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The Impact of Fiqh al-Wāqiʿ on Shaping the Prudent Mufti

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Abstract : This study explores the impact of Fiqh al-Wāqiʿ (jurisprudence of reality) on shaping the prudent contemporary mufti and emphasizes the necessity of integrating textual jurisprudence with contextual understanding both in foundational theory and practical application as the two essential pillars of sound fatwa issuance. It addresses the current deficiency in the fatwa landscape, marked by the scarcity of muftis who combine deep mastery of Sharīʿah sciences with an informed awareness of social realities and future developments, particularly amid rapid technological and societal change. The research examines the status of contextual jurisprudence within revelation, the requirements for its effective activation, and its role in forming a balanced and responsible mufti. Adopting descriptive, inductive, and analytical methodologies, the study concludes that Fiqh al-Wāqiʿ is an indispensable tool rooted in revelation and historically practiced by leading jurists, and that neglecting it has led either to rigidity and hardship or to laxity and deviation. The study recommends establishing a systematic framework for preparing contemporary muftis through the integrated activation of textual and contextual jurisprudence, supported by specialized training and rigorous scholarly research to ensure sound, balanced, and contextually relevant fatwas.

Keywords: Fiqh; Reality; Mufti; Prudent Mufti.

Introduction

All praise is due to Allah, Lord of the worlds, and peace and blessings be upon the noblest of messengers. In the era of the Fifth Industrial Revolution, it is no longer sufficient for the mufti to confine himself to the study of sacred texts and the opinions of jurists in isolation from lived reality. Rather, he must possess comprehensive awareness and a forward-looking vision that enable him to address emerging issues and contemporary developments in people's lives, particularly unprecedented cases and newly arising matters.

Significance of the Study

The significance of this research lies in the urgent need for a prudent mufti who is equipped with both textual jurisprudence and contextual understanding. Such integration constitutes the second essential pillar of sound fatwa issuance; without it, the fatwa remains incomplete and may even prove harmful especially in matters of critical importance to societies and nations.

Research Problem

This study highlights the decline in the level of fatwa practice among some individuals who assume the role of issuing legal opinions without adequately understanding either the sacred texts or the realities to which they apply. This neglect has led to a state of inconsistency and disorder in contemporary fatwas, as they are often issued without a coherent and comprehensive methodological vision.

Research Hypotheses

This study is guided by the following questions: (1) What is meant by *Fiqh al-Wāqiʿ*, and what is its status? (2) How essential is it for the mufti, and to what extent is it needed in contemporary reality? (3) What are the requirements and regulatory guidelines for its effective activation in fatwa practice? (4) What impact does it have on shaping the prudent mufti?

Research Objectives

The study aims to: (1) contribute to the formation of a prudent contemporary mufti who possesses deep knowledge of Sharīʿah, awareness of his time, and foresight regarding future developments; (2) present a comprehensive and methodologically clear framework that enables the mufti to engage in sound derivation and contextual application of rulings in response to rapid developments and emerging issues; and (3) foster a creative and dynamic fatwa-oriented mindset capable of advancing and reforming contemporary iftāʾ practice.

Previous Studies and the Study's Contribution

A review of the literature reveals numerous studies, conferences, and academic discussions addressing *Fiqh al-Wāqiʿ* from various perspectives. Among the most closely related works are: *The Principles of Fiqh al-Wāqiʿ and Their Impact on Fatwa Jurisprudence* by ʿAbd al-Raḥmān al-ʿAḍrāwī (2015); *The Impact of Contextual Reference in Ijtihād and Fatwa: A Methodological Uṣūlī Approach* by Rabīʿ al-Ḥamdāwī (2021); *Fiqh al-Wāqiʿ and Its Effect on Applying Rulings to Contemporary Issues* by ʿAbd al-Majīd al-Maskīnī (2024); and *Contemporary Juristic Ijtihād between Textual and Contextual Jurisprudence* by ʿAbdullāh Muḥammad al-Rabābaʿah (2025). While these studies address the principles of contextual jurisprudence and its role in fatwa, ijtihād, and legal application, they do not specifically examine the mufti himself or the process by which he embodies this type of jurisprudential competence. This study seeks to contribute by: (1) clarifying the status of *Fiqh al-Wāqiʿ* within revelation; (2) identifying a set of requirements and guidelines for its activation in fatwa practice; (3) analyzing its role in shaping the prudent mufti; and (4) presenting an applied component for engaging with contextual jurisprudence in contemporary iftāʾ.

Scope of the Study

The study is confined to examining *Fiqh al-Wāqiʿ* and its role in shaping the prudent mufti, particularly in terms of its influence on developing a fatwa-oriented mindset capable of addressing contemporary developments and emerging issues through sound theoretical grounding and practical application.

Research Methodology

The study employs descriptive, inductive, and analytical approaches. It surveys and describes the concept of *Fiqh al-Wāqiʿ* and its position within the Qur'an and the Prophetic Sunnah, analyzes

the core elements of the topic, identifies the necessary requirements and regulatory principles for its activation, highlights its positive impact on forming the prudent mufti, and presents an applied model illustrating how it may be implemented in contemporary fatwa practice. **Research Plan**

The structure of this study is organized as follows: an introduction outlining the definition of the topic, its significance, objectives, previous studies, research methodology, problem statement, hypotheses, scope, and overall plan, followed by three main chapters. The first chapter examines the concept of *Fiqh al-Wāqiʿ* and its status within revelation. The second chapter addresses its requirements and regulatory guidelines. The third chapter analyzes its impact on shaping the mufti. The study concludes with a presentation of findings and recommendations, followed by a list of sources and references.

The Concept of Fiqh al-Wāqiʿ and Its Status in Revelation

Section One: Conceptual Framework

First: The Concept of Iftāʾ (Issuing Fatwas)

(a) *Iftāʾ* linguistically refers to clarification and elucidation. It is said: "He issued a fatwa (aftāhu) concerning a matter," meaning that the jurist clarified what was ambiguous. One may also say, "I gave someone a fatwa regarding a dream," meaning that I interpreted it for him, or "I issued a fatwa concerning a legal question," meaning that I answered it (Al-Zubaydī, D.T.). It thus signifies "clarifying the ruling of a matter" (Al-Sharīf al-Jurjānī, D.T.), and is also defined as "responding to questions regarding ambiguous religious or legal issues" (Majmaʿ al-Lughah al-ʿArabiyyah, D.T.).

(b) Terminologically, *iftāʾ* is defined as "informing about the ruling of Allah whether obligating or permitting" (Al-Furūq, D.T.). It therefore entails the mufti's communication of Allah's ruling as derived from the evidences either explicitly from the revealed texts or through juristic reasoning and deduction (Al-Zuḥaylī, D.T.). The mufti is "the one who undertakes the task of issuing fatwas among people" (Majmaʿ al-Lughah al-ʿArabiyyah, D.T.), serving as a representative in conveying the guidance of Allah and His Messenger (peace be upon him). Related terms include the *faqīh* (jurist) and the *qāḍī* (judge). Although these roles are interconnected, distinctions remain: the *faqīh* derives rulings from detailed evidences in pursuit of the higher objectives of Sharīʿah; the mufti studies the reality of a case and then refers to jurisprudence to determine Allah's ruling in that specific context; while the *qāḍī* intervenes to adjudicate disputes and enforce the ruling upon the parties involved. Though these functions may overlap, each retains its distinct conceptual and practical role (Mohammed, 2008).

(c) The significance of *iftāʾ* is widely acknowledged. It is described as a position of great gravity, high rank, and immense virtue, for the mufti is considered the heir of the prophets (Al-Nawawī, 1998). The jurists of Islam those upon whose opinions fatwas revolve are entrusted with deriving rulings and safeguarding the principles of lawful and unlawful. They are likened to stars in the sky by which the lost find guidance in darkness. The need for them surpasses people's need for food and drink, and obedience to them is mandated insofar as it aligns with obedience to Allah and His Messenger. Allah Almighty says:

{O you who have believed, obey Allah and obey the Messenger and those in authority among you. And if you disagree over anything, refer it to Allah and the Messenger, if you believe in Allah and

the Last Day. That is best and most suitable for final determination} (Qur'an 4:59) (Ibn al-Qayyim al-Jawziyyah, 1991). **Second: The Concept of Fiqh al-Wāqiʿ**

The term *Fiqh al-Wāqiʿ* is composed of two words: *fiqh* (jurisprudence) and *wāqiʿ* (reality).

1. The Concept of Fiqh

(a) Linguistically, *fiqh* denotes knowledge of something, understanding it, and discernment therein. Its original meaning is comprehension. It is said that a person has been granted *fiqh* in religion, meaning that he has been granted understanding of it. The verb *faquha* signifies acquiring knowledge, while *fiqh* (with kasrah) denotes understanding (Ibn Manẓūr, D.T.). Accordingly, in its linguistic sense, *fiqh* refers to grasping subtle matters and comprehending the speaker's intended meaning.

(b) Terminologically, *fiqh* is defined as "the knowledge derived predominantly of practical subsidiary Sharīʿah rulings through examination and inference" (Al-Āmidī, 1984). It is also defined as "knowledge of practical legal rulings acquired from their detailed evidences" (Al-Sharīf al-Jurjānī, 1996; Zaydān). Abū Zahrah explains that, based on this technical definition, the science of *fiqh* consists of two components: first, knowledge of practical Sharīʿah rulings excluding creedal matters such as divine unity and prophethood, which do not fall under the technical scope of *fiqh*; and second, knowledge of the detailed evidences from which these rulings are derived (Abū Zahrah, 2006).

2. The Concept of Reality (al-Wāqiʿ)

(a) Linguistically, the root (waqaʿa) consists of the letters wāw, qāf, and ʿayn, all deriving from a single أصل indicating the occurrence or falling of something. It is said: "The thing occurred (waqaʿa)," meaning it took place and thus became actual (Ibn Fāris, 1997). The term also signifies "that which is established in itself, irrespective of whether it exists in the mind or externally" (Al-Kūfī, D.T.). The plural *waqāʾiʿ* refers to "events and circumstances" (Majmaʿ al-Lughah al-ʿArabiyyah, D.T.), that is, the developments, conditions, and unprecedented occurrences that characterize a situation.

(b) Terminologically, reality has been described as "the Sharīʿah ruling that corresponds to the accountable individual in the state in which he exists" (Al-Mīs, D.T.). It is also defined as "the actual external existence which may correspond or fail to correspond to mental, verbal, or written representations, due either to its absence or to error in its conceptualization" (Ibn Bayyah, 2008).

Accordingly, *Fiqh al-Wāqiʿ* may be defined as the precise and comprehensive understanding of the circumstances surrounding a given issue and its actual context in order to apply the appropriate Sharīʿah ruling to it.

Fatwa issuance rests upon three essential pillars: the mufti, who examines the matter and possesses the capacity for proper derivation and contextual application of the ruling; the mustaftī (the questioner), who seeks clarification; and the fatwa itself, which is the ruling to be articulated. This process requires from the mufti an accurate and disciplined conceptualization of the case. Such conceptualization necessitates thorough knowledge of the questioner's circumstances and reality not merely superficial awareness, but deep insight into the details, underlying causes, contextual dimensions, and roots of the situation. This constitutes the central concern of the present study.

Section Two: Fiqh al-Wāqiʿ in the Qur'an

A contemplative reading of the Qur'an reveals that it grants significant scope to the consideration of reality; indeed, it came to inform, unveil, and address real circumstances. One of the principal wisdoms behind its gradual revelation was its engagement with unfolding events and emerging developments. Whenever a new matter arose, revelation addressed it with guidance suited to its context, clarifying Allah's ruling in response to questions, disputes, and incidents as they occurred. These events did not arise collectively but unfolded progressively; accordingly, revelation responded to them in a detailed and gradual manner (Al-Zarqānī, D.T.).

The Qur'an thus demonstrates a profound engagement with lived reality. It does not address rigid abstractions, but living souls, minds, environments, and societies. Gradualism (tadarruj) stands as one of its most prominent characteristics. This is clearly illustrated in the narration of ʿĀʾishah (may Allah be pleased with her), who stated:

"Indeed, the first revelations of it were short chapters from al-Mufaṣṣal, in which there was mention of Paradise and Hell. Then, when people had firmly embraced Islam, the lawful and unlawful were revealed. Had the first thing revealed been: 'Do not drink wine,' they would have said: 'We will never abandon wine.' And had it been revealed: 'Do not commit adultery,' they would have said: 'We will never abandon adultery.'" (Al-Bukhārī, 2001, ḥadīth no. 4993).

This prophetic testimony underscores the Qur'anic methodology of engaging reality thoughtfully and progressively, thereby establishing a foundational paradigm for the jurisprudence of reality in Islamic legal reasoning.

A practical illustration of considering reality and gradual engagement with human nature is found in the prohibition of alcohol. Revelation adopted a wise and progressive approach in addressing it, proceeding step by step in its prohibition as an act of divine mercy toward humanity. People were not abruptly confronted with the immediate prohibition of something to which they were deeply attached; rather, their emotions and entrenched customs were taken into account. Among the most significant Qur'anic manifestations of attentiveness to reality is the distinction between the Makkan and Madinan revelations. The Makkan Qur'an differs from the Madinan in subject matter, style, and thematic focus, reflecting the differing social, religious, and political circumstances of each phase. This variation demonstrates the Qur'an's sensitivity to context and environment in all their components. Further Qur'anic indications of *Fiqh al-Wāqiʿ* include the verse: {And We did not send any messenger except in the language of his people to clarify for them} (Qur'an 14:4); and His saying: {Say, "This is my way; I invite to Allah upon clear insight I and those who follow me"} (Qur'an 12:108); and His statement: {For each of you We have appointed a law and a method. Had Allah willed, He would have made you one community} (Qur'an 5:48). Language and insight are essential prerequisites of contextual jurisprudence, while the diversity of legal frameworks reflects its practical implications. These and other Qur'anic passages affirm that revelation engaged with reality in its environmental, historical, geographical, and human dimensions.

Section Three: Fiqh al-Wāqiʿ in the Sunnah and Its Manifestations among the Companions

A careful examination of the Prophetic methodology reveals its profound attentiveness to contextual understanding in both material and moral dimensions, with particular focus on the human being in his spiritual, intellectual, and social composition. Among the clearest evidences of this is the Prophet's consideration of the differing circumstances of those who sought guidance and legal advice, offering each individual counsel suited to his specific condition. Numerous narrations

illustrate this principle. For example, a man said to the Prophet (peace be upon him), "Advise me," and he replied, "Do not become angry." The man repeated his request several times, and the Prophet repeated, "Do not become angry" (Al-Bukhārī, 2001, ḥadīth no. 6116). In another narration, Abū Dharr said, "O Messenger of Allah, advise me." He responded, "When you commit a bad deed, follow it with a good one; it will erase it" (Ibn Ḥanbal, 2001, ḥadīth no. 21487). Scholars have explained the variation in such narrations of virtuous deeds as reflecting the differing circumstances and dispositions of the individuals addressed; what may be most beneficial for one person may differ for another (Nūr al-Dīn, D.T.).

The Prophetic approach thus demonstrated profound awareness of human dispositions and inclinations, offering guidance tailored to each individual's condition. This dimension is critically important in contemporary fatwa practice. When the mufti observes such contextual sensitivity, many practical difficulties are resolved. Conversely, when a mufti merely transmits textual rulings without considering the psychological, intellectual, environmental, and situational context of the questioner, the fatwa practice becomes detached from lived reality an issue that continues to challenge contemporary iftāʾ.

Among the most significant Prophetic incidents demonstrating attentiveness to contextual considerations is the Prophet's decision not to demolish and rebuild the Kaʿbah upon the foundations of Prophet Ibrāhīm (peace be upon him), despite his desire to do so. He refrained from this action to avoid causing unrest among people who had only recently emerged from pre-Islamic practices. ʿĀʾishah (may Allah be pleased with her) reported that the Prophet (peace be upon him) said: "O ʿĀʾishah, were it not that your people have only recently left disbelief, I would have ordered that the House be demolished and rebuilt upon the foundations of Ibrāhīm. I would have included within it what was excluded, leveled it to the ground, and given it two doors one eastern and one western" (Al-Bukhārī, 2001, ḥadīth no. 1586).

Commenting on this incident, al-Nawawī explains that it establishes important juristic principles, including that when interests conflict, or when an interest conflicts with a harm and it is impossible to combine achieving the interest with avoiding the harm, priority is given to the greater consideration. Although restoring the Kaʿbah to its original foundations was a clear benefit, it was outweighed by the greater harm of potentially unsettling newly converted individuals who held the sanctity of the Kaʿbah in deep reverence and might have perceived its alteration as disturbing (al-Nawawī, 1972).

Contextual jurisprudence was not confined to the Prophetic era; rather, it extended to the Rightly Guided Caliphs, becoming a guiding methodology in their governance and legal reasoning. Whenever the Muslim community departed from this approach, deviation and imbalance followed. The strong presence of *Fiqh al-Wāqiʿ* is evident in the conduct of the Companions. For example, Caliph Abū Bakr al-Ṣiddīq ordered the compilation of the Qur'an in response to new circumstances that had not arisen during the Prophet's lifetime. Likewise, ʿUmar ibn al-Khaṭṭāb frequently consulted the Companions regarding emerging issues. In the case of the punishment for drinking alcohol, ʿAlī ibn Abī Ṭālib advised that the offender be lashed eighty times, reasoning that intoxication leads to incoherence, and incoherence may lead to slander; accordingly, ʿUmar implemented the punishment of eighty lashes. He also sought consultation regarding matters such as the financial maintenance of foundlings and other unprecedented issues. Ibn al-Qayyim observed that anyone who carefully reflects upon the Sharīʿah and the rulings of the Companions will find them replete with such contextual awareness; whoever adopts a different path deprives people of their rights and wrongly attributes rigidity to the Sharīʿah revealed to the Messenger of Allah (peace be upon him) (Ibn al-Qayyim al-Jawziyyah, 1991).

Requirements and Regulatory Principles of Fiqh al-Wāqiʿ

Section One: The Mufti's Need to Understand Reality

In contemporary discourse, differing approaches have emerged in dealing with *Fiqh al-Wāqiʿ*, ranging between excess and negligence. On the one hand, rigidity and detachment have produced intellectual inflexibility, partisanship, and strict adherence to particular opinions or schools, resulting in fatwas that clash with lived reality and overlook people's legitimate interests due to the stagnation of those issuing them. On the other hand, exaggeration in the name of contextual understanding has led to laxity, permissiveness, and the erosion of boundaries, whereby nearly everything is deemed lawful under the pretext of modernity and adaptation to reality. In such cases, texts and context are handled without methodological discipline, producing arbitrary and deviant fatwas. Both extremes have contributed to intellectual and behavioral crises within Muslim societies.

The required path, therefore, is a balanced integration of textual evidence and contextual understanding both in foundational reasoning and practical application guided by sound principles and regulatory frameworks. It is well established that "judgment concerning a matter is contingent upon its proper conceptualization; acceptance or rejection of a matter depends upon its being understood, for what is not conceived cannot be judged" (Al-Qarāfī, 1991). Accordingly, a sound fatwa necessitates accurate knowledge of the case in question, careful study of the psychological state of the questioner, consideration of the social group in which he lives, and awareness of the environmental or geographical context in which the issue has arisen, so as to assess the potential positive or negative impact of the ruling (Al-Zuḥaylī, D.T.).

Applying legal rulings to a well-understood reality is fundamentally different from applying them to an unknown or misperceived context. The prudent mufti is one who studies the issue methodically, combining textual jurisprudence with contextual insight before issuing Allah's ruling whether affirming or negating while maintaining objectivity, neutrality, and intellectual integrity.

Section Two: The Necessity of Fiqh al-Wāqiʿ for the Mufti

(1) *Fiqh al-Wāqiʿ* as an Essential Requirement for the Mufti

Ibn al-Qayyim underscores the grave danger of neglecting contextual understanding as a necessary qualification of the prudent mufti. He states: "Whoever issues fatwas to people based solely on what is transmitted in books, without regard to the differences in their customs, traditions, times, places, conditions, and surrounding circumstances, has gone astray and led others astray. His harm to religion is greater than that of a physician who treats all people despite differences in their lands, customs, times, and temperaments according to what is written in a single medical text. Indeed, this ignorant physician and this ignorant mufti are among the most harmful to people's bodies and religions" (Ibn al-Qayyim al-Jawziyyah, 1991).

Thus, the prudent mufti is one who considers the circumstances of the case, the prevailing customs of people, the developments of time, and avoids rigid adherence to juristic formulations that were originally shaped by specific historical contexts. Such an approach reflects the vitality, flexibility, and adaptability of Islamic jurisprudence, demonstrating its capacity to address contemporary conditions, accommodate ongoing progress, and take into account renewed interests and prevailing customs whether general or particular in every time and place (Al-Zuḥaylī, D.T.).

The prudent mufti therefore carefully examines both the evidences and the contextual reality. Al-Shāṭibī emphasizes that neglecting contextual understanding constitutes a clear error, as it leads to deviation in every stage of the fatwa process conceptualization, classification, and application. He states: "It is not valid for a scholar, when asked about a matter as it occurs in reality, to respond except according to that reality. If he answers otherwise, he has erred by failing to consider the specific operative cause (manāṭ) about which he was asked, for he was questioned regarding a particular circumstance and responded concerning a different one" (Ḥasanah, D.T.).

(2) *Fiqh al-Wāqiʿ* as a Means for Proper Application of Textual Evidence

The effective application of textual evidence cannot be achieved without a sound understanding of contextual reality in all its structures, complexities, and transformations. Such awareness requires engagement with multiple fields of human and social sciences, which collectively contribute to an accurate assessment of people's conditions. Only then can juristic reasoning identify and apply the Sharīʿah rulings most suited to guiding and regulating those conditions, elevating them toward completeness and moral refinement.

This understanding may be inferred from the Qur'anic verse: {And it is not for the believers to go forth all together. Rather, from every group among them, a party should go forth to gain understanding in religion and to warn their people when they return to them, that they might beware} (Qur'an 9:122). The "going forth" mentioned here may be understood as a specialized mission undertaken by a select group not the entirety of the community to fulfill communal obligations. Classical exegetes indicate that this group engages in acquiring religious understanding in order to guide others effectively. Such a role necessarily entails awareness of the lived circumstances, needs, and conditions of the community, so that appropriate rulings may be applied to their specific realities, thereby achieving the intended outcome of vigilance and protection {that they might beware} (Qur'an 9:122).

When the Muslim community fails to give due consideration to social, economic, educational, and developmental jurisprudence dimensions that constitute integral pillars of religion in Islam and instead confines the concept of *fiqh* to the mere memorization of legal rulings, while persisting in viewing societies as one-dimensional entities adequately addressed through a singular perspective, it inevitably moves from one failure to another. This remains true even if it possesses the eternal divine text, for possession of the text alone is insufficient without the capacity to implement it appropriately within people's lived realities. The inability to translate the text into practical application or the imposition of it in a rigid and coercive manner results from the absence of a sound understanding of the conditions in which people live (Ḥasanah, 2004).

Accordingly, the mufti's need to understand reality is indispensable. Such understanding enables him to activate the textual evidences properly and to issue disciplined fatwas grounded in knowledge of the text, its jurisprudential implications, context, and objectives, alongside careful consideration of the circumstances of the case and the conditions of those involved. Only through this integrated process can rulings be applied accurately and responsibly. If any of these pillars is neglected, the resulting fatwas risk deviating from the intent and higher purposes of the Sharīʿah. A compelling historical illustration of this principle is found in the experience of Imām al-Shāfiʿī, who reformulated aspects of his jurisprudence upon relocating to Egypt. His development of a "new madhhab" reflected his awareness of differing environments, customs, intellectual dispositions, and social conditions, recognizing that the people of Egypt differed from those of Iraq in temperament and established practices.

(3) *Fiqh al-Wāqiʿ* as an Essential Component of Sound Fatwa

Scholars have unanimously affirmed the necessity of considering the circumstances surrounding a given case, including the customs of the land, the conditions of the time, and the interests realized in people's transactions and conduct. Such consideration is integral to the mufti's mission and to the integrity of the fatwa itself. If the mufti fails to take into account the circumstances of the incident or the newly emerging issue, people may turn away from his fatwa and consequently fall into unlawful or blameworthy actions whether deliberately or inadvertently (Al-Zuḥaylī, D.T.).

It is well established that "what is obligatory is one thing, and what is actual is another; the true jurist is the one who reconciles the actual with the obligatory and implements the latter according to his capacity not the one who sets the obligatory in opposition to reality. Every era has its own ruling" (Ibn al-Qayyim al-Jawziyyah, 1991). This principle underscores the dynamic and contextual nature of sound legal reasoning.

Al-Khaṭīb al-Baghdādī likewise emphasized the breadth of knowledge required of the jurist, stating: "The jurist must acquire some knowledge of every aspect of worldly and religious affairs. He must understand seriousness and levity, agreement and disagreement, benefit and harm, and the prevailing customs and interactions among people. It is a condition of the mufti to consider all these matters, and such understanding cannot be attained except through engagement with people, interaction with adherents of various views and schools of thought, questioning them, frequent scholarly discussion, collecting books, studying them, and constant review" (Al-Baghdādī, 2000).

These insights collectively affirm that contextual awareness is not an optional refinement but a foundational requirement of prudent and responsible fatwa issuance.

(4) *Fiqh al-Wāqiʿ* as a Condition and Requirement of Fatwa

Scholars have established several conditions for the mufti, among which is comprehensive awareness of both Sharīʿah and reality, enabling him to form a clear and holistic vision regarding the issue or unprecedented case under consideration. Al-Ghazālī states that the mujtahid must fulfill two primary conditions: first, he must possess mastery of the sources of Sharīʿah and the ability to derive probable rulings through proper examination, giving precedence where required and deferring where appropriate; second, he must be upright and avoid sins that compromise integrity. This second condition pertains to the acceptance of his fatwa by others; while moral uprightness is not a condition for the intrinsic validity of ijtihād itself, it is a prerequisite for reliance upon his legal opinions (Al-Ghazālī, 1993).

Similarly, Imām Aḥmad is reported to have said: "A person should not place himself in the position of issuing fatwas until he possesses five qualities: first, sincere intention for without it, there is neither light upon him nor upon his words; second, knowledge, forbearance, dignity, and composure; third, strength and competence in what he undertakes; fourth, sufficient independence, lest people demean him; and fifth, knowledge of people" (Ibn al-Qayyim al-Jawziyyah, 1993).

Ibn al-Qayyim further elaborates on the importance of "knowledge of people," describing it as a fundamental principle for both the mufti and the judge. If one lacks insight into people's circumstances and behaviors, he may mistake the oppressor for the oppressed and the rightful for the wrongful, becoming susceptible to deception and manipulation. He may perceive the heretic as sincere, the liar as truthful, and the false claimant as just, due to ignorance of human conduct, customs, and social conventions. Therefore, the mufti must possess deep awareness of people's

stratagems, habits, social norms, and prevailing conditions, for fatwas change with changes in time, place, customs, and circumstances and all of this forms part of the religion of Allah (Ibn al-Qayyim al-Jawziyyah, 1991).

Here, Ibn al-Qayyim emphasizes that careful consideration of people's conditions, customs, behaviors, and even potential deception is essential for accurate conceptualization of the issue at hand. Only through such comprehensive understanding can the mufti issue disciplined fatwas that realize the genuine interests of people in both their worldly affairs and their ultimate spiritual well-being.

(5) *Fiqh al-Wāqiʿ* as a Contemporary Necessity

In the present age, anyone who assumes the responsibility of issuing fatwas must attain comprehensive cognitive awareness of human reality. Such awareness cannot be achieved solely through lived experience or engagement in public life though both are essential but also requires prior preparation through the acquisition of analytical tools derived from the social sciences. The absence of such intellectual preparation and the failure to fulfill the necessary conditions of ijtihād have led to a growing disconnect between fatwas and lived reality (Ḥasanah, 1990).

There remains an urgent and continuous need to undertake a process of reconstruction: to identify structural deficiencies, diagnose causes of decline, and determine areas of weakness that have hindered the Muslim community from fulfilling its role in striving intellectually and morally to bring mercy to humanity. This requires bridging the gap of stagnation, reconnecting with foundational sources in the Qur'an and Sunnah, purifying understanding from distortions and excesses, and reassessing reality through the ethical framework of religion. It also entails examining contemporary issues and challenges through the lens of Islamic values, and translating those values into lived reality by engaging with the struggles and problems experienced by Muslims. In concise terms, it involves viewing values through the prism of reality while simultaneously evaluating reality through the prism of values thereby identifying shortcomings and formulating plans for renewal in accordance with the principle of gradual reform.

A sound understanding of reality its problems, dynamics, and underlying causes combined with precise awareness of human capacities (which form the basis of legal accountability), and the intellectual and spiritual conviction that Islam begins with people from the condition in which they presently stand, constitutes the path toward genuine revival and renewal of the Muslim community (Ḥasanah, 1990).

Section Three: Conditions and Regulatory Principles of Fiqh al-Wāqiʿ

Fiqh al-Wāqiʿ is not isolated from the broader sciences of Sharīʿah. A mufti cannot properly ground a ruling in its legal foundations nor apply it to a given case without recourse to the subsidiary and methodological sources of Islamic law. These sources enable accurate conceptualization, clear identification of evidentiary proofs, sound understanding of legal indications, proper prioritization and balancing of interests, and disciplined formulation of rulings and fatwas. Through them, fatwas emerge objective, impartial, and free from personal inclinations or vested interests. These principles constitute practical and applicable conditions through which contextual jurisprudence may be addressed correctly. They may be summarized under the following axes:

1. Awareness of the Characteristics of Sharīʿah

The Sharīʿah of Allah occupies a position of immense dignity and centrality. Ibn al-Qayyim describes it as the delight of the eyes, the life of hearts, and the nourishment and healing of souls. Through it come life, guidance, light, and protection. Every good in existence is derived from it, and every deficiency results from neglecting it. Were it not for its enduring traces, the world would collapse; it is the safeguard of humanity and the foundation upon which the order of the universe stands. The Sharīʿah revealed to the Messenger of Allah is the axis of success and felicity in this world and the Hereafter (Ibn al-Qayyim al-Jawziyyah, 1991).

Accordingly, anyone who assumes the position of issuing fatwas must possess knowledge of the essential characteristics and distinctive features of Sharīʿah. Foremost among these is its divine origin (rabbāniyyah); it proceeds from the All-Knowing Creator who fully comprehends human nature and inclination. This divine source grants Sharīʿah precision, completeness, universality, comprehensiveness, moderation, balance, adaptability, and flexibility. It encompasses all aspects of life, leaving no matter unaddressed in principle. Imām al-Shāfiʿī stated: "No circumstance befalls any member of the religion of Allah except that in the Book of Allah there is guidance concerning it" (al-Shāfiʿī, D.T.).

This does not imply that revelation contains every detailed instance of future events and unprecedented cases; rather, it establishes foundational principles and general rules. The detailed elaboration of these principles has been developed through the sciences of uṣūl al-fiqh, juristic codifications, legal maxims, and the contributions of scholars including the tradition of hypothetical jurisprudence which have significantly aided in addressing emerging realities. These characteristics demonstrate the Sharīʿah's responsiveness to evolving circumstances, grounded in its finality and universality.

When the mufti internalizes these characteristics, his intellectual horizon expands, and he becomes better equipped to activate *Fiqh al-Wāqiʿ* in a manner that remains firmly rooted in Sharīʿah. The essential question then arises: how does the mufti operationalize these characteristics in harmonizing text and context? Undoubtedly, these features shape the fatwa-oriented mindset by equipping it with a set of foundational legal principles that guide balanced engagement with both revelation and reality.

The defining characteristics of the Sharīʿah that guide the mufti in activating *Fiqh al-Wāqiʿ* may be summarized as follows:

(1) The Sharīʿah is valid for every time and place, embodying harmony and coherence across diverse issues and dimensions of life.

(2) It provides solutions to the problems of humanity, as it establishes foundational principles through which life is properly regulated and sustained.

(3) It represents a comprehensive methodology characterized by moderation and balance, whereas alternative systems tend toward excess or negligence.

(4) It is internally coherent, proportionate, and consistent, free from contradiction or discord, and capable of fulfilling human needs in both temporal and eternal dimensions.

(5) It recognizes and regulates human nature (fiṭrah), setting boundaries and guidelines that preserve and refine it. It does not prohibit lawful adornments and wholesome enjoyments; rather,

it acknowledges the human inclination toward recreation and relaxation and legislates permissible means for their fulfillment.

(6) It harmoniously integrates stability and flexibility: stability in its foundational principles and definitive rulings, and flexibility in subsidiary matters that admit development and contextual adaptation.

(7) It possesses the capacity for renewal, growth, and adaptation, remaining responsive to new developments and unprecedented circumstances until the end of time.

A mufti who internalizes these characteristics becomes better equipped to interpret reality accurately, understand textual evidence profoundly, and apply rulings appropriately within lived contexts. Through such integration, he achieves the balanced and prudent fatwa that reflects both fidelity to revelation and sensitivity to reality.

2. Understanding the Objectives of Sharīʿah (Maqāṣid al-Sharīʿah)

Due to their central importance for the mufti, scholars have repeatedly emphasized the necessity of understanding the objectives of Sharīʿah. Ibn ʿĀshūr affirmed that the jurist is in need of knowledge of the objectives of Sharīʿah, particularly in matters that do not fall under a specific textual ruling or direct analogy (al-Raysūnī, 1992). The mufti benefits from maqāṣid in activating both textual and contextual jurisprudence through several dimensions:

(a) The maqāṣid clarify the wisdoms underlying rulings, the purposes of legislation, the higher aims of religion, the intent of the Lawgiver, and the intention of the accountable individual. They encompass what has come to be recognized as an independent discipline within Islamic legal theory one that has grown in scholarly importance through research, theoretical development, and systematic codification, with many contemporary scholars calling for a comprehensive theory centered on the study of human welfare (maṣāliḥ) (al-Kādmī, 2001).

(b) The maqāṣid constitute one of the most significant methodological tools for transitioning from fragmented and limited approaches to comprehensive and integrative methodologies across various fields. Although historically rooted in uṣūl al-fiqh, the objectives of Sharīʿah extend beyond jurisprudence alone, as they relate to the entirety of Sharīʿah Islam as a holistic system of life encompassing creed, social order, legislation, spirituality, and ethics (ʿUday, 2013).

(c) The maqāṣid assist the mufti in engaging with contemporary events soundly and issuing fatwas capable of accommodating new developments. They are defined as the meanings and wisdoms intended by the Lawgiver in most, if not all, legislative contexts, not restricted to a particular category of rulings (Ibn ʿĀshūr, 1978).

(d) They enable the mufti to distinguish between necessities (ḍarūriyyāt), needs (ḥājiyyāt), and enhancements (taḥsīniyyāt), thereby facilitating accurate assessment of differing circumstances and determining the appropriate level within the maqāṣid hierarchy. This evaluative framework directly strengthens contextual jurisprudence.

(e) The maqāṣid guide the mufti in identifying benefits and harms arguably the most critical keys to understanding reality. ʿIzz ibn ʿAbd al-Salām stated that whoever carefully examines the objectives of Sharīʿah in bringing about benefits and preventing harms will develop a firm conviction that certain benefits must not be neglected and certain harms must not be approached,

even in the absence of explicit consensus, text, or specific analogy, because the very spirit of Sharīʿah necessitates such judgment (Ibn ʿAbd al-Salām, 1991).

(f) The maqāṣid shape the prudent fatwa-oriented intellect. A maqāṣid-based mindset transforms legal reasoning from mere transmission to analytical engagement encompassing reflection, inference, induction, evaluation, balancing of considerations, and foresight regarding outcomes. It cultivates critical thinking grounded in evidence, adhering to the Qur'anic principle: "Bring your proof." Such an intellect acquires the tools necessary for assessing consequences (maʾālāt), understanding causation, and engaging dynamically with changing circumstances. Building this maqāṣid-oriented consciousness produces a strategic shift in intellectual culture, revitalizes engagement with revelation, and refines the mechanisms through which divine guidance is applied to lived reality (al-Kādmī, 1999).

In summary, a comprehensive awareness of the objectives of Sharīʿah equips those who convey the rulings of the Lord of the worlds with the capacity to harmonize revelation and reality in a manner that secures genuine welfare and prevents harm in both the immediate and ultimate dimensions of human life.

A comprehensive understanding of the objectives of Sharīʿah enables those who convey divine rulings to:

(1) Connect particular rulings to universal principles.
(2) Grasp the underlying wisdom and intent of the Lawgiver.
(3) Anticipate and evaluate the consequences of actions (maʾālāt).
(4) Realize genuine benefits and prevent harms.
(5) Overcome superficial and purely literal approaches in dealing with legal texts.

Accordingly, deep engagement with maqāṣid jurisprudence equips the mufti with a disciplined and principled understanding of reality, free from personal inclinations. It enables him to interpret texts through a broader, purpose-oriented lens and to apply them to concrete situations in a sound, conscious, and contextually appropriate manner, thereby ensuring balanced and prudent fatwa issuance.

3. Application of Uṣūlī (Legal-Theoretical) Principles

The foundational principles of uṣūl al-fiqh constitute among the most important instruments that assist the mufti in engaging with reality and emerging events in a sound and disciplined manner, thereby producing rulings capable of addressing unprecedented cases and contemporary developments. Abū Bakr al-Qaffāl al-Shāshī states in his work *al-Uṣūl*: "Know that explicit textual designation for every individual incident is nonexistent; rather, rulings possess foundations and branches, and branches are not understood except through their foundations. Conclusions cannot be properly known until their premises are established; thus, it is necessary to begin by clarifying the foundations so that the branches may be understood" (al-Zarkashī, 1994).

Ibn al-Qayyim further highlights the beauty and completeness of the Sharīʿah, noting that its rulings whether foundational or subsidiary, in matters of worship or transactions are governed by comprehensive principles and rules that regulate their application, unify dispersed issues, and connect branches back to their roots. A legal maxim (qāʿidah) is a universal principle that applies to numerous particulars from which their rulings are derived. Once the maxim is understood, many subsidiary issues become accessible, confusion is reduced, and legal reasoning proceeds upon firm

knowledge and fairness. He emphasizes that a jurist must possess universal principles to which particulars may be referred; otherwise, he risks error in specific cases and injustice in general judgments, resulting in significant corruption (Ibn al-Qayyim al-Jawziyyah, 2003).

The application of uṣūlī principles in interpreting both text and context may be realized through several dimensions:

(1) They enable the mufti to understand legal rulings in a disciplined manner and acquaint him with the juristic methodology for deriving them.
(2) They function as regulatory standards under which numerous subsidiary rulings fall.
(3) They equip the mufti to address new developments in human life across time.
(4) They provide a clear methodological framework grounded in the Arabic language and the tools of legal inference.
(5) They empower the mufti to derive rulings from detailed evidences.
(6) They safeguard the integrity of both text and reality, assisting the mufti in weighing and selecting the strongest opinions.
(7) They serve as a key to understanding reality by strengthening analytical perception and evidentiary reasoning.
(8) They reinforce the understanding that Sharīʿah rests upon structured principles that govern both text and context even anticipated developments.

Through these principles, the mufti harmonizes revelation and lived reality within a coherent and methodologically sound framework, ensuring that contextual engagement remains faithful to the foundations of Islamic law.

4. Application of Juristic Maxims (al-Qawāʿid al-Fiqhiyyah)

Islamic Sharīʿah encompasses both foundational principles and subsidiary rulings. Its foundations are of two types. The first is what is commonly referred to as uṣūl al-fiqh, which largely consists of rules governing legal interpretation derived from Arabic linguistic expressions such as the implications of command and prohibition, generality and specificity, abrogation and preference as well as discussions on analogy (qiyās), solitary reports (khabar al-wāḥid), and the qualifications of the mujtahid.

The second category comprises comprehensive juristic maxims of great scope and significance, which encapsulate the secrets and wisdoms of Sharīʿah. Each of these maxims encompasses countless subsidiary rulings that are not fully elaborated within uṣūl al-fiqh, even if occasionally referenced there in summary form. These juristic maxims are of immense importance in legal reasoning; the greater a jurist's mastery of them, the higher his scholarly rank and the clearer the coherence and elegance of his jurisprudence. Through them, pathways of fatwa become illuminated. Scholars have competed in refining and applying these maxims, and those who excelled in them achieved distinction.

Conversely, the jurist who derives rulings solely through fragmented, case-by-case analogies without reference to overarching principles risks inconsistency, internal contradiction, and intellectual instability. He becomes burdened with memorizing innumerable particulars, which time may not suffice to encompass. In contrast, one who grounds jurisprudence in its comprehensive maxims finds that many particulars naturally fall under universal principles; apparent contradictions are reconciled, distant cases become comparable, and clarity emerges swiftly and confidently (al-Būqārī, 1994).

The activation of juristic maxims offers numerous benefits for the mufti in harmonizing text and reality, including:

(a) Given the vast number of subsidiary rulings, comprehensive memorization is nearly impossible; legal maxims gather them coherently, like beads strung upon a single thread.

(b) While individual rulings are easily forgotten, juristic maxims are concise, memorable, and enduring.

(c) They regulate legal issues, harmonize similar rulings, and connect branches to their foundational principles.

(d) They cultivate a juristic aptitude that facilitates navigating the vast domains of fiqh, discerning rulings in presented cases, and deriving solutions for recurring or unprecedented issues.

(e) They assist in comprehending the higher objectives of Sharīʿah, as the substance of these maxims reflects its overarching aims and purposes (al-Zuḥaylī, 2006).

Through mastery of juristic maxims, the mufti acquires a structured and principled framework that enables balanced engagement with both revelation and lived reality, ensuring consistency, coherence, and fidelity to the spirit of Sharīʿah.

5. Activating the Jurisprudence of Priorities, Balancing, and Consequences (Fiqh al-Awlawiyyāt, al-Muwāzanāt, and al-Maʾālāt)

The jurisprudence of priorities enables the mufti to distinguish between obligations and recommendations, between stronger and weaker evidences, and between what must be advanced and what may be deferred. Ibn al-Qayyim explains that when one reflects upon the laws of Islam, one finds that they revolve around the realization of pure or predominant benefits to the extent possible. When benefits conflict, the greater and more significant is prioritized even if the lesser is consequently lost. Likewise, the Sharīʿah seeks to prevent pure or predominant harms to the extent possible; and when harms conflict, the greater harm is averted even if it entails tolerating a lesser one. This systematic balancing reflects the perfection of divine wisdom, knowledge, and mercy (Ibn al-Qayyim al-Jawziyyah, D.T.).

Closely related is the jurisprudence of consequences (fiqh al-maʾālāt), which concerns the outcomes and eventual effects of actions. An act may be originally permissible or even prescribed, yet prohibited if it leads to harm; conversely, an act may be originally prohibited, yet its prohibition suspended if greater benefit results from that suspension. Many evidences relating to blocking the means (sadd al-dharāʾiʿ) reflect this logic: a permissible act may serve as a means to something impermissible, and thus its legal ruling is reassessed in light of its anticipated outcome (al-Shāṭibī, 1997).

Al-Shāṭibī emphasizes that consideration of consequences is an essential and intended objective in Sharīʿah, whether actions are lawful or unlawful. The mujtahid must not judge an action whether to permit or prohibit it without examining its likely outcome and assessing whether it results in the attainment of benefit or the prevention of harm (al-Shāṭibī, 1997). Contemporary scholars likewise affirm that the role of the mufti does not end with stating a legal ruling; rather, he must evaluate

the effects and implications of that ruling in reality, considering both immediate and future consequences (Ḥakīm, 2002).

The jurisprudence of balancing (fiqh al-muwāzanāt) is among the most delicate domains of Sharīʿah. It requires the ability to weigh competing interests, prioritize goods, and determine the lesser of harms capacities attainable only by the prudent mufti deeply grounded in the sciences of Sharīʿah. Among the most distinguished works in this field are *Qawāʿid al-Aḥkām fī Maṣāliḥ al-Anām* and *al-Fawāʾid fī Ikhtiṣār al-Maqāṣid* by the eminent scholar ʿIzz ibn ʿAbd al-Salām, whose contributions laid a foundational framework for systematic legal balancing.

Through mastery of priorities, balancing, and consequential analysis, the mufti acquires the intellectual discipline necessary to harmonize text and context responsibly, ensuring that fatwas serve both the enduring objectives of Sharīʿah and the evolving realities of human life.

6. Distinguishing Between Constants and Variables

An essential requirement for activating *Fiqh al-Wāqiʿ* is a clear understanding of what is fixed (thawābit) and what is variable (mutaghayyirāt) within Sharīʿah. The constants refer to rulings established by definitive evidence in both transmission and meaning, or those upon which the earliest generations reached consensus, and which are explicitly stated in the revealed texts. These rulings do not admit alteration or substitution; rather, they govern events and circumstances across times and contexts.

Al-Shāṭibī explains that such rulings are characterized by permanence and stability: once established, they are not subject to abrogation, restriction, modification, or suspension whether in relation to particular individuals, specific times, or changing conditions. What is established as a cause remains a cause; what is established as a condition remains a condition; what is obligatory remains obligatory; what is recommended remains recommended; and so forth. Their legal status does not fluctuate, even if legal accountability were hypothetically extended indefinitely (al-Shāṭibī, 1997).

Accordingly, if a case is governed by a definitive and explicit textual proof certain in both authenticity and meaning there is no room for ijtihād. The duty is to implement the ruling as indicated by the text, since its transmission is unquestionable and its meaning unambiguous. Clear and unequivocal legal texts must therefore be applied as they stand, without interpretive modification (Khalaf, D.T.).

In contrast, the variable dimension of Sharīʿah concerns matters established through speculative evidence in transmission or interpretation, or derived through juristic reasoning such as analogy (qiyās), public interest (maṣlaḥah mursalah), custom (ʿurf), and related methods. These areas admit legitimate ijtihād and scholarly disagreement. Ibn al-Qayyim distinguishes between two categories of rulings: those that do not change across times, places, or circumstances such as core obligations, prohibitions, and prescribed legal punishments and those that vary according to public interest and contextual considerations, such as discretionary punishments (taʿzīr), whose forms and degrees may change in accordance with prevailing conditions and benefits (Ibn al-Qayyim al-Jawziyyah, 1975).

Thus, stability and flexibility coexist within Sharīʿah in harmonious balance: permanence in foundational and definitive matters, and adaptability in subsidiary and context-dependent issues.

This dual quality enables Sharīʿah to respond to evolving realities without compromising its immutable principles.

7. Mastery of Uṣūl al-Fiqh

Uṣūl al-fiqh constitutes the methodological framework of legal derivation and the governing standard of sound understanding. It is among the most distinguished Islamic sciences, integrating reason and revelation, and safeguarding interpretation from superficiality. Al-Ghazālī describes it as a discipline in which intellect and transmitted evidence converge harmoniously; it is neither purely rational speculation detached from revelation nor blind imitation devoid of intellectual support. Rather, it represents a balanced synthesis of reason and divine guidance (al-Ghazālī, 1993).

The mufti benefits from uṣūl al-fiqh in activating *Fiqh al-Wāqiʿ* through several key dimensions:

(1) **Understanding Legal Accountability (al-Ḥukm al-Taklīfī and Related Concepts)**
This includes recognizing:

- **Cause (sabab):** the factor whose presence entails the existence of the ruling.
- **Condition (sharṭ):** that upon which the validity of a ruling depends; its absence necessitates the absence of the ruling.
- **Preventive factor (māniʿ):** whose presence nullifies the ruling.
- **Concession (rukhsah):** legislated to remove hardship, contrasted with the original ruling (ʿazīmah).
- **Validity (ṣaḥḥah) and invalidity (buṭlān):** determined by fulfillment or violation of causes and conditions (Khalaf, D.T.).

Mastery of these categories enables the mufti to evaluate reality within a structured legal framework, ensuring accurate application of rulings.

(2) **Ijtihād:** the exertion of scholarly effort to derive a legal ruling from its evidences.

(3) **Qiyās (Analogy):** allows the mufti to extend rulings from established cases to new situations based on shared operative causes.

(4) **Maṣlaḥah Mursalah (Unrestricted Public Interest):** addresses matters not explicitly affirmed or negated by textual evidence, serving as a key instrument in addressing contemporary realities provided that it conforms to established juristic criteria.

(5) **Istihsān (Juristic Preference):** permits departure from an apparent ruling to a stronger one based on superior benefit, thereby alleviating hardship and securing welfare.

(6) **Istishāb (Presumption of Continuity):** maintaining a previously established ruling until evidence proves its alteration (Khalaf, D.T.).

(7) **Sabr wa Taqsīm (Analytical Examination and Classification):** systematic evaluation of possible operative causes to identify the most appropriate basis for legal reasoning (Mūsā al-Fiqh al-Miṣrī, D.T.).

(8) **Sadd al-Dharāʾiʿ (Blocking the Means):** preventing pathways leading to harm, while recognizing the complementary principle of *fatḥ al-dharāʾiʿ* opening means that lead to legitimate benefit (al-Kādmī, 1999). Scholars of maqāṣid emphasize balancing between blocking harmful means and facilitating beneficial ones (ʿUday, 2013).

Finally, **Taḥqīq al-Manāṭ (Verification of the Operative Cause)** represents the practical embodiment of contextual jurisprudence, involving examination of whether the legal cause established by text or consensus is present in a new case for example, assessing whether the harm (adhā) cited in the prohibition of intercourse during menstruation applies analogously in other contexts (Khalaf, D.T.).

Collectively, these foundational tools of uṣūl al-fiqh equip the mufti with a disciplined methodology for interpreting both text and reality in harmony, ensuring that legal rulings remain faithful to Sharīʿah while responsive to lived circumstances.

8. Consulting Specialists

There are issues, cases, and unprecedented matters that the mufti cannot fully assess independently. In such situations, he must consult experts in relevant fields such as medicine, economics, politics, and other specialized disciplines. Their input is authoritative and necessary, because judgment upon a matter is contingent upon its proper conceptualization; if the conceptualization is flawed, the ruling will likewise be flawed. Specialists assist the mufti in forming an accurate understanding of technical realities, thereby ensuring that the legal ruling rests upon a sound factual foundation.

9. Consideration of Custom (ʿUrf)

Custom (*ʿurf*) refers to what people habitually practice and mutually recognize whether in speech, action, or omission and it is often synonymous with *ʿādah* (habit). In legal terminology, there is no substantive distinction between them. Practical custom includes, for example, the common practice of concluding sales through mutual exchange without formal verbal formulas. Verbal custom includes the common usage of certain terms such as referring to "child" in common speech as male rather than female, or not applying the word "meat" to fish. Custom arises from the collective practices of people at large, both laypersons and elites, whereas consensus (*ijmāʿ*) pertains specifically to the agreement of qualified jurists.

Custom is of two types:

- **Valid custom (ʿurf ṣaḥīḥ):** that which people commonly practice without contradicting Sharīʿah evidence, without permitting what is unlawful, or invalidating what is obligatory. Examples include customary contracts such as *istisnāʿ*, the division of dowry into prompt and deferred portions, or treating gifts given by a fiancé as voluntary gifts rather than part of the dowry (Khalaf, D.T.).
- **Corrupt custom (ʿurf fāsid):** that which people practice but which contradicts Sharīʿah, permits prohibited acts, or nullifies obligations such as widespread engagement in usury, gambling contracts, or unlawful practices embedded in certain social occasions.

Consideration of custom is indispensable in activating *Fiqh al-Wāqiʿ*. Al-Qarāfī warns against ignoring evolving customs in the issuance of fatwas, stating that whenever custom changes, it must be taken into account; and when it disappears, it must no longer be considered. The mufti must not rigidly adhere to what is recorded in books throughout his life. If someone from a different region

seeks a ruling, the mufti should not impose the custom of his own locality but should inquire about the custom of the questioner's region and issue the ruling accordingly. This, he affirms, is the clear and correct approach (al-Qarāfī, D.T.).

Through consultation with specialists and careful consideration of valid custom, the mufti ensures that his rulings are grounded in accurate knowledge of lived reality while remaining faithful to the principles and objectives of Sharīʿah.

10. The Holistic Perspective

Among the most essential tools for harmonizing text and reality is the adoption of a comprehensive, holistic outlook. The prudent mufti approaches Sharīʿah as an integrated and unified system, emanating from a single divine source. It encompasses the universe and human life, this world and the Hereafter, spirit and body, heart and intellect, the individual and society, the nation and humanity at large. When engaged correctly, it offers a coherent, balanced, and realistic vision, addressing the human being in all dimensions spiritual, intellectual, moral, and behavioral within a unified and interconnected framework.

Contemporary challenges require an ijtihād grounded in this holistic vision. Yet juristic effort has not sufficiently extended to broader domains of life social, educational, developmental, economic, and political despite the Qur'ānic mandate for reflective derivation in matters of both security and fear: "And when there comes to them information about security or fear, they spread it around; but if they had referred it to the Messenger and to those in authority among them, those who are able to draw correct conclusions from it would have known it." [Al-Nisa: 83] This extension of ijtihād to all spheres of life requires cultivating a widespread juristic culture within the community (Hasana, 2004).

Although Islam is inherently comprehensive, such comprehensiveness necessitates continuous scholarly engagement across all fields of life. The methodologies and principles developed by earlier scholars were effective within their contexts; however, they remain juristic tools open to review, renewal, refinement, and development particularly when applied beyond strictly devotional or legislative matters (Hasana, 2004).

A fragmented or reductionist approach to text and reality has led to distortions in contemporary fatwā practice. To achieve a holistic reading of the texts, the following are required:

1. **Understanding the circumstances of revelation (asbāb al-nuzūl)** to grasp the Qur'ānic context what issue was addressed, and how it was addressed.
2. **Understanding the occasions and contexts of Prophetic traditions**, examining their circumstances and situational factors. Contextual awareness is fundamental in applying Sunnah appropriately and in gradual, measured guidance "for every context there is suitable speech." Its absence may lead to extreme or contradictory fatwas declaring prohibition or permissibility, innovation or disbelief while conversely, misapplication may justify deviation in the name of Sunnah. Imām Aḥmad emphasized that no one should undertake issuing fatwā without mastery of the Qur'ān, authentic narrations, and the Sunnah (Ibn al-Qayyim, 1991).

Similarly, a holistic engagement with reality requires awareness of time, place, and human nature the central axis of the fatwā process. The mufti must understand the surrounding environment, including historical, geographical, social, and economic dimensions. This necessitates at least a

foundational familiarity with social sciences, humanities, and history, enabling a comprehensive and integrated vision essential for producing balanced and sound legal opinions.

In sum, the holistic perspective safeguards the unity of Sharīʿah and aligns legal reasoning with the totality of human experience, ensuring that fatwā remains principled, contextual, and conducive to the welfare of individuals and society alike.

The aforementioned requirements and controls provide the mufti with a clear and structured methodology for issuing fatwas. Among the contemporary methodological works that systematize this approach is *Khāriṭat al-Naẓar al-Fiqhī Taʾṣīlan wa Tanzīlan* by Faḍl ʿAbdullāh Murād. This comprehensive work outlines seven foundational questions of legal grounding (taʾṣīl) and contextual application (tanzīl) that the mufti particularly in the modern age and its emerging realities must carefully examine in order to construct a sound and disciplined fatwa.

These elements may be summarized as follows:

- Firm grounding across all branches of Sharīʿah, particularly in matters of lawful, unlawful, disliked, and permissible rulings.
- The ability to conceptualize cases and unprecedented issues accurately understanding their nature, substance, scope, and possible conflicts.
- The capacity to assess the strength and weakness of evidences, along with accurate knowledge of established scholarly consensus.
- Mastery of the jurisprudence of priorities, balancing, consequences, and evaluation of benefits and harms.
- Competence in proper application after establishing the legal foundation, including verification of both general and specific operative causes (*taḥqīq al-manāṭ*).
- The ability to issue a disciplined fatwa appropriate to the circumstances of the questioner whether individual or collective.

Adhering to these requirements enables the mufti to activate both *Fiqh al-Wāqiʿ* and textual jurisprudence in a balanced and methodologically sound manner, ensuring proper grounding and correct application. This, in turn, safeguards the integrity of contemporary fatwa practice, producing legal opinions that harmonize authenticity with modern relevance and that secure both immediate and long-term welfare.

Chapter Three: The Impact of Fiqh al-Wāqiʿ on the Formation of the Mufti
Section One: Fiqh al-Wāqiʿ and the Formation of the Mufti

After this presentation, one may arrive at the positive effects of Fiqh al-Wāqiʿ that contribute to shaping the prudent mufti through the following elements:

1- The ability to apply texts to unprecedented cases and new developments: When the mufti comprehends reality in a Sharʿī manner through established guidelines and requirements, he becomes capable of correctly applying rulings and is able to address all that emerges in his context; he can apply the texts to unprecedented cases and new developments regardless of changes in times, places, circumstances, intentions, and customs.

Application (tanzīl) means: "transferring legal rulings from their general conceptual scope (perception) and applying them to particular incidents, or transforming the ruling from the sphere of thought and reflection into the sphere of action and practice" (D.T., Ibn Qem al-Gwzia).

Thus, the Commander of the Faithful, ʿUmar ibn al-Khaṭṭāb, was able to achieve this due to his understanding of the Sharīʿah and its jurisprudence, as well as of reality and its circumstances in all the situations he encountered. The best evidence of this is what he did during the Year of Ashes (ʿĀm al-Ramādah) by suspending the ḥadd punishment for theft due to a devastating famine. It was a state of necessity which he dealt with may Allah be pleased with him with wisdom, jurisprudence, and keen insight, as he found that the conditions of the legal texts were not applicable to the reality, and that there were strong doubts preventing the implementation of the ḥadd.

2- Achieving benefits and preventing harms: Knowledge of reality assists the mufti in achieving benefits and preventing harms, which are among the greatest objectives of the noble Sharīʿah. The issue of achieving benefits and preventing harms was clear among the early generations of the Ummah and its jurists, who considered both reality and text together. The issue of killing a group for killing one person is a clear example. Those who do not understand the Sharīʿah, reality, and its requirements have claimed that the Commander of the Faithful, ʿUmar ibn al-Khaṭṭāb (may Allah be pleased with him), decided to execute a group for killing one person based on public interest, thereby contradicting the noble text: {Prescribed for you is legal retribution in cases of murder: the free for the free, the slave for the slave, and the female for the female} [al-Baqarah: 178], and His statement: {And We ordained for them therein a life for a life} [al-Māʾidah: 45].

ʿUmar's action was not legislation as some imagined; rather, it was an application of the text with deep understanding: the definite article in "the life" denotes the genus, not the singular individual, and the preposition "bi" in the second "life" is causal. Accordingly, the text means that every life that participated in the killing is to be executed for the life that was killed, that is, because of that murdered life. Modern legal systems have finally understood this when they imposed the penalty of killing upon everyone who contributed to it, and even made merely standing in a public road to observe it, without material participation in the crime, render the person a principal perpetrator deserving the same punishment. Those less involved are treated as accomplices, receiving the same penalty as the principal offender. Although modern systems deviated by not making the punishment death except in rare circumstances, people no longer find relief for their hearts in such lenient penalties.

Likewise, by deviating, they did not grant the heir of the victim the choice of pardon, retribution, or blood money in a way that ensures relief of the heart. The punishment in Islam does not require premeditation, ambush, or association with another crime, and the heir of the victim has the right to choose between retribution, blood money, or pardon. Thus, ʿUmar's ijtihād in executing a group for killing one person makes the application of the text in this manner a profound relief for the heart something all positive legal systems have failed to achieve (Grasha, 1997).

One may imagine the harm that would have occurred had it not been for this prudent ʿUmarian jurisprudence; killing and chaos would have spread, but he closed a door of evil upon the Ummah and humanity as a whole.

3- The ability to keep pace with developments and new occurrences: The prudent mufti is capable of keeping pace with new developments because he understands the true nature of the Sharīʿah and its capacity to accommodate all developments in people's lives; for it is characterized by finality and universality. It does not stand as an obstacle to any sound scientific progress or technological advancement that benefits humanity. The mufti should know that: "Incidents that occur in this universe are not of one single type; some have previously occurred and, accordingly, have already been researched, while others have never occurred before and have not been

previously examined these are referred to as unprecedented cases (nāzilah). Such a new unprecedented case, not explicitly addressed by text, constitutes a problem requiring a solution, and its solution lies in issuing a fatwa regarding it and clarifying the necessary legal ruling for it so long as research into it falls within beneficial knowledge that guides to good. Every knowledge that contains guidance toward paths of good and warning against paths of evil, or serves as a means to that, is beneficial knowledge. What is other than that is either harmful or without benefit. Benefiting from the juristic heritage is among the important tasks during ijtihād in the jurisprudence of unprecedented cases; this includes the jurists' ijtihād-based rulings derived from Sharʿī evidences. This does not include definitive consensus or explicit Sharʿī texts, for they are proof in themselves and protected from error." (D.T., Ahmed)

4- The ability to address people according to their reality and need: Knowledge of reality gives the mufti the ability to address people according to their intellects and circumstances. Among the examples of considering people's reality and needs is what the Commander of the Faithful, ʿUmar ibn al-Khaṭṭāb, did in the issue of divorce, to the extent that some said: "'ʿUmar contradicted the explicit Qur'ān in His statement: {Divorce is twice} [al-Baqarah: 229], meaning two times, and contradicted the practical Sunnah of the Messenger of Allah (peace and blessings be upon him), as he used to count three pronouncements of divorce as one. Ibn ʿAbbās (may Allah be pleased with him) narrated: 'During the time of the Messenger of Allah (peace and blessings be upon him), Abū Bakr, and two years of ʿUmar's caliphate, three divorces were counted as one. Then ʿUmar ibn al-Khaṭṭāb said: People have hastened in a matter in which they used to have deliberation, so if we enforce it upon them… they have hastened.'" (Ibn Ḥanbal, 2001, 2875).

The response to this is as follows:

a- This ḥadīth has been weakened by many scholars of ḥadīth.
b- Other ḥadīths have been reported indicating the opposite, namely that ʿUmar's practice was the same as that of the Prophet (peace be upon him).

c- Even assuming the authenticity of the ḥadīth, it indicates that during the time of the Messenger of Allah (peace be upon him), people used to pronounce a single divorce, but during the time of ʿUmar (may Allah be pleased with him), they began pronouncing three at once. This is indicated by the end of the ḥadīth: "People have hastened in a matter in which they used to have deliberation," meaning that the ḥadīth describes the condition they were upon and the condition they later adopted. It is a report about a change in people's custom, not about a change in the ruling itself.
d- The noble verse {Divorce is twice} [al-Baqarah: 229] does not mean "in two separate installments." Allah also says: {We will give her reward twice} [al-Aḥzāb: 31], and {The punishment will be doubled for her twice} [al-Aḥzāb: 30], and no one has said that reward or punishment is given in installments (Grasha, 1977).

5- Realizing the practicality of Islamic jurisprudence: Knowledge of reality enables those who convey on behalf of the Lord of the worlds to comprehend any unprecedented case. Research in "Fiqh al-Nawāzil is the practical and realistic translation of Islamic jurisprudence; through it the positivity of fiqh appears in addressing newly arising matters of life. The need for fatwa is renewed whenever time renews itself and days alternate. Incidents and events are the imprints of life's movement upon the page of this vast universe, and whenever an incident occurs, there arises a need for a fatwa. Our need for fatwa in unprecedented cases is no less important than our need for food and drink; by food and drink the material life of this world is sustained, and by the legal ruling the affairs of this world and the Hereafter are set aright" (Ahmed, D.T.).

Among the examples of the realism, renewal, flexibility, and jurisprudential depth of the Sharīʿah is the suspension of the share of those whose hearts are to be reconciled due to a change in reality during the caliphate of the Commander of the Faithful, ʿUmar (may Allah be pleased with him). He "abolished the share of those whose hearts are to be reconciled mentioned among the categories of zakāh in the noble verse: {Zakah expenditures are only for the poor and the needy and those employed to collect it and for bringing hearts together} [al-Tawbah: 60], acting upon public interest contrary to the apparent wording of the text. However, careful examination reveals otherwise. Every ruling has a basis for its application, and the basis for applying this text is the reconciliation of hearts. ʿUmar considered that Islam had become strong, and the two greatest empires of the world had submitted to it, and Islam was no longer in need of reconciling hearts or of those whose hearts were to be reconciled. If the text revolves around its operative cause in presence and absence, then applying the text itself requires refraining from giving to this group after Islam and its state had become strong. Is this not ijtihād within the text?" (Grasha, 1977).

6- Observing the ethics of disagreement: There is no doubt that among the fruits of Fiqh al-Wāqiʿ is that it assists the mufti in observing the ethics of disagreement, due to his awareness of the reality of the Ummah and that scholars have their ijtihād and their evidences so long as these are issued by a followed imām and stem from disciplined ijtihād framed by principles and foundations. The maxim states: [That over which there is disagreement is not to be denounced; rather, what is agreed upon is to be denounced]. The scholars say: "That which is differed upon is what occurs among the legal schools due to differences in evidences; thus, it is not obligatory to denounce what is differed upon because it is based upon evidence. Rather, it is obligatory to denounce an act that contradicts what is agreed upon, because it has no evidence. The denunciation negated in the maxim refers only to obligatory denunciation, which applies only to what there is consensus on its prohibition. As for what there is disagreement about regarding its prohibition, it is not obligatory to denounce the one who does it, as he may be following one who considers it permissible or may be ignorant of its prohibition, as stated in (al-Tuḥfah). This is a great maxim branching from a great principle, because attributing what is differed upon to prohibition is no more warranted than attributing it to permissibility, considering the presumption of original non-liability and with regard to obligatory denunciation" (Alzouhali, 2006). The scholars "only denounce what is agreed upon; as for what is differed upon, there is no denunciation in it. According to one view, every mujtahid is correct, which is the chosen opinion of many or most of the verifiers. According to the other view, the one who is correct is only one, but the one who errs is not specified for us, and sin is lifted from him. However, if he is advised, in a manner of counsel, to leave the disagreement, that is good, commendable, and recommended gently; for the scholars are agreed on encouraging avoidance of disagreement when it does not entail neglecting a Sunnah or falling into another disagreement" (Alnawawi, 1972). This in turn distances the mufti from the pitfalls of declaring innovation, immorality, disbelief, and attacking scholars and jurists phenomena we witness today across social media platforms, websites, and channels, from which the Ummah has reaped nothing but division and loss of strength.

7- Building a sound juristic mindset: Awareness of reality and its requirements contributes to building a sound juristic intellect characterized by purposefulness, clarity of objectives and maqāṣid, and the ability to distinguish between the fixed and the variable, and between benefits and harms. It is an intellect founded upon proof, evidence, analysis, reasoning, induction, inference, analogy, premises, and conclusions an intellect that engages with reality and plans for the future. It rejects confusion, distortion, coincidence, recklessness, randomness, extremism, harshness, excess, and negligence. It operates according to principles, laws, causes and effects, rules, and regulations. It is an intellect based upon reflection, contemplation, and deliberation an

intellect grounded in ijtihād, deriving rulings, examining wisdom and causes, verifying the operative cause, and considering both present and anticipated realities.

8- Establishing qualification for issuing fatwa: The mufti's knowledge of Fiqh al-Wāqiʿ and the texts qualifies him to hold the position of issuing fatwa and conveying on behalf of the Lord of the worlds. Ibn al-Qayyim clarifies this qualification by stating: "The mufti and the judge cannot issue a fatwa or judgment with truth except through two types of understanding: first, understanding the reality and gaining deep knowledge of it by deriving the true nature of what has occurred through indications, signs, and evidence until he fully comprehends it; and second, understanding what is obligatory in that reality, which is understanding the ruling of Allah that He has decreed in His Book or upon the tongue of His Messenger regarding that reality, then applying one to the other. Whoever exerts his effort and expends his utmost capacity in that will not be deprived of either two rewards or one reward. The true scholar is the one who, through knowledge and understanding of reality, reaches knowledge of the ruling of Allah and His Messenger" (Ibn Qem al-Gwzia, 1991).

9- Avoiding unrealistic fatwas: The mufti's knowledge of Fiqh al-Wāqiʿ and the text enables him to issue practical and realistic fatwas rather than merely theoretical ones; because "the mufti is part of life he engages with it, practices its craft, and enters its struggles, and his field observation and lived experience constitute a significant portion of his jurisprudence. However, when he becomes detached from his society and distances himself from its concerns, he loses conscious awareness of its problems, and his ijtihād becomes purely theoretical, proceeding from a vacuum and moving within a vacuum. This led some thinkers to describe it as 'paper jurisprudence,' because it was formed far from the reality of people and the field of their activity. What value remains for a ruling if it is not applied to its proper context? And how can its proper context be known without study and knowledge?" (Hasana, 1990).

10- Fiqh al-Wāqiʿ enables the mufti to regulate people's reality at the individual, collective, and human levels according to the Sharīʿah and its rulings, due to its comprehensiveness and its capacity to encompass all aspects of life, being universal, eternal, flexible, and evolving.

11- Fiqh al-Wāqiʿ reveals to the mufti the close connection between the principles of the Sharīʿah and the developments that arise in people's lives. It does not oppose progress that is regulated by its principles and foundations, and it rejects rigidity in all its forms; rather, among its characteristics are development and flexibility, and the realization of benefits and prevention of harms in both the immediate and the long term.

12- Knowledge of Fiqh al-Wāqiʿ assists the mufti in maintaining discipline in issuing fatwas and avoiding all forms of dilution, laxity, leniency, and deviation in legal rulings; at the same time, it distances him from all forms of extremism, rigidity, and undue hardship.

13- Fiqh al-Wāqiʿ achieves a comprehensive outlook and training in contemporary jurisprudence, both in grounding and application, producing fatwas characterized by authenticity and contemporaneity, keeping pace with progress, and demonstrating that the Sharīʿah is capable of correctly conceptualizing new developments and providing sound responses to everything that concerns people in their present and future.

Section Two: An Applied Model of Fiqh al-Wāqiʿ in Fatwa

After this presentation of the matrix of procedural guidelines for dealing with Fiqh al-Wāqiʿ and its impact on shaping the prudent mufti, one may arrive at a practical applied component by

presenting a particular issue. Before elaboration, this component may be summarized in the following procedures:

The mufti must apply a set of procedures represented in:

First Procedure: Conceptualizing and Classifying the Issue:

This requires the mufti to undertake a number of steps, including: understanding reality in a disciplined manner through the system of procedural guidelines; linguistic and terminological conceptualization; analysis and deconstruction of the issue; consulting experts in the relevant field when necessary; and legal classification (takyīf) of the issue, which is important and necessary for determining the Sharʿī ruling. This means defining the issue precisely and clarifying its affiliation to a recognized legal foundation in the Sharīʿah. This, in turn, facilitates the mufti's clarification of the ruling.

Second Procedure: Clarification and Ruling:

After correct conceptualization and classification of the issue, the mufti must clarify the ruling. This requires: verification of the evidences and their authenticity; proper understanding of the evidences and the soundness of their indications; consideration of the objectives of the Sharīʿah; reference to the principles of uṣūl and fiqh; consideration of the jurisprudence of priorities, balancing, and consequences; and then application and issuance of the appropriate Sharʿī ruling.

Applied Model: The Ruling on the Use of Social Media and Artificial Intelligence

1- Conceptualization:
Modern technology refers to contemporary innovations resulting from industrial revolutions. Among its forms are the World Wide Web and the Internet, along with the interactive services branching from them, such as artificial intelligence and its various tools and programs, discussion forums, and social media platforms such as Facebook, Twitter, Snapchat, and whatever appears and emerges in this field. These developments contain recognized benefits; among the benefits of artificial intelligence, for example, are self-learning, adaptation enabling problem-solving and decision-making, and automated language processing (Abdeein, 2025). They also contain benefits that are not recognized by the Sharīʿah. What, then, is the position of the Sharīʿah regarding this?

2Classification and Ruling: These matters are unprecedented and were not known during the eras of classical juristic authorship, nor were they addressed by earlier jurists. They fall under the category of public interests (maṣāliḥ mursalah) that the Sharīʿah neither explicitly affirmed nor negated. People are now in pressing need of them, and at times these technologies cannot be dispensed with. They have manifested in multiple forms and have generated countless fields, discussions, branches, and issues. What, then, is the Sharʿī ruling regarding them through the application of maṣāliḥ mursalah?

To begin with, it is known that the Sharʿī ruling is: "That which is indicated by the address of the Sharīʿah concerning the actions of the legally accountable, whether in the form of a demand to act, to refrain, to choose, or in the form of a declaratory ruling. The Sharʿī rulings are divided into two categories: prescriptive rulings (aḥkām taklīfiyyah) and declaratory rulings (aḥkām waḍʿiyyah).

First: The prescriptive ruling is the address of Allah concerning the actions of the legally accountable by way of obligation or choice.

The prescriptive ruling is divided into five categories: obligatory, recommended, prohibited, disliked, and permissible" (Altougari, 2009).

The Internet, social media, and artificial intelligence with all their tools and forms revolve around these five rulings. At times, their use may be obligatory, such as enjoining good, forbidding evil, clarifying Sharʿī rulings, calling to Allah, seeking knowledge, and conducting scientific research. At times, they may be prohibited, such as establishing unlawful relationships between men and women, accessing pornographic sites, spying on private matters, publishing nude images, committing academic theft, fabricating certificates and false documents, engaging in usurious transactions, excessive uncertainty (gharar), fraud, deception, and the like. At other times, they may be permissible, such as in buying and selling. At other times, they may be recommended, such as maintaining communication with relatives and upholding family ties. Thus, the ruling changes according to the action; it is lawful in accordance with what Allah has made lawful and unlawful in accordance with what Allah has prohibited.

Among the objectives of the Sharīʿah is the attainment of benefits and the prevention of harms. There is no doubt that these technologies contain benefits and interests, and the Sharīʿah, through its objectives and rulings, aims to achieve benefits and prevent harms. Whatever contains benefit, it permits and allows; whatever contains harm, it prohibits and dislikes. The maxim states: "The الأصل in things is permissibility until evidence of prohibition is established." Another maxim states: "That without which an obligation cannot be fulfilled is itself obligatory." There are obligations that cannot be completed except through these tools; in such cases, the means take the ruling of the objectives. This is stated in general terms.

Nevertheless, the Sharīʿah has set controls for these modern technologies in order to realize benefits for people and protect them from harm. Among these controls are:

1- Respecting the reputation of others and refraining from violating their honor through defamation, slander, or any harmful conduct.
2- Ensuring that programs are beneficial and useful, and benefit is broader than beneficial knowledge; it includes wholesome recreation, bringing joy and innocent pleasure, optimism, and love of life.
3- It is not permissible to violate the moral rights of authors by stealing or plagiarizing their research and theses; rights must be attributed to their rightful owners.
4- The prohibition of uses that involve harm, such as promoting wars, hatred, racism, spreading violence, rumors, exposure and defamation, unlawful relationships, forgery, fraud, and the like (Ousman, D.T.).

4- Not infringing upon the five essential necessities, namely: preservation of religion, life, honor, intellect, and property. All these means must serve to realize and safeguard them, and any application that exposes these necessities to danger or loss is prohibited by Sharīʿah. For example: the objective of preserving religion requires that anything negatively affecting it is prohibited, such as spreading atheism, superstition, charlatanism, magic, and destructive ideas, doctrines, trends, and philosophies that attack the fundamentals, principles, and definitive matters of religion, distort the image of Islam and its adherents, or invade the beliefs and ideas of Muslims. Likewise, anything harmful to life, such as promoting suicide or harmful games; or harmful to honor, such as producing immoral concepts and indecent content, pornographic materials, defamation, false accusations

against chaste women, damaging reputations through falsification applications that create fabricated videos, spying, and violating privacy; or harmful to intellect, such as spreading destructive ideas, ignorance, rumors, misleading public opinion and decision-makers, or publishing books and research hostile to Islamic thought and methodology.

5- Observing Sharʿī considerations in interactions between the two sexes. It is known that these applications are often used by both men and women; therefore, they require controls, which may be summarized as follows:
a- Communication must be for need and benefit, such as teaching, learning, and all that brings benefit in religion and worldly affairs. Communication for amusement, idle play, or without need is prohibited due to the violations involved and the opening of the door to wrongdoing.
b- There must be no form of arousing desire, whether in speech, writing, or images, and one must avoid soft or suggestive speech.
c- Communication should be limited to necessity and to the extent of that necessity. If writing suffices, one should not move to direct conversation, and it is preferable that communication occur through public forums and general rooms.

6- Avoiding the use of any application or tool that represents a danger or threat to humanity, its security, and stability, such as crimes of terrorism, violence, threats, criminal activity, spreading fear, intimidating the secure, endangering their lives, occupation and seizure of peoples' resources. Rather, such technologies should be used in ways that help establish justice, safeguard states, ensure their stability, and preserve their order. If these controls are observed, then dealing with these technologies and tools is permissible according to Sharīʿah and involves no blame.

Conclusion

First: Findings

1- Fiqh al-Wāqiʿ means precise and conscious knowledge of the realities governing people's lives, enabling clarification of Allah's ruling regarding a given case.
2- A fatwa-oriented intellect aware of both text and reality is capable of development and advancing contemporary fatwa practice and lived reality.
3- Fiqh al-Wāqiʿ is not new; rather, its origin is revelation, and the Ummah applied it throughout its history. It is the wing of the prudent mufti; without it, fatwas deviate, energies are wasted, and interests are lost.
4- Fiqh al-Wāqiʿ represents a fundamental pillar for the mufti; his fatwa is neither complete nor correct except through understanding the text, comprehending reality, and applying the ruling to the case. It is an interconnected and interwoven process that cannot be separated.
5- Knowledge of the characteristics of the Sharīʿah and its objectives, the fixed and the variable, the jurisprudence of priorities, balancing, and consequences, as well as principles, maxims, custom, and referring to specialists in the matter, are among the necessities for activating Fiqh al-Wāqiʿ.
6- Observing Fiqh al-Wāqiʿ in fatwa achieves correct conceptualization and disciplined application, allows for continuous dynamism, provides new developments with rulings aligned with their trajectory and interests, and demonstrates the Sharīʿah's capacity for growth, renewal, and keeping pace with current and future developments.
7- Fiqh al-Wāqiʿ and the text regulate fatwa and distance the mufti from personal inclinations, dilution of issues, or rigidity and extremism.
8- Fiqh al-Wāqiʿ and the text shape the mufti of society one who lives its concerns, solves its problems, and realizes its interests.

Second: Recommendations

a- Fatwa institutions should establish a methodological vision for preparing the contemporary mufti by activating Fiqh al-Wāqiʿ and the text in both grounding and application, and by providing him with rigorous courses and scholarly research through which he comprehends these sciences, so that he may become a source of upliftment for his Ummah and for humanity at large. b- Fatwa institutions should compile the heritage related to Fiqh al-Wāqiʿ and its relationship to Islamic legislation, and clarify how to activate it in contemporary fatwa practice. c- Fatwa bodies should activate international and local seminars and conferences to discuss unprecedented cases and new developments, and to train and technically qualify muftis in skills and expertise.

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