

Fatwa Making in the Ibadi School: Requirements and Qualifications

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Abstract:

Issuing fatwa—among other aspects—preserves religion among people, showcases the timelessness of the Islamic legislation in addition to its superiority over time and place. Allah Almighty decrees the preservation and eternity of the tolerant shari'ah, as He said: "Indeed, it is We who sent down the Reminder; and indeed, We are its guardian." [Al-Hijr: 9]. Considering its noble status and high regard, significant attention, guidance, and religious rooting 'ta'asil' have been given to issuing fatwas by the Islamic law in terms of clarifying its concept, conditions, ethics, principles, benefits, and the methodologies used by jurists to derive legal rulings. This research paper aims to clarify the conditions necessary for making fatwas, the ranks of muftis and their qualifications, and the ruling on the fragmentation of ijthihad and fatwa from mainly an Ibadi standpoint. That is, this inquiry opens up on some works of scholars from other Islamic schools with the aim of broadening its scope.

Keywords: Fatwa, Ijthihad, Ibadism, Conditions, Qualifications.

1. Introduction:

All praise is due to Allah, the Lord of the worlds, and may peace and blessings be upon the Messenger of Allah, his family, companions, and all those who follow him.

Among the distinctions that Allah has granted to the Islamic Ummah is this upright religion and noble, tolerant Shari'ah that Allah has decreed to be preserved and enduring. Allah Almighty said: "Indeed, it is We who sent down the Reminder, and indeed, We are its guardian." [Al-Hijr: 9] As a

result, Allah almighty appointed, for the benefit of the prophet's Ummah, scholarly and godly individuals—the heirs of the prophets—through whom He preserves His religion and spreads it among His servants. He commanded that people should consult them, as He said: "So ask the people of knowledge, if you do not know." [An-Nahl: 43]

Being one of the means that preserve religion, issuing fatwas clarifies the Islamic ruling for the Muslim community. This clarification is essentially a representation of the will of Allah Almighty and His Messenger Muhammad ; and it is a tremendous responsibility borne by the mufti. Therefore, a mufti must possess scholarly qualifications in addition to the piety that must characterize him. Hence, Islamic scholars have strongly condemned those who issue fatwas without being eligible, deeming it a serious breach of Islam and a grave evil that must be prevented. Allah Almighty says in this regard: "And do not pursue that of which you have no knowledge. Indeed, you will be questioned about the hearing, the sight, and the heart." [Al-Isra: 36] And the words of the Prophet ﷺ: "Allah does not take away knowledge by removing it from people, but takes it through taking away the scholars; and when no scholar remains alive, fake scholars will be asked, and they will issue fatwas without knowledge, going astray and leading others astray as well." [Reported by Al-Bukhari]

Given its esteemed status, high position, and noble value, Shari'ah has given issuing fatwas a great care and guidance. Being religiously rooted, the concept of fatwa, its conditions, etiquette, principles, advantages, and the methodologies used by jurists in deducing it all have been determined and clarified by religious texts.

This research paper aims to spot light on the requirements and qualifications for the eligibility of muftis as seen mainly by the Ibadi scholars. That is, this inquiry opens up on some works of scholars from different Islamic schools with the aim of broadening the scope.

The general research problem is defined as follows:

What are the eligibility requirements for muftis?

This main question branches into the following sub-questions:

- 1) What are the ranks of those who issue fatwas?
- 2) What are the conditions for a mujtahid mufti?

- 3) What are the conditions for a non-mujtahid mufti?
 4) What is the ruling regarding the segmentation of ijihad and fatwa issuance?

This paper has been divided into an introduction, a preliminary section, four main topics, and a conclusion.

After the introduction, the paper begins with a preliminary section dedicated to discussing the gravity of issuing fatwas and the prohibition of being reckless in this regard. The first main topic addresses the conditions required of a mujtahid mufti, split into two subsections: the first dealing with personal qualifications, and the second concerning the required fields of knowledge. The second main topic covers the conditions for a non-mujtahid mufti, and the third presents additional, secondary conditions necessary to be met by a mufti and discusses the etiquette of issuing fatwas. The final topic discusses the question of fatwa segmentation, followed by a conclusion of the main findings in addition to a number of recommendations.

2 Preliminary Section: Caution Against Issuing Fatwas Without Eligibility:

Issuing fatwas is a heavy religious responsibility. Therefore, the mufti must approach it with caution and refrain from being hasty. Whenever unable to make an answer, he should admit his limited knowledge and fostering an attitude of continued learning and consultation with knowledgeable scholars (Al-Ashqar, 1976, p.56).

Al-Qutb Muhammad bin Yusuf Atfiyyash (may Allah have mercy on him) said: "The angels curse the one who issues a fatwa without proper knowledge: the weakest of people in knowledge are the quickest to issue fatwas." (Muhammad bin Yusuf Atfiyyash, 1972, p. 17/491).

Several Quranic verses and ḥadiths strongly warn against speaking on behalf of Allah and His Messenger □ without being eligible to, including the following verses:

A) Allah says: {Say, "My Lord has only forbidden immoralities—both what is apparent of them and what is concealed—sin, oppression without right, and that you associate with Allah that you fabricate yourself, and that you say about Allah that which you do not know."} [Al-A'raf: 33]

Here, Allah equates speaking about Him without proper knowledge with the sin of associating others with Him, highlighting the gravity of the matter.

Shaykh Ahmad al-Khalili explains: "Deriving legal rulings and preferring stronger evidence requires comprehensive mastery of various sciences to properly understand Shari'ah evidence and legislative objectives. Declaring ijihad permissible or obligatory for someone who lacks these tools leads to speaking about Allah's rulings without adequate knowledge, one of the gravest major sins. Therefore, Allah has equated it with shirk." (Al-Khalili, 2012, p. 2 /38-39).

B) Allah also says: {And do not distort Allah's rulings, claiming wrongly that "This is lawful and this is unlawful," something that is pure fabrication. Indeed, those who invent falsehood about Allah will fail.} [An-Nahl: 116]

C) It is narrated from Abu 'Ubaydah from Jabir bin Zayd (may Allah be pleased with him) that the Messenger of Allah ﷺ said: "Whoever gives a fatwa or interprets a dream without being eligible to is similar to falling from the sky, then landing in a bottomless pit—even if he happens to be correct." (Al-Rabi' bin Habib, No. 35 p. 15).

D) And narrated from Abu Hurayra (may Allah be pleased with him) that the Messenger of Allah ﷺ said: "The responsibility of issuing a wrong fatwa without proper knowledge lies on the one who issued it." (Abu Dawood, No. 3657 p. 3/321).

Shari'ah scholars throughout different Islamic eras have been extremely cautious about making fatwas and daring it without being qualified. 'Daring' in fatwa issuance means: "Rushing to issue a religious verdict before fulfilling the necessary conditions or before thorough examination of the case at hand, whether intentionally or unintentionally." (Fasheet, 2019, p. 139).

Numerous scholarly declarations, including Ibadis, warn against the dangers of hastiness in fatwa issuance. For example, in his book *Siyar al-Wisiyani*, Sheiykh Abu al-Rabi' says: "Among their praiseworthy manners is selecting the most virtuous for leading prayers and issuing fatwas [...] They considered eagerness to issue fatwas among the major flaws." (Al-Wasiyani, 2009, p.2 /690).

In the early stages of the Ibadi school development, great attention was given by its founding Imams to train those who would issue fatwas. For instance, after several years of study under Abu 'ubaydah Muslim bin Karimah, some

students were granted general authorization to issue fatwas and transmit knowledge, like Abd al-Rahman bin Rustam; others, however, were authorized specifically for fatwas on only matters they had memorized--without independent reasoning-- like Abu al-Khattab Abd al-A'la bin al-Samh and some, such as Abu Dawud al-Qiballi, were not authorized to issue fatwas at all. (Al-Shamakhi, 2009, p. 2/271. Ba'ushi, 2018–2019, p. 235–236).

3 Section one: Conditions for the Mujtahid Mufti:

Recently, scholars of *uṣūl al-fiqh* divide muftis into two categories: independent and dependent (Ibn al-Salah, 2002, p. 86).

3.1. Independent Mufti: This is someone who fulfills the conditions of *ijtihād*, with an ability to pronounce on novel, emerging and unprecedented questions. Three categories of independent mufti can be distinguished: independent, affiliated, or a muftahid within a particular school of thought. These types of muftis have never ceased to exist throughout the ages, although they have been few in number.

3.2. Dependent Mufti: This is someone who has not attained the high ranking of *ijtihād*. This designation applies to scholars following a specific school. Alternative terms include ‘the imitative mufti’, ‘the non-independent mufti’, or ‘the weak in knowledge’ (Al-Bahsin, 1414 AH, p. 301–319. Ba'ushi, 2018–2019, p. 245).

The following sections will outline the conditions required for a qualified mufti capable of *ijtihād*, and then explain the conditions for a jurist not reaching the level of *ijtihād*, a category referred to by some Ibadī scholars as ‘the weak in knowledge’ (Al-Kindi, 1985, p. 1/98. Al-Salmi, 2010, p. 2/432).

The requirements highlighted by scholars for the mufti pertain partly to the mufti's personal character and partly to his scholarly competence. These conditions underscore the gravity of issuing fatwas, the necessity of caution, and the prohibition of disqualification in this matter.

The main conditions can be summarized as follows: Islam, accountability (*taklif*), uprightness (‘*adala*), and *ijtihād*.

The first three conditions -Islam, accountability, and uprightness- are unanimously agreed upon--a mufti lacking any of these traits makes his *ijtihād* unacceptable nor can his fatwa serve as a proof in the religion of

Allah Almighty. This is because a mufti is considered a successor to the Messenger of Allah ﷺ in the vital task of conveying and explaining Shari'ah rulings and preserving Allah's law (Badjou, 2005, p. 783–784. Al-Ashqar, 2005, p. 26–27).

As for *ijtihad*, there is no disagreement among scholars that a fatwa issued by a *mujtahid* is valid as muftis can only be *mujtahid* jurists; al-Qutb al-Tafayish, may Allah have mercy on him, emphasizes: "Issuing fatwas is permissible only for a *mujtahid*." (Al-Khalifin, 2016, p. 1/106) Nonetheless, under certain conditions a fatwa can also be validly made by someone who has not reached the degree of *ijtihad*, as will be discussed in the second section.

Ibadi scholars have elaborated in their writings a comprehensive list of must-have conditions for scholars making fatwas. Abu Sa'id al-Kudami, for instance, was asked about the requirements a scholar must meet to make his fatwa acceptance worthy. He responded: "He must be known for his knowledge by the people of his town and age, belonging to the truthful people of the right path, whose following is commanded, and who guide by the truth and act justly by it. If he meets these requirements and is knowledgeable about what is lawful and unlawful, just and upright, his fatwa must be accepted, particularly in the field of knowledge he specializes in." (Al-Kindi, 1985, p. 1/98).

The conditions can be divided into two types.

3.3. Conditions related to the mufti's personal character:

1) He must be a scholar well-known for knowledge and piety among the scholars of his time, so that his fatwa is accepted. A fatwa from someone whose status is unknown cannot be valid. One must seek a fatwa from a scholar who is widely recognized for religious commitment, knowledge, piety, and uprightness. If his status is unclear, it is necessary to inquire about his uprightness to ensure the protection of the sanctity of issuing fatwas.

As for a jurist who is not trustworthy, whose uprightness is unknown, or whose behavior and conduct are questionable, jurists have stipulated that fatwas may only be accepted from him if he has knowledge of what is lawful and unlawful (Al-Kindi, 2016, p. 1/410. Ba'ushi, 2018–2019, p. 248).

Reinforcing this condition, al-Qutb al-Tafayish emphasized that a mufti must have a proficient mentor who guides him to ensure his fatwas are accepted. He stated: "True muftis emit fatwas they themselves have learned from a trustworthy scholar, (Al-Khalifin, 2016, p. 1/1/103) and elsewhere he adds: "Issuing fatwas is permitted only for a mujtahid, who has studied books extensively along with being guided by a trustworthy mentor." (Al-Khalifin, 2016, p. 1/106).

Hence, Ibadi scholars emphasized obtaining an authorization 'ijazah' in knowledge, also known as nasab addine (religious chain of transmission).

2) He must be from the truthful people of the right path, commanding good and forbidding evil, ensuring his actions do not contradict his words, in compliance with Allah's statement: "O you who believe, why do you say what you do not do? It is most hateful to Allah that you say what you do not do." (Surah As-Saff: 2-3)

He must be from the people of 'wilayah' (uprightness and piety), meaning he must be just and outwardly commendable, known for righteousness, avoiding sins, and committed to repentance for all wrongdoings. The author of "Manhaj al-Talibin wa Balagh al-Raghibin" wrote: "The jurist whose fatwa is accepted is the just person known for piety and righteousness; if he is trustworthy but lacks wilayah, he should not be eligible for fatwas." (Al-Shaqsi, 1993, p. 1/102).

It is notable that this condition is particularly intrinsic of the Ibadi school, where concepts of allegiance 'wilayah' and disavowal 'bara'ah' play a crucial role in their jurisprudence:

"Thus, they have been able to maintain the purity of the religion and cautiousness in issuing fatwas despite the changing times and circumstances." (Ba'ushi, 2018–2019, p. 239).

This does not imply in any way that they disregard benefiting from other schools' authorities; there are indications in their works, of their openness and learning from scholars of other Islamic schools. Al-Qutb al-Tafayish, for instance, may Allah have mercy on him, was asked whether it was permissible to accept narrations (ḥadiths) from non-Ibadi people. He answered:

"It is permissible in branches (minor matters of jurisprudence) if the heart is

reassured, a view agreed upon by a number of Maghrebi scholars. However, only those knowledgeable in ra'y (reason) and ather (narrations) should engage in this, not the general public, especially in preaching. Non Ibadhi books are not to be neglected as they are beneficial and researchable. It is better to derive a ruling from their books than to act out of ignorance." (Al-Khalifin, 2016, p. 1/116-117).

He also stated: "It is permissible to follow a scholar known for knowledge and integrity, even if he belongs to another school or is not a jurist, as long as he does not betray knowledge." (Al-Khalifin, 2016, p. 1/111).

3.4. Conditions Related to the Knowledge the Mufti Must Acquire:

It is required of a mufti to be knowledgeable about the lawful and unlawful so that his fatwa aligns with the Shari'ah of Allah Almighty, who states in His Revealed Book: "And do not distort Allah's rulings, claiming the lawful and unlawful as not being as such; Indeed, those who invent falsehood about Allah will fail." (An-Nahl: 116)

It is stated in the book "Bayān Ash-Shar'": "No one may issue a fatwa based on opinion unless taken from the Book of Allah, the Sunnah of His Prophet, and the traditions of the just scholars. It is said: 'Whoever issues a fatwa based on his opinion--without being qualified to-- and errs bears liability (...)' because-according to Ibadhi literature-- issuing a ruling based on opinion is not permitted except for one who is knowledgeable in the fundamentals of religion, derived from the Book of Allah, the Sunnah of His Messenger, or the consensus of the rightly guided members of the Ummah at any time. Whoever knows the ruling from the Qur'an, the Sunnah, and the consensus of the rightly guided in any matter, field, branch, or specific instance, is considered knowledgeable therein. If he perceives the sound reasoning and can argue it based on sound deduction, he is regarded as a jurist (faqih) and knowledgeable, and thus eligible for reasoning in that matter." (Al-Kindi, 1985, p. 1/68-6).

The knowledge a mufti must acquire can be summarized as follows:

- 1) Knowledge of the Book of Allah Almighty, including an understanding of the following types of Quranic phenomena: the literal and figurative, unrestricted and restricted, general and specific rulings, abrogated and abrogating, and the undetailed and detailed. Also, he must know the verses from which legal rulings can be derived.

2) Knowledge of the Sunnah—which is a set of statements, actions, and tacit approvals of the Prophet (peace be upon him)—Muftis must have an understanding of its rulings, knowledge of what is abrogating and abrogated, the general and specific, and they must be able to distinguish between authentic and weak ḥadiths, among other aspects.

Shaykh Nur ad-Din as-Salmi (may Allah have mercy on him) stated that some Ibadi scholars required comprehensive memorization of the Qur'an, the Sunnah, and the Shari'ah literature (Al-Salmi, 2010, p. 2/403–404. Badjou, 2005, p. 784) However, he preferred the view that memorizing the entire Qur'an, all ḥadiths, all sayings of the Companions and early generations, all the fatwas of scholarly consensus is not necessary because many of the Companions who were qualified to issue fatwas memorized only parts of the Qur'an and ḥadiths—in other words, what they had access to (Al-Salmi, 2010, p. 2/403–404).

3) Knowledge of the issues upon which the Ummah has reached consensus, to avoid issuing a fatwa in contradiction to it—and this what is meant by the previous Islamic literature. This encompasses knowing the consensus of the scholars, the authentic sayings of the Companions, and the recognized opinions of the Followers (Tabi'un) and the Imams of the schools of thought (Ba'ushi, 2018–2019, p. 242).

4) Knowledge of the methods of deriving rulings from the Shari'ah sources, through understanding the principles of Islamic jurisprudence (Usul al-Fiqh), which explain the link between rulings and their evidences and how rulings are derived correctly.

5) Mastery of the Arabic language, including grammar, morphology, and related fields, as understanding Shari'ah texts depends on true command of the Arabic language. As the Qur'an and Sunnah are in Arabic, many rulings are derived from linguistic evidence. Mistakes in language understanding could lead to errors in legal rulings. Al-Qutb Atfayish (may Allah have mercy on him) said:

"Whoever does not know the usages of conjunctions and prepositions [among other things], the patterns of verbs, and their roots is not eligible to issue fatwas but to seek them." (Al-Khalifin, 2016, p. 1/103).

6) One more condition added by Shaykh Jamil bin Khalfan al-Siyabi is that the mufti must be knowledgeable in the fundamentals of Islamic beliefs (Aqidah) to avoid falling into misguided creeds, for a mufti who adopts a heretical belief could incorrectly build his *ijtihad* upon a faulty foundation (Al-Siyabi, 2005, p. 455).

Shaykh Abu Yaqub Yusuf al-Warjilani summarized the required knowledge for a qualified mujtahid mufti and explained the distinction between the mujtahid eligible to issue fatwas and a student of jurisprudence. He said: "Know that the one permitted to exercise opinion and *ijtihad* in novel matters is the one who knows how to place evidences correctly according to reason, Shari'ah, and established conventions. He must know the fundamentals of religion and jurisprudence, be aware of the language and grammar necessary to understand the intricacies of Arabic language and have expertise in authenticating the chains of narration. In addition, he must know the types of meanings, including the general and specific, orders and prohibitions, the explained and the ambiguous, the explicit and the implicit, the abrogated, etc. In fact, concerning the Qur'an, we are relieved from memorizing it all because Allah has preserved it, and the Ummah has agreed on its text. If the mujtahid lacks any of these conditions, he is a transmitter, not a mujtahid, a learner of jurisprudence but not a jurist. Finally, he must be trustworthy and faithful to his religion." (Al-Warjalani, p. 257).

4 Section two: Conditions for the Mujtahid Mufti:

It was previously stated that one who is not qualified to issue fatwas through independent reasoning has been referred to by some scholars of the school as "the weak in knowledge." (Al-Kindi, 1985, p. 1/98. Al-Salmi, 2010, p. 2/432) (Ba'ushi, 2018–2019, p. 245) In other words, it refers to someone who memorizes jurisprudential issues within the school and transmits them but is weak in articulating their evidences and refining their analogical reasoning. He relies in his fatwas on transmitted opinions from the school's imam and the extrapolations of its mujtahids as found in their jurisprudential compilations. If he encounters an issue not directly addressed in the school, he seeks an analogous situation to base a ruling on, ensuring no significant difference between the cases before applying a derived ruling based on the school's principles (Al-Salmi, 1984, p. 1/23).

Issuing fatwas is permissible for this type of scholar, as he transmits what has been authenticated to him from the statements of mujtahids. Since

transmission can be performed by both the mujtahid and the non-mujtahid alike, similar to the narration of ḥadiths, it has historically been accepted that non-mujtahids have issued fatwas (Al-Sawsawah, 2003, p. 115).

Al-Salmi divided the weak mufti into two categories: the transmitter (naqil) and the analogical reasoner (mukharij)

4.1. The Transmitting Mufti:

This refers to the scholar who transmits fatwas and opinions of a jurist, provided that he possesses precision, trustworthiness, and integrity in transmission. He clarifies: "It is agreed among the scholars' community that the weak in knowledge can transmit opinions of scholars because this is a form of reporting. In addition, there is no disagreement about its validity when done with accuracy and precision (...) provided that he trusts the source from whom he reports as this is less serious than emitting a fatwa. Also, if it is permissible for him to follow a fatwa, then it is permissible for him transmit it as well to, as there is no difference between the two." (Al-Salmi, 2010, p. 2/432–433).

This category of muftis can also be described as scholars who meticulously memorize the opinions and the chain of transmission within their respective schools of thought, but they are typically ignorant of the evidences and underlying principles of these rulings. Thus, they are far from being capable of weighing and preferring between differing views (Miga, 1421–1422 AH, p. 648).

In the book *Manhaj al-Talibin*, it states: "One who is asked about matters of halal and haram, and who memorizes from the books written by Muslim scholars, should answer according to what he knows to be correct. If he is unaware of its authenticity, he should not emit answers whose reliability is unknown for him. And if he says: 'I found it in a tradition,' it is not permissible for them to take it seriously unless he says: 'It is from the traditions of Muslims.'" (Al-Shaqsi, 1993, p. 1/113).

The fundamental criterion in allowing such individuals to make fatwas is that they transmit faithfully, without adding their own conjectures, opinions, or deductions (Ba'ushi, 2018–2019, p. 246).

4.2. The Inference Mufti (Al-Mufti al-Mukharrij):

This is the scholar who issues fatwas based on the principles and methodologies of his Imam or mentor, either by developing rulings derived from their opinions or by favoring between their views. He must be precise with a deep understanding of his Imam's evidence and method of deduction and extrapolation. As Al-Salmi says: "The issuance of a fatwa by inference—within the school of a jurist— is only valid for one who is well-versed in the sources and knowledgeable about the evidences and their contexts. In fact, inference is not permissible except for someone qualified in analytical reasoning. If someone is among the people of reasoning and deduction, it is permissible for him to extrapolate rulings based on the scholar's school. This is the view of Imam Al-Kudami and the majority of scholars from the Orient and Maghreb." (Al-Salmi, 2010, p. 2/433).

The conditions set by the scholars for the inference mufti are the same as those required of a mujtahid, though to a lesser degree. They include most notably the following ones:

- 1) Expertise in Fiqh: He must have thorough knowledge of the established branches (*furu'*) of the school he adheres to, be familiar with the opinions of its scholars, and have comprehensive knowledge of the texts regarding various issues, whether absolute, restricted, specific, or general — as these are primary sources for issuing fatwas and drawing inferences, unlike the absolute mujtahid who is not bound by such conditions.
- 2) Ability to Infer and Deduce: He must be capable of deriving rulings by linking matters not explicitly mentioned by his Imam to the fundamental principles of the school.
- 3) Commitment to the School's Principles: He must adhere strictly to the principles and foundations of his Imam when inferring and deducing rulings (Al-Bahsin, 1414 AH, p. 335. bin Al-Shalli, 2010, p. 105).

5 Section Three: Secondary Conditions for the Mufti and Etiquette of Fatwa Making:

Below is a presentation of some secondary conditions that the mufti must observe before issuing a fatwa. These serve as further elaboration of the conditions mentioned previously, related to the scientific capabilities the

mufti must have as well as certain etiquettes and characteristics that a mufti should embody to ensure that his fatwa aligns more closely with correctness:

5.1. Complete Understanding of the Incident:

It is a prerequisite for the mufti to have an accurate understanding of the case presented to him. This requires inquiry into that case, understanding its details, the motivations and objectives intended by the actor, the outcomes resulting from it, and the circumstances surrounding it. This is necessary for issuing a correct ruling, because passing judgment on something is contingent upon a proper conceptualization of it (Rawan, Bouqlaqla, Vol. 15, No. 01, 2020, p. 80).

Accordingly, the mufti should consult experts in various fields— such as medical, economic, etc. — to accurately comprehend the issue at hand.

5.2. Awareness of People's Conditions and Customs:

The mufti must acquaint himself with people's current circumstances, customs, and the diversity and changes in their needs across different times and places, due to the impact this has on the fatwa. Custom holds authority in the field of *ijtihād* and fatwa issuance. A jurist and mufti need it to understand realities and apply rulings to actual cases and emerging issues. Moreover, the fatwa of a local scholar is preferred over that of others, owing to his familiarity with the society's customs. In this regard, Abu al-Abbas Ahmad al-Farastā'ī (d. 504 AH) said: "If two rulings by Ibaḍī scholars diverge on a certain question, consideration is given to the ruling closest to the locality in which the question emerged, taking into account what is adopted among its people, their judges and scholars." (Al-Farastai, 2001, p. 163).

5.3. Understanding the Circumstances of the Questioner:

The mufti must also learn about the questioner, including his psychological state, religious condition—whether devout or sinful—and financial situation, among other factors, due to the impact these on the fatwa. For example, the situation may call for making the matter easier for the questioner, such as for someone suffering from obsessive doubts, who should be informed in a way that alleviates hardship. Likewise, a repentant sinner should be told of the vastness of Allah's mercy and given rulings appropriate to his condition (Al-Ashqar, 1976, p.45).

The mufti should balance between easing and constraining matters based on the questioner's situation, avoiding excessive strictness or unwarranted leniency that would lead to a dilution of Shari'ah's rulings. The Ibaḍi scholars have recommended: "The scholar is not the one who imposes his own piety upon people, but the one who issues fatwas with the truth that accommodates them." (Al-Kindi, 1985, p. 1/78).

5.4. Knowledge of Lawful Concessions and Scholarly Differences:

The mufti must be knowledgeable about legitimate lawful concessions and aware of differing scholarly opinions to benefit people when necessary, provided that these views are well-grounded, not contradicting explicit texts (Ba'ushi, 2018–2019, p. 256) A poet reiterates: "Not every difference of opinion is value worthy; only that which holds a share of proper reasoning."

5.5. Understanding the Objectives of Shari'ah and the Jurisprudential Principles:

A mufti cannot overlook knowledge of the objectives 'maqasid' of Islamic law, its purposes, and its rationales. Through this, he gains the ability to relate detailed rulings to the broader universal principles and balance between the literal meanings of texts and their intended purpose (Rahmani, 2014, p. 153), in addition to relying on jurisprudential principles in fatwa issuance. Jurists not only need the sealed textual evidence from the Qur'an and Sunnah, knowledge of Shari'ah objectives related to people's conditions, comprehensive jurisprudential principles derived from deducing rulings but also he needs to learn the intents of the Shari'a, under which numerous specific rulings fall. Additionally, the mufti should be well-versed in the jurisprudence of consequences, the jurisprudence of balancing interests, the jurisprudence of contemporary reality, and similar fields, all of which, to varying degrees, impact his fatwa.

5.6. Applicability of the Ruling to the Incident:

It is a prerequisite for the Mufti to know whether the ruling applies to the specific incident or not, because the Shari'ah texts were revealed in general and absolute terms without specifying a ruling for every individual case. Each incident has its unique characteristics that differ from others.

5.7. Intelligence and Alertness:

The Mufti should be intelligent and alert in order not to be fooled by corrupt questioners. He must also be calm to be able to comprehend the issue properly and apply it to the Shari'ah evidence. Moreover, he should not issue fatwas while distracted or mentally preoccupied, as indicated by the Prophet Muhammad when he said: "A judge must not pronounce judgments in disputes when he is angry." (Al-Bukhari, 2014, p. No. 7158, 9/65) Intelligence also entails that the Mufti avoids giving fatwas in disputes and conflicts, as these require judicial processes where both parties are heard. Al-Salmi states: "Fatwas are appropriate where there is mutual agreement. However, in cases of denial and disputes, the matter must be referred to a judge, because judges rule based on hearing both parties, whereas a fatwa is given based on one side's statement. Therefore, no fatwa should be issued in disputes." (Al-Salmi, 2010, p. 3/167) Furthermore, the Mufti should have a good understanding of legal matters to protect himself from potential legal consequences arising from his fatwas, especially in conflict cases.

5.8. Impartiality in Issuing Fatwas:

This condition stems from the necessity of sincerity to Allah Almighty in issuing fatwas, meaning the Mufti must seek to please Allah by adhering to Shari'ah, fulfilling its objectives in safeguarding people's interests. He must hold onto this principle by issuing fatwas without taking people's desires into consideration when these desires contradict the will of Allah (Al-Sawsawah, 2003, p. 118).

5.9. Etiquette of Fatwa Making:

The Mufti must be sincere to Allah Almighty in his fatwas, dignified and composed, fully aware of the gravity of giving religious rulings, knowledgeable about people's circumstances, unattached to worldly possessions, personally pious, consistent in word and deed, distant from doubtful matters, deliberate in responding to ambiguous or complex questions, consultative with his fellow scholars, constantly seeking knowledge, trustworthy with people's secrets, and cautious not to speak on matters beyond his knowledge without due review and verification.

5.10. Note:

These subsidiary conditions often make fatwas personal, varying from one questioner to another, from one time period to another, and from one situation to another. Therefore, they cannot be generalized systematically, similar to how a medicine prescribed to a specific patient may not be suitable or might even harm another, depending on their condition.

6 Section Four: The Division of Fatwa (Tajzi' al-Futya):

Since ijtiḥād is a condition for issuing fatwas, and because the correct opinion among scholars is that ijtiḥād can be partial, it means a jurist can be a mujtahid in one area of jurisprudence but not in others. He may issue fatwas in the areas where he has achieved ijtiḥād but must refrain from that where he has not. For example, a jurist might master the evidences concerning marriage but not those concerning sales' transactions, or vice versa (Al-Salmi, 2010, p. 2/405). Many scholars specializing in inheritance laws can issue fatwas in their field but are unable to do so in others (Al-Ashqar, 1976, p.30) The essential requirement is that the Mufti must have a thorough comprehension of the different aspects of a certain question using all relevant evidences without opposing any established text or consensus (Badjou, 2005, p. 785).

Shaykh Ahmad bin Sa'id Al-Shamakhi said: "Whoever knows the method of analogical reasoning (qiyas) may issue a fatwa in matters where he knows the evidence, even if he is not thoroughly versed in the Qur'an and Ḥadith, such as knowing how to derive the prohibition of certain sales without needing expertise in the evidences concerning marriage or purification." (Al-Shamakhi, 1990, p. 512).

Shaykh Al-Salmi, may Allah have mercy on him, elaborated extensively on the division of ijtiḥād, favoring the view that it is permissible, citing numerous evidences. He said: "If we were to require complete ijtiḥād in every branch of knowledge such that the mujtahid could not be ignorant of any legal basis of any issue, it would necessitate that the mujtahid know every single juristic matter—which is impossible. Moreover, it has been reported that some Companions, such as Mu'adh and Ibn Umar, would refrain from giving judgments on certain issues, as well as the Followers and their Followers. This became a characteristic of the Islamic scholars. If partial ijtiḥād were not permissible, such refraining would not have been historically established." (Al-Salmi, 2010, p. 2/406).

Accepting the concept of partial *ijtihad* and *fatwa* aligns well with the realities of our time, where legal cases have become more numerous and complex, making it difficult for scholars to master every branch of jurisprudence according to classical standards. Consequently, specialization in certain fields such as financial transactions or inheritance law is feasible. This should encourage collective *ijtihad*, where the efforts of multiple scholars combine to produce rulings after comprehensive examination from every necessary angle, resulting in more accurate and less error-prone outcomes than individual *ijtihad*. This observes the principle of consultation (*shura*) and ensures the continuity of scholarly innovation and jurisprudence (Al-Sawsawah, 2003, p. 68. Babohoun, 2006 p. 52).

7. Conclusion

At the end of this presentation, the following results can be deduced:

1) *Fatwa* is a significant religious responsibility; therefore, only those possessing the necessary scholarly and ethical qualifications should engage in it. A *mufti* must exercise caution and should not dare issuing *fatwas* unless properly qualified.

2) *Muftis* are divided into two categories: independent, who meets the conditions of *ijtihad*, and dependent, who has not attained the level of *ijtihad*, also referred to as a ‘*muqallid mufti*’ (imitative *mufti*) or ‘one of the weak in knowledge.’

3) The conditions related to the *mufti*'s character include being renowned for knowledge and piety among the people of his time, being among the trustworthy believers, as well as being one of the Muslims who encourage good and forbid evil.

4) A *mufti* must have knowledge of the Book of Allah and the Sunnah of His Prophet , understand their rulings, be aware of issues on which the ummah (Muslim community) has reached consensus, possess a strong grasp of the principles of jurisprudence ‘*usul al-fiqh*’, and be proficient in Arabic grammar, morphology, and related disciplines.

5) The dependent *mufti*, also known as ‘the weak in knowledge’ is divided into two types:

A- The transmitter of *fatwas*: who must be precise, trustworthy, and honest in transmission.

B- The deductive mufti: who must be meticulous, well-versed in the evidences used by his Imam in addition to his methods of deduction and derivation.

6) Scholars have permitted someone who is frequently asked questions by people, even if he is not qualified for *ijtihad*, or deduction to answer based on what he confidently knows to be correct, provided he is familiar with the authoritative books of jurists in his school of thought.

7) Before making a fatwa, a mufti must fulfill several conditions, including a complete understanding of the case at hand, awareness of people's realities and customs, knowledge of the questioner's circumstances, comprehension of the objectives of Islamic law 'maqasid al-Shari'ah', the ability to determine the applicability of rulings to the case, and sharpness and alertness.

8) The correct scholarly opinion is that *ijtihad* can be partial, meaning a jurist may be a *mujtahid* in one area of jurisprudence but not in others. As a result, he may issue fatwas in the areas where he has reached the level of *ijtihad* and refrain from doing so in others.

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