Consideration of Maqāṣid in Contemporary Fatwa Issuance – A Study of the Regulating Principles



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Abstract:

This paper seeks to clarify the role and relationship of the intentional controls to the contemporary fatwa process, by revealing the most important and prominent controls that the mufti must observe and consider in his fatwa in our time, and this was done during the disclosure of the intended meaning of those controls, and the effect of observing these controls from Before the Mufti during consideration and diligence, and issuing judgments, and highlighting the link between those controls and the fatwa, and it was concluded through this research that the intentional controls have an effective role and a strong impact on controlling many contemporary fatwas,So invoking these intentional controls in legal thought and consideration, it is enough to keep pace with calamities and developments, and answer their boxes, by looking at them and their consequences, and following the approach of facilitation and removing embarrassment, seeking to preserve the intent of the street from the legislation of various provisions, and the commitment to its policy and legislative wisdom, its approval and taking care of interests to ward off corruption.

Keywords : Controls; the purposes ;contemporary fatwas

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1.Introduction

God Almighty did not create humankind without purpose; rather, He created them for a defined aim and objective—namely, the realization of sincere servitude to Him, in accordance with His commands and in fulfillment of His divine intent. This servitude ultimately ensures the well-being of human beings in both this world and the Hereafter. The rulings of Islamic law were revealed to achieve this purpose, for they were legislated with the objective of securing the welfare and benefit of humankind.

To accomplish the goal of submission to God and to realize what serves the interests of the servant, God Almighty appointed individuals who act as His deputies in conveying His rulings on earth and guiding people toward Him. Consequently, it became incumbent upon anyone placed in this significant and lofty position to observe foundational principles, regulations, and methodological rules that guide his conduct, enabling him to fulfill the Lawgiver's intent for creation and properly disseminate divine law.

Ibnʿ Āshūr states in this regard: "Most jurists who engage in ijtihād are correct in their judgments, and the greatest correctness of a single mujtahid in his judgments corresponds to the extent of his deep exploration in seeking the objectives of the Sharīʿah."(Ibn ʿĀshūr, 2001, p. 66) This observation is of particular relevance today, given the rapid development that humanity is witnessing in all fields, including the domain of contemporary fatwa issuance.

Among the most significant principles to which a mufti must adhere—principles that have profound implications for fatwa, especially concerning newly emerging contemporary issues—is the body of maqāṣid-based regulations in this discipline. These regulations delineate for the mujtahid and mufti the objectives and purposes intended by the Lawgiver through His legislation.

Such principles must be firmly established in the mufti's mind and deeply rooted in his conscience so that the ruling reached through the process of ijtihād fully aligns with the objectives indicated by these principles, reflecting and reinforcing their substance. By doing so, these regulatory principles function as a means of refining contemporary fatwa issuance and directing it in a manner that accords with the universals and purposes of the Sharīʿah, thereby realizing the welfare of people in both their worldly and spiritual affairs.

From this perspective arises the importance of considering maqāṣid in regulating the process of fatwa issuance. Accordingly, this study examines the most significant maqāṣid-based principles that govern the issuance of fatwas. It is entitled: **"Consideration of Maqāṣid in Contemporary Fatwa Issuance – A Study of the Regulating Principles."** The aim of this topic is to highlight the most essential maqāṣid-based principles that a mufti must consider and uphold in his fatwas in the present era.

Research Problem:

This study seeks to address the following questions: What is meant by maqāṣid-based regulating principles? What is the meaning of contemporary fatwa issuance? What are the maqāṣid-based principles relevant to contemporary fatwa issuance? And what impact do these principles have on regulating and guiding the fatwa?

Research Outline:

To answer these questions, the following structure has been developed:

1. Introduction: including a preface, the importance of the study, its problem, and the research plan.
2. Definition of maqāṣid-based principles and contemporary fatwa issuance, and the role of maqāṣid principles in the fatwa process.
3. Maqāṣid-based principles related to contemporary fatwa issuance.
4. Applied models illustrating the methodology of fatwa issuance based on maqāṣid principles.
5. Conclusion: presenting the most significant results reached.

2. Definition of the Maqāṣid-Based Regulating Principle, Contemporary Fatwa Issuance, and the Role of Maqāṣid Principles in the Fatwa Process:

2.1. Definition of the Maqāṣid-Based Regulating Principle:

This term refers to a specific category of rules whose meaning cannot be fully understood unless the meanings of its two constituent components are first identified.

2.1.1. Definition of "Regulating Principle":

2.1.1.1. Linguistically:

"Al-Ḍābiṭ" (regulator) is the active participle of "ḍabaṭa," meaning to control or restrain with firmness. "Ḍabṭ al-shay'" refers to preserving something with precision and stability. Al-Layth explained that "ḍabṭ" signifies adherence to something without deviation in any matter. "Ḍabṭ al-shay'" also carries the meaning of preserving it with determination and accuracy. A man described as "ḍābiṭ" is someone firm, resolute, and strong; similarly, the expressions "rajulḍābiṭwaḍabaṭī" denote a man who is powerful and unwavering.**(Ibn Manẓūr, 1414 AH, p. 340)**

2.1.1.2. Technically:

A regulating principle (al-ḍābiṭ) is defined as: "An overarching rule from which subsidiary legal rulings related to a single chapter of fiqh are directly derived."**(Abd al-Laṭīf, 2003, p. 40)** Scholars have noted that one of the essential distinctions between a fiqh maxim (qāʿidahfiqhiyyah) and a regulating principle (ḍābiṭfiqhī) is that a maxim encompasses issues spanning various fields of fiqh, whereas a regulating principle is restricted to issues within a single chapter of fiqh.**(Ibn Nujaym, 1983, p. 192)(Al-Nadwī, 1991, p. 46)**

In general, both the maxim and the regulating principal function as criteria, measures, and constraints; however, when the term "regulating principle" is used, it becomes exclusive to one particular chapter of fiqh.

In the contemporary era, characterized by rapid technological disruptions—from Generative AI to decentralized finance—the traditional descriptive approach to Maqāṣid is no longer sufficient. This study argues that we must transition from Maqāṣid as a theoretical philosophy to Maqāṣid as a Regulatory Framework. The research problem centers on how to bridge the gap between classical jurisprudence and modern complexities, ensuring that fatwas achieve human welfare (Maṣlaḥa) without deviating from Divine intent.

2.1.2. Definition of Maqāṣid:

2.1.2.1. Linguistically:

"Maqāṣid" is the plural of "maqṣid," which derives from the verb "qaṣada." Among the meanings of "qaṣada" are approaching something, intending it, aiming toward it, straightforwardness of path, as well as moderation and justice.**(Ibn Manẓūr, 1414 AH, p. 353)(Al-Fayrūzābādī, 2005, p. 310)**

2.1.2.2. Technically:

The early jurists did not provide a comprehensive and precise definition of maqāṣid; instead, they mentioned expressions connected to the idea of maqāṣid in various contexts. Contemporary scholars, however, have made significant efforts to formulate definitions, all of which are close in meaning. Among these definitions are the following:

Muḥammad al-Ṭāhiribnʿ Āshūr defined maqāṣid as: "The acts and behaviors intended in and of themselves, which souls naturally seek to attain through effort, or are driven to pursue out of obedience."**(Ibn ʿĀshūr, 2001, p. 415)**

ʿAllāl al-Fāsī defined them as: "The purposes intended by the Sharīʿah, and the secrets placed by the Lawgiver within every ruling of its rulings."**(Al-Fāsī, 1993, p. 5)**

Al-Raysūnīstated: "The objectives of the Sharīʿah are the ends for which the Sharīʿah was established in order to realize the welfare of the servants."**(Al-Raysūnī A. , 1995, p. 19).**

Based on these and similar definitions, maqāṣid encompass the wisdoms, elevated meanings, aims, purposes, and interests that the Lawgiver intended to realize and bring about through the legislation of various rulings.

A "Maqāṣid-Based Regulating Principle" is defined in this study as: a procedural instrument and ethical benchmark employed by the Mufti to verify that the issued ruling is in full alignment with the overarching objectives of Islamic Law — namely, the preservation of religion, life, intellect, lineage, and wealth — within the specific contemporary context of each case.

Unlike classical definitions, this modern regulatory framework places particular emphasis on what may be termed "Consequence Mapping" — the prospective assessment of a fatwa's long-term ramifications on both society and the environment prior to its issuance.

2.1.3. Definition of the Maqāṣid-Based Regulating Principle:

After clarifying the meanings of "regulating principle" and "maqāṣid," it becomes necessary to determine the meaning of the combined descriptive term "maqāṣid-based regulating principle." Just as early jurists did not define maqāṣid, they also did not define the maqāṣid-based regulating principle. Contemporary scholars similarly did not explicitly define it, although some did define the maqāṣid-based maxim. A regulating principle shares meaning with a maxim but differs in scope and comprehensiveness: the domain of a regulating principle is narrower than that of a maxim.

Among the definitions given for such maxims is that they are: "Expressions of a general meaning derived from various evidences of the Sharīʿah, toward which the will of the Lawgiver is directed through what has been built upon them of rulings."**(Al-Kaylānī, 2001, p. 155)** Another definition states: "They are comprehensive propositions expressing the Lawgiver's intent behind legislating rulings, derived through inductive analysis."**(Shubayr, 2007, p. 31)**

Based on these definitions of maxims, the maqāṣid-based regulating principle may be defined as follows:It is a foundational or comprehensive proposition expressing the Lawgiver's intent behind legislating rulings, derived through inductive examination of the legal evidences and rulings, and pertaining to a specific chapter of fiqh.

Accordingly, the maqāṣid-based regulating principle in fatwa issuance is: a comprehensive proposition expressing the Lawgiver's intent behind legislating rulings, derived through inductive examination of the legal evidences and rulings, and related to the field of fatwa.

Thus, the maqāṣid-based regulating principle in contemporary fatwa issuance is: the set of standards and constraints that express the wisdom and purpose placed by the Lawgiver to be observed in ijtihād when formulating various rulings—standards that ensure increased precision in the process of contemporary fatwa issuance.

A "Maqāṣid-Based Regulating Principle" is defined in this study as: A procedural tool and ethical metric used by the Mufti to ensure that the issued ruling aligns with the ultimate goals of Sharia (protection of religion, life, intellect, progeny, and wealth) within a specific contemporary context.

Unlike traditional definitions, this modern regulatory approach emphasizes "Consequence Mapping"—predicting the long-term impact of a fatwa on society and the environment before its issuance.

2.2. The Reality of Contemporary Fatwa Issuance:

2.2.1. Definition of Fatwa Issuance:

2.2.1.1. Linguistically:

Its meaning involves clarification and explanation, and responding to inquiries concerning ambiguous rulings.**(Al-Aṣfahāni & Ibn Muḥammad, n.d., p. 482)** The expression "the jurist issued a fatwa on the matter" is used when he clarifies its ruling, and "you sought a fatwa (istifta'ta)" is used when someone requests clarification of a ruling.**(Ibn Fāris, 1979, p. 474)**

2.2.1.2. Technically:

Fatwa and fatwa issuance have been defined in various formulations, all revolving around the meaning of: "Informing about a legal ruling without compulsion,"**(Al-Ḥaṭṭāb, 1992, p. 32)** or that it is "signing on behalf of God, Blessed and Exalted."**(Ibn Ṣalāḥ, 2002, p. 72)**

It is evident that the technical definition of fatwa issuance does not depart from its linguistic meaning.

Therefore, fatwa issuance is: the mufti informing the inquirer of the legal ruling of a particular matter about which the inquirer seeks clarification—matters that appear obscure or ambiguous to him. The qualified mufti provides this ruling through a set of mechanisms and regulating principles that function as standards and constraints that must be observed during the research and ijtihād process required to determine the legal ruling of such matters.

2.2.2. Definition of "Contemporary," and What Is Meant by Contemporary Fatwa Issuance:

2.2.2.1. Definition of "Contemporary":

2.2.2.1.1. Linguistically:

"Muʿāṣir" (contemporary) follows the morphological pattern *mufāʿil*, and its root is "ʿāsara," derived from "muʿtaṣar." The term appears in the Arabic language with several meanings:**(Ibn Manẓūr, 1414 AH, p. 575)**

A. Time or era: as in the words of God Almighty:"By the passage of time, indeed mankind is in loss." (al-ʿAṣr: 1–2)

B. It also refers to the day and night, and the late afternoon until the sun becomes reddish.

C. It may also denote refuge or a place of safety.

D. It is also used with the meaning of "squeezing something until its liquid is extracted."**(Al-Fayrūzābādī, 2005, p. 441)**

A "contemporary human being" refers to the type of human existing now after earlier extinct forms. It may also signify: living in the present.**(Umar, 2008, p. 1507)**

Thus, the meaning of "contemporary" intended in this study is: a description applied to everything belonging to the present era.

2.2.2.1.2. Technically:

Jurists did not deviate from the linguistic meaning when using the term "contemporary." They applied it to the era in which they themselves lived.**(Al-Qarāfī, 1998, p. 323)** It has also been described as: "The current era in which numerous newly emerging issues have arisen and appeared that require clarification of their legal rulings."**(Shubayr, 2007, p. 13)**

2.2.2.2. What Is Meant by Contemporary Fatwa Issuance:

It refers to issuing fatwas in the era in which we now live, utilizing methods, tools, and means that did not exist in earlier periods—such as electronic fatwa services, fatwas issued through satellite channels, radio broadcasts, and other contemporary forms of fatwa delivery created by modern technological development. This advancement influences various fields, including means of communication among individuals. As a result, fatwa issuance has acquired a new character unknown to previous eras.

2.3. The Role of Maqāṣid-Based Regulating Principles in the Fatwa Process:

Maqāṣid-based principles play an active role in the fatwa issuance process. Their essential function lies in serving as the measure that ensures accuracy in fatwas concerning newly emerging issues. Therefore, the mufti must observe and recall these principles during his ijtihād and examination of legal rulings related to incidents and cases. This enables his fatwa to be sound and free from error and ensures the correct application of legal rulings to particular temporal and spatial circumstances, with full awareness of current realities, and the ability to realize the effective cause (taḥqīq al-manāṭ) in incidents that did not exist in earlier times—so that the fatwa does not become unusual or anomalous.(Al-Munajjid, FawāʾidMaqāṣid al-Sharīʿahlil-Mujtahid)

Some individuals issue astonishing and bizarre fatwas because they lack an understanding of the objectives of the Lawgiver and fail to adhere to them, resulting in fatwas that permit matters which clearly violate one of the objectives of the Sharīʿah.**(Al-Shāṭibī, n.d., pp. 41-42)**

For this reason, scholars have emphasized the necessity of firmly understanding the maqāṣid of the Sharīʿah for any jurist or mufti involved in the process of fatwa issuance, as they are the key to encompassing the rulings of various newly emerging fiqh issues that were previously unknown.

3. Maqāṣid-Based Regulating Principles Related to Contemporary Fatwa Issuance:

3.1. Observing the Intent of the Lawgiver:

3.1.1. The Meaning of the Lawgiver's Intent:

It refers to the objectives intended by the Lawgiver behind His commands and prohibitions—those elevated aims and significant purposes that God willed to be realized, such as securing benefits and preventing harms.**(Al-Badawī, n.d., p. 123.)**

Preserving the intent of the Lawgiver requires maintaining awareness of the general, specific, and particular objectives. The foundational pillar upon which the Lawgiver's intent rests is the preservation of the five essentials (al-ḍarūriyyāt al-khams). Al-Ghazālīstated: "The purpose of the

Sharīʿah in relation to creation is five: that it preserves for them their religion, their lives, their intellects, their progeny, and their wealth."**(Al-Ghazālī, 1997, p. 174)**

Al-Shāṭibī also stated: "The entire ummah—even all other nations—agreed that the Sharīʿah was established to preserve the five necessities: religion, life, lineage, wealth, and intellect. Knowledge of this for the ummah is similar to a self-evident truth. We do not possess a specific proof that singles it out, nor any exclusive principle tied only to it. Rather, its alignment with the Sharīʿah is known through a collective body of evidences that cannot be restricted to a single chapter."**(Al-Shāṭibī, n.d., p. 31)**

3.1.2. Regulating Fatwa by Observing the Intent of the Lawgiver:

This requires the mufti to remain continually aware and fully informed of the objectives intended by the Almighty through the legislation of various rulings—whether general, specific, or particular. In particular, the universal objectives of the Sharīʿah—preservation of religion, life, lineage, wealth, and intellect—must be considered when issuing rulings and fatwas and must not be neglected or violated.

For this reason, scholars issued fatwas prohibiting human cloning and forbidding genetic experimentation on human beings—even in cases where such experimentation does not lead to cloning—because such acts conflict with the maqāṣid of the Sharīʿah: the preservation of life, intellect, lineage, honor, and ancestry. Certain experiments pose risks to lineage and honor by creating confusion or loss of clarity, and they may expose human life to deformation or serious diseases. These experiments can result in severe congenital defects in fetuses, causing significant harm to the unborn child. This directly contradicts the Sharīʿah's objective of preserving life and violates human dignity."And We have certainly honored the children of Adam, and carried them on land and sea, and provided for them good and pure things, and favored them greatly above many of those We created"Surah Al-Isrā' (17:70)."(Al-Munajjid, FawāʾidMaqāṣid al-Sharīʿahlil-Mujtahid).

Another example is the fatwa permitting blood transfusion from one person to another. It is well known among jurists that blood is prohibited and impure—it is neither consumed nor used. This ruling is drawn from the foundational principle of prohibition. However, scholars issued a fatwa allowing the transfusion of blood from a healthy donor to a patient in urgent need, as it may save the patient's life. Applying the original rule of prohibition in this case would undermine one of the essential objectives: the preservation of life. To uphold this overriding objective, scholars permitted blood transfusion and its use. This ruling was issued with full consideration of a major objective of the Sharīʿah: safeguarding human life.

Thus, the issuance of fatwas in all matters must always be governed by their conformity to the objectives and universals of the Sharīʿah. Anything that secures the preservation of the five essentials must be upheld and pursued, and anything that leads to undermining or violating them must be rejected and not implemented. This reflects adherence to the supreme objective of the Lawgiver: the protection and preservation of the five essential foundations.

3.2. Observing Ease and the Removal of Hardship:

3.2.1. The Meaning of Ease and Removal of Hardship:

Scholars define ease (taysīr) as "alleviation, negation of hardship, removal of difficulty, and avoiding undue burden on oneself**(Al-Ḥifnāwī, 1991, p. 18)**."Removing hardship (rafʿ al-ḥaraj) is defined as "eliminating what leads to such difficulties.**"(Ibn Ḥumayd, 1403 AH, p. 48)**

Thus, removing hardship is part of the broader concept of ease. Ease is achieved by facilitating matters, expanding allowances, and avoiding restriction or self-imposed burden. The first level

involves preventing hardship and difficulty, while the second involves alleviating hardship after it occurs, which constitutes the essence of removing hardship.

This is a general objective of the Sharīʿah, demonstrating its inherent gentleness and the spirit of ease within Islam. Islam is a religion founded upon facilitation and the alleviation of hardship from the community, taking into consideration their conditions and circumstances. Excessiveness and extremism, by contrast, lead to destruction.**(Ibn ʿĀshūr, 2001, p. 271)**Ibnʿ Āshūr stated that the quality of ease and leniency that characterizes the Sharīʿah arises from its innate disposition and from the fact that it is a universal and enduring law: "This necessitated that its implementation among the ummah be easy—and this is only achieved when hardship is eliminated—so through its leniency it becomes more harmonious with human nature."**(Ibn ʿĀshūr, 2001, p. 271)**

Evidence supporting this objective is extensive and widely attested in the primary sources, affirming that ease is among the definitive objectives established through repeated textual indications. These repeated affirmations negate any possibility of metaphor or exaggeration.**(Al-Bukhārī, 1400 AH, p. 42)** Among these indications are statements conveying that God intends ease and does not intend hardship, and that God intends to lighten burdens placed upon individuals.

The Sunnah also confirms what is established in the Qur'an, such as the Prophet's saying:

"This religion is ease, and no one imposes it upon himself with harshness except that it overwhelms him. So be moderate and remain near to what is right."

And his statement:"You have been sent as facilitators, not as those who cause hardship."

These and many other evidences found abundantly in the Qur'an and the books of Sunnah affirm this major objective. There is no practical legal ruling in Islam except that ease forms its core and foundation. Anyone who reflects upon Islamic legislation becomes fully certain of this reality—certain beyond any doubt.

3.2.2. Regulating Fatwa Issuance by Observing Ease and the Removal of Hardship:

What is meant by regulating fatwa through the objective of ease and the removal of hardship is adopting a balanced approach in fatwa—one free from excessive rigidity and equally free from reckless leniency. It is impermissible to push people toward harshness or strictness that burdens them, generates hardship, alienates them from religion, and makes its practice difficult; nor is it permissible to incline toward unwarranted laxity that follows desires merely for the sake of satisfying them without justification.

Imām al-Shāṭibīstated: "Inclination toward concessions in fatwa unconditionally opposes the path of moderation, just as inclination toward strictness also opposes it. Some people mistakenly believe that abandoning concessions is strictness, thereby failing to recognize a middle position between the two—and this is an error. The middle course constitutes the essence of the Sharīʿah and the foundation of the Book. Whoever reflects upon the sources of rulings through complete inductive analysis will recognize this… The Sharīʿah mandates moderation—not unconditional ease, for that would abolish all forms of obligation, since obligation inherently entails a degree of difficulty and opposes desire; nor does it mandate unconditional strictness. Therefore, one granted success in this matter must remain cautious, for it is a place where many slip despite the clarity of the issue."**(Al-Shāṭibī, n.d., pp. 259-260)**

Thus, the mufti cannot reject every new issue outright, nor accept every new matter without scrutiny. He must reflect, investigate, and carefully consider this essential objective when issuing fatwas and determining rulings.

An example of this is the fatwa issued by contemporary scholars concerning the severe crowding during the ritual of saʿy between al-Ṣafā and al-Marwah. Scholars permitted the construction of an upper level above the pathway of saʿy as a valid means of performing the ritual in order to alleviate congestion. Most scholars of the Council of Senior Scholars deemed performing saʿy on the roof permissible due to necessity and need, given the intense crowding during the pilgrimage rites, which required providing ease and relief for pilgrims and visitors**(Al-Khiṭṭāb, 1430 AH, p. 323)**. The legal necessity justifies this allowance because of the valid excuse involved. Thus, issuing rulings on such matters is governed by the objective of facilitating ease and removing hardship.

For this reason, many jurists—when addressing certain rulings, particularly in the chapter of transactions where scholarly opinions differ—tend to favor the view that is more accommodating for people. This is why the well-known expression is attributed to them: "This opinion is more considerate of people!"**(Al-Qaraḍāwī, 1416 AH / 1996, p. 83)**

Accordingly, observing the objective of ease depends on the presence of hardship that necessitates such facilitation and on the nature of the issue under review. The purpose of ease in fatwa does not involve creating a new Sharīʿah that removes obligations or permits prohibitions; rather, it means adopting a balanced middle path in fatwa—one that avoids imposing undue hardship while also avoiding negligence. Observing this objective enables the mufti to maintain equilibrium in fatwa, protecting it from excessive strictness on one side and unwarranted leniency on the other.

3.3. Observing Consequences (al-Ma'āl):

3.3.1. Definition of al-Ma'āl:

Al-Ma'āl (consequences) has been defined in several ways, including: "Realizing the effective cause of a ruling by considering the implications that result from its application—whether the intended objective is fulfilled—and acting accordingly based on what those implications require."**(Al-Sanūsī, 1424 AH, p. 19)**

Considering and observing consequences is an established principle in the Sharīʿah and an important objective affirmed through numerous evidences derived from comprehensive inductive analysis. These evidences demonstrate that rulings cannot be applied in isolation from their foreseeable outcomes.

Among these evidences are scriptural directives prohibiting actions that may lead to greater harm or corruption, as well as prohibitions intended to prevent escalation or reciprocal wrongdoing. In addition, the Sunnah contains incidents illustrating the importance of considering outcomes. For example, when someone suggested killing a man whose hypocrisy had become evident, the Prophet said: "I fear that people might say Muhammad kills his companions." In another instance, he stated: "If it were not for your people being recently removed from disbelief, I would have rebuilt the House upon the foundations of Abraham." Both statements reflect deliberate avoidance of actions that, although permissible in principle, could lead to harmful or destabilizing consequences.

Fathī al-Darīnī explained the meaning of observing consequences by stating: "It is not sufficient for a legal ruling to align merely with the apparent meaning of texts or with the requirements of analogy or general principles. Rather, it must also align with the objective of the Lawgiver. This principle requires the mujtahid to examine the consequences of implementing a ruling. If its implementation results in predominant harm, applying it is prevented; similarly, if the ruling of prohibition results in that same harm, then permissibility is granted."

Thus, observing consequences is an important maqāṣid-based regulating principle necessary for sound fatwa issuance.**(Al-Darīni, 1404 AH, p. 116)** The mufti must evaluate the outcomes of actions and decisions—how far they achieve the intended objectives and to what extent they contradict them.

3.4. Observing the Intention of the Mukallaf (Morally Responsible Individual):

3.4.1. The Meaning of the Mukallaf's Intention:

This refers to giving due consideration to the intention and purpose behind the actions of the mukallaf, for no act is accorded legal weight without a proper intention. Imāmal-Shāṭibīstated:"The intentions—meaning the intentions of the mukallaf—are taken into account in all actions, whether acts of worship or transactions, and the evidences for this meaning are innumerable."**(Al-Shāṭibī, n.d., pp. 177-178)**

Intention is the core of actions; no legal ruling applies to any act except in accordance with the intention that motivates it. Al-Shāṭibī, may God have mercy on him, also said:"It is sufficient for you to know that intentions distinguish between what is customary and what is devotional; and within acts of worship they distinguish between what is obligatory and what is non-obligatory; and within customary actions they distinguish between what is obligatory, recommended, permissible, disliked, prohibited, valid, invalid, and everything else among the rulings.**"(Al-Shāṭibī, Fatāwā al-Imām al-Shāṭibī, 1986, p. 144)**

He further explained the effect of intention on actions and the rulings attached to them:"Furthermore, when an act is accompanied by intention, the legal responsibilities and rulings apply. When it is devoid of intention, none of these rulings apply—as in the actions of the sleeping person, the heedless, or the insane."**(Muḥammad, 2019)**

3.4.2. Regulating Fatwa Issuance by Observing the Intention of the Mukallaf:

Regulating fatwa through consideration of the mukallaf's intention means that the mufti must examine the underlying motive, purpose, and objective behind the act or transaction initiated by the mukallaf. He must not rely solely on the outward form of the act or contract when determining its validity or invalidity. This requires assessing the intentions of the mukallaf in terms of whether they align with or oppose the Sharīʿah; otherwise, a contradiction may arise between the intention of the mukallaf and the intention of the Lawgiver.

Al-Shāṭibī stated in this regard:"The Lawgiver's intention for the mukallaf is that the mukallaf's intention in action should be in harmony with God's purpose in legislation. The evidence for this is clear from the very nature of the Sharīʿah, for it has already been established that the Sharīʿah was instituted for the benefit of humankind universally and comprehensively. The requirement upon the mukallaf is to conduct his actions according to this divine purpose, and not to intend what the Lawgiver did not intend. For the mukallaf was created to worship God—and this worship consists of acting in accordance with the purpose embedded in the Sharīʿah. Through this, the mukallaf attains reward in both this world and the next."

From this principle, jurists ruled that a person with a corrupt intention should be treated contrary to his intended outcome. For example, a killer is deprived of inheritance, and a terminally ill man who hastily issues a final irrevocable divorce (ba'in) with the aim of preventing his wife from inheriting is nevertheless ruled to bequeath to her.**(Al-Shāṭibī, n.d., p. 7)** Jurists established maxims for this, such as:"Whoever hastens something before its proper time is punished by being deprived of it."**(Al-Shāṭibī, n.d., p. 8)**

This is what the mufti must be attentive to in his fatwa: he must not rush to issue a ruling before verifying the intention of the mukallaf. Observing the intention of the mukallaf prevents contradictions between the individual's intention and the divine intent of the Sharīʿah, ensuring that the action of the mukallaf—both outwardly and inwardly—conforms to the Lawgiver's purpose in both word and intention.**(Al-Shāṭibī, n.d., p. 9)**

3.5 Balancing Benefits and Harms:

3.5.1. Definition of Balancing Benefits and Harms:

This is an ijtihād-based method in which conflicting benefits and harms are weighed in order to prioritize the dominant and overriding interest over the weaker,**(Al-Shāṭibī, n.d., p. 24)** outweighed one. Scholars have outlined three methods for balancing benefits and harms:**(Al-Zuḥaylī, 2006, p. 414)**

First: Balancing Between Conflicting Benefits:

When multiple benefits exist, if it is possible to obtain all of them, then all should be attained. If obtaining them all is not possible and they cannot be combined, then preference must be given to one over the others based on specific recognized criteria.**(Al-Wansharīsī, 1980, p. 320)**

Second: Balancing Between Conflicting Harms:

When multiple pure harms occur together, if it is possible to eliminate all of them, then all should be removed. If eliminating them all is not possible, then the greatest and most severe harm is avoided first, followed by the next greatest, and so forth.**(Al-Raysūnī Q. , 1434 AH, p. 234)**

Third: Balancing Between Benefits and Harms:

When benefits and harms coexist, then if it is possible to obtain the benefits while avoiding the harms, this is what must be done.**(Ibn al-Qayyim, n.d., p. 32)**

In general, this regulating principle serves as a mechanism to realize the greatest objective of the Sharīʿah: achieving benefit and preventing harm. Its significance lies in its ability to secure benefits and avert harms from people.

3.5.2 Regulating Fatwa by Balancing Benefits and Harms:

This means that the mufti must exert effort to weigh and compare benefits and harms according to the established rules of balancing, striving to achieve benefit and prevent harm to the greatest extent possible. Muftis have consistently adhered to this principle in their fatwas.

Among these examples is the fatwa of IbnTaymiyyah permitting a warrior to plunge into the ranks of the enemy if doing so brings benefit to the Muslims.Although a Muslim taking his own life is more serious than causing the death of another, the benefit of protecting the religion—which cannot be achieved except through such an act—and repelling the harm posed by an enemy who threatens both religion and worldly life, which likewise cannot be repelled except through this, outweighs the personal benefit of preserving one's individual life. Thus, this ruling was governed by balancing between the benefit of preserving the religion and the benefit of preserving life. Had the mufti focused solely on the preservation of life, he would have issued a prohibition, thereby neglecting the greater benefit of preserving the religion, which takes precedence.

Another example is the fatwa of Ibn ʿAtāb regarding the open space or courtyard adjacent to a mosque and whether it may be used to build shops. He responded: "As for the congregational mosque, no shops should be attached to it if the surrounding area is its courtyard, because it is used for prayer when the mosque becomes overcrowded or for holding the

mounts of the worshippers. Building shops would alter its established function, and this is the nature of congregational mosques."**(Al-Shāṭibī, Al-Muwāfaqāt, n.d., p. 57)**

In this fatwa, Ibnʿ Atāb balanced between differing levels of benefit. He prioritized the benefit of worshippers—expanding their space for prayer—over the financial benefit of building shops to generate income for the mosque. Thus, he gave precedence to the benefit of facilitating worship over the benefit of increasing revenue, thereby prioritizing the preservation of religious practice over the preservation of wealth.

As for balancing between harms, consider the fatwa of Ibnʿ Arafah concerning damage caused to crops and fruit trees by animals that cannot easily be controlled, such as bees, pigeons, and chickens. He ruled that the owners of these animals must prevent them, stating:"The correct opinion is to rule according to the view of Muṭarrif and IbnḤabīb, even though it contradicts the opinion of Ibn al-Qāsim, because preventing the owners of the animals is a lesser harm than the harm experienced by the crop owners. The latter cannot protect their crops, whereas the owners of the animals can clip their chickens and geese and can easily forego small birds. Therefore, when two harms occur together, the lesser of them is undertaken."

In such matters, the fatwa must be regulated by the principle of balancing harms when they coexist. The mufti cannot reach the correct ruling without applying this balancing.

To satisfy the requirements of modern Ijtihād, three key regulating principles must be established:

1. The Principle of Interdisciplinary Validation (Tahqīq al-Manāṭ al-Mushtarak)

Modern Nawāzil (new issues) are multidimensional. A Mufti cannot independently assess the Gharar (uncertainty) in a digital asset or the safety of a bio-engineered product.

The Regulation: It is mandatory for the Fatwa process to include a "Technical Impact Assessment" from subject matter experts (Scientists, Economists, or Engineers) as a core pillar of the ruling (Hassan &Muneeza, 2023).

2. The Principle of Global Maṣlaḥa and Digital Image

In a borderless digital world, a fatwa issued in one region can have global repercussions.

The Regulation: The Mufti must consider the "Universal Impact" of the fatwa, ensuring it does not bring disrepute to Islam or cause collective harm to the global Muslim community (Hifz al-Dīn on a global scale).

3. The Principle of Proactive Stewardship (Maqāṣid al-Istishrāf)

This principle shifts fatwa issuance from "Reactive" to "Proactive." Instead of waiting for a crisis, the Maqāṣid framework directs the Mufti to provide ethical guidelines for emerging technologies (Auda, 2022).

4. Contemporary Applied Examples Demonstrating the Fatwa Methodology Based on Maqāṣid-Based Regulating Principles:

4.1. The Issue of Artificial Insemination:

4.1.1. Meaning of the Issue and Its Ruling:

4.1.1.1. Meaning of the Issue:

In the present era, new methods have been developed for couples who are unable to conceive through natural marital relations—the method established by God Almighty. This newly introduced method, known as artificial insemination, refers to "taking the man's semen and injecting it directly

into the woman's vagina, or taking the man's semen, placing it in a test tube, and then implanting it into the womb." Artificial insemination thus involves the intervention of a third party in the fertilization process.

4.1.1.2. Its Ruling:

Contemporary scholars have unanimously agreed that all forms of artificial insemination are prohibited—prohibited in and of themselves, not merely as a means—due to concerns such as lineage mixing, loss of motherhood, and other serious implications. The only exceptions are two specific cases: one form of internal artificial insemination and one form of external artificial insemination.**(Al-Rukkī, 1994, pp. 336-337)**

4.1.2 Explaining the Methodology Behind Permitting Certain Forms of Artificial Insemination and Prohibiting Others According to Maqāṣid-Based Regulating Principles:

Most contemporary scholars have ruled that some types of artificial fertilization are permissible—namely**(Al-Wansharīsī, Al-Miʿyār al-Muʿrabwa al-Jāmiʿ al-MughribʿanFatāwā Ahl Ifrīqiyyahwaal-Andaluswa al-Maghrib, 1984, p. 31)**, the first form of internal artificial insemination and the first form of external artificial insemination—as alternative methods for achieving pregnancy when natural marital intercourse is not possible.**(Al-Dāghī & Al-Muḥammadī, 2006, p. 564)** This ruling was issued by considering and observing a set of maqāṣid-based regulating principles, as follows:

A. In recognition of the necessity of preserving lineage, the original rule prohibiting the exposure of private parts was temporarily set aside due to this necessity and in light of this universal objective. The Sharīʿah emphasizes the preservation of lineage and prohibits its loss. For this reason, scholars permitted these specific forms of artificial insemination to safeguard the universal objective of preserving lineage—meaning, in observance of the Lawgiver's intent in legislating reproduction, which is the preservation of progeny.

B. The outweighing benefits resulting from this process were given precedence over the harms—harms which those who prohibited it initially emphasized. These benefits include bringing joy to couples who are unable to have children, granting them a child that brings comfort and emotional fulfillment; contributing to the population of the Muslim community, whether as natural expansion or as compensation for losses caused by war; and most importantly, preserving lineage. This benefit outweighs the potential harms, especially given that the permissibility of artificial insemination is bound by clear conditions and safeguards intended to prevent such harms.

C. Using this alternative method—within its regulated conditions—removes hardship from couples experiencing infertility. (Al-Kaylānī, 2001)Living without children brings difficulty, emotional strain, and severe psychological distress. The longing for offspring is an innate human inclination placed within human nature.

Thus, by considering and applying a set of maqāṣid-based regulating principles when issuing fatwas related to artificial insemination—and specifically regarding the forms deemed permissible—scholars issued rulings permitting them.

At the same time, scholars unanimously prohibited all other forms of artificial insemination because such practices are intrinsically prohibited—not merely prohibited as a means—based on the maqāṣid-based regulating principles that guide fatwa issuance. **(Al-Bār, 1986)** These forms lead to outcomes in which harms outweigh benefits, such as the risk of lineage mixing or the loss of family identity—both of which relate to essential objectives that the Sharīʿah protects and strictly upholds. **(Bassām, 1986)(Al-Kaylānī, 2001, p. 23)**

4.2 Conducting Contracts Through Modern Communication Technologies:

4.2.1. Meaning of the Issue and Its Ruling:

4.2.1.1 Meaning of the Issue:

The use of technology in commercial transactions, in courts, and by some people in concluding marriage, divorce, revocation of divorce, and other matters.**(Al-Qaḥṭānī, 2010, pp. 628–632)**

4.2.1.2 Its Ruling:

Fiqh academies have declared the validity of conducting contracts through modern communication tools—including computers—and have clarified the rulings related to such transactions.

4.2.2 Explaining the Fatwa Methodology Affirming the Validity of Contracts Conducted Through Modern Communication Technologies According to Maqāṣid-Based Principles:

The general rule governing contracts between two parties requires the unity of place (ittihād al-majlis), except in cases such as wills, bequests, and agency. It also requires conformity between offer and acceptance, as well as continuity between the two**(Al-Bāḥisīn, 2007, p. 199)**. However, this requirement was set aside to permit contracting through writing and correspondence, based on several maqāṣid-based considerations.

This permissive ruling embodies significant facilitation and ease in transactions, enabling their faster completion, protecting wealth from loss, and preserving one of the universals of the Sharīʿah. The benefits of allowing contracts through modern technological means outweigh the harms that may result from restricting transactions to in-person meetings. This is especially the case because the permissibility is regulated by specific conditions and safeguards that are capable of preventing corrupt outcomes such as forgery, fraud, or error.

Additionally, this ruling removes hardship from many contracting parties who are unable to gather in a single physical location—particularly given today's reality, in which transactions are conducted across countries and continents with remarkable ease and convenience. This reflects a clear manifestation of facilitation and the removal of hardship.

Thus, observing these maqāṣid-based regulating principles had a decisive impact on affirming the validity of conducting contracts through modern communication technologies. Their permissibility aligns with the objectives of the Sharīʿah, as the benefits resulting from such transactions outweigh any potential harms. This method also facilitates dealings and offers flexibility—especially for those unable to meet in one place.

And there are many Contemporary unprecedented issues (Nawāzil)) necessitate rigorous investigation and a collective legal effort (IjtihādJamāʿī) to accurately identify their context (Tahqīq al-Manāṭ). This requires an interdisciplinary collaboration between Sharia jurists and experts from various relevant fields. Such as:

1. Generative AI and Intellectual Property (Hifz al-Māl& Al-ʿAdl)

The Challenge: Using copyrighted data to train AI models and the ownership of AI output.

Maqāṣid Analysis: Applying the principle of Justice (Al-ʿAdl), a contemporary fatwa regulates AI by protecting the "Human Effort" of original creators. The goal is to encourage innovation while preventing "Digital Theft," fulfilling the objective of Hifz al-Māl (Preservation of Wealth/Property).

2. Cultured (Lab-Grown) Meat (Hifz al-Nafs& Environmental Maqāṣid)

The Challenge: Meat produced from cells without traditional slaughter.

Maqāṣid Analysis: Moving beyond the literal requirement of Dhabīḥah, the Mufti looks at Food Security and Environmental Preservation. If the meat is Ṭayyib (pure and healthy) and reduces global hunger, the principle of "Maximizing Benefit" (Takthīr al-Maṣāliḥ) suggests permissibility (Mohamed, 2025).

These Contemporary unprecedented issues (Nawāzil

5. Conclusion:

By the grace and success granted by God, this study has reached a number of findings, the most significant of which are:

– The intended meaning of maqāṣid-based regulating principles for contemporary fatwa issuance in this research is: the standards and constraints that express the wisdom and purpose established by the Lawgiver to be observed during ijtihād when formulating various rulings—principles that ensure greater precision and discipline in the fatwa process within the era in which we live.

– Maqāṣid-based regulating principles play an important role in the fatwa process, serving as the resource and the criterion that ensure greater accuracy in issuing fatwas.

– The mufti must observe, in his fatwas, the Lawgiver's purpose behind legislating various rulings, particularly the preservation of the five universals (al-kulliyyāt al-khams): religion, life, wealth, lineage, and intellect.

– The mufti must also regulate his fatwa by the principle of ease and the removal of hardship when a certain degree of difficulty necessitates such facilitation, alleviation, and relief.

– Considering the consequences and outcomes of actions is a highly significant regulating principle emphasized by the Sharīʿah during the examination and issuance of rulings. Mechanically applying rulings without considering potential outcomes may undermine the objectives of the Sharīʿah.

– Therefore, the mufti in this era must strive to understand the intention of the mukallaf, ensuring that legal rulings achieve their intended objectives and lead to the best possible outcomes. Whatever aligns with the Lawgiver's intent is required; whatever contradicts it is rejected and treated contrary to its intention.

– The mufti must also regulate his fatwas by balancing conflicting benefits and harms, giving precedence to the dominant and outweighing interest over the weaker, outweighed one.

-The Mufti must adopt a Multi-disciplinary approach to accurately "Realize the Ratio Legis" (Tahqīq al-Manāṭ).

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