

## **Fatwa as a legal and Religious Tool: Between State Authority and Scholarly Independence**

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### **ABSTRACT**

The fatwa, is a non-binding and flexible Islamic ruling, issued by a qualified and expert Muslim jurist. Historically, the domain of issuing fatwa was in the hand of scholarly individuals who served to respond all queries posed by the public over issues like family matters, economic transactions, ethical matters and international relations. With the advent of modern nation-states, where the need of issuing institutionalized fatwa has been sought, the procedure of issuing fatwa has undergone very significant transformation, especially in the contemporary modern world from the hands of individuals into the domain of institutions. Experiences of Egypt's Dar al-Ifta, Saudi Arabia's Council of highly Senior Scholars, and Indonesia's Majelis Ulama Indonesia (MUI) are the major examples where practice of fatwa is in the hand of institutions weather controlled by the state authority or function as semi-state agency, instead of being in the hands of individual scholars. Though this model has many benefits as to harmonize interpretation of religious texts with the national interests and also to counter extremism, yet it also raises concerns regarding the politicization of the religious process and authority as well as damages the scholarly independent role in Islamic jurisprudence. In the case of Pakistan where institutions are not fully controlled by the state authority to issue fatwa rather, they act as advisory nature and provide Islamic interpretation over matters posed by the public also *dār ul iftās* and individuals are issuing fatwas where confusion and conflict may arises between religious context and state interest as evident from the case studies explained in the article. So, whether the fatwa issuing authority should remain in the hands of individuals or it should be shifted under the state monitoring, is the question of this article. Previously written material reflects only on the authority of the religious scholars where a comparative analysis between state and independent scholars on the status of fatwa and its impact on the society is not found. Through comparative analysis this article tries to address this issue. It suggests a hybrid system of issuing fatwa by individual scholars in issues related to public matters, but in matters where state policy, interest and integrity involved the stakeholders must be consulted wherein.

**Keywords:** Islamic non-binding theory, Fatwa, Mufti, state authority, Islamic Law, religious institutions, hybrid approach in fatwa

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## Introduction:

Historically fatwa- issued by a qualified Muslim jurist- gained a prominent and unique position. Unlike judicial ruling, these jurists' opinions are considered advisory and non-binding in nature, yet they constitute significant weight morally and religiously by offering guidance not only in personal being good but also in legal, complex, social and ethical issues. Keeping in view the classical Fiqh context, the newer challenges that arise due to the evolving circumstances, faced by the society are addressed by the said qualified mufti by remaining within the boundaries of Islamic law<sup>1</sup>. Moving into modern nation state, centralization of the legal authority has sought major change in the role of the mufti. In many Muslim majority countries where the fatwas are now issued by state-controlled bodies like Dar ul Ifta, councils etc in order to counter extremism, national integration and religious consistency there a question also arises regarding the religious scholarship being un-influenced and about the authenticity of the state controlled religious thoughts<sup>2</sup>. The question that "should the fatwa be issued by an independent qualified mufti or should it be institutionalized by the state" is the main focus of this article<sup>3</sup>. The question is particularly relevant to the role of religion in governance and the legitimacy of the religious authority in pluralistic societies. Gaining lessons from various Muslim majority countries, this study aims to provide a comprehensive understanding on the role of fatwa in the modern world and as a result, the article will contribute to academic discourse on legal pluralism, authority of religion and bridging between modernity and Muslim contexts.

## Objectives of the Study:

The objectives of the study are:

1. To Analyse the benefits and challenges of state backed fatwa institutions.
2. Comparing and contrasting fatwa system in Egypt, Saudi Arabia, Pakistan, and Indonesia.
3. Proposing a balanced and hybrid model for fatwa governance combining state oversight with ensuring scholarly autonomy.

## Research Questions:

This study aims to reply to the following questions:

1. What are the benefits linked with the institutionalized fatwa in contemporary Muslim societies?
2. How does the fatwa issuing process in Muslim countries work in term of state involvement and scholarly independence?
3. How a hybrid system of fatwa issuing can be developed?

## Literature Review:

To the knowledge of the author there is no exclusive study which compares fatwa system in Pakistan and in four Muslim countries and as a result provides a hybrid system in which state oversight and scholarly independence be maintained, but here are some notable works which have some link with this study:

1. "*Fatawa in Pakistani Courts: An Appraisal*" by Dr. Shahbaz Ahmad Cheema: this article only states that when fatwa is brought in courts, the mufti can be asked to appear in the court as a witness. While this study aims to compare fatwa issuing system in four Muslim countries

1 Ibn al-Qayyim, I'lām al-Muwaqqi'īn 'an Rabb al-'Ālamīn, editor. Taha 'Abd al-Ra'uf Sa'd (Beirut: Dār al-Jīl, 1973), Vol: 1, P: 45-48.

2 Christopher Boucek, "Saudi Fatwā Restrictions and the State-Clerical Relationship," Carnegie Papers (Washington DC: Carnegie Endowment for International Peace, 2009), P: 4-7.

3 Muhammad Munir, "Challenging State Authority or Running a Parallel Judicial System? Ulamā Versus the Judiciary in Pakistan," Hamdard Islamicus, Vol: 36, Issue: 4 (2013), P: 39-60.

and then providing a hybrid system<sup>1</sup>.

2. "Challenging State Authority or Running a Parallel Judicial System? Ulama Versus the Judiciary in Pakistan" by Dr. Muhammad Munir: The author evaluates the religious authority of the independent scholars and their domain of practicing the religious authority<sup>2</sup>.

3. "Fatwa as a Non-State Legal System: A Critical Analysis from the Perspective of Pakistani Society" by Dr. Naseem Razi: The author has elaborated the fatwa mechanism prevailed in Pakistan, but no comparison made as done in this study<sup>3</sup>.

4. "Fatwa in Islamic Law, Institutional Comparison of Fatwa in Malaysia and Pakistan: The Relevance of Malaysian Fatwa Model for Legal System of Pakistan" by Muhammad Ifzal Mehmood: only the fatwa system of two countries are discussed in this article whereas in this study four major Muslim countries having authority in fatwa issuing department, have been discussed and finally brought up with a hybrid system regarding the topic.

### **Nature and Function of Fatwa:**

The fundamental place of the fatwa, issued by a qualified mufti in the Islamic Law is a non-binding legal opinion, responding to a proposition posed by an individual, community or department. Opposing to judicial ruling, a fatwa is a consultative in its nature and serves as to provide true application of the specific context of the proposition posed<sup>4</sup>. This reflects the primary difference between a muftī and a qāḍī. Talking about the classical perspective, a mufti is a person whose scholarship is deeply based on Fiqh and Uṣūlul Fiqh understanding, by virtue of that, he derives legal opinion based on four-point sources of Islamic Law i.e the Qu`ān, the Sunnah (saying and actions of the Holy prophet), consensus (ijmā‘) and qiyās (legal reasoning)<sup>5</sup>. Therefore, fatwa is a practice of legal reasoning by a muftī to arrive at a ruling which matches the shar‘īah objectives<sup>6</sup> and the given situation in the proposition according to the circumstances, customs, place and peoples. History reveals that it is the flexibility of fatwa that brought plurality and adaptability across diverse cultural, geographical and temporal context together. Contrary to the legal mechanisms, Islamic Law has gathered different madāhib besides their differences, yet they provide valid and true interpretations<sup>7</sup>. The fatwa process, however, without imposing uniformity, plays its role to preserve pluralism as it offers personal, legal and moral advice. The scope of fatwa is wider than legal domain. It also plays its role as a bridge between religious scholarship and community. It is fatwa

1 Shahbaz Ahmad, *Fatawa in Pakistani Courts: An Appraisal*, published by Al-Aḍwā journal, issued by sheikh zaid Islamic center Punjab University, Lahore, Vol: 31, Issue: 46.

2 Dr. Muhammad Munir, *Challenging State Authority or Running a Parallel Judicial System? Ulama Versus the Judiciary in Pakistan*, *LUMS Law Journal*, Lahore University of management & Science, Lahore. (2019), Vol: 4, issue: 1.

3 Dr. Naseem Razi "Fatwa as a Non-State Legal System: A Critical Analysis from the Perspective of Pakistani Society", *Journal of Islamic Studies and Culture*, Vol. 2, Issue.4, December (2014), P: 07-18.

4 Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, (Cambridge: Islamic Texts Society, 2003), P: 281-85.

5 Al-Shātībī, *Al-Muwāfaqāt fi Usul al-Sharī‘ah*, ed. ‘Abd Allah Diraz (Cairo: Dar Ibn ‘Affan, 1997), Vol: 4, P: 120-22.

6 Jasser Auda, *Maqāsid al-Sharī‘ah as Philosophy of Islamic Law: A Systems Approach* (London: IIIT, 2008), P: 55-59.

7 Wael Hallāq, *Authority, Continuity, and Change in Islamic Law* (Cambridge: Cambridge University Press, 2001), P: 105-110.

which communicates Islamic norms, resolves ethical dilemmas, clarify emerging issues and responds to socio-political developments. In this aspect fatwas are tools to maintain relevancy of classical fiqh with the changing circumstances<sup>1</sup>. The regime of pre-modern Islamic societies shows that fatwa was issued by an independent scholarship. Some muftis remained under state structure in courts but many of them used to issue fatwa within the framework of waqf or scholarly madāris. They were not enjoying imposing power<sup>2</sup>, rather they had power in the scholarly community and on public trust<sup>3</sup>. Summarizing this, it is clear that classical model of issuing fatwa was of an individual scholar understanding regarding proposition according to the customs, people, places based on four-point sources of Islamic law, allowing mufti to adopt pluralistic tradition, jurist diversity and more important relevancy of the community. Next section will explore the transformation of the scope, nature, domain and authority of fatwa from an individual capacity into institutionalized fatwa.

### **Fatwa in the Individual Scholarly Context:**

The classical Fiqh literature reveals that in the tradition history of Islam, a muftī used to issue fatwa by remaining independent or within scholarly religious institution in moral and legal propositions for the community. Piety, good reputation, exercising legal reasoning, practice (ijtihād) based on sources of Islamic law, constituted his authority in the public. This individual nature of issuing fatwa was the primary part of the pluralistic character of Islamic Fiqh, wherein even multi and conflicting opinions could coexist under the Islamic legal maxim of ikhtilāf<sup>4</sup>. This model allowed fatawas to reflect the specifications of the local context and circumstances of the then time, place and people. This model also, by enabling different mazāhib to flourish and by allowing people to follow and adopt the reasoning of those scholars whose opinions are aligned with their customs, local context, place and people based on the four-point sources of Islamic law<sup>5</sup>. It was the independency of the scholars that, being free from state control, they could provide oversight on political rules, issue fatwa based on moral conscience without having political pressure<sup>6</sup>. Imam abū hanīfah's refusal to accept judicial appointment<sup>7</sup> and courageous critiques of imam ibn e Taymiyyah<sup>8</sup> are the best example in this regard. On the other hand, the decentralization of fatwa has brought along with it some challenges like unavailability of formal regulation as widely varied qualifications of muftis were reported, unavailability of accountability and standardized process to check their competency, which in times of social unrest or sectarian tension could lead to instability, conflicting and inflammatory fatawa which could contribute confusion in the society<sup>9</sup>. In this

1 1 Khāled Abou El Fadl, "Islamic Law and Muslim Minorities," *Islamic Law and Society*, Vol: 1, issue: 2 (1994), P: 141–187.

2 Baber Johansen, "Signs as Evidence: The Doctrine of Ibn e Taymiyya and Ibn al-Qayyim al-Jawziyya on Scriptural Proof," *Islamic Law and Society*, Vol: 9, Issue: 2 (2002), P: 168–193.

3 Tāriq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford: Oxford University Press, 2009), P: 112–117.

4 Wael B. Hallāq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), P: 137–140.

5 Sherman A. Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihab al-Din al-Qarafi* (Leiden: Brill, 1996), P: 96–101.

6 Jonathan Brown, *Misquoting Muhammad: The Challenge and Choices of Interpreting the Prophet's Legacy* (London: One world, 2014), P: 111–119.

7 Abdul-Rahman Doi, *Sharī'ah: The Islamic Law* (London: Ta Ha Publishers, 1984), P: 60–62.

8 Yahyā Michot, *Ibn e Taymiyya: Muslims under Non-Muslim Rule* (Oxford: Interface Publications, 2006), P: 45–50.

9 Muhammad Qāsim Zamān, *The Ulamā in Contemporary Islam: Custodians of Change* (Princeton: Princeton

contemporary world of rapid spread information technology has increased this problem as self-proclaimed scholars created confusion by issuing fatāwā on media channels<sup>1</sup>. Instead of these risks, many scholars of today advocate to preserve the independency of the scholars in order to maintain integrity of Islamic Fiqh heritage<sup>2</sup>. They are caution that centralizing fatwa issue method may subordinate religious authority under political interests and devalue the spirit of critique jurisprudence. Thus, scholarly independence in issuing fatwa combines both; rich intellectual potential and considerable ethical significance.

### **Fatwa as a Governmental Institution:**

In order to harmonize sociopolitical implications of the religious thoughts within the state-controlled framework, the movement of transferring the fatwa issuing authority from an individual's hands into a centralized and state-controlled authority, began with emergence of the nation-states. This shift has marked a significant development in this regard.

### **Rationale for State Involvement:**

There were various factors that caused transformation of fatwa issuing from scholarly independency into state governing institutions. The major one was to promote uniformity in both aspects i.e legal and religious where multi-sectarian population live together, and in this way social fragmentation and sectarian conflicts can also be reduced. Further, legal modernity, social reforms and aligning Islamic Fiqh with state policies on issues like family laws, finance and national security and integrity can be done by the fatwa institution governed by the state. In addition to that, governments have increasingly seen fatwas as strategic instruments to counter extremism and to stabilize public order. In this scenario the state-backed muftis and institutions are advised to issue fatwas with moderated interpretation of Fiqh to discourage the stereo ideologies. However, doing this many times urges people criticizing the authenticity and credibility of religious scholarship which is the backbone of the fatwa issued.

### **Case Studies:**

#### **Egypt – Dar al-Ifta al-Misriyyah:**

In the Muslim world the most popular, significant and influential state fatwa institution is the “Egyptian Dār ul iftā” established in 1985, which is regulated by the ministry of justice and monitored and functioned by a grand mufti. This institution has the key role in issuing individual and institution fatwa as it also participates in the judicial process in order to respond public and state inquiries. This state governed fatwa institution attempts to promote a moderate scholarly method, but the critics opine that the close relationship of this institution with state limits its independence especially on political sensitive issues<sup>3</sup>.

#### **Saudi Arabia – Council of Senior Scholars:**

In the case of Saudia Arabia, the Royal decree appoints the Hay'at Kibār al-‘Ulamā’, which has the authority to issue fatwa. This is the only authority that issues the fatwa, and all

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University Press, 2002), P: 123–129.

1 Ibrāhīm Najm, “Fatwā in the Digital Age,” *Al-Azhar Journal of Islamic Studies*, Vol: 5, Issue: 1 (2019), P: 25–33.

2 Khāled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford: Oneworld, 2001), P: 143–148.

3 Egypt's Dar Al-Ifta (Dar al-Ifta al-Misriyya) <https://www.dar-alifta.org/en>, last accessed on 02, June 2025.

religious discourse are advised to ensure the compliance to its ruling. This model has strict control over religious scholarship and often criticized as it suppresses the intellectual diversity<sup>1</sup>.

#### **Pakistan – Various Official and Semi-Official Bodies:**

Pakistan hosts various state and semi-state religious bodies instead of having single governmental fatwa issuing body, such as council of Islamic Ideology, Provincial muftis and Ru`yat hilāl committee. The role of these institutions is to advise courts and state on sharī`ah based matters. The state also allows individual muftis to issue fatwa which many a times result conflicts between various sectarians' ideologies as well as in religious and state regulation<sup>2</sup>.

#### **Indonesia – Majelis Ulama Indonesia (MUI):**

In the case of Indonesia, though there is no state institution found that issues fatwa, but a semiofficial body-enjoying significant support and influence of the government- named MUI responds to the public matters, ḥalal certification, social ethics and blasphemy. The fatwa issued by this body designs the public discourse and state policy, yet the critics argue that this body lacks transparency in its process<sup>3</sup>.

#### **Benefits and Critiques of Institutionalization:**

The state governed fatwa institutions have numerous and undeniable benefits as they promote consistency, block unauthorized fatwas and harmonize religious thoughts with state policies and interests. The beauty of state institutions is that they have interdisciplinary expertise, who can address the complex and minute medical, economic and technological issues in compliance with sharī`ah rulings. However, this method also has some demerits. When fatwas are issued by state-controlled institutions, they many times become instruments of political legitimization. Those scholars who work in such institutions face pressure to avoid controversial opinions, especially those critical government policies whereby the independence of the jurists get compromised, which eradicates public trust in official religious institutions.

Adding to this, excessive control over fatwa bodies may suppress the religious pluralism and minority voices and may lead to homogenizations of religious discourse in which the reflection of diversity in the Muslim societies comes to an end. In this scenario, many Muslim scholars express their favor in having middle path, which safeguards institutional capacity and scholarly autonomy.

#### **Comparative and critical Analysis:**

The unique historical, political and social context in the Muslim majority countries have led the institutional fatwa bodies to take different shapes. This institutionalization of fatwa plays its role as to bridge between religious authority and state power. Below, we will be compering the models of fatwa bodies in Muslim Majority countries in order to highlight the advantage and challenges faced by state-run religious discourse.

1 Council of Senior Scholars (Hay'at Kibar al-'Ulama) , <https://saudipedia.com/en/article/311/government-and-politics/commissions/council-of-senior-scholars> last accessed on 02 June 2025

2 Nazi, Naseem. "Fatwa as a Non-State Legal System: A Critical Analysis from the Perspective of Pakistani society." *Journal of Islamic Studies and Culture*, Vol: 2, Issue: 4 (December 2014), P: 7–18.

3 Hasyim, Syafiq. "Fatwas and Democracy: Majelis Ulama Indonesia (MUI, Indonesian Ulema Council) and Rising Conservatism in Indonesian Islam." *TRANS: Trans-Regional and -National Studies of Southeast Asia*, Vol: 8, Issue: 1 (May 2020), P: 21–35.

**Egypt – Dar al-Ifta al-Misriyyah:**

Egypt's Dār al-Iftā is one of the most prominent and oldest state governed fatwa institution, which operates under the the ministry of justice and has an organized approach for issuing fatwa on matters from financial transactions to family laws. The president of Egypt appoints the grand mufti, who then plays very important role to design religious discourse. The institutional capacity is one of the basic and key strength in Egypt. The institution provides instructions and guidance to the public through media platforms and directly advises the government on issues relating state policy and regulations. The propagation of modern Islam and interfaith dialogue is the key role of this dār ul iftā and again due to its close relation with the state, this institution has been criticized, particularly after 2013 Egyptian cope, where fatwas were issued to legitimize the political status que<sup>1</sup>. Such relationship with state has raised voices over the independences of the dār ul iftā and its ability to issue impartial legal opinions with having state pressure.

**Saudi Arabia – Council of Senior Scholars:**

On the other hand, the council of senior scholars of Saudia Arabia, established in 1971, has absolute power over interpreting shariah law on all issues from social ethical to state governance. This council is appointed by the king directly which is tasked to align the implications of the religious opinions with ideological foundations of the state. Only those scholars, who are affiliated with this council, are authorized to issue public fatwa which shows the religious unity in the kingdom of Saudia Arabia. The Saudi Kingdom has given strict interpretations of Islam, that is why control over fatwa issuing body helps to maintain religious cohesion and as a result public order and curbing religious extremism are effectively seen in the kingdom. However, the critics are of the view that such control over the fatwa institution and the relationship between religious scholarship and monarchy have led to the suppression of the dissenting voices<sup>2</sup> and the scholars who issue fatwa against the state policy and interpretation of Islam face state sanctions and resultantly the kingdom lacking diversity of legal and theological perspectives.

**Pakistan – Council of Islamic Ideology and Provincial Muftis:**

Opposing to Saudia Arabia and Egypt, the approach of Pakistan as regard to issue fatwa is more decentralized. The country has a national institution, named council of Islamic Ideology which under its advisory role address to the government on issuing relating to Islamic law. Provincial and independent religious scholars also issue fatwas. This has not centralized influence like other countries mentioned above, but yes it has a significant role in shaping national discourse on constitutional, financial, family and ethical issues and the flexibility and diversity in fatwa issuing method is the beauty of this decentralization of fatwa body. Very often, regional scholars issue fatwa specific to their local context in which diverse religious and cultural landscape of the country are reflected. However, the numbers of fatwa issuing bodies can create conflicts in legal opinions and confusion for the public by issuing the fatwa. The lack of unified fatwa issuing body in the country has caused concerns about the lack of accountability and the proliferation of unregulated fatwas<sup>3</sup>.

1 Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftīs and Fatwās of the Dār al-Ifta* (Leiden: Brill, 1997), P: 92–96.

2 Stephane Lacroix, *Awakening Islam: The Politics of Religious Dissent in Contemporary Saudi Arabia* (Cambridge, MA: Harvard University Press, 2011), P: 117–122.

3 Shahbāz Ahmad Cheema, "Fatawā in Pakistani Courts: An Appraisal," *Hamdard Islamicus*, Vol: 34, Issue: 2

**Indonesia – Majelis Ulama Indonesia (MUI):**

Majelis Ulama Indonesia on the other hand not a governmental body, serving as the principal body of fatwa, offers a hybrid model of issuing fatwa. Though it is not a governmental agency yet closely affiliated with the state and plays an important role in shaping national religious discourse. Working in collaboration with civil society organizations and government issues fatwas relating to ḥalāl certification, blasphemy and family matters. As this majles through its board of religious scholars from diverse background, it enjoys public trust, it has been particularly effective in promoting a flexible, moderate and inclusive interpretation of islam, positioning itself as a counterweight to extremist ideologies. However, due to its close relations with the government, the scholars argue that its fatawa are sometimes politically motivated<sup>1</sup>.

**Summary of Comparative Insights:**

From the case studies mentioned above, it is evident that consistence of religious guidance, public access to religious opinions, and a unified approach to national religious discourse are the merits of the centralization of fatwa institutions, however it is also linked with significant risks like the potential of public manipulation, suppressing religious independence and stifling of intellectual diversity. Each country's approach shows its unique political and social context, balancing the need for state control with the preservation of religious pluralism. In some cases, such as kingdom of Saudia Arabia, where in preventing religious extremism and maintaining national unity in the kingdom, the state control is seen essential. On the other hand, in Pakistan, a more decentralized approach allows for a broader range of thoughts, but it can lead to fragmentation and confusion. However, in Indonesia, the complexity is found while balancing between state support and scholarly independence.

**Discussion:**

In modern Muslim majority states, the institutionalization of fatwa issuing mechanism has brought out an important debate between the stakeholders of fatwa institutions like policymakers, religious leaders and scholars. The institutionalization of fatwa bodies offers both merits and demerits and evolving role of state baked fatwa institutions needs careful considerations to level between religious diversity, scholarly independence and legal coherence<sup>2</sup>. How a balanced fatwa institution can be found, which can preserve the individual scholarly integrity and institutional oversight, is discussed below.

**The Role of the State in Shaping Religious Discourse:**

The major justification, given by the government for the purpose of involvement in the fatwa issuing process, is the unification of the religious discourse and national coherence. In countries, where sectarian groups and diverse religious live together, the institutional fatwa agency can act as maintaining sectarian tensions, stabilizing force and reducing confusion. As an example, the fatwa bodies in Egypt and in Indonesia play important role to promote moderate interpretation of Islam, which can counter extremism and radicalization. Further, state- backed fatwa institutions have the capacity to deal with issues that transcend local or

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(2011), P: 49–54.

1 Moch Nur Ichwan, "Ulamā, State, and Politics: Majelis Ulamā Indonesia After Suharto," *Islamic Law and Society* Vol: 12, Issue: 1 (2005), P: 45–49.

2 Muhammad Khālid Masud, *Shari'ah Today: Essays on Contemporary Issues in Islam* (Islamabad: Iqbal International Institute for Research and Dialogue, 2009), P: 88–92

regional context, like international relations and economic policy. The available expertise within these institutions can facilitate comprehensive responses to modern challenges, that requires understanding of contemporary ground realities and Islamic law<sup>1</sup>. This is much important in globalization, where rapidly newer issues in technological advancement and in international law emerge and the local fatwas very often do not address such dilemmas.

**The Risks of Political Manipulation:**

It has been evident that the state-controlled fatwa institutions have some advantages as to uniformity of the religious discourse with state interest and to counter extremism etc. but at the same time it faces potential of political manipulation. So, the countries where religious scholars have close relations with the politicians, the fatwa can be used as a tool of legitimizing government policies and suppressing dissent<sup>2</sup>. As Saudia Arabia's council of senior scholars has been criticized for issuing fatawa that align with interest of the state, especially on issues of governance and public dissent<sup>3</sup>. The credibility and authenticity of the religious ruling is undermined by politicization of fatwa issuance mechanism. Because when religious scholars are supposed to save state interest rather than ethical and spiritual needs of the community, the public trust in fatwas may erode<sup>4</sup>. This was the major reason that the scholars raised voices and demanded accountability, independency and transparency within state backed fatwa institutions in order to ensure that their fatwas are based on scholarly integrity rather than political expediency.

**The Challenge of Preserving Jurisprudential Pluralism:**

The beauty of the Islamic jurisprudence is that it accepts multiple valid interpretation of Islamic law. The individual scholar when issues fatwa, looks into the cultural context, place, people and customs of the place, where the proposition has been posed to be replied and accordingly, he passes fatwa. This decentralization of fatwa institution accepts diverse legal opinions to flourish, reflecting the richness of Islamic law and the variety of cultural contexts in which it was practiced. However, centralization of fatwa institution requires homogenizing religious discourse along with limiting the diversity of opinions available to the public. In countries where state interpretation of Islam prevails, dissenting opinions may be marginalized or suppressed, leading to intellectual stagnation and a lack of responsiveness to the changing needs of society<sup>5</sup>. Ensuring authenticity of scholarly independence along with maintaining legal coherence is the major challenge. Some scholars are of the view that a hybrid model of fatwa governance which combines autonomy of the religious scholars, and the state oversight is the need of the time<sup>6</sup>. Such model could ensure that fatwa is consistent, relevant and protecting the diversity and flexibility of Islamic jurisprudence<sup>7</sup>.

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1 ibid, P: 65–69.

2 Khāled Abou El Fadl, *Speaking in God's Name: Islamic Law, Authority and Women* (Oxford: One world, 2001), P: 150–157.

3 ibid, P: 5–8.

4 Wael B. Hallāq, *An Introduction to Islamic Law* (Cambridge: Cambridge University Press, 2009), P: 160–163.

5 Sherman A. Jackson, "Legal Pluralism between State and Society: The Case of Egypt," *Shari'ah Politics: Islamic Law and Society in the Modern World*, ed. Robert Hefner (Bloomington: Indiana University Press, 2011), P: 98–100.

6 Tāriq Ramadan, *Radical Reform: Islamic Ethics and Liberation* (Oxford: Oxford University Press, 2009), P: 152–160.

7 Jasser Auda, *Maqāshid al-Shari'ah as Philosophy of Islamic Law*, P: 93–97.

**A Balanced Approach: Preserving Scholarly Autonomy:**

Evident from the previous discussion is that the core values of the scholars could be preserved while leveraging the organizational capacity of state-run fatwa institutions and this could be achieved if the advisory committees or independent bodies are established within the fatwa institutions, comprising of diverse schools of thought. The major task of such bodies would be to ensure that the fatwas are issued in accordance with the established jurisprudential rules and free from political pressure. In addition to that it is also necessary that these fatwa bodies maintain a transparent and accountable decision-making process. This could be achieved by public access to reasoning behind the fatwas, consultation with scholars of different schools of thought and by promoting an open, scholarly debate on complex issues. By encouraging intellectual diversity within the institutional framework, state-backed fatwa bodies can contribute to a vibrant, dynamic religious discourse that reflects the pluralism inherent in Islamic legal tradition.

Finally, it has become clear that the question whether issuance of fatwa should remain in the hand of individual scholar or it should be in the state-controlled bodies is not resolved. Though institutionalization of fatwa has benefits as expressed in this study, yet it has many concerns about the independence of religious scholarship and the potential for political manipulation<sup>1</sup>. A collective effort is much needed for the solution of this query that how to find out a balance fatwa institution, that ensures the efficient and reasonable mechanism of issuing fatwa, at the same time safeguarding the core values of the scholarly autonomy and juristic pluralism<sup>2</sup>. Ultimately, the ability of Muslim majority states to navigate the complex intersection of politics, law and religion will decide the future of the fatwa governance. As rapidly the societies are growing up and the newer issues are emerging, the fatwa will be the central to discussion of how Islamic law could be applied in a modern context, having both aspects maintained in it, being relevant and faithful to the principles of Sharī'ah.

**Conclusion:**

The role of fatwa in modern Muslim-majority states has undergone significant transformation from its classical roots as an individual scholarly practice to its current institutionalized form within state frameworks. This evolution reflects broader societal changes, including the emergence of nation-states, the quest for legal uniformity, and the need to address contemporary issues that were not foreseen in classical jurisprudence. The centralization of fatwa issuance has on one hand, provided a mechanism for legal coherence and public stability, while on the other hand, it has raised concerns about the preservation of scholarly independence and the potential for political influence. In examining the fatwa systems of countries like Egypt, Saudi Arabia, Pakistan, and Indonesia, it becomes clear that there is no one-size-fits-all approach to fatwa governance. Each country has developed its own model based on its unique political, cultural, and historical context. Egypt's Dār al-Iftā demonstrates a state-controlled approach aimed at promoting moderate Islam, while Saudi Arabia's centralized system reflects a strict ideological control over religious discourse. Pakistan's decentralized approach allows for diversity but also leads to fragmentation, and Indonesia's semi-official MUI highlights the delicate balance between state support and scholarly

1 Wael B. Hallāq, Authority, Continuity, and Change in Islamic Law, P: 187–192.

2 Muhammad Khālid Masud et al., *Islamic Legal Interpretation: Muftis and Their Fatwas* (Cambridge, MA: Harvard University Press, 1996), P: 78–85.

autonomy.

Despite the clear advantages of state-backed fatwa institutions—such as consistency, organization, and public accessibility—there is a significant risk of political manipulation and the erosion of intellectual diversity. The challenge lies in ensuring that these institutions remain true to the principles of *ijtihad* and *maqasid al-shari‘ah* (objectives of Shariah), while also serving the public good. The institutionalization of fatwa should not lead to the suppression of dissenting views or the restriction of religious pluralism.

A balanced approach, which combines state oversight with the autonomy of individual scholars and institutions, appears to be the most viable path forward. This model would allow for the efficient delivery of fatwas, while maintaining the integrity and independence of religious scholarship. It is essential that fatwa bodies remain transparent, accountable, and committed to fostering intellectual diversity within the Islamic legal tradition. As the world continues to face new challenges—be it in the fields of technology, ethics, or international law—the role of fatwa will remain vital in guiding Muslims toward decisions that align with Islamic values. By ensuring that fatwas are issued in a manner that is both informed and impartial, Islamic jurisprudence can continue to evolve in a way that meets the needs of contemporary society while remaining faithful to its roots.

### **Recommendations:**

1. Maintaining public trust in religious ruling, it is necessary that the autonomy of the religious scholars must be preserved from political influence.
2. Fatwa issued by state-controlled institutions are not binding in nature and it must be notified by the state policy.
3. A healthy legal and religious ecosystem allows for multiple scholarly voices rather than monopolization of the fatwa discourse by a single institution.
4. Religious bodies should support independent juristic platforms that provide space for diverse scholarly opinions grounded in sound methodology.
5. Qualification of the muftis, their methodologies and reasoning behind the ruling must be transparent in official fatwa issuance bodies.
6. States and religious institutions should collaborate to develop ethical guidelines for digital fatwa dissemination while respecting freedom of expression and religious inquiry.
7. Modern fatwa institutions should incorporate insights from the social sciences, medicine, economics, and law to address contemporary issues more effectively.
8. There is a need for cooperation between fatwa councils in different countries to reduce contradictory rulings on shared global issues and promote harmonization where appropriate. In this regard regional fatwa conferences and transnational networks can contribute to greater consistency and mutual recognition of scholarly authority.

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