CONSTRUCTING LEGAL REASONING: A HISTORICAL ASSESSMENT OF FATWA LITERATURE FROM THE 4TH TO 19TH CENTURY

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ABSTRACT

Fatwa literature represents a vital tradition in Islamic jurisprudence, functioning as a dynamic mechanism of legal reasoning. This paper offers a historical study of fatwa literature, examining how legal reasoning developed from the 4th to the 19th century, with particular emphasis on the Ḥanafī school. Drawing on a range of key classical sources, including Kitāb al-Nawāzil, al-Fatāwā al-Sirājiyya, and Fatāwā Qāḍīkhān, this study examines how fatwa methodology evolved, emphasizing principles of legal preference (tarjīḥ), hierarchical reasoning, and the ethical and scholarly qualifications expected of a muftī. The study highlights how early jurists

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formulated structured principles for issuing fatwas, navigated intra-madhhab differences, and balanced doctrinal consistency with responsiveness to social realities. Developments in other Sunni schools are also assessed to provide a broader comparative context. The findings suggest that fatwa literature played a central role in shaping Islamic legal reasoning, offering tools that remain valuable for contemporary jurisprudential challenges. The findings demonstrate that the methodologies, ethical frameworks, and textual hierarchies developed in the classical fatwa tradition continue to offer relevant tools for addressing contemporary issues in Islamic law. As such, the historical assessment presented in this paper contributes not only to our understanding of the legal in the past, but also to the ongoing conversation on how to responsibly engage Islamic legal heritage in the modern world.

INTRODUCTION

A fatwa is a legal opinion offered by a qualified Islamic jurist in response to specific questions that arise in daily life. While not legally binding in the way court judgments are, fatwas have historically served as a crucial means of guiding Muslim communities in matters where direct textual evidence from the Qur'an and Sunnah may be silent or open to interpretation.[1] From the earliest period of Islam, the issuance of fatwas represented an effort to apply Islamic legal principles to real-world concerns, and over time, this practice gave rise to a distinct body of literature.[2] Fatwa literature, therefore, is more than a collection of legal

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[1] Omer Awass, "Fatwa: The Evolution of an Islamic Legal Practice and Its Influence on Muslim Society" (PhD diss., Temple University, 2014), xix-xx.

[2] Wael B Hallaq, "From Fatwās to Furü: Growth and Change in Islamic Substantive Law," *Islamic Law and Society* 1, no.1 (1994): 29-31, https://doi.org/10.1163/156851994X00147.

responses, it is a rich record of how Islamic law has interacted with social and historical realities.

The historical study of fatwa literature reveals how legal reasoning in Islam developed through time and across different intellectual and cultural settings. Far from being static or mechanical, the process of issuing fatwas has always demanded careful interpretation, ethical consideration, and methodological rigor.[3] Jurists employed tools such as *ijtihād* (independent reasoning), *qiyās* (analogy), and *takhrīj* (authentication of sources) to ensure that their responses were both grounded in foundational texts and responsive to changing circumstances.[4] This dynamic process reflects the adaptability and depth of the Islamic legal tradition.

This research is driven by a simple but important question: How was legal reasoning constructed in classical fatwa literature, and why does that matter today? From the 4th to the 19th century, particularly within the Ḥanafī school, scholars developed increasingly sophisticated approaches to issuing fatwas. They wrote comprehensive fatwa compilations, debated internal hierarchies of legal authority, and addressed complex social questions. Their writings not only reflect legal thought but also reveal the social, political, and intellectual contexts in which these fatwas were produced. By studying these texts, we gain a clearer picture of how Islamic legal reasoning evolved in response to historical needs.

This historical perspective is especially valuable today. Many of the issues that contemporary scholars and institutions face, such as bioethics, financial contracts, or social justice, mirror

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[3] Siti Farahiyah et al., "Artificial Intelligence for Fatwa Issuance: Guidelines and Ethical Considerations," *Journal of Fatwa Management and Research* 30, no. 1 (2025): 77, https://doi.org.10.33102/jfatwa.vol30no1.654 ; Muhammad Asyraf Mohd Ridzuan, Muhd Imran Abd Razak, and Paiz Hassan, "The Methodology of Delivering Fatwas and Ruling Answers: A Contemporary Perspective in Malaysia," *Insight Journal (IJ)* 11, no. 2 (2024): 405, https://doi.org/10.24191/ij.v11i2.2409.

[4] Ishfaq Amin Parrey, "The Interplay of Ijtihād and Maqāṣid Al-Sharī 'ah in Pre-Modern Legal Thought: Examining the Contributions of Al-Ghazali and Al-Shatibi," *Hamdard Islamicus* 47, no. 2 (2024): 37–59, https://doi.org/10.57144/hi.v47i2.894.

challenges addressed in classical fatwa literature.[5] Although the contexts have changed, the juristic tools and reasoning frameworks remain highly relevant. A deeper understanding of how past scholars approached legal questions allows today's muftīs and researchers to engage more confidently and responsibly with new problems, drawing on centuries of accumulated legal insight rather than starting from scratch.[6]

This paper offers a historical assessment of fatwa literature, focusing on the construction of legal reasoning from the 4th to the 19th century. It centers on the Ḥanafī tradition while also situating it within the broader development of Sunni legal thought. By examining key figures and texts such as al-Nawāzil, al-Fatāwā al-Sirājiyya, and Fatāwā Qāḍīkhān, the study traces how fatwas were formulated, how legal authority was asserted, and how jurists negotiated continuity and change. Ultimately, this research aims to show that understanding the intellectual foundations of fatwa literature is not only a scholarly exercise but a necessary step for responsibly engaging with Islamic legal challenges today.

THE CONCEPT AND FUNCTION OF FATWA IN ISLAMIC LAW

The term fatwa (plural: *fatāwā*) refers to a formal legal opinion in Islamic law, typically issued by a qualified jurist known as a muftī. Linguistically, the word "fatwa" derives from the Arabic word "futya," which appears in several related terms in the Qur'an.[7] These include *iftāʾ* (to issue a legal opinion), *istiftāʾ* (to request a legal opinion), *yuftī* (he issues a legal opinion), and muftī (the one who

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[5] Belal Zia et al., "A Brief Overview of the Islamic Ethics of Suicide and Suicide-Related Contemporary Issues from a Sunnī Perspective: A Primer for Clinicians and Researchers," *Journal of Religion and Health* 63, no. 2 (2024): 970–971, https://doi.org/10.1007/s10943-024-02007-6.

[6] Javad T Hashmi, "Overcoming Religious Illiteracy: Towards a More Inclusive Approach to Islamic Bioethics," *Journal of Islamic Ethics* 5, no. 1–2 (2021): 290, https://doi.org/10.1163/24685542-12340063.

[7] Wan Khairuldin, Wan Mohd Khairul Firdaus, Wan Nur Izzati Wan Nor Anas, and Abdul Hanis Embong, "Fatwa as a Disseminator of Islamic Laws among Community of Malaysia," *International Journal of Academic Research in Business and Social Sciences* 8, no. 11 (2018): 516–521, http://dx.doi.org/10.6007/IJARBSS/v8-i11/4925.

issues a legal opinion).[8] These terms are often used in Qur'anic passages to denote the process of seeking and giving religious or legal guidance. In classical usage, a fatwa is a juristic response to a question posed by an individual or a legal authority, grounded in the sources of Islamic law, primarily the Qur'an, Sunnah, consensus (*ijmā ʿ*), and analogy (*qiyās*).

According to Arabic-English lexicons and legal dictionaries, the term fatwa is defined as a ruling or opinion on a point of Islamic law provided by a recognized authority. The verb *aftā* means "to clarify or decide a point of law," which reflects the jurist's role in interpreting divine texts to provide legal clarity.[9] Within the Islamic legal system, a fatwa refers to a formal verbal or written response provided by a qualified *faqīh* (*muftī*) to a question concerning the *shar ʿī* ruling on a specific issue. Unlike judicial rulings (*qaḍiʾ*) or purely theoretical discussions, fatwas are generally prompted by practical concerns and aim to offer religious-legal solutions to specific inquiries. The institution of fatwa played a particularly crucial role during the formative period of Islamic jurisprudence.

In the early Islamic period, particularly during the Prophet Muhammad's lifetime, legal guidance came directly from him as both messenger and judge. After his death, this responsibility was assumed by his Companions, who were considered the most knowledgeable in interpreting the Qur'an and Sunnah. Figures such as ʿUmar ibn al-Khaṭṭāb and ʿAlī ibn Abī Ṭālib were frequently consulted for religious and legal matters.[10] These early practices laid the foundation for the institution of fatwa, where legal reasoning, though informal, was exercised through *ijtihād* to address new and

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[8] Muhammad Ifzal Mehmood, Siddiq Ali Chishti, and Muhammad Junaid Mughal, "Fatwa in Islamic Law, Institutional Comparison of Fatwa in Malaysia and Pakistan: The Relevance of Malaysian Fatwa Model for Legal System of Pakistan," *International Research Journal of Social Sciences* 4, no. 9 (2015): 1–6, http://dx.doi.org/10.4172/2151-6200.1000118.

[9] *Ibid.*, 1–6.

[10] Muḥammad b. Abī Bakr b. Qayyim Al-Jawzīyyah, *I ʿlām al-Muwaqqi ʿīn* (Cairo: Dār ibn al-Jawzīyyah, 2012), 11; Mohammed Subhan Dalvi, "Fatawa and Their Development since the Early Islamic Era" (Master's Thesis, University of Wales Trinity Saint David, 2018), 17.

complex issues. In this period, fatwas were not speculative nor codified legal opinions, but rather practical responses aimed at resolving everyday issues in light of the Qurʾān, the Sunnah, and other recognized sources of Islamic law.[11] Thus, the early fatwa tradition served as a functional mechanism for addressing the lived realities of Muslim communities within a coherent *sharʿī* framework.

The primary function of fatwa in this period was to provide answers to religious, ethical, and legal questions that arose in daily life.[12] As Islamic society expanded, new situations emerged that required juristic reasoning beyond the direct wording of the Qur'an or Hadith. In response, scholars began systematizing the practice of issuing fatwas, marking the beginning of fatwa literature. This transformation from individual juristic responses to formal compilations reflected the growing complexity of legal life in the Muslim world and signaled the increasing importance of fatwas as tools of legal development and social guidance.

THE HISTORICAL DEVELOPMENT OF THE FATWA INSTITUTION

The institution of fatwa has undergone significant evolution since the earliest period of Islam. During the lifetime of the Prophet Muhammad (peace be upon him), the foundation of the fatwa system was established as he directly responded to the legal and ethical inquiries of his followers.[13] After the Prophet's passing, the Companions (*ṣaḥāba*) took on the responsibility of issuing fatwas, particularly those with deep knowledge of the Qur'ān, Sunnah, and the Prophet's legal reasoning. Jurists of this period often relied on direct scriptural evidence when available and resorted to *ijtihād* (independent reasoning) when faced with novel situations. Classical sources categorize the Companions based on their

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[11] Taha Jabir Al-Alwani, "The Sahabah Who Gave Fatawa during the Prophet's Lifetime," in Source Methodology in Islamic Jurisprudence: Usul Al-Fiqh Al-Islami, ed. Yusuf Talal Delorenzo & Anas S. Al Shaikh Ali (The International Institute of Islamic Thought, 2003), 12-13.

[12] Awass, *Fatwa: The Evolution of an Islamic Legal Practice and Its Influence on Muslim Society*, xix-xx.

[13] Hallaq, *From Fatwās to Furü: Growth and Change in Islamic Substantive Law*, 30.

contributions to fatwa-giving: a core group of seven, including ʿUmar b. al-Khaṭṭāb, ʿAlī b. Abī Ṭālib (d. 40/661), ʿAbd-Allāh b. Masʿūd (d.32/653), ʿĀʾishah (d. 58/678) - the wife of the Prophet Muḥammad, Zaid b.Thābit (d. 46/665), ʿAbd-Allāh b. ʿAbbās (d. 67-68/687) and ʿAbd-Allāh b.ʿUmar (d. 693/74).[14] This system of *iftāʾ* reflects the early roots of Islamic legal reasoning and community guidance, emphasizing both textual interpretation and juristic discretion.[15]

In the following generation, the Tābiʿūn fatwa-giving became more geographically dispersed. Scholars in major centers such as Medina and Kūfa continued the tradition, influenced by different methodological orientations. Medinan scholars, like Saʿīd ibn al-Musayyib, leaned toward a traditionist (*ahl al-ḥadīth*) approach,[16] while Kūfan jurists, such as Ibrāhīm al-Nakhaʿī, emphasized reason (*raʾy*) and analogy (*qiyās*).[17] These differences marked the beginning of distinct juristic methodologies. By the second Islamic century, the emergence of the major Sunni legal schools (*madhāhib*) further structured the field. Leading imams such as Abū Ḥanīfa, Mālik, al-Shāfiʿī, and Aḥmad ibn Ḥanbal issued fatwas that their students codified into coherent legal doctrines.[18] At this stage, judges and muftīs were typically

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[14] Muḥammad b. Abī Bakr b. Qayyim Al-Jawzīyyah, *Iʿlām al-Muwaqqiʿīn* (Cairo: Dār ibn al-Jawzīyyah, 2012), 11.; Yahya Hakim, "The Hashemite-Umayyad Divide and Its Impact on the Future of Islam," *Muslim World* 106, no. 1 (2016): 95-96, https://doi.org/10.1111/muwo.12125.

[15] Wael B Hallaq, "From Fatwās to Furū: Growth and Change in Islamic Substantive Law," *Islamic Law and Society* 1, no. 1 (1994): 37-38, https://doi.org/10.1163/156851994X00147.

[16] Hüsamettin Kaya, "Zâhirî Âlimlerin Ashâbu'l-Hadis/Ehl-i Hadis Algısı TT - Perception of Ashâb al- Ḥadīth /Ahl al- Ḥadīth of Ẓāhirī Scholars," *Tasavvur / Tekirdağ İlahiyat Dergisi* 9, no. 2 (2023): 1465–1494, https://doi.org/10.47424/tasavvur.1363532.

[17] Behnam Sadeghi, "The Authenticity of Two 2nd/8th Century Hanafi Legal Texts: The Kitāb Al-Āthār and Al-Muwatta'of Muhammad b. Al-Hasan Al-Shaybāni," *Islamic Law and Society* 17, no. 3–4 (2010): 291–319, https://doi.org/10.1163/156851910X522212.

[18] Labeeb Ahmed Bsoul, "The Emergence of the Major Schools of Islamic Law/Madhhabs," in *Routledge Handbook of Islamic Law*, ed. Khaled Abou El Fadl, Ahmad Atif Ahmad, Said Fares Hassan (Routledge, 2019), 141–155.

mujtahids, exercising independent reasoning without strict adherence to any single school.

As the legal schools matured, the fatwa institution became increasingly formalized. Muftīs began to operate within the doctrinal boundaries of their respective schools, and state authorities began to appoint or recognize qualified jurists to issue fatwas. Particularly under the ʿAbbāsid Caliphate, a division emerged between judicial and fatwa functions: *quḍāt* were responsible for formal adjudication, while muftīs issued advisory legal opinions.[19] One of the most notable examples from this period is the appointment of Abū Yūsuf (student of Abū Ḥanīfa) as *qāḍī al-quḍāt* (Chief Judge) and legal advisor under Caliph Hārūn al-Rashīd. Such developments marked a shift from informal scholarly consultation to state-backed, institutionally regulated legal practice.

The Ottoman Empire represents the apex of fatwa institutionalization. From its early stages, the Empire distinguished between religious and judicial authority, assigning muftīs to the former and *qāḍīs* to the latter. The creation of the office of Shaykh al-Islām in the 15th century further centralized religious authority, with the Grand Muftī empowered to issue fatwas on behalf of the Sultan.[20] A supporting bureaucracy, the *Fatwahāne*, ensured standardized procedures in legal opinion writing. In this context, fatwas extended beyond personal and family matters to address political, military, and legislative issues. Figures such as Ebussuʿūd Efendi played a pivotal role in shaping imperial legal policy through fatwas.

In the post-classical and modern periods, the institution of fatwa continued to serve as a central mechanism for religious-

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[19] Mathieu Tillier, "Judicial Authority and Qāḍī s' Autonomy under the ʿAbbāsids," *Al-Masāq* 26, no. 2 (2014): 119–131, https://doi.org/10.1080/09503110.2014.915102.

[20] Emre Berber and Abdullah Vefa Karataş, "Padişahin Denetlenmesinde Şeyhülislamin Rolü," *Kırıkkale Hukuk Mecmuası* 2, no. 1 (2022): 235–62, https://dergipark.org.tr/en/pub/khm/article/1110704.

legal guidance across the Islamic world. With the consolidation of legal schools, muftīs were increasingly expected to operate within the doctrinal boundaries of their respective madhhabs, and their authority often depended on institutional recognition or scholarly reputation. In many regions, fatwas began to play a mediating role between state policies and religious norms, offering legal opinions on matters ranging from personal status law to public ethics. While the authority of the fatwa varied depending on political structures and legal systems, the practice of *iftāʾ* remained deeply rooted in Islamic intellectual life. In contemporary contexts, fatwa-issuing bodies, whether traditional scholarly councils or modern state-backed institutions, continue to address new challenges such as biomedical ethics, digital finance, gender relations, and environmental issues.[21] These developments demonstrate that while the structures and contexts have changed, the core function of the fatwa as a tool of juristic reasoning and communal guidance remains vital across the Muslim world.

THE DEVELOPMENT OF FATWA LITERATURE IN HANAFI SCHOOL
Early Ḥanafī Foundations (4th Century AH)

Comprehensive reflections on the methodology of fatwa-giving within the Ḥanafī school began to crystallize in the 4th century AH (10th century CE). During this period, foundational principles were formulated concerning the scholarly qualifications of the muftī, his moral character, and the ethical responsibilities intrinsic to the role. From this era onward, Ḥanafī legal texts began to include discussions on fatwa methodology, either in dedicated chapters or interspersed within broader juridical discourses.

One of the earliest and most influential contributions from this period is *Kitāb al-Nawāzil* by Abū al-Layth al-Samarqandī (d.

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[21] Mohamad Subli et al., "The Absorptive Capacity of Fatwa Institutions in Indonesia on Contemporary Issues," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 9, no. 1 (2024): 110–26, https://doi.org/10.30863/ajmpi.v9i1.6047; Iskandar Iskandar and Hadi Sofuoğlu, "Islamic Environmentalism in Indonesia: An Analytical Study of MUI Fatwas on Environmental Protection," *Bulletin of Islamic Research* 3, no. 2 (2025): 177–202, https://doi.org/10.69526/bir.v3i2.168.

373/983). In the chapter titled *Bāb al-Fatwa*, al-Samarqandī presents a detailed analysis of the essential qualities a muftī must possess, the procedural norms he must follow when issuing fatwas, and the nature of interaction between the muftī and the *mustaftī* (the one seeking the fatwa). His work thus offers one of the first systematic frameworks for *iftāʾ* practice within the Ḥanafī tradition, underscoring both its legal rigor and its pastoral sensitivity.[22]

Another significant contributor to the Ḥanafī fatwa literature in the 5th/11th century was Abū Bakr Muḥammad al-Ḥaṣīrī (d. 500/1107). His comprehensive work *al-Ḥāwī fī al-Fatāwā* not only compiles contemporary fatwas reflecting the legal debates and practices of his time but also includes notable remarks concerning the procedural norms of fatwa issuance. Toward the conclusion of the work, al-Ḥaṣīrī opens a specific chapter titled *al-Iḥtiyāṭ fī al-Fatwa* ("Caution in fatwa"), in which he addresses the scholarly competence of muftīs, their representational responsibility before the public, and the moral attitudes they should adopt when issuing fatwas.[23]

However, this content is not presented in a consistently systematic manner. Rather, the rules of *ādāb al-fatwa* are interspersed among discussions on miscellaneous legal issues, referred to as *masāʾil al-shattā* (dispersed topics). Indeed, in some manuscript versions of *al-Ḥāwī*, a supplementary section is found

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[22] Abdullah Demirci, "Ebū'l-Leys es-Semerkandî'nin "en-Nevāzil" İsimli Eseri: Tenkidli Neşir ve İnceleme (İcârât Bölümünden Eserin Sonuna Kadar)" (PhD diss., İstanbul Üniversitesi 2021), 16. ; Mehmet Büyükmutu, "Hanefî Fetvâ Usûlünün Oluşumu ve Ebül-Leys es-Semerkandî'nin Tedvine Sağladığı Katkı Üzerine Bir İnceleme TT - A Study on the Formation of the Hanafî Fatwa Methodology and the Contribution of Abū'l-Layth al-Samarqandī to Its Compilation," *UMDE Dini Tetkikler Dergisi* 7, no. 2 (2024): 137–72, https://doi.org/10.54122/umde.155978.

[23] Abû Bakr Muhammad b. İbrâhim b. Ânûş al-Hasîrî al-Bukhârî al-Hanafî, *al-Hâvî fi'l-Fatâwâ*, manuscript, Suleymaniye Kütüphanesi, n.d., 258.; Shaker Jabari, "Hasîri'nin El-Havî Fi'l-Fetava İsimli Eserinin Sistemiğinin Tahlili," *The Journal of Academic Social Sciences* 9, no. 115 (2021): 244–258, https://doi.org/10.29228/ASOS.49663 ; Büyükmutu, 157.

at the end of the text dealing with seemingly unrelated matters, including the doctrine of *ahl al-sunnah*, the nobility of jurisprudence, the etiquette of fatwa, and anecdotes concerning Abū Ḥanīfa, Abū Yūsuf, and Imām Muḥammad.[24]

Al-Ḥaṣīrī's exposition on fatwa etiquette largely relies on transmitted reports (*riwāyāt*) from earlier authorities, reproducing their positions verbatim. In this respect, his contribution may be seen as preserving and transmitting the received tradition rather than advancing it in a methodologically innovative way.[25] Nonetheless, his work remains a valuable witness to the evolving understanding of fatwa practice in the early Ḥanafī context, particularly in terms of ethical orientation.

Among the early contributions to the classical etiquette of fatwa issuance (*ādāb al-fatwa*), certain qualities were frequently emphasized for a muftī, including sincerity, upright moral character, trustworthiness, composure, and scholarly experience.[26] In his *Kitāb al-Nawāzil*, al-Samarqandī also paid close attention to the principles of preference (*tarjīḥ*) in cases of intra-madhhab disagreement, offering guidelines for determining which opinion should be prioritized when the muftī is not a *mujtahid mutlaq*. Specifically, he recommended a hierarchical methodology for choosing among the views of authoritative scholars within the Ḥanafī school. As later juristic literature also confirms, al-Samarqandī proposed that when issuing a fatwa, priority should be given first to the opinion of Imām Abū Ḥanīfa; if unavailable, then to the joint opinions of Abū Yūsuf and Muḥammad al-Shaybānī; if these are also absent, then separately to the views of Abū Yūsuf, followed by those of Imām Muḥammad, and subsequently to Zūfar and Ḥasan ibn Ziyād. This methodology, as

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[24] Shaker Jabari, "Hasîri'nin El-Havî Fi'l-Fetava İsimli Eserinin Sistemiğinin Tahlili," *The Journal of Academic Social Sciences* 9, no. 115 (2021): 244–58, https://doi.org/10.29228/ASOS.49663.

[25] Bayder, "Hanefî Fetva Usulü Literatürü ve Bedreddin Eş-Şuhâvî'nin "Et-Tırâzu'l-Müzheb" Adlı Fetva Usulünün Değerlendirilmesi," *Bilimname* 29, no. 2 (2015): 214.

[26] Esra Bembeyaz, "Müftülük," in İslam Düşünce Atlası, ed. Halil Üçer (İlmî Etüdler Derneği, 2025), n.p.

articulated by al-Samarqandī, aligned with the internal hierarchy of Ḥanafī *ijtihād* and was considered essential to the preservation of the school's doctrinal coherence.[27]

In addition, al-Samarqandī meticulously cited the names of the jurists whose views he adopted, making extensive reference to the legal reasoning of the key Ḥanafī imams, namely, Abū Ḥanīfa, Abū Yūsuf, and Imām Muḥammad. The procedural principles of fatwa issuance recorded in his *Nawāzil* predominantly reflect the jurisprudential opinions of jurists from the 3rd/9th century. This indicates that many of the methodological rules underpinning Ḥanafī fatwa practice had already been formulated by that period. Al-Samarqandī's work thus stands as a pioneering source that offers a systematic treatment of *iftāʾ*, both theoretically and practically, within the Ḥanafī legal tradition.[28]

This era is regarded as a stage in which fatwa methodology became more systematized and the content of the literature grew increasingly rich. Beginning in the 6th century, methodological discussions on issuing fatwas, which had previously been scattered throughout legal sections concerning judicial rulings (*aḥkām al-quḍāt*), started to be addressed independently under dedicated headings such as *Ādāb al-Fatwa* (Etiquette of Legal Opinion) or *Rasm al-Muftī* (Conduct of the Muftī).[29]

At the outset of this period, principles regarding personal authority and issue-based preferences became more clearly articulated in the fatwa literature. These principles established

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[27] Bayder, "Hanefi Fetva Usulü Literatürü ve Bedreddin Eş-Şuhâvî'nin "Et-Tırâzu'l-Müzheb" Adlı Fetva Usulünün Değerlendirilmesi," 214.

[28] Büyükmutu, "Hanefî Fetvâ Usûlünün Oluşumu ve Ebü'l-Leys es-Semerkandî'nin Tedvine Sağladığı Katkı Üzerine Bir İnceleme," 140.; Bayder, "Hanefi Fetva Usulü Literatürü ve Bedreddin Eş-Şuhâvî'nin "Et-Tırâzu'l-Müzheb" Adlı Fetva Usulünün Değerlendirilmesi," 213.

[29] Pehlul Düzenli, "Osmanlı Fetvasında 'Muteber Kaynak' ve 'Müfta Bih Mesele' Problemi," *Türkiye Araştırmaları Literatür Dergisi* 11, no. 22 (2013): 9–78, https://dergipark.org.tr/tr/pub/talid/article/589979

criteria for determining which juristic opinion should be prioritized in cases where differing views existed among the founders of the school. Prominent Ḥanafī jurists of the 6th/12th century, such as Sadr al-Sharīʿa Ibn Māza (d. 536/1141), al-ʿAṭṭābī (d. 586/1190), Qāḍīkhān (d. 592/1196), and al-Ghaznawī (d. 593/1197) made substantial contributions to the elaboration of these preference criteria. The works of these four scholars became some of the most frequently cited sources in discussions on fatwa methodology during this era.[30]

The Middle Period (6th–12th Century AH)

The 6th to 9th centuries of the Islamic calendar witnessed notable developments in the methodology of fatwa issuance within the Ḥanafī school. One particularly important milestone from the 6th/12th century is the compilation of *al-Fatāwā al-Sirājiyya* by Sirāj al-Dīn ʿAlī ibn ʿUthmān al-Ūshī (d. 575/1179). This work holds a distinctive place not only for its responses to substantive legal questions, but also for the decisive methodological criteria it articulates regarding the process and principles of issuing fatwas. In his treatise, Ūshī systematically addresses both the *ādāb al-fatwa* (etiquette of issuance) and the principles of preference, both from a scholar-centered and text-centered perspective.[31]

As noted above, Ūshī outlines in detail that a muftī who is not a *mujtahid* must follow a hierarchical sequence when selecting among opinions within the Ḥanafī school. First and foremost, priority is to be given to the opinion of Imām Abū Ḥanīfa, followed by the joint opinions of the *Imāmayn* (Abū Yūsuf and Muḥammad al-Shaybānī); thereafter, if necessary, the individual views of Abū Yūsuf and Imām Muḥammad, and finally, if no position is found, those of Zūfar and Ḥasan ibn Ziyād

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[30] Oğuzkağan Demir, "Hanefi Mezhebi Fetva Usûlü Konularının Tarihsel Gelişimi TT - Hıstorical Development of the Issues of Usûl al-Fatwa of Hanafî Maddhab," *Balıkesir İlahiyat Dergisi*, 19 (2024): 9–27, https://dergipark.org.tr/tr/pub/baid/article/1421749.

[31] Büyükmutu, "Hanefî Fetvâ Usûlünün Oluşumu ve Ebül-Leys es-Semerkandî'nin Tedvine Sağladığı Katkı Üzerine Bir İnceleme TT - A Study on the Formation of the Hanafî Fatwa Methodology and the Contribution of Abū'l-Layth al-Samarqandī to Its Compilation," 157.

may be consulted.[32] This structured approach constitutes a formal hierarchy for intra-madhhab preference and serves to ensure consistency with the general doctrinal orientation of the Ḥanafī school.

Ūshī further emphasizes that a muftī must possess an understanding of local customs (ʿurf) and social practices. He illustrates how discretionary legal tools such as *istiḥsān* and ʿurf should be employed in appropriate contexts. Notably, he asserts that a muftī should refrain from issuing fatwas without being adequately acquainted with the customary practices of the society in which the ruling will be applied.

Ūshī also enumerates a range of ethical and procedural rules constituting the etiquette of the fatwa process. These include: avoiding responses to purely hypothetical or implausible questions; retracting erroneous judgments when a mistake is recognized; ensuring that responses are sufficiently detailed and explanatory; maintaining a demeanor that is both kind and approachable; and, in the presence of multiple petitioners, responding to the person who posed the question first rather than giving priority to someone of wealth or social standing. Through these prescriptions, Ūshī demonstrates that fatwa is not merely an act of transmission (*naql*), but a process requiring critical analysis and scholarly discernment.

Furthermore, Ūshī affirms that certain juristic principles, such as ʿumūm al-balwā (widespread necessity), may serve as valid criteria for preferring one opinion over another within the school. He provides examples of cases where such public needs have warranted deviation from less practical views.[33]

In light of these dimensions, *al-Fatāwā al-Sirājiyya* offers not only applied legal rulings but also a comprehensive articulation of fatwa methodology, thereby making a significant

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[32] Bayder, "Bedreddin eş-Şuhâvî'nin et-Tırâzu'l-müzheb Adlı Eserinin Tahkik ve Tercümesi TT - A Critical Edition and Translation of al-Shuhāwī's al-Tirāz al-mudhhab," 214.

[33] *Ibid.*, 214.

contribution to the Ḥanafī fatwa literature. As noted in subsequent scholarly literature, Ūshī introduces the formal chapter title "*Kitāb Ādāb al-Muftī wa'l-Tanbīh ʿalā al-Jawāb*" ("The Book of the Muftī's Etiquette and Guidance on Issuing Responses"), thus providing a conceptual framework for understanding the ethics and methodology of the fatwa process.[34] This effort marks one of the early milestones in the systematic codification of *ādāb al-fatwa* under a distinct and coherent heading.

Intra-Madhhab Preferences and the Hierarchy of Legal Authority in 6th–12th Century AH

Another prominent scholar examined in the context of this period is Sadr al-Sharīʿa Ibn Māza, whose contributions significantly influenced the development of legal methodology within the Ḥanafī tradition in 6th Century AH. Sadr al-Sharīʿa Ibn Māza, in his *Sharḥ Ādāb al-Qāḍī* (Commentary on the Etiquette of Judges), examined the issue of which opinion a judge should prefer when faced with differences among the school's imams. He asserted that where there is consensus among the school's authorities, the judge must not deviate from it. In the case of disagreement, he reported two differing views: the first, transmitted from ʿAbd Allāh b. al-Mubārak, holds that Abū Ḥanīfa's opinion should be preferred under all circumstances. The second, based on some later Ḥanafī masters (*mashāyikh*), states that if either Abū Yūsuf or Muḥammad al-Shaybānī agrees with Abū Ḥanīfa, that joint opinion is to be followed. However, if Abū Yūsuf and Muḥammad are in agreement and contradict Abū Ḥanīfa, then the judge may choose between them according to his own scholarly competence. If the judge is qualified for *ijtihād*, he has discretion between these two views; otherwise, he must refer to the judgment of another mujtahid.[35]

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[34] Büyükmutu, "Hanefî Fetvâ Usûlünün Oluşumu ve Ebül-Leys es-Semerkandî'nin Tedvine Sağladığı Katkı Üzerine Bir İnceleme TT - A Study on the Formation of the Hanafî Fatwa Methodology and the Contribution of Abū'l-Layth al-Samarqandī to Its Compilation," 157.

[35] Demir, *Historical Development of the Issues of Usūl al-Fatwa of Hanafi Maddhab*, 14.

From the 7th to the 9th centuries, the fatwa literature began incorporating *textual authority-based preference principles* (*ikhtiyārāt mabniyya ʿalā al-taʾlīfāt*). These principles established hierarchies regarding which categories of texts should be given precedence when issuing a legal opinion. The first known scholar to explicitly articulate such a hierarchy was Tarsūsī (d. 758/1357), a Damascus-based Ḥanafī jurist of the 8th/14th century. He maintained that source texts (*uṣūl*), such as foundational legal manuals, should be consulted first; followed by commentaries (*shurūḥ*) on those texts; and finally, fatwa compendia (*majāmīʿ al-fatāwā*).[36]

This tripartite approach was subsequently endorsed by numerous jurists across later centuries. Molla Gūrānī (d. 893/1488), Ibn Nujaym (d. 970/1563), Shuhāwī (d. 984/1576), and Timurtāshī (d. 1006/1598) all upheld and repeated this hierarchy in their respective works. Even in later centuries, authorities such as Ibn ʿĀbidīn, Lakhnawī, and Marjānī adhered to this framework when issuing fatwas, further reinforcing its centrality within the tradition.[37]

During the same period, terminologies related to *verification expressions* (*taṣḥīḥāt*) and concepts such as *ṣaḥīḥ* (sound) and *rājiḥ* (preponderant) began to assume a central role in fatwa literature. This development is most clearly observed in *Jāmiʿ al-Muzmarāt wa al-Mushkilāt*, authored by Yūsuf b. ʿUmar al-Kādūrī (d. 832/1429), which systematically defines and classifies the terminology used in legal responsa. In the introduction to this work, al-Kādūrī addresses six thematic areas related to fatwa methodology, the first of which focuses on the precise usage and interpretive significance of technical expressions employed in legal opinions.[38]

He draws heavily from the earlier *Fatāwā al-Sirājiyya* of Sirāj al-Dīn al-ʿŪshī and other key sources, elaborating on the

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[36] Demir, *Historical*, 15.
[37] *Ibid*.
[38] Demir, *Historical*, 16.

meanings of particular terms used by muftīs and explaining in which contexts these expressions signal a preferred opinion. The criteria for applying designations such as *ṣaḥīḥ* (sound) and *rājiḥ* (strongly preferred) to particular rulings were clarified and standardized during this period. Consequently, later jurists frequently cited al-Kādūrī's work as a foundational reference in their expositions on fatwa methodology.[39]

Another significant development in the evolution of fatwa literature during the middle period occurred in the 9th/15th century. During this time, prominent scholars such as Qāsim b. Qutlubughā (d. 879/1474), Qāḍī Jukan al-Gujrātī al-Hindī (d. 920/1514), Ibn Kemāl Pāshā (d. 940/1534), and Kınalızāde ʿAlī Efendi (d. 979/1572) contributed to the further expansion of the methodological scope of fatwa issuance. This period marked the first systematic discussions of topics such as the concepts of *rājiḥ* (preponderant opinion) and *marjūḥ* (less preferred opinion), as well as the interaction between the legal opinions of the school and ḥadīth-based rulings.[40]

For instance, Qāsim b. Qutlubughā, in the introduction to his epistle *al-Taṣḥīḥ wa al-Tarjīḥ*, emphasized that issuing fatwas based on arbitrary or weak opinions is impermissible. He insisted that fatwas must be grounded exclusively upon the *rājiḥ* (most authoritative) positions. He openly criticized certain judges who based their rulings on *marjūḥ* (weak) views, thereby highlighting a dichotomy, *rājiḥ* versus *marjūḥ*, that had not been previously addressed in such explicit terms within the Ḥanafī legal literature.[41]

Meanwhile, Qāḍī Jukan al-Hindī, a jurist active in the Indian subcontinent, explored previously neglected topics in his work *Khizānat al-Riwāyāt*, especially in the introductory sections. These include the theoretical tension between established madhhab positions and sound prophetic ḥadīths, as well as the

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[39] *Ibid*.

[40] Demir, *Historical*, 17.

[41] *Ibid.*

legitimacy of adopting legal opinions from other schools of law when necessary. His contribution marks one of the earliest attempts to engage systematically with the reconciliation or prioritization of ḥadīth vis-à-vis madhhab rulings within the fatwa methodology.[42]

During the same period, Ibn Kemāl Pāshā proposed a hierarchical classification (*tabāqāt*) of Ḥanafī jurists according to their levels of competence and scholarly authority. He argued that, in the process of issuing fatwas, preference should be given to the opinions of higher-ranking imams within this classification.[43] Building upon this, Kınalızāde ʿAlī Efendi, in his *Risāla fī Ṭabaqāt al-Masāʾil*, categorized legal issues within the Ḥanafī school into three distinct groups: *ẓāhir al-riwāyah* (canonical reports), *nawādir* (rarely transmitted opinions), and *nawāzil* (novel legal questions arising from new circumstances). He recommended that this typology be taken into account in the fatwa process in order to ensure a more principled and context-sensitive legal response.[44]

Thanks to these contributions made in the 9th/15th century, the methodology of fatwa issuance became markedly more sophisticated and methodical compared to earlier centuries. As a result, the fatwa literature that evolved throughout the middle period left behind a rich intellectual legacy that shaped the foundational framework of fatwa methodology not only within the

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[42] Dr. Hafiz Muhammad Hassan, Mamoona Islam, and Dr. Muhammad Shahbaz Manj, "Fatāwā Ḥiṣārīa and Mūlāna Abdul Qādir Ḥiṣārī: an introductory study," *Al-Aijaz Research Journal of Islamic Studies & Humanities* 6, no. 2 (2022): 106-19, https://doi.org/10.53575/u10.v6.02(22).106-119.

[43] Rabiul Alam Mohammad, "The Classification of the Levels of the Jurists Devised by Ibn Kamal Pasha: A Review," *Scope Journal* 14, no. 2 (2024): 805.

[44] Orhan Ençakar, "Kınalızâde Ali Efendi'nin (ö. 979/1572) Tabakātü'l-Mesâil Adlı Risalesinin Tahkik ve Tahlili," *İslam Araştırmaları Dergisi* 26, no. 47 (2022): 97–153, https://doi.org/10.26570/isad.1056217.

Ḥanafī school, but also across the broader spectrum of Islamic legal thought.[45]

Methodological Innovations in Fatwa Literature in the 18th Century AH

In the 18th century, significant methodological innovations in the domain of fatwa issuance emerged, particularly through the contributions of prominent Ḥanafī scholars residing in the Indian subcontinent. Among these, Shāh Walī Allāh al-Dihlawī (d. 1176/1762) stands out for his substantial reforms in the methodology of legal opinions.[46] His treatise *'Iqd al-Jīd fī Aḥkām al-Ijtihād wa'l-Taqlīd* offers a redefinition of the classical concepts of *ijtihād* (independent legal reasoning) and *taqlīd* (adherence to precedent), moving beyond their traditional formulations.[47]

Shāh Walī Allāh meticulously examines the authority and responsibilities of non-mujtahid muftīs within the fatwa process. He presents a comprehensive framework for determining legal preference (*tarjīḥ*) in cases of intra-madhhab divergence.[48] Central to his analysis are the debates surrounding the distinction between muftīs who possess the capacity for *ijtihād* and those who do not an issue that had become particularly contentious in his time. He also re-evaluates hierarchical classifications such as the *ṭabaqāt al-fuqahā'* (strata of jurists) and *ṭabaqāt al-masā'il* (categories of

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[45] Demir, *Historical*, 17.

[46] Noraini Junoh et al., "The Mid-Century Model of Critical Thinking: Shah Wali Allah Al-Dihlawi," *International Journal of Islamic Thought* 24 (2023): 145–56, https://doi.org/10.24035/ijit.24.2023.277.

[47] Muzzammil Ahmad and Ian Greer, "Shāh Walī Allāh in Defence of Ibn Taymiyyah," *Islamic Studies* 61, no. 1 (2022): 25–44, https://www.jstor.org/stable/27236414 ; al-Dihlawī al-Fārūqī Abū ʿAbd al-ʿAzīz Quṭb al-Dīn Shāh Walī Allāh Aḥmad ibn ʿAbd al-Raḥīm ibn Wajīh al-Dīn, *'Iqd Al-Jayd Fī Aḥkām Al-Ijtihād Wa Al-Taqlīd* (Kuwait: Dār al-Ḍiyā, 2014), 155.

[48] Fadlan Mohd Othman et al., "Hujjat Allah Al-Balighah: The Uniqueness of Shah Wali Allah Al-Dihlawi's Work," *Mediterranean Journal of Social Sciences* 6, no. 5 (2015): 403, https://doi.org/10.5901/mjss.2015.v6n5s1p403.

legal cases) and challenges the rigid necessity of adherence to one of the four canonical Sunni schools.[49]

Importantly, Shāh Walī Allāh advocates for the precedence of authentic *ḥadīths* in instances where they appear to conflict with the transmitted legal opinions (*aqwāl*) of madhhab authorities. By emphasizing the epistemological weight of textual evidence (*naṣṣ*) over juristic precedent, he proposes a more dynamic and text-centered approach to fatwa issuance. His insistence on prioritizing *ṣaḥīḥ* ḥadīths even at the expense of departing from established *madhhab* positions marks a methodological breakthrough within the tradition.[50]

Through these contributions, Shāh Walī Allāh infused the fatwa literature with a renewed emphasis on scriptural sources while maintaining a critical engagement with the legacy of the *madhāhib*. His approach paved the way for subsequent scholars to formulate legal responses that remained faithful to the Islamic legal tradition yet responsive to the normative authority of revelation.

The Innovative Approaches of Marjānī and Lakhnawī in Late 19th Century

In the latter half of the 19th century, following the era of Ibn ʿĀbidīn, notable Ḥanafī scholars such as Shihāb al-Dīn al-Marjānī (d. 1302/1889) and Abū al-Ḥasanāt ʿAbd al-Ḥayy al-Lakhnawī (d. 1304/1886) introduced innovative perspectives in the methodology of fatwa issuance. As a leading scholar from the Kazan region, Marjānī engaged extensively with fatwa methodology in his work *Nāẓūrat al-Ḥaqq fī Farḍiyyat al-ʿIshāʾ*, wherein he undertook a critical legal analysis of a specific juristic issue.[51] He emphasized the primacy of acting upon *ḥadīth*, arguing

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[49] Abū ʿAbd al-ʿAzīz Quṭb al-Dīn Shāh Walī Allāh Aḥmad ibn ʿAbd al-Raḥīm ibn Wajīh al-Dīn, *ʿIqd Al-Jayd Fī Aḥkām Al-Ijtihād Wa Al-Taqlīd* (Kuwait: Dār al-Ḍiyā, 2014), 155.
[50] *Ibid.*
[51] D. A. Shagaviev, "The Works of Shihab Ad-Din Al-Marjani on Islamic Scholastic Theology," *Minbar Islamic Studies* 13, no. 1 (2020): 103–16, https://doi.org/10.31162/2618-9569-2020-13-1-103-116.

that when authentic Prophetic traditions conflict with the legal positions of madhhab authorities, the *ḥadīth* must be given precedence.[52]

One of Marjānī's most striking contributions is his argument that it may be permissible to adopt a legal opinion from outside the four Sunni schools if warranted by necessity or benefit. He maintained that a *muqallid* (lay follower) could adopt a *rukhṣa* (dispensation) from a school other than his own, and even a *muftī* could abandon his previous view in favor of following another *mujtahid*. Moreover, Marjānī questioned the binding nature of following any one jurist's fatwa, thereby challenging the traditional notion of obligatory *taqlīd* and proposing a more flexible interpretive space within the process of legal issuance.[53]

His treatise includes a detailed discussion on the authenticity of *ḥadīths* and underlines the significance of inter-madhhab dialogue. He also advanced a revised classification of juristic tiers (*ṭabaqāt al-fuqahāʾ*), critiquing earlier taxonomies proposed by predecessors such as Ibn Kemāl Pāshā. Furthermore, Marjānī systematically outlined the hierarchy of legal sources from the canonical *Ẓāhir al-Riwāya* texts to the *mukhtaṣarāt* (abridged works) and fatwa collections. Through these methodological refinements, Marjānī expanded the theoretical framework of fatwa practice and laid the groundwork for further scholarly discourse.

Likewise, Abū al-Ḥasanāt ʿAbd al-Ḥayy al-Lakhnawī, a distinguished Ḥanafī scholar based in Lucknow, enriched the fatwa literature through his writings. In the introductions to his works *al-Nāfiʿ al-Kabīr liman Yuṭaliʿ al-Jāmiʿ al-Ṣaghīr* (a commentary on al-Jāmiʿ al-Ṣaghīr) and *ʿUmdat al-Riʿāyah fī Ḥall Sharḥ al-Wiqāyah* (a commentary on the *Sharḥ al-Wiqāyah*),

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[52] Şihabüddin b. Bahaiddin b. Sübhani Kazani Mercani, *Nazuretü'l-hak fî farziyyeti'l-işa ve in lem yeğibi'ş-şafak* (İstanbul; Amman: Darü'l-Hikme; Darü'l-Feth, 2012), 150.; Demir, "Hanefi Mezhebi Fetva Usûlü Konularının Tarihsel Gelişimi," 21.

[53] Shagaviev, *The Works of Shihab Ad-Din Al-Marjani on Islamic Scholastic Theology*, 103–16.

Lakhnawī offered significant methodological reflections on the fatwa process. He engaged in a comparative analysis of earlier scholars' views including those of Shāh Walī Allāh, Ibn ʿĀbidīn, and Marjānī critically examining their positions before articulating his own preferences. This comparative methodology provided a comprehensive and integrated perspective on complex legal questions.

Lakhnawī also proposed a novel hierarchical classification of juristic and substantive legal layers, distinguishing his system from those of Ibn Kemāl Pāshā, al-Kafawī, and others. One of his particularly noteworthy insights was the assertion that certain rulings in the Ḥanafī school that appear to contradict authentic *ḥadīths* may not in fact originate with the school's founding imams, but rather with later jurists' extrapolations (*takhrīj*). This assertion provided a pathway for resolving apparent conflicts between ḥadīths and madhhab rulings by attributing the contested opinion to post-imāmic scholarship and privileging the *ṣaḥīḥ* ḥadīth.

Additionally, Lakhnawī subjected several weak or unauthenticated sources within the Ḥanafī tradition to rigorous textual criticism, listing those that he deemed unreliable due to unknown authorship or textual deficiencies. He further contributed to the clarification of technical terminology used in fatwa practice. His cumulative contributions significantly broadened the methodological scope of Islamic jurisprudence. Without undermining the legacy of the madhhab, Lakhnawī reassessed the principles of fatwa issuance in light of authentic evidence, thereby offering a reform-minded yet tradition-conscious approach that had a lasting impact on subsequent juristic scholarship.

FATWA LITERATURE IN OTHER SUNNI SCHOOLS

The development of early fatwa literature within the Ḥanafī tradition during the first four centuries of Islam found corresponding expressions in other schools of Islamic jurisprudence. Although the independent elaboration of fatwa methodology emerged somewhat later in the Shāfiʿī school,

several significant contributions were nonetheless produced.[54] Notably, the treatise *Ādāb al-Muftī wa'l-Mustaftī* by Ibn al-Ṣalāḥ (d. 643/1245) is widely recognized as the first independent work on the methodology of fatwa issuance across all madhhabs. It presents a systematic set of principles governing the etiquette and procedural conduct of both the muftī and the *mustaftī* (the petitioner).

Following Ibn al-Ṣalāḥ, Imām al-Nawawī (d. 676/1277) offered further elaborations on the qualifications of the muftī and the proper procedures for issuing fatwas in the introduction to his seminal work *al-Majmūʿ*, as well as in his dedicated risāla titled *Ādāb al-Fatwa*. Within the Ḥanbalī school, Ibn Ḥamdān (d. 695/1295) authored *Ṣifat al-Muftī wa'l-Mustaftī*, a foundational text outlining the essential qualities of a muftī and the ethical norms surrounding fatwa-giving.[55] In the Mālikī tradition, Shihāb al-Dīn al-Qarāfī (d. 684/1285) composed *al-Iḥkām fī Tamyīz al-Fatwa ʿan al-Aḥkām*, a sophisticated work that examines the distinction between fatwa and judicial rulings (*qaḍāʾ*) and provides an in-depth discussion of the muftī's roles and responsibilities.[56]

Additionally, the Mālikī jurist Ibn Farḥūn (d. 799/1397) in his *Tabsirat al-Ḥukkām* addresses the guiding principles to which both judges and muftīs must adhere and delves into the scope and limits of fatwa authority. While some classical works did not directly focus on the etiquette of fatwa issuance, they still contain rich insights into the nature of the fatwa process and the status of the muftī. Among these, al-Khaṭīb al-Baghdādī's (d. 463/1071) *al-Faqīh wa'l-Mutafaqqih* and Ibn Qayyim al-

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[54] Fachrizal Azmi Halim, *Legal Authority in Premodern Islam: Yahya B Sharaf Al-Nawawi in the Shafi'i School of Law* (Routledge, 2014), n.p.

[55] Muhammad Shabeer and Rasheed Ahmad, "A Scientific and Comparative Study of Fatwas in Christianity and Islam: مسيحيت اور اسلام میں فتوىٰ کا علمی و تقابلی مطالعہ," *Acta-Islamica* 8, no. 2 (2020): 49–66, https://aisbbu.com/index.php/ai/article/view/8.

[56] Bayder, "Bedreddin eş-Şuhâvî'nin et-Tırâzu'l-müzheb Adlı Eserinin Tahkik ve Tercümesi TT - A Critical Edition and Translation of al-Shuhāwī's al-Tirāz al-mudhhab," 216.

Jawziyya's (d. 751/1350) *Iʿlām al-Muwaqqiʿīn* stand out for their detailed treatment of the theoretical and ethical dimensions of the muftī's role.[57]

Over time, each school of law developed its own corpus of works that codified these principles, ultimately establishing a formalized and authoritative methodology for fatwa issuance. For instance, the Ottoman-era Ḥanafī scholar Ibn ʿĀbidīn (d. 1252/1836), in his treatise *Sharḥ ʿUqūd al-Rasm al-Muftī* (popularly known as *Rasm al-Muftī*), synthesized earlier literature to provide a comprehensive framework concerning the etiquette of fatwa and the hierarchical levels of muftīs.

Similarly, Jalāl al-Dīn al-Suyūṭī (d. 911/1505) authored a risāla titled *Ādāb al-Muftī*, while other prominent scholars such as Ibn Ḥajar al-Haytamī, Ibn Ḥamdān, and Jamāl al-Dīn al-Qāsimī also contributed notable works in this field. As a result, principles of fatwa methodology that were first seeded in the early centuries of Islam matured over time and came to be regarded as indispensable reference points within the formal fatwa literature of each respective madhhab.[58]

CENTRAL DEBATES AND METHODOLOGICAL THEMES IN FATWA LITERATURE

Fatwa literature developed around a set of recurring debates that shaped legal reasoning across schools and time periods. As seen in the earlier discussions on the contributions of Ḥanafī scholars such as al-Ūshī, Ibn Māza, and al-Kādūrī jurists were deeply concerned with establishing consistent frameworks for issuing legal opinions. These efforts laid the groundwork for broader debates that extended beyond individual texts and schools. Over time, these debates came to address not only substantive legal questions but also the methodological principles and ethical norms that underpin the practice of *iftāʾ* across the Islamic legal tradition.

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[57] Bayder, "Hanefi Fetva Usulü Literatürü ve Bedreddin Eş-Şuhâvî'nin "Et-Tırâzu'l-Müzheb" Adlı Fetva Usulünün Değerlendirilmesi," 216.

[58] Fahrettin Atar, *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* (Istanbul: TDV Yayınları, 1995), 495.

One of the most important issues is *tarjīḥ* (legal preference), which refers to the criteria used to determine which opinion is strongest among several within a school or across different schools. Classical jurists developed technical hierarchies such as *ṣaḥīḥ* (sound), *rājiḥ* (preferred), and *marjūḥ* (less preferred) to assess the strength of opinions. In the Ḥanafī school, this evolved into a structured ranking system prioritizing the views of Abū Ḥanīfa, then the Imāmayn (Abū Yūsuf and Muḥammad al-Shaybānī), followed by Zūfar and other disciples. Later scholars further elaborated on this hierarchy by giving weight to consensus among later jurists and aligning preference with the authoritative manuals (*uṣūl*), commentaries (*shurūḥ*), and fatwa collections.

Another central theme concerns the ethical qualifications of the muftī. Across legal schools, authors emphasized that the muftī must not only have technical mastery of fiqh and uṣūl al-fiqh, but also possess moral integrity, humility, and awareness of social conditions. Works such as al-Ūshī's al-Fatāwā al-Sirājiyya and al-Samarqandī's *Kitāb al-Nawāzil* underscore the dual importance of legal precision and pastoral sensitivity.[59]

A third methodological concern relates to the relationship between hadith and established school doctrines. While early and classical jurists tended to privilege the authority of their schools, reformist scholars such as Shāh Walī Allāh and Shihab al-Din al-Marjānī pushed for a more critical engagement with hadith, even when this required revising long-standing Hanafi positions. Both Marjānī (1818–1889), a prominent Tatar theologian known for his deep commitment to Hanafi jurisprudence and his commentary on al-ʿAqīda al-Nasafiyya, and Muhammad Abd al-Hayy al-Lakhnawī (1848–1886), a leading Indian scholar from Lucknow renowned for his contributions to Hanafi fiqh, Hadith, and Islamic history, played a central role in this shift. Their work underscored the need to reassess earlier fatwas by scrutinizing weak reports

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[59] Raed Matrook, Lubna Matrook, and Sharehan Al Khattab, "Rules and Regulations Regarding the Punishment for Adultery Extracted from The Book 'Fatawa Al-Nawazil' by Imam Abu Al-Laith Al-Samarqandi: Examples of Applications," *Jordan Journal of Islamic Studies* 20, no. 1 (2024): 45–73, https://doi.org/10.59759/jjis.v20i1.371.

and prioritizing textual authenticity. This approach intensified debates on taqlīd and the extent to which jurists could draw on inter-madhhab reasoning when existing doctrines lacked strong evidential grounding.

Jurists also debated the legitimacy of changing legal opinions in light of changing circumstances. This includes the role of ʿurf (custom), istiḥsān (juristic preference), and the extent to which legal norms could evolve with social realities. As highlighted by scholars like Tarsūsī and Ibn ʿĀbidīn, a key challenge was balancing the consistency of the madhhab with the need for context-sensitive rulings.

Lastly, fatwa literature includes extensive reflection on the procedural ethics of fatwa-giving, how to deal with uncertainty, when to withhold judgment, and how to communicate rulings to the lay public. Some authors, such as Ibn Kemāl Pāshā and Kınalızāde, contributed to debates on the classification of jurists and the limits of their authority. Collectively, these debates illustrate that fatwa literature is not only a set of legal responses but also a framework for jurisprudential reflection, institutional authority, and moral responsibility.

CONCLUSION

This study has shown that fatwa literature represents more than a compilation of legal responses; it is a dynamic tradition of jurisprudential reasoning that adapted to evolving contexts across the Islamic world. From its early foundations with the Prophet and the Companions, to its formalization under the major legal schools particularly the Ḥanafī tradition fatwa issuance became increasingly systematized, both in methodology and institutional structure. The middle and late periods saw further refinement, especially in the articulation of preference hierarchies, textual authority, and the reconciliation of scriptural evidence with established doctrines. Importantly, the paper underscores that classical fatwa literature addressed not only legal but also ethical and social dimensions of Muslim life. This historical awareness is crucial for contemporary scholars and fatwa bodies navigating new ethical dilemmas in finance, medicine, and society. Engaging

with this legacy provides a grounded, principled, and adaptive framework for modern Islamic legal reasoning.

ACKNOWLEDGEMENT

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