibited. For example, the Qur'ān states, "Tell the believing men to lower their gaze."<sup>201</sup> Thus, scholars have used the verse to infer that one will be unable to lower their gaze in mixed gatherings, therefore such interactions are prohibited. Such is the importance attached to it, a UK *muftī*, by the name of Muhammad ibn Adam had issued a *fatwā* regarding mixed gatherings and cited classical sources as his evidence. As part of his *fatwā*, he commentated:

*"The regulations related to male-female interaction are essential to the very soundness of human civilization. If ignored, they threaten its very survival...Where there is free mixing, this natural instinct will be aroused at sometime and lead to the committing of sin. Therefore, Islam takes the preventive measure rather than suffer the consequences. This is also one of the principles of Islamic Jurisprudence, namely 'blocking the means'. This is*

---

<sup>200</sup> Muhammad Saalih al-Munajjid, "Who bears the consequences of mixing - men or women?", IslamQA, 22 February 2008, <https://islamqa.info/en/answers/103044/who-bears-the-consequences-of-mixing-men-or-women>.

<sup>201</sup> Qur'ān 24:30

*based on the idea of preventing an evil before it actually materializes, and is taken from the heart of the guidance of the Qur'an and Sunnah that, "Preventing harm is given precedence even to achieving possible benefits."<sup>202</sup>*

Thus, classically, the correspondence between a *muftī* and a female would seldom occur, especially in a society where women's access to a scholar was limited or in the presence of a family member. The former Grand Muftī of Saudi Arabia, ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (d. 1999) issued a *fatwā* highlighting the prohibition of women studying in a mixed environment:

*Mixing between men and women in schools and elsewhere is a great evil and a serious problem that affects both religious and worldly interests. Therefore, it is not permissible for a woman to study or work in a place where there is mixing between men and women, and it is not permitted for her guardian to allow her to do that.<sup>203</sup>*

At present, it is near impossible to regulate the interaction between a *muftī* and a female questioner as there are many avenues for private correspondence. It is due to inappropriate interactions that many Muslim scholars and jurists have been subjected to condemnation for abusing their powers. For example, the current rape allegations against Swiss-born Islamic scholar, Tariq Ramadan,<sup>204</sup> have resulted in widespread

---

<sup>202</sup> Muhammad ibn Adam, "Mixed Gatherings" Darul Iftaa, 05 March 2004, [http://www.daruliftaa.com/node/5725?txt\\_QuestionID](http://www.daruliftaa.com/node/5725?txt_QuestionID). [Accessed 20<sup>th</sup> November 2018]

<sup>203</sup> Muhammad Saalih al-Munajjid, "Is it permissible for her to study in a mixed environment in a non-Muslim country?" IslamQA, 04 September 2015, <https://islamqa.info/en/answers/103044/who-bears-the-consequences-of-mixing-men-or-women> [Accessed 20<sup>th</sup> November 2018]

<sup>204</sup> Khaled Abou El Fadl, "On the Tariq Ramadan affair." Al-Jazeera, 31 July 2018, <https://www.aljazeera.com/indepth/opinion/tariq-ramadan-affair-180722140955000.html>. [Accessed 20<sup>th</sup> November 2018]

condemnation politically and Islamically. Despite Ramadan not having been proved guilty, member of the media and social media have already discredited him greatly. Such scandals and controversies have rarely been documented throughout Islamic history; again, this shows how *fatāwā* and *muftīs* have developed since early Islam. Early Muslim jurists would infrequently come into correspondence with a woman and even if they did, it was largely restricted. However, *muftīs*, are required to interact with the other gender on a regular basis in today's society but are expected to exhaust Sharia boundaries as far as possible.<sup>205</sup>

#### DEOBANDI DOMINANCE

Deoband is situated approximately 150 km from Dehli, in the state of Uttar Pradesh, India. However, it is recognised today as the birth place of the Darul Uloom Deoband seminary and by extension, the Deobandi sect. It was initially established in 1867 and emphasised the study of Ḥanafī jurisprudence and major books of ḥadīth. Likewise, they focused on spiritual purity (*iṣlāḥ an-nafs*) and the meticulous following of the *Sunnah* in appearance and action.<sup>206</sup> Such were the calibre of graduates and scholars, that by 1967, Deobandis had founded 8,934 schools throughout India and

---

Also see: Nic Marko, "Religious teacher has bail extended after arrest on suspicion of inciting child to engage in sexual activity." Lancashire Telegraph, 09 February 2018, <https://www.aljazeera.com/indepth/opinion/tariq-ramadan-affair-180722140955000.html>.

Ajmal Masroor, "Cult of Scholars and Circus of Foolish Followers." YouTube, 05 November 2017, [https://www.youtube.com/watch?v=viKfKp\\_aegc&feature=youtu.be&a=](https://www.youtube.com/watch?v=viKfKp_aegc&feature=youtu.be&a=). [Accessed 21<sup>st</sup> November 2018]

<sup>205</sup> Muhammad Saalih al-Munajjid, "Guidelines on speaking to a woman who is new Islam for the purpose of *da'wah*." IslamQA, 03 March 2011, <https://islamqa.info/en/answers/52889/guidelines-on-speaking-to-a-woman-who-is-new-in-islam-for-the-purpose-of-dawah>. [Accessed 21<sup>st</sup> November 2018]

<sup>206</sup> See: "A Brief Introduction" Darul Uloom Deoband, <http://www.darululoom-deoband.com/english/aboutdarululoom/introduction.htm>

Pakistan. Its influence was also found in the transnational movement, Tablighi Jamaat in the late 1900s.<sup>207</sup> Such was its influence that its followers attributed themselves as being a Ḥanafī Deobandi which would highlight their loyalty towards Islamic jurisprudence and Sufism.

In the UK today, the Deobandi sect is the largest single group in the UK and regulates approximately between 40-45 per cent of Britain's mosques.<sup>208</sup> Quite definingly, the majority of UK based seminaries for Islamic scholarship are run by Deobandis who mirror the *Dars-e-Nizāmī*, a curriculum developed in the Indian subcontinent during the 18<sup>th</sup> century.<sup>209</sup> In fact, a study compiled by Jonathan Birt in 2003 entitled, 'Survey of Islamic Seminaries' highlights that there were twenty five traditionalist, Deobandi seminaries in the UK.<sup>210</sup> Naturally, such influence extends to publications, literature, sermons, services and most importantly, *fatāwā*.

#### DEOBANDĪ FATWA

Evidently, the Deobandi sect have made a contribution to Muslims living in the UK and the west in general. This has been highlighted above; in fact, a search for *fatāwā* online will result in a Deobandi dominion of databases.

As mentioned earlier, Ḥanafīs usually used Ibn 'Ābidīn's *Radd al-Muḥtār* as an authoritative text when issuing *fatāwā*. However, Ḥanafī Deobandis have produced numerous books of *fatāwā* in Urdu detailing responses by famous

---

<sup>207</sup> See: "Deobandis." In The Oxford Dictionary of Islam. Ed. John L. Esposito. Oxford Islamic Studies Online. 18-Nov-2018.  
<<http://www.oxfordislamicstudies.com/article/opr/t125/e522>>.

<sup>208</sup> Innes Bowen, "Who runs our mosques?" The Spectator, June 14 2014, <https://www.spectator.co.uk/2014/06/who-runs-our-mosques/>

<sup>209</sup> Van Bruinessen, M. and Allievi, S., (2013). Producing Islamic knowledge: transmission and dissemination in Western Europe. Routledge. p.99

<sup>210</sup> Gilliat-Ray, S. (2005). 'Educating the *Ulama*: Centres of Islamic Religious Training in Britain'. pg. 59-60

subcontinent scholars to their communities. Darul Uloom Deoband itself has produced a multi-volume collection of issued legal edicts named *Fatāwā Darul Uloom Deoband*. Likewise, famous alumni of Deoband such as Muftī Maḥmūd Ḥassan al-Gangohī<sup>211</sup> (d. 1996), who would later go on to become the Grand Mufti of India<sup>212</sup> and Darul Uloom Deoband, had produced a twenty-volume collection of his legal edicts entitled, '*Fatāwā Maḥmūdiyyah*'. The compilation gained great popularity among Indian Muslims and has been used in similar vein to Ibn 'Ābidīn's *Radd al-Muḥtār* as a key text in Ḥanafī jurisprudence. In reality, *Fatāwā Maḥmūdiyyah* served to further strengthen Deobandi opinion; along with this compilation, other Urdu publications such as *Fatāwā Raḥīmiyyah*, *Aḥsan al-Fatāwā*, *Āp ke Masā'il*, *Imdād al-Fatāwā* – all of which were produced by Deobandi scholars and which became the backbone for more contemporary compendiums such as *Fatāwā Dār al-'Ulūm Zakariyyā*, which is a compilation produced by the Deobandi seminary, Darul Uloom Zakariyyah, South Africa. In fact, it is evident to see that many contemporary *fatāwā* often cite the publications above as their core reference.

The influence of Deobandi *fatāwā* is that it has produced conservative orthodoxy among Muslims around the world. In recent times, the Deobandi form of Islam and *fatāwā* attributed to the sect has been criticised as being stringent, incompatible with modern society and restrictive of women's

---

<sup>211</sup> Al-Gangohī, Maḥmūd al-Ḥassan; he was born in Gangoh, India in 1907 and studied in the famous Deobandi seminaries, Maẓāhir al-'Ulūm, Saharanpur and Darul Uloom Deoband. Later, he became the Grand Muftī of India and the Chief Muftī of Darul Uloom Deoband. This gave his legal edicts great credibility and weight within the Ḥanafī, Deobandi school of thought. He died in South Africa in September 1996 whilst on a conference.

<sup>212</sup> This title was unofficially attributed to him by Deobandi Muslims.

rights.<sup>213</sup> However, proponents of Ḥanafī, Deobandi *fatāwā* may argue that it is the closest sect to the true understanding of the Qur’ān and Sunnah.

#### THE E-FATĀWĀ

Undoubtedly, the e-*fatāwā* is one of the greatest developments in the Islamic world. It has allowed Muslims to submit questions to a *muftī* of their choice and acquire a ruling with ease. It has allowed institutions to develop a portfolio to strengthen their position within communities whilst allowing well-established seminaries to expand their network further. Importantly for questioners, they are able to maintain privacy and anonymity when requesting answers to their most intimate questions. It appears that e-*fatwās* are the choice among questioners and *muftīs* when assessing the future of *fatāwā* in the twenty first century. Again, the Deobandi influence on the world wide web is fascinating; due to their production of Muslim scholars and *muftīs* who are now proficient in English, the web largely compromises of Ḥanafī, Deobandi *fatāwā*. Whilst this is the case in the English medium, a Google search for the word ‘*fatāwā*’ in Arabic largely shows websites influenced by Wahabi/Salafist<sup>214</sup> opinions. Popular Ḥanafī, Deobandi websites which largely dominate the world of online legal rulings

---

<sup>213</sup> Stephen Schwartz, “Fatwa Fanatics – The Deobandi-Wahabi Lust for Control Over Personal Life.” Center for Islamic Pluralism, March 11 2013, <http://www.islamicpluralism.org/2206/fatwa-fanatics-the-deobandi-wahhabi-lust-for>.

[Accessed 21<sup>st</sup> November 2018]

<sup>214</sup> Name (derived from *salaf*, “pious ancestors”) given to a reform movement led by Jamal al-Din al-Afghani and Muhammad Abduh at the turn of the twentieth century. Emphasized restoration of Islamic doctrines to pure form, adherence to the *Quran* and Sunnah, rejection of the authority of later interpretations, and maintenance of the unity of ummah. Prime objectives were to rid the Muslim ummah of the centuries-long mentality of *taqlid* (unquestioning imitation of precedent) and stagnation and to reform the moral, cultural, and political conditions of Muslims. Essentially intellectual and modernist in nature. See: "Salafi." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. Oxford Islamic Studies Online. 12-Dec-2018. <<http://www.oxfordislamicstudies.com.ezproxy.uwtsd.ac.uk/article/opr/t125/e2072>>.

are found with ease; among the databases are:

- AskImam, a South African based website run by Mufti Ebrahim Desai, a student of Muftī Maḥmūd Ḥassan al-Gangohī. As of 15<sup>th</sup> November 2018, the website has over 41,384 *fatāwā* many of which are documented in Mufti Ebrahim Desai's three volume publication, Contemporary Fatāwā. The answers are provided by trainee *muftīs* of the related seminary, Darul Iftaa Mahmudiyyah – Institute of Islamic Jurisprudence and checked by Mufti Ebrahim Desai. As of 2014, the establishment set up a Twitter account which shares trending *fatāwā* viewable on their website askimam.org. The account is followed by 3,949 followers.<sup>215</sup>
- Darul Ifta, Uloom Deoband – this is an online database provided by Darul Uloom Deoband; it provides a question and answer service in English, Urdu and Hindi. Again, the website is run by a team of qualified and trainee *muftīs*. At present, the website stores 9,065 English and 28,309 Urdu *fatāwā*.<sup>216</sup>
- Darul Iftaa - a website run by Mufti Muhammad ibn Adam, a UK born and trained scholar. The *fatāwā* are typically of a contemporary nature and discuss cosmetics, financial transactions, mortgages and so on. The Darul Iftaa twitter account is followed by 9,584 followers<sup>217</sup> whilst Mufti Muhammad ibn Adam has a huge following

---

<sup>215</sup> Darul Iftaa (@Darul\_iftaa), Twitter, [https://twitter.com/Darul\\_iftaa](https://twitter.com/Darul_iftaa) [Accessed 21<sup>st</sup> November 2018]

<sup>216</sup> Darul Ifta, Darul Uloom Deoband – India, <http://www.darulifta-deoband.com/> [Accessed 21<sup>st</sup> November 2018]

<sup>217</sup> Darul Iftaa (@DarulIftaa), Twitter, <https://twitter.com/daruliftaa?lang=en> [Accessed 21<sup>st</sup> November 2018]

of 44.1k.<sup>218</sup> Uniquely, he also has a less popular Arabic twitter account which is followed by 759 people.<sup>219</sup>

Despite the *fatwās* being digital, it is evident that the majority of the rulings are largely translated and cited from the Ḥanafī, Deobandi sources mentioned previously. Each of the websites typically have questions related to a broad scope of subjects that are listed in order of their juristic importance. Thus, common subject areas on each website would entail discussions regarding beliefs, purity, prayer, fasting, alms-giving (*zakah*), *Ḥajj*, transactions, marriage, divorce, food and drink, trusts and miscellaneous rulings.

#### ISLAM QA

IslamQA is arguably, the most popular and detailed database on the internet, especially in the English language. It is supervised by Sheikh Muhammad Salih al-Munajjid, a Syrian born scholar who resides in Saudi Arabi. Again, the website is run by a team of scholars. Evidently, the *fatāwā* are not restricted to particular school of thought, rather the site highlights Salafist rhetoric in that ‘it strives to ensure that the answers are based on evidence from the Holy Qur’ān and soundly narrated prophetic Sunnah, and are taken from the writings of the scholars, including the imams of the four *madhabs*, as well as other earlier and later scholars, and from the statement of *fiqh* councils and seekers of knowledge who conduct research in various Islamic specialities.’<sup>220</sup> As of November 2018, the website has 286,984 English

---

<sup>218</sup> Muhammad ibn Adam (@Mufti\_Muhammad\_), Twitter, [https://twitter.com/Mufti\\_Muhammad\\_](https://twitter.com/Mufti_Muhammad_) [Accessed 21<sup>st</sup> November 2018]

<sup>219</sup> Muhammad ibn Adam al-Kawthari (@ibnadamkawthari), Twitter, <https://twitter.com/ibnadamkawthari> [Accessed 21<sup>st</sup> November 2018]

<sup>220</sup> Muhammad Saalih al-Munajjid, “About our site.” IslamQA, <http://islamqa.info/en/about-us> [Accessed 21<sup>st</sup> November 2018]



*fatāwā*, 240,391 in Spanish, 290,230 in Arabic, 222,367 in French, 247,976 in German, 5,053 in Farsi, 175,634 in Urdu, 109,181 in Mandarin, 21,737 in Turkish. Clearly, Munajjid’s authority as an international *muftī* is well known. The corresponding Twitter account has 1.1 million followers<sup>221</sup> and its popularity among Muslims is obvious.

#### OTHER NOTABLE MENTIONS

It would be worthwhile mentioning that though the aforementioned websites are hugely popular, there are lesser known websites which provide the same format of questions and answer. *Sistani.org* bears a similar set up to other websites but targets Shiite jurisprudence. On the other hand, *Shafiqh.com* attempts to counter the Ḥanafī-Salafī dominion by providing answers in accordance to the Shāfi‘ī school of thought. Though less developed, they provide guidance to minority groups. *Islamqa.org* seeks to provide an all inclusive database the four Sunni schools of thought. However, once again, the indexed websites from which it draws Ḥanafī Islamic rulings are largely Deobandi.

In reality, the number of avenues to ascertain Islamic rulings have become vast. Where previously, a *muftī*’s voice would only be heard in a particular area, his voice is now transmitting across the earth. Likewise, whilst previously a *muftī* would only issue edicts to communities who were largely followers of the same school of thought, he now finds himself issuing a *fatwā* that may well be followed by Muslims of all denominations and religious inclinations.

---

<sup>221</sup> IslamQA (@IslamQacom) Twitter, <https://twitter.com/IslamQacom>

## POLARISATION IN FATĀWĀ

Professor Gary Bunt describes the plethora of online resources as rolling marketplace of knowledge and the web as a ‘Fatwa Machine’.<sup>222</sup> In turn, the progressive development of various databases and the broadcasting of *fatwā* have congested the internet with many opinions and numerous alternatives. The common Muslim may receive multiple answers for a single question.

## SUNNI WARS

The development of online *fatāwā* has stoked tensions between those who follow a school of thought and those who do not. Subsequently, the websites cited above have plenty of *fatāwā* denouncing other sects; whilst some of these are agreed upon matters, such as the denunciation of the Ahmadi sect<sup>223</sup>, some are not. Central to this, is the conflict between Salafists and strict adherents of the four school of thoughts. For example, FatwaIslam.com, a Salafist influenced website, openly posted a *fatwā* stating that the predominantly Ḥanafī Tabligh Jamat are ‘not from the people of the correct methodology’.<sup>224</sup> On the other hand, South African website Mufti Online, a Ḥanafī websites, states it is only permitted marry a Salafist provided that they commit to the correct methodology.<sup>225</sup> Websites advocating both versions of Islam exist throughout the web and have served merely to rebut one another at the hands of laymen.

---

<sup>222</sup> Bunt, Gary., *Hashtag Islam*, (USA: University of North Carolina Press, 2018), pg. 84

<sup>223</sup> Kashif N Chaudhry, “Are Ahmadis Muslims? Let us ask Prophet Muhammad.” Huffington Post, 20 April 2017, [https://www.huffingtonpost.com/kashif-n-chaudhry/are-ahmadis-muslims-let-u\\_b\\_9725660.html?guccounter=1](https://www.huffingtonpost.com/kashif-n-chaudhry/are-ahmadis-muslims-let-u_b_9725660.html?guccounter=1) [Accessed 1<sup>st</sup> December 2018]

<sup>224</sup> Saalih bin Muhammad al-Lhaydhaan. “Jamaa’atul Ikhwaan and Jamaa’atul Tableegh?” Fatwa Islam, <http://www.fatwaislam.com/fis/index.cfm?scn=fd&ID=764>

<sup>225</sup> Mufti Ebrahim Salejee, “Marrying a Barelwi or Ahle Hadith.” Mufti Online, 03 November 2015, <http://muftionline.co.za/node/9803> [Accessed 1<sup>st</sup> December 2018]

Previously, Muslim scholars have highlighted the importance of ‘the etiquette of disagreement’ (*al-adab al-ikhtilāf*) in order to maintain unity and coexistence.<sup>226</sup> However, such unity has been threatened by groups who have accused one another of disbelief or waywardness in religion. For example, there is ongoing conflict between Deobandis and Barelwis<sup>227</sup> despite both sects being adherents to the Ḥanafī school of thought. Whilst there are minor differences in jurisprudence, their disagreement in matters of faith have caused each group to adjudicate the other as blasphemous.<sup>228</sup>

Such polemical disagreements have now found a digital outlet through any interface that allows video streaming – this immediately includes many of the services we use on a daily basis from YouTube to WhatsApp. An

---

<sup>226</sup> See: Muhammad ibn Adam al-Kawthari, “Adab al-Ikhtilaf: Ethics of Disagreement”, 05 March 2011, <http://seekershub.org/blog/2011/03/adab-al-ikhtilaf-ethics-of-disagreement-mufti-muhammad-ibn-adam-al-kawthari/>.

Al-Alwani, Taha Jabir., *The Ethics of Disagreement in Islam*, (International Institute of Islamic Thought, 1987)

‘Awwāmah, Muḥammad., *The Influence of the Noble Ḥadīth upon the Differences of Opinion among the Jurist Imāms*, (London: Turath Publishing, 2018)

<sup>227</sup> People of the Prophet's Way and the Community. Also known as Barelvis and Barelwis. Founded in northern India in 1880s, based on the writings of Mawlana Ahmad Reza Khan Barelwi . Believe themselves South Asia's heirs and representatives of the earliest Muslim community. Triggered by the failure of the Indian revolt of 1857 and the subsequent formal colonization of India by the British, which led to the final dissolution of the Mughal Empire. Emerged as part of the religious debate among Islamic legal scholars as to how Muslim identity and action should be used to redeem India. Emphasizes primacy of Islamic law over adherence to Sufi practices and personal devotion to the Prophet Muhammad . Since partition of India and Pakistan in 1947 , has addressed leading political issues for Muslims. Largely rural phenomenon when begun, but currently popular among urban, educated Pakistanis and Indians.

See: "Ahl al-Sunnah wa'l-Jamaah." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. Oxford Islamic Studies Online. 04-Nov-2018.

<<http://www.oxfordislamicstudies.com/article/opr/t125/e76>>.

<sup>228</sup> Deoband.org, “A call to Deobandi-Barelwi unity? Fatwas from two leading Deobandi institutes.” Deoband.org, 18 July 2010, <https://www.deoband.org/2010/07/aqida/deviant-beliefs/a-call-to-deobandi-barelwi-unity—fatwas-from-two-leading-deobandi-institutes/> [Accessed 1<sup>st</sup> December 2018]

example of this would be videos uploaded on the Deobandi YouTube channel, ‘Hanafi Fiqh Channel’. The channel boasts over 67,000 subscribers and 474 videos. A brief perusal over the contents of the uploaded videos presents titles such as “Are Salafis Really United? Open Challenge to the Salafi World!”, “Salafi Mufti (bin Baz) accuses Sahabi of shirk!”, “Response to Owais Qadri insulting Deoband!”<sup>229</sup> Subsequently, scholars affiliated with other channels such as Life With Allah have uploaded rebuttals and attacks of their own.

For the common Sunni Muslim, this presents a great dilemma. Who is to be followed? Who is to be ignored? Previously, I highlighted how entire communities and regions would subscribe to a grand *muftī* and thus be adherents towards a single methodology. As a result, this would limit polarisation and quash divergence. However, this is impossible online where sects are polemically attacking each other in a digital Game of Thrones. Thus, *fatāwā* has developed to such a degree that even disagreements are openly challenged and brought to the forefront of an international discussion. This has many positives as it draws attention towards differences; it can be used as a tool to disregard extremist ideology; it presents Islamic scholarship in an accessible way. However, in terms or negatives, it causes great disunity among subscribers – a mere observance of a comment section bears testimony to this; on the contrary, it can be the cause of extremism, especially if influential ‘scholars’ are impacting impressionable Muslims; it has and is causing polarisation – a quick search of ‘am I Ḥanafī or Shāfi‘ī’ presents results from various forums, websites and blogs where Muslims have questioned their identity.

---

<sup>229</sup> Hanafi Fiqh Channel, YouTube, <https://www.youtube.com/user/hanafifiqh/videos> [Accessed 1<sup>st</sup> December 2018]

## FATĀWĀ AND EXTREMISM

As Islam has been thrust into the limelight as a result of various media portrayals following acts of terror around the globe, many have shifted their attention to its doctrine; what possesses an individual to seek martyrdom? What are the ideals promulgated by the Qur'an? Who was the Prophet Muḥammad? Are Muslims enemies of the west and is such a doctrine compatible with western civilisation? Who are responsible for *fatāwā* that encourage mass killings? In fact, Andrew Rippin quite rightly states, "The common statement that 'Islam is misunderstood' has perhaps become valid more than ever in the wake of the attack on the World Trade Center towers in New York on September 11, 2001 and the string of other highly destructive events that has followed."<sup>230</sup> As a result, many of the questions listed above have served to become the premise of copious sensationalist headlines in newspapers, TV news, social media and online newsfeeds. Subsequently, Islam has been portrayed progressively as a barbaric, medieval and negative ideology by contemporary media with its adherents, particularly women, being chastised for their subscription to the faith.

At times, it appears that the media and critics of Islam have issued their own *fatāwā*, especially regarding topics such as the position of women in Islam and global extremism. Andrew Rippin states, "Seclusion of women has become the most firmly lodged image of Islamic society in the Western popular imagination."<sup>231</sup> The position of women in Islam has served to fuel discussion of patriarchal dominance within Muslim communities in the UK;

---

<sup>230</sup> Rippin, Andrew. *Muslims: Their Religious Beliefs and Practices*. Taylor and Francis, 2005. Pg.1

<sup>231</sup> Rippin, Andrew. *Muslims: Their Religious Beliefs and Practices*. Taylor and Francis, 2005. Pg. 291

at times, it appears that women are merely tools of sexual gratification and victims of mass polygamy. On 24<sup>th</sup> October 2015, the Daily Mail presented a story headlined, “Muslim men in some British communities are ‘having up to 20 children each’ because Sharia law allows them to have many wives.” The article itself was shared almost ten thousand times and accumulated over eight hundred comments largely criticising Islam. The basis of this headline was mere hearsay as the article itself read, “Baroness Cox then spoke of how her Muslim friends had told her that in some communities in the UK ‘with high polygamy and divorce rates, men may have up to 20 children each.’”<sup>232</sup> The article itself presents a highly negative view of Islam and in particular Muslim men. It reiterates the notion that men are the dominant sex in Muslim marriages and have complete authority as far as intimacy and terminating the relationship is concerned.

Likewise, terrorism and violence have been made synonymous to Islam since 9/11 and that which succeeded it. It has resulted in many calling out British Imams to condemn terror in all its forms. However, mainstream media outlets have continually failed to document various endeavours made by Muslim scholars and academics in this regard. After the 7/7 bombings, Sheikh Dr. Afifi al-Akiti, a Fellow in Islamic Studies at the Oxford Centre for Islamic Studies, published a *fatwā* entitled, ‘Defending the Transgressed’ which rejected terrorist rhetoric and individuals such as Omar Bakri and Anjem Choudhary who subscribe to it. Likewise, Dr. Tahir al-Qadri wrote a similar treatise which numbered over five hundred pages

---

<sup>232</sup> Daily Mail MailOnline, ‘Muslim men in some British communities are ‘having up to 20 children each’ because Sharia law allows them to have many wives’ October 2014 <http://www.dailymail.co.uk/news/article-3287364/Muslim-men-British-communities-having-20-children-Sharia-law-allows-wives.html> [Accessed 12th January 2017]

– neither received widespread recognition via media outlets although to be fair, the latter was recognised by the BBC.<sup>233</sup> Likewise, H.R.M Prince Ghazi bin Muhammad of Jordan recently published an article entitled, ‘The Crisis of ISIS’<sup>234</sup> wherein he lambasted such an ideology. Such intolerant views had previously also been refuted by the English speaking Syrian scholar, Muhammad al-Yaqoubi who published a *fatwā* in the form of a counter narrative entitled ‘Refuting ISIS’ that elucidates the teachings of Islam. However, individuals such as Anjem Choudhary, who are regularly titled clerics despite boasting no formal qualifications in Islamic studies, are heralded as the voice of mainstream Islam.<sup>235</sup>

On the other hand, extremists have used the internet as a stable ground for propagating views that support terrorist ideology and *fatāwā* that demand it. For example, the likes of Osama bin Laden and Ayman al-Zawahiri among others issued a *fatwā* urging Jihad against the Jews and Crusaders. After criticising America’s occupation in Muslim lands, describing atrocities committed by her, citing the views of classical Muslim scholars, the *fatwā* encourages:

*"On that basis, and in compliance with Allah's order, we issue the following fatwa to all Muslims:*

*The ruling to kill the Americans and their allies -- civilians and military -- is an individual duty for every Muslim who can do it in any country in which it is*

---

<sup>233</sup> BBC News, ‘Islamic Scholar Tahir ul-Qadri issues a terrorism fatwa’ March 2010 <http://news.bbc.co.uk/1/hi/8544531.stm> [Accessed 23<sup>rd</sup> January 2017]

<sup>234</sup> See: bin Muhammad, Ghazi., *A Thinking Guide to Islam: The Essence of Islam in Twelve Verses from the Qur’an*, (London: Turath Publishing, 2017)

<sup>235</sup> See: MailOnline ‘How Choudary corrupted the minds of children’ September 2016 <http://www.dailymail.co.uk/news/article-3776961/How-Choudary-corrupted-minds-children-young-FIVE-responsible-brainwashing-600-British-jihadis-jointing-ISIS.html> [Accessed 23<sup>rd</sup> January 2017]

*possible to do it, in order to liberate the al-Aqsa Mosque and the holy mosque [Mecca] from their grip, and in order for their armies to move out of all the lands of Islam, defeated and unable to threaten any Muslim. This is in accordance with the words of Almighty Allah, "and fight the pagans all together as they fight you all together," and "fight them until there is no more tumult or oppression, and there prevail justice and faith in Allah."*

*This is in addition to the words of Almighty Allah: "And why should ye not fight in the cause of Allah and of those who, being weak, are ill-treated (and oppressed)? - women and children, whose cry is: 'Our Lord, rescue us from this town, whose people are oppressors; and raise for us from thee one who will help!'"*

*We -- with Allah's help -- call on every Muslim who believes in Allah and wishes to be rewarded to comply with Allah's order to kill the Americans and plunder their money wherever and whenever they find it. We also call on Muslim ulema, leaders, youths, and soldiers to launch the raid on Satan's U.S. troops and the devil's supporters allying with them, and to displace those who are behind them so that they may learn a lesson."<sup>236</sup>*

Such *fatāwā* are found in abundance throughout the internet and seeks to demand murder from Muslims across the globe – in fact, the paths to preaching Jihad are many, and its global dissemination is huge.<sup>237</sup> Social media has been key as a tool to promote and celebrate terrorism. In fact, the online community have taken to mock ISIS who appear to claim

---

<sup>236</sup> Osama bin Laden, "Jihad Against Jews and Crusaders", Federation of American Scientists, 23 February 1998, <https://fas.org/irp/world/para/docs/980223-fatwa.htm> [Accessed 1<sup>st</sup> December 2018]

<sup>237</sup> See: Nielsen, Richard., *Deadly Clerics*, (Cambridge: Cambridge University Press 2017) pg. 51, 'Paths to Preaching Jihad'. [Accessed 1<sup>st</sup> December 2018]



responsibility for everything and anything.<sup>238</sup> Such is ISIS's appropriation of all things evil, the online community have satirically mocked the group by attributing exasperating viral videos such as 'Baby Shark' and 'Let It Go' from *Frozen* to the terror group!<sup>239</sup> The two named videos have gained huge amounts of popularity with infants (and adults) due to their catchy and addictive melodies. As such, they are perceived as being beyond torturous and painfully addictive in popular culture and their attribution to ISIS has served to mock the terror group's persistent procurement of all attacks.

However, as of March 2017, Twitter had revealed it removed 376,890 accounts promoting terrorism between July and December 2016. A total of 636,248 accounts had been removed since August 2015.<sup>240</sup>

The effect of such rhetoric presented as a *fatāwā* is immeasurable. How does one quantify its impact? Is it to be assessed through terror attacks alone or by hate crimes across the world? Likewise, how is it possible to measure the impact of a single extremist edict that has been Tweeted and then re-Tweeted or translated and then retranslated? Classically, the call to Jihad was issued by a government which would result in citizens and militaries taking up arms,<sup>241</sup> however at present, such a call may be issued

---

<sup>238</sup> Samuel Osbourne, "Does ISIS really 'claim every terror attack'? How do we know if a claim is true?" The Independent, 23 March 2018, <https://www.independent.co.uk/news/world/middle-east/isis-terror-attack-claim-real-true-legitimate-fake-false-how-to-know-a8270116.html> [Accessed 1<sup>st</sup> December 2018]

<sup>239</sup> Baylon Bee, "ISIS Claims Responsibility for 'Baby Shark.' The Baylon Bee, 5 November 2018, <https://babylonbee.com/news/isis-claims-responsibility-for-baby-shark>

<sup>240</sup> Tom Cheshire, "Twitter removes hundreds of thousands of terror accounts", Sky News, 21 March 2017, <https://news.sky.com/story/twitter-removes-hundreds-of-thousands-of-terror-accounts-10809768> [Accessed 1<sup>st</sup> December 2018]

See also: "Twitter bans 270,000 accounts for promoting terrorism." Sky News, 5 April 2018, <https://news.sky.com/story/twitter-bans-270000-accounts-for-promoting-terrorism-11317823> [Accessed 1<sup>st</sup> December 2018]

<sup>241</sup> See: Hakim Hazim & Robert J. Bunker (2006) *Perpetual Jihad: Striving for a Caliphate*, Global Crime, 7:3-4, 428-445, DOI: 10.1080/17440570601073053

by anyone and anytime, for any well-articulated reason. Such divergence, sporadic issuing of legal edicts and influence of global extremism is unprecedented in Muslim history. Shockingly, a digital, translated *fatwā* of an unchartered, uncertificated individual from the depths of a cave in the Middle East is enough to be understood and executed by alleged Muslims in Europe. Such sway and sinister use of Islamic jurisprudence and hermeneutics had previously been unheard of.

### CONCLUSION

To conclude, *fatāwā* has developed immeasurably in the 21<sup>st</sup> century. As highlighted in part one and two, the concept of *fatāwā* had been surrounded with great trepidation and scepticism by the early Muslims, and in particular, the Companions and those who succeeded them. Such was their apprehension in issuing legal verdicts, they felt as if they were suspended between heaven and hell. This was largely due to the fact that they felt they were signatories on behalf of God. As Islam has progressed in the last 14,000 years, it is evident that such scrupulousness in issuing *fatāwā* has also diminished. Arguably, the internet has become an unrestricted, at times besmirched, seminary for anything and everything.

While aspects of the early view of *fatāwā* has remained, for example, visiting local imams for rulings, such a routine now has a digital format; the question which remains is, ‘why bother going locally when there are far more learned outlets online?’ Simply, *Fatāwā* has become accessible for all, Muslims, non-Muslim, males and females at the touch of a button. A person looking for permissibility in an Islamic matter would most likely be able to find a view contradicting mainstream orthodoxy.

Despite the lack of quality assurance in determining the knowledge of the

trainee *muftī* issuing the legal verdict, online Q&A websites have provided great accessibility to deeper Islamic sciences for many Muslims. In future, it may be worthwhile producing a survey in the UK's biggest mosques to ascertain how many Muslims use or have used online scholarship as means to acquire a *fatwā* and whether they feel this is better than conventional methods such as visiting an imam or writing a letter to him.

Likewise, it is also incredible to see the effect that social media has had on state issued *fatāwā* which was classically seen as a national position. Today, a grand *muftī* may issue a *fatwā* to highlight the government's position on a matter, only for it to be ridiculed and challenged by others of a different view. For example, Dr Izzat Atiya, who was the ex-head of al-Azhar University's Department of Ḥadith permitted women to breastfeed their male colleagues in order to circumvent prevent gender interaction (i.e. his *fatwā* stated that the act would make a man symbolically related to the women and preclude any sexual relations). Such was the stir, Dr Atiya was forced to retract the statement to prevent the prestigious seminary from being shamed.<sup>242</sup> Likewise, the previous grand *muftī* of Saudi Arabia, Shaykh Mohamed bin Saleh al-Othaimeen was ridiculed by YouTubers as he had prohibited women from wearing high-heels. This was synonymous to the events that followed after the Moroccan scholar, Shaykh Abdelbari Zemzami stated, "Women can lawfully use carrots or similar fruits or vegetables in order to ease their sexual frustration in a way which safeguards the honour and keeps them away from adultery and debauchery."<sup>243</sup> The effect of such satirical videos has served to discredit

---

<sup>242</sup> "Breastfeeding fatwa causes stir." BBC News, 22 May 2007, [http://news.bbc.co.uk/1/hi/world/middle\\_east/6681511.stm](http://news.bbc.co.uk/1/hi/world/middle_east/6681511.stm) [Accessed 1<sup>st</sup> December 2018]

<sup>243</sup> Bunt, Gary., *Hashtag Islam*, (USA: University of North Carolina Press, 2018), pg. 82

scholars and render them out of touch with societal norms. On the contrary, a *muftī* may issue a well-researched, credible ruling only for it to be discarded due to it not being the ‘flavour of the month’ among progressive or unconservative communities.

It is also evident to see how *muftīs* have developed over the last fourteen centuries. As elaborated upon in part two, a *muftī* was almost governed by a dual code that governed aspects of his individual piety and also, his methodology in disseminating knowledge.

In terms of his piety, he was classically required to have a heightened sense of piety which was discernible in his ritual worship; he was expected to live an ascetic life; and crucially, his interaction with the other gender was to be kept limited and subject to stringent protocols – thus, he would be safe from a medieval #MeToo inquisition. Such aspects of piety are almost impossible to gauge in the current climate; many *muftīs* are not visible figures in the communities and only digital authorities. Their piety, which some may argue is a private and godly matter, cannot be ascertained. Likewise, it is impossible to regulate the correspondence of a Muslim scholar and a female enquirer in the West. Scholars can offer discreet correspondence through many instant messaging means.

In terms of methodology, this has largely remained the same throughout history. For example, generally, *fatāwā* have classically been encouraged to bear brevity; online *fatawā* websites follow a similar type of format (although there are plenty of lengthier versions) but this is most likely due to the fact that modern day *muftīs* are largely transmitters of *fatāwā* or previously set precedents. As such, they are not required to perform *ijtihād* or extrapolate rulings from the Qur’ān and *Sunnah*. Subsequently, they are able to focus on the dissemination of previously issued edicts in a

conventional way. This would entail succinct answers; the usage of key phrases such as ‘this is the sound opinion’, ‘this is better’ and so on; discarding unorthodox views; looking into the best interests of the questioner etc. However, in the current climate, it is a prerequisite for a *muftī* to be computer and net literate; in a Western context, his secular education also gives strength to his legal edicts as he is seen as ‘in-touch’ with the community.

Finally, it is evident that *fatāwā* and those who issue it have been subject to great change and development throughout history. The challenges faced in the current age are far different to those faced by the early jurists; a *fatwā* in a 30-character Tweet can present an opinion within seconds to the entire world – its impact thereafter is impossible to measure; it is frightening to think what influence the effect of a tweet permitting mass-murder by a popular, mainstream scholar may have. Likewise, what influence would a single tweet permitting cannabis have for the Muslim community? It would be incredibly difficult to ascertain such information; it may take a single, irresponsible tweet to set off a chain reaction. Similarly, this research paper has largely spoken of the concept of *fatāwā* and *muftīs* being restricted to males only. At present, *fatāwā* issued by female scholars is a rarity; individuals such as Yasmin Mogahed and Dr. Farhat Hashmi have shown aspects of female scholarship but neither have acquired the authority of a *mufti*. Interestingly, Whitethread Institute, London have now produced a *fatwā* specialisation course open to females<sup>244</sup> under the tutelage of Dr. Muftī Abdur Rahman Mangera. In terms of Islam in Britain and *fatwā* in the

---

<sup>244</sup> Whitethread Institute, “Ifa’ Specialisation”

<https://whitethreadinstitute.org/course/ifta-specialisation-program/> [Accessed 8<sup>th</sup> December 2018]

modern day, it is intriguing to see the outcome of such a course. It would most certainly be worthy to include such a discussion in a future research paper. Lastly, it is evident to see that *fatāwā* has changed drastically over the centuries, but it has also retained elements of classical scholarship and ideologies. For example, while *e-fatwās* have provided great amounts of accessibility, some ideals, such as a ‘model, godly *muftī*’ have become culturally entrenched and divergence would result in immediate, widespread condemnation. Such is the swift progression of technology in the digital age, it is incredibly difficult to hypothesise in which direction *fatwā* will proceed. What is certain is that for as long as Muslims bear questions about religious practices, there will be *muftīs* read to issue *fatāwā* accordingly. As the Qur’ān exhorts its adherents, “You [people] can ask those who have knowledge if you do not know.”<sup>245</sup>

---

<sup>245</sup> Abdel Haleem M.A.S, *The Qur’an* (Oxford World’s Classics), (USA: Oxford University Press 2008) Qur’ān 16:43. All future references to the Qur’ān are made from this source unless otherwise stated.



## BIBLIOGRAPHY

## BOOKS

- Abdel Haleem M.A.S, *The Qur'an* (Oxford World's Classics), (USA: Oxford University Press 2008)
- Abū Zahrah, Muḥammad, *Al-Shāfi'ī* (Cairo: Dār al-Fikr)
- Abū Zahrah, Muḥammad, *The Four Imams* (Norwich: Dār al-Taqwā, 2001)
- Ad-Dāramī, Abū Muḥammad 'Abd Allāh b. 'Abd ar-Raḥmān., *Sunān ad-Darāmī* (Riyadh: Dār al-Mughnī, 2000)
- Ad-Dimashqī, 'Imād ad-Dīn Abū al-Fidā' Ismā'īl b. Kathīr., *Tafsīr ibn Kathīr*, (Lebanon: Maktaba Dar-us-Salam, 2003)
- Adh-Dhahabī, Shams ad-Dīn Muḥammad b. Aḥmad b. 'Uthmān., *Siyar A'lām an-Nubalā'*, (Beirut: Mu'assasah ar-Risālah, 1993)
- Adh-Dhahabī, Shams ad-Dīn Muḥammad b. Aḥmad b. 'Uthmān., *Tadhikrah al-Huffāz*, (Beirut: DKI)
- Al-Alūsī, Maḥmūd b. 'Abd Allāh al-Ḥusaynī al-Badghdādī., *Rūh al-Ma'ānī* (Beirut: Iḥyā' at-Turāth al-Arabī)
- Al-Ashqar, 'Umar Sulaimān, *at-Tārīkh al-Fiḥ al-Islāmī* (Jordan: Dār an-Nafā'is, 1991)
- Al-Ashqar, 'Umar Sulaimān, *at-Tārīkh al-Fiḥ al-Islāmī* (Jordan: Dār an-Nafā'is, 1991)
- Al-Baghdādī, Abī Bakr b. Aḥmad b. 'Alī b. Thābit al-Khaṭīb., *Kitāb Al-Faqīh wa al-Mufaqqihah li al-Khaṭīb* (KSA: Dār b. al-Jawziyyah, 1996)
- Al-Bazzār, Abū Bakr b. Aḥmad b. 'Amr b. 'Abd al-Khāliq., *Musnad al-Bazzār*. (Medina: Maktabah al-'Ulūm wa al-Ḥikam)
- Al-Bukhārī, Abū 'Abd Allāh Muḥammad b. Ismā'īl., *Ṣaḥīḥ al-Bukhārī*. (Riyadh: International Ideas Home For Publishing & Distribution, 1998)
- Al-Jawziyyah, Muḥammad b. Abī Bakr b. Qayyim., *I'lām al-Muwaqqi'īn* (Cairo: Dār ibn al-Jawziyyah, 2012)
- Al-Mālikī, Ibn 'Abd al-Barr., *Jāmi' Bayān al-'Ilm wa Faḍlihi* – (Damam: Dār ibn al-Jāwzī, 1994)
- Al-Munāwī, Zain ad-Dīn, Muḥammad 'Abd ar-Ra'ūf., *Fayḍ al-Qadīr Shārh al-Jāmi' aṣ-Ṣaghīr*, (Lebanon: DKI, 1994)
- Al-Qarāfī, Shihāb ad-Dīn Abū'l 'Abbās Aḥmad b. Idrīs al-Miṣrī., *Al-Iḥkām* (Beirut: Dār al-Bashā'ir, 1995)
- Al-Qazwīnī, Muḥammad b. Yazīd 'Abd Allāh., *Sunan Ibn Mājah* (Beirut: Dār al-Jayl, 1998)



- Al-Qurashī, Abū al-Faraj ‘Abd ar-Raḥmān b. ‘Alī b. al-Jawzīyyah. *Al-Mowḍū‘āt* (KSA: Muḥammad ‘Abd al-Muḥsin, 1966)
- Al-Qushairī, Abū al-Ḥussain Muslim b. Ḥajjāj., *Ṣaḥīḥ Muslim* (Beirut: Dār al-Afāq al-Jadīdah)
- Al-Shahrazūrī, Ibn aṣ-Ṣalāḥ. *Adab al-Muftī wa al-Mustaftī* (Beirut: Maktabah al-‘Ulūm wa al-Ḥikam)
- An-Naisāpūrī, Muḥammad b. ‘Abd Allāh al-Ḥākīm., *Mustadrak al-Ḥākīm* (Beirut: DKI, 1990)
- An-Nasafī, Abū al-Barakāt ‘Abd Allāh b. Aḥmad b. Maḥmūd. *Al-Baḥr Rā‘iq, Kitāb al-Qaḍā’* (Beirut: DKI, 1997)
- ‘Asqalānī, Abū’l Faḍl Aḥmad b. ‘Alī b. Ḥajar., *Fath al-Bārī* (Beirut: Dār al-Ma‘rifah, 1960)
- As-Sijistānī, Abū Dāwūd Suleimān b. al-Ash‘ath., *Sunan Abī Dāwūd*, (Beirut: Dār ibn Ḥazm, 1997)
- Aṭ-Ṭayyār, Aḥmad b. Nāṣir., *Ḥayāt as-Salaf* (The Lives of the Predecessors), (KSA: Dār ibn al-Jawzīyyah, 2009) pg. 210
- At-Tirmidhī, Muḥammad b. ‘Īsā’ Abū ‘Īsā’., *Sunan at-Tirmidhī* (Beirut: Dār Iḥyā’ at-Turāth al-‘Arabī)
- bin Muhammad, Ghazi., *A Thinking Guide to Islam: The Essence of Islam in Twelve Verses from the Qur’an*, (London: Turath Publishing, 2017)
- Bunt, Gary., *Hashtag Islam*, (USA: University of North Carolina Press, 2018),
- Bunt, Gary R. *iMuslims*, The University of North Carolina Press, 2009
- El Shamsy, Ahmed., *The Canonization of Islamic Law: A Social and Intellectual History* (London: Cambridge University Press, 2013)
- Falātah, ‘Umar b. Ḥassan b. ‘Uthmān., *Al-Waḍu‘ fī al-Ḥadīth* (Beirut: Mu’assasah Manāhil al-‘Irfān, 1981)
- Hallaq, Wael B., *The Origins and Evolution Islamic Law*, (London: Cambridge University Press, 2005)
- Ibn al-‘Asākir, Abū al-Qāsim ‘Alī b. al-Ḥassan. *Tārīkh ad-Dimashq* (Beirut: Dār al-Fikr)
- Ibn ‘Ābid ad-Dīn al-Shāmi, Muḥammad b. Amīn, *Sharḥ ‘Uqūd Rasm al-Muftī* (Pakistan: al-Bushrā, 2009)
- Mangera, Abdur-Rahman., *Imām Abū Ḥanifah’s al-Fiqh al-Akbar Explained*. (USA: White Thread Press, 2007)
- Kacholwī, Ismā‘īl, *Mabādiyāte Fiqh* (India: Maktaba Ḥijāz)
- Khāndalwī, Muḥammad Zakariyyā’, *Awjaz al-Masālik ilā Muwaṭṭa’ Mālik* (Beirut: DKI, 1999)

- Mālik b. Anas., *Muwatta' al-Imām Mālik* (UAE: The Zayed Bin Sultan al-Nahayan, 2004)
- Messick, Brinkey. *Muftis and Their Fatwas*, (USA: Harvard Middle Eastern Studies, 1996) pg. 4
- Murad, Abdul Hakim, *Understanding the Four Madhabs* (London: The Muslim Academic Trust, 2012)
- Nadwi, Mohammad Akram., *Al-Fiqh al-Islami: Purification, Prayers and Funerals*, (London: Angelwing Media, 2007)
- Rippin, Andrew. *Muslims: Their Religious Beliefs and Practices*. Taylor and Francis, 2005.
- Sabiq, As-Sayyid. *Fiqh as-Sunnah*, (Maktaba al-Khadamat al-Hadithath, 1987)
- Silverstein, Adam J., *Islamic History - A Very Short Introduction*. (USA: Oxford University Press, 2010)
- Usmānī, Muḥammad Taqī., *Usūl al-Iftā' wa Ādābuhu* (The Principles & Etiquettes of Issuing Legal Verdicts), (Karachi: Quranic Studies Publishers, 2010) pg. 18
- ʿUthmāni, Muḥammad Shafīʿ., *Maʿārif al-Qurʿān* (Karachi: Maktaba e Darul-ʿUloom)
- Wymann-Ladgraf Abd-Allah, Umar F. *Mālik in Medina* (USA: Brill, 2012)

#### WEBSITES

- "Salafi." In The Oxford Dictionary of Islam. Ed. John L. Esposito. Oxford Islamic Studies Online. 12-Dec-2018.  
<<http://www.oxfordislamicstudies.com.ezproxy.uwtsd.ac.uk/article/opr/t125/e2072>>.
- "Ahl al-Sunnah wa'l-Jamaah." In The Oxford Dictionary of Islam. Ed. John L. Esposito. Oxford Islamic Studies Online. 04-Nov-2018.  
<<http://www.oxfordislamicstudies.com/article/opr/t125/e76>>.
- "Deobandis." In The Oxford Dictionary of Islam. Ed. John L. Esposito. Oxford Islamic Studies Online. 18-Nov-2018.  
<<http://www.oxfordislamicstudies.com/article/opr/t125/e522>>.
- "Intoxicants." In The Oxford Dictionary of Islam. , edited by John L. Esposito. Oxford Islamic Studies Online,  
<http://www.oxfordislamicstudies.com/article/opr/t125/e1058>  
(accessed 04-Nov-2018).
- "Kaffarah." In The Oxford Dictionary of Islam. Ed. John L. Esposito. Oxford Islamic Studies Online. 06-Nov-2018.  
<<http://www.oxfordislamicstudies.com/article/opr/t125/e1228>>.

"Mujtahid." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. Oxford Islamic Studies Online. 16-Sep-2018.  
 <<http://www.oxfordislamicstudies.com/article/opr/t125/e1596>>.

"Mutah." In *The Oxford Dictionary of Islam*., edited by John L. Esposito. *Oxford Islamic Studies Online*,  
<http://www.oxfordislamicstudies.com/article/opr/t125/e1662>  
 (accessed 04-Nov-2018).

"Ray." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. *Oxford Islamic Studies Online*. 02-Sep-2018.  
 <<http://www.oxfordislamicstudies.com/article/opr/t125/e1989>>.

"Sunnah." In *The Oxford Dictionary of Islam*. Ed. John L. Esposito. *Oxford Islamic Studies Online*. 01-Sep-2018.  
 <<http://www.oxfordislamicstudies.com/article/opr/t125/e2279>>.

"A Brief Introduction" Darul Uloom Deoband, <http://www.darululoom-deoband.com/english/aboutdarululoom/introduction.htm>

"Breastfeeding fatwa causes stir." BBC News, 22 May 2007, [http://news.bbc.co.uk/1/hi/world/middle\\_east/6681511.stm](http://news.bbc.co.uk/1/hi/world/middle_east/6681511.stm)

"Twitter bans 270,000 accounts for promoting terrorism." Sky News, 5 April 2018, <https://news.sky.com/story/twitter-bans-270000-accounts-for-promoting-terrorism-11317823>

Ajmal Masroor, "Cult of Scholars and Circus of Foolish Followers." YouTube, 05 November 2017, [https://www.youtube.com/watch?v=viKfKp\\_aegc&feature=youtu.be&a=](https://www.youtube.com/watch?v=viKfKp_aegc&feature=youtu.be&a=)

Al-Alwani, Taha Jabir., *The Ethics of Disagreement in Islam*, (International Institute of Islamic Thought, 1987)

‘Awwāmah, Muḥammad., *The Influence of the Noble Ḥadīth upon the Differences of Opinion among the Jurist Imāms*, (London: Turath Publishing, 2018)

Baylon Bee, "ISIS Claims Responsibility for 'Baby Shark.' The Baylon Bee, 5 November 2018, <https://babylonbee.com/news/isis-claims-responsibility-for-baby-shark>. Tom Cheshire, "Twitter removes hundreds of thousands of terror accounts", Sky News, 21 March 2017, <https://news.sky.com/story/twitter-removes-hundreds-of-thousands-of-terror-accounts-10809768>

BBC News 'Why millions of Muslims are signing up for online dating?' December 2014 <http://www.bbc.co.uk/news/magazine-30397272>

BBC News, 'Islamic Scholar Tahir ul-Qadri issues a terrorism fatwa' March 2010 <http://news.bbc.co.uk/1/hi/8544531.stm>

Daily Mail MailOnline, 'Muslim men in some British communities are 'having up to 20 children each' because Sharia law allows them to have

many wives' October 2014 <http://www.dailymail.co.uk/news/article-3287364/Muslim-men-British-communities-having-20-children-Sharia-law-allows-wives.html>

Darul Ifta, Darul Uloom Deoband – India, <http://www.darulifta-deoband.com/>

Darul Iftaa (@Daruliftaa), Twitter,  
<https://twitter.com/daruliftaa?lang=en>

Deoband.org, “A call to Deobandi-Barelwi unity? Fatwas from two leading Deobandi institutes.” Deoband.org, 18 July 2010,  
<https://www.deoband.org/2010/07/aqida/deviant-beliefs/a-call-to-deobandi-barelwi-unity---fatwas-from-two-leading-deobandi-institutes/>

Gilliat-Ray, S. (2005). ‘Educating the ‘*Ulama*: Centres of Islamic Religious Training in Britain’ . pg. 59-60

Hakim Hazim & Robert J. Bunker (2006) Perpetual Jihad: Striving for a Caliphate, *Global Crime*, 7:3-4, 428-445, DOI: 10.1080/17440570601073053  
Hanafi Fiqh Channel, YouTube,  
<https://www.youtube.com/user/hanafifiqh/videos>

Innes Bowen, “Who runs our mosques?” *The Spectator*, June 14 2014,  
<https://www.spectator.co.uk/2014/06/who-runs-our-mosques/>

Ismail Kamdar, “Shaykhy Crushes: Trials in the Lives of Men of Knowledge, *MuslimMatters.org*, 06 June 2018,  
<https://muslimmatters.org/2011/06/06/shaykhy-crushes-trials-in-the-life-of-men-of-knowledge/>

Kashif N Chaudhry, “Are Ahmadis Muslims? Let us ask Prophet Muhammad.” *Huffington Post*, 20 April 2017,  
[https://www.huffingtonpost.com/kashif-n-chaudhry/are-ahmadis-muslims-let-u\\_b\\_9725660.html?guccounter=1](https://www.huffingtonpost.com/kashif-n-chaudhry/are-ahmadis-muslims-let-u_b_9725660.html?guccounter=1)

Khaled Abou El Fadl, “On the Tariq Ramadan affair.” *Al-Jazeera*, 31 July 2018, <https://www.aljazeera.com/indepth/opinion/tariq-ramadan-affair-180722140955000.html>.

MailOnline ‘How Choudary corrupted the minds of children’ September 2016 <http://www.dailymail.co.uk/news/article-3776961/How-Choudary-corrupted-minds-children-young-FIVE-responsible-brainwashing-600-British-jihadis-jointing-ISIS.html>

Masud, Muhammad Khalid, “Adab al-mufti”, in: *Encyclopaedia of Islam*, THREE, Edited by: Kate Fleet, Gudrun Krämer, Denis Matringe, John Nawas, Everett Rowson. Consulted online on 10 December 2018  
[http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912\\_ei3\\_COM\\_26301](http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912_ei3_COM_26301)

Merad, A., "al-Layth b. Sa'd", in: Encyclopaedia of Islam, Second Edition, Edited by: P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, W.P. Heinrichs. Consulted online on 30 November 2016

<[http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-](http://dx.doi.org.ezproxy.uwtsd.ac.uk/10.1163/1573-3912_islam_SIM_4656)

3912\_islam\_SIM\_4656> First published online: 2012 | First print edition:

ISBN: 9789004161214, 1960-2007

Mufti Abu Layth al-Maliki, "#MondayNightsWithMufti", Facebook, 24 September 2018,

<https://www.facebook.com/MuftiALMaliki/videos/vb.574637672633950/508538406276187/?type=2&theater>.

Mufti Abu Layth al-Maliki, "Mufti Abu Layth & Abdus Shakur Brooks: A discussion on Maliki Fiqh.", Youtube, 09 May 2018,

<https://www.youtube.com/watch?v=hcscudhD8bU>.

Mufti Abu Layth al-Maliki, <https://en-gb.facebook.com/MuftiALMaliki/>

Mufti Ebrahim Salejee, "Marrying a Barelwi or Ahle Hadith." Mufti Online, 03 November 2015, <http://muftionline.co.za/node/9803>

Mufti Muhammad ibn Adam al-Kawthari, "Adab al-Ikhtilaf: Ethics of Disagreement", 05 March 2011,

<http://seekershub.org/blog/2011/03/adab-al-ikhtilaf-ethics-of-disagreement-mufti-muhammad-ibn-adam-al-kawthari/>.

Muhammad ibn Adam (@Mufti\_Muhammad\_), Twitter,

[https://twitter.com/Mufti\\_Muhammad\\_](https://twitter.com/Mufti_Muhammad_)

Muhammad ibn Adam al-Kawthari (@ibnadamkawthari), Twitter,

<https://twitter.com/ibnadamkawthari>

Muhammad ibn Adam, "Mixed Gatherings" Darul Iftaa, 05 March 2004, [http://www.daruliftaa.com/node/5725?txt\\_QuestionID](http://www.daruliftaa.com/node/5725?txt_QuestionID).

Muhammad Yasir al-Hanafi, "Nahiem Ajmal's (Abu Layth) Disparaging His Opponents", Facebook, 20 April 2018,

<https://www.facebook.com/shaykhmohammadyasir/posts/nahiem-ajmals-abu-layth-disparaging-his-opponentsnahiem-ajmal-doesnt-like-his-sh/1834178639960661/>.

Nic Marko, "Religious teacher has bail extended after arrest on suspicion of inciting child to engage in sexual activity." Lancashire Telegraph, 09 February 2018, [https://www.aljazeera.com/indepth/opinion/tariq-](https://www.aljazeera.com/indepth/opinion/tariq-ramadan-affair-180722140955000.html)

[ramadan-affair-180722140955000.html](https://www.aljazeera.com/indepth/opinion/tariq-ramadan-affair-180722140955000.html).

Nouman (@noumanbayyinah), Twitter,

<https://twitter.com/noumanbayyinah?lang=en>

Nouman Ali Khan, Facebook, [https://en-](https://en-gb.facebook.com/noumanbayyinah/)

[gb.facebook.com/noumanbayyinah/](https://en-gb.facebook.com/noumanbayyinah/)

Omar, Sara . "Dress." In The [Oxford] Encyclopedia of Islam and Law.

Oxford Islamic Studies Online. 12-Dec-2018.

<<http://www.oxfordislamicstudies.com.ezproxy.uwtsd.ac.uk/article/opr/t349/e0040>>.

Osama bin Laden, "Jihad Against Jews and Crusaders", Federation of American Scientists, 23 February 1998,

<https://fas.org/irp/world/para/docs/980223-fatwa.htm>

Samuel Osbourne, "Does ISIS really 'claim every terror attack'? How do we know if a claim is true?" The Independent, 23 March 2018,

<https://www.independent.co.uk/news/world/middle-east/isis-terror-attack-claim-real-true-legitimate-fake-false-how-to-know-a8270116.html>

Shaykh Muhammad Saalih al-Munajjid, "About our site." IslamQA,

<http://islamqa.info/en/about-us>

Shaykh Muhammad Saalih al-Munajjid, "Guidelines on speaking to a woman who is new Islam for the purpose of da'wah." IslamQA, 03 March 2011,

<https://islamqa.info/en/answers/52889/guidelines-on-speaking-to-a-woman-who-is-new-in-islam-for-the-purpose-of-dawah>.

Shaykh Muhammad Saalih al-Munajjid, "Is it permissible for her to study in a mixed environment in a non-Muslim country?" IslamQA, 04 September 2015,

<https://islamqa.info/en/answers/103044/who-bears-the-consequences-of-mixing-men-or-women>

Shaykh Muhammad Saalih al-Munajjid, "Who bears the consequences of mixing – men or women?", IslamQA, 22 February 2008,

<https://islamqa.info/en/answers/103044/who-bears-the-consequences-of-mixing-men-or-women>.

Shaykh Saalih bin Muhammad al-Lhaydhaan. "Jamaa'atul Ikhwaan and Jamaa'atul Tableegh?" Fatwa Islam,

<http://www.fatwaislam.com/fis/index.cfm?scn=fd&ID=764>

Stephen Schwartz, "Fatwa Fanatics – The Deobandi-Wahabi Lust for Control Over Personal Life." Center for Islamic Pluralism, March 11 2013,

<http://www.islamicpluralism.org/2206/fatwa-fanatics-the-deobandi-wahhabi-lust-for>.

The Guardian 'Four London schoolgirls who left UK for Syria married men approved by ISIS' January 2016

<https://www.theguardian.com/world/2016/jan/19/four-london-schoolgirls-who-left-uk-for-syria-married-men-approved-by-isis>

The Independent 'Isis' British Brides' August 2016

<http://www.independent.co.uk/news/uk/home-news/isis-british-brides-kadiza-sultana-girls-women-syria-married-death-killed-aqsa-mahmood-islamic-state-a7187751.html>

The Independent, 'How exactly does Twitter take on ISIS's cyber jihadists?' February 2016 <http://www.independent.co.uk/life->

style/gadgets-and-tech/features/how-exactly-does-twitter-take-on-isis-cyber-jihadists-a6857731.html

The Sunni Defense, “Islam According to Abu Layth”, YouTube, 24 October 2018, <https://www.youtube.com/watch?v=qglo-oVb9QE>.

Ustadh Salman Younas, “Does the Sunna Entail Dressing as the People of the Land I Live In?” SeekersHub, 18 September 2016.

<http://seekershub.org/ans-blog/2016/09/18/sunna-entail-dressing-people-land-live/>

Ustadha Zaynab Ansari, “Blurred Lines; Women, “Celebrity” Shaykhs, and Spiritual Abuse, MuslimMatters.org, 27 May 2015,

<https://muslimmatters.org/2015/05/27/blurred-lines-women-celebrity-shaykhs-spiritual-abuse/>.

Ustadha Zaynab Ansari, “Drawing a Line in the Sand: Student-Teacher Relationships in the Digital Age.” MuslimMatters.org, 30 May 2015,

<https://muslimmatters.org/2015/05/30/drawing-line-sand-student-teacher-relationships-digital-age/>

Van Bruinessen, M. and Allievi, S., (2013). Producing Islamic knowledge: transmission and dissemination in Western Europe. Routledge. p.99

ZamZam Academy ‘Using WhatsApp to Benefit the Dead’ October 2016

<http://www.zamzamacademy.com/2016/10/using-whatsapp-to-benefit-the-dead/>

Zeba Khan, “Navigating the Nouman Ali Khan Scandal.”,

MuslimMatters.org, 24 September 2017,

<https://muslimmatters.org/2017/09/24/navigating-the-nouman-ali-khan-scandal/>

Zeba Khan, “Navigating the Nouman Ali Khan Scandal.”,

MuslimMatters.org, 24 September 2017,

<https://muslimmatters.org/2017/09/24/navigating-the-nouman-ali-khan-scandal/>

## INDEX

## 7

7/7 Bombings, 82

## ‘a

‘Abd Al-‘azīz B. ‘abd Allāh B. Bāz, 70

‘Abd Allāh B. ‘abbās, 3, 23, 52

‘Abd Allāh B. Mas‘ūd, 23

‘Abd-Allāh B. ‘umar, 7, 15

‘Alī, 7, 8, 15, 16, 19, 21, 22, 23, 45, 47, 51,

53

‘Aqā’id, 6

‘Awrah, 56

## A

Abū Bakr Aṣ-Ṣiddīq, 12, 14

Abū Ḥanīfah, 14, 17, 22, 24, 25, 26, 28, 30,

34, 53

Abū Ḥanīfah’s, 14, 18, 25

Abu Layth, 63, 64, 65, 66

Abū Layth, 63

*Adab Al-Muftī*, 40, 42, 43

Adh-Dhahabī, 49, 50

Aḥmad B. Ḥanbal, 22, 30, 31, 50

Ahmadi Sect, 77

Al-Awzā‘ī, 18, 49

Al-Azhar, 86

Al-Bukhārī, 4, 20, 23, 41, 43, 51, 61

*Al-Imām Al-A‘zam* (The Greatest Imam).

*See:* Abū Ḥanīfah

Al-Khaṭīb Al-Baghdādī, 7, 45

Al-Othaimeen, 86

Al-Qarāfī, 40, 45

Al-Shāfi‘ī, 1, 24, 26, 28, 29, 30

An-Nawawī, 6

Apprehension, 6, 8, 9, 85

Arab Peninsula, 13

Askimam, 61, 74

Ayman Al-Zawahiri, 82

## B

British, 57, 61, 62, 78, 81, 82

## C

Celebrity, 66, 67, 68

Clothing, 55, 57

Companions, 8, 12, 13, 15, 22

## D

Daily Mail, 81

*Dars-E-Nizāmī*, 72

Darul Ifta, 75

Darul Uloom, 71, 72, 75

Dāwūd, 2, 13, 43, 44

Day Of Judgement, 10, 20

Deobandi, 71, 72, 73, 74, 75, 79

Divorced, 60



Doubtful Matters, 56

## E

Edicts, 8, 33, 34, 37, 39, 46, 49, 50, 51, 63,

65, 67, 72, 77, 85, 87, *See*: Edicts

Extremism, 80, 81, 85

## F

Fabrication, 44, 47

Facebook, 59, 63, 64, 65, 66

*Fatāwā*, 1, 2, 4, 5, 6, 8, 9, 10, 11, 12, 15, 16,

17, 21, 22, 25, 27, 31, 32, 34, 37, 39, 41,

45, 46, 48, 50, 51, 59, 61, 62, 70, 72, 73,

74, 76, 77, 79, 80, 81, 83, 84, 85, 86, 88

Female, 5, 15, 67, 68, 69, 70, 87

Forged Ḥadīth, 50

*Fuqahā*<sup>2</sup>, 17, 19, 22, 24, 26, 34

## G

God, 3, 6, 9, 11, 12, 13, 15, 16, 19, 20, 30,

39, 42, 47, 85

Grand Mufti, 72

## Ḥ

Ḥadīth, 1, 3, 7, 8, 12, 17, 19, 20, 23, 24, 27,

28, 30, 31, 41, 43, 44, 45, 47, 49, 50, 53,

54, 61, 69, 71

*Ḥajj*, 1, 4, 8, 52, 75

Ḥanafī, 17, 24, 25, 26, 28, 29, 32, 33, 35,

37, 40, 41, 48, 53, 63, 71, 72, 73, 74, 75,

77, 78, 80

Ḥanbalī, 30, 40

Ḥarām, 46

## H

Hypothesising, 4, 19

## I

Ibn Al-Mubārak, 18

Ibn Al-Qayyim, 23, 45

Ibn ‘Abid Ad-Dīn Al-Shāmī, 26

Idrīs Al-Shāfi‘ī, 22, 28

*Ijmā‘* (Juristic Consensus), 1

*Ijtihād*, 13, 15, 17, 19, 22, 23, 25, 36, 37, 87

Images, 59, 62

Imams, 9, 22, 76, 85

India, 23, 71, 72, 75, 78

Internet, 59, 60, 61, 62, 63, 68, 76, 77, 82,

83, 85

Isis, 59, 61, 62, 82, 84

Islamqa, 61, 69, 70, 71, 75, 76

## J

*Jahmiyyah*, 14

Jihad, 62

Jihad, 82, 83, 84

Jihadi, 61

Judgements, 12, 37, 52

Jurists, 24, 25, 28, 29, 30, 36, 37, 41, 44,

45, 47, 49, 50, 51, 70, 88

**K**

Kamāl Al-Bāshā, 35, 36

*Khawārij*, 14

Kufa, 8, 18, 23, 24, 25

**L**

Laymen, 78

Legal Theory, 32, 34

Legal Verdict, 9, 45, 85

**M**

*Madhabs*, 32, 76

Madinah, 9, 12, 20, 21, 32, 51

Mālik, 4, 9, 10, 22, 24, 26, 27, 28, 29, 30,

32, 34, 47, 50, 54, 65

Mālikī, 12, 26, 28, 29, 30, 31, 40, 42, 45,

51, 63, 66

Medinese, 9, 26, 27, 28, 49

Messenger, 1, 11, 13, 15, 19, 20, 31, 47

Messenger Of God's, 13, 15, 19

*Methodology*, 18, 24, 25, 27, 28, 29, 34, 35,

39, 78, 79, 87

Misinterpretation, 7

Misogynistic, 67

Muḥammad, 2, 3, 4, 7, 10, 11, 12, 13, 14,

15, 16, 17, 19, 20, 21, 22, 39, 47, 54, 63,

80

Mortgage, 62

Mu'adh, 13, 15, 23

*Muftī*, 5, 6, 32, 39, 40, 41, 42, 43, 44, 45, 46,

47, 48, 51, 52, 53, 54, 63, 65, 68, 70, 73,

76, 77, 79, 85, 86, 87, 88

Mufti Ebrahim Desai, 74

*Muftīyūn*. See: Muftī

*Muḥaddithūn*, 17, 21

Muḥammad, 1, 4, 6, 7, 8, 9, 10, 11, 12, 13,

14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25,

26, 27, 28, 29, 31, 37, 40, 41, 43, 44, 45,

48, 49, 50, 51, 56, 61, 78

*Muḥammad Al-Shaybānī*, 26

Muhammad Ibn Adam, 69, 75, 78

Muhammad Salih Al-Munajjid, 76

*Mujtahid*, 35, 36

Mullahs, 57

*Musnad*, 17, 31

Muṭ'ah, 49

*Mu'tazilah*, 14

Muwaṭṭa', 4, 27, 28

Myspace, 59

**N**

*Nabīdh*, 49

Nouman Ali Khan, 65, 66, 67

**O**

Online, 24, 39, 40, 59, 60, 61, 62, 72, 74,

75, 77, 79, 80, 84, 85, 87

Osama Bin Laden, 82, 83

Ottoman, 35, 48

**P**

Polarisation, 31, 34, 77, 79

Presentation, 44

Promiscuity, 56

## Q

Qadā', 5, 6, 12, 41

Qiyās, 18

Questioner, 5, 10, 42, 46, 53, 54, 63, 70, 88

Qur'ān, 1, 2, 3, 4, 7, 8, 10, 11, 12, 13, 14,  
16, 17, 21, 25, 32, 33, 35, 37, 43, 44, 45,  
47, 50, 60, 69, 73, 76, 87

Qur'ānic. *See*: Qur'ān, *See*

## R

Ra'y (Opinion/Inferred Analogy), 18

Rajm, 54

Ramadan, 53, 70

## Ş

Şabīgh B. 'isl, 21

Şahābah, 11, 12, 14, 15, 16, 17, 21, 22, 23

Şahīḥ Muslim, 6, 21, 24, 54

## S

Salafī, 76

Salafists. *See*: Salafī

Scholarship, 23, 25, 26, 34, 35, 37, 61, 64,  
72, 80, 86

Seminary, 71, 73, 74, 85, 86

Shāfi'i, 6, 7, 9, 28, 29, 30, 33, 34, 40, 45, 76,  
80

Sharia, 3, 5, 20, 25, 35, 55, 57, 71, 81

Shaykh, 63, 65, 67, 69, 70, 71, 76, 78

Shiite, 76

Singlemuslim.Com, 60

Slaughter, 20

Snapchat, 63

Social Media, 59, 63, 65, 80, 86

South Africa, 68, 72, 73

Sporadic, 19, 48, 85

Sufyān B. 'uyainah, 8

Sunnah, 4, 10, 11, 12, 13, 14, 16, 17, 24, 31,  
33, 37, 45, 69, 71, 73, 76, 78, 87

Sunni, 22, 35, 48, 49, 63, 64, 77, 79

## T

Ṭabaqāt (Ranks), 46

Tābi'ūn (The Successors), 17

## Ṭ

Ṭawāf, 52

## T

Tech, 59

Technology, 62, 88

Tensions, 77

Terrorism, 62, 81, 82, 84

The Fuqahā' (The Jurist), 17

Twitter, 59, 61, 62, 65, 66, 74, 75, 76, 84

## ʿ

ʿumar, 21

ʿumar B. Al-Khaṭṭāb, 12, 14, 15, 19

**U**

Ummayyad, 22

United Kingdom, 59, 60, 61, 62

**U**

‘uthmān B. ‘affān, 14

**V**

Videos, 59, 62, 65, 79, 84, 86

**W**

Wahabi, 73, 74

Western, iii, 57, 72, 81, 88

Whatsapp, 60, 79

Women, 3, 56, 57, 61, 66, 67, 68, 69, 70,  
73, 80, 81, 83, 86

Women’s Rights, 73

World Trade Center, 80

Wymann-Landgraf, 9

**Y**

Yasir Al-Hanafi, 63, 64

Youtube, 60, 63, 64, 70, 79

Yūsuf, 2

**Z**

*Zakah*, 1, 75

Zanādiqah, 50