



THE CHANGE OF TIME AND PLACE AND ITS IMPACT ON THE CHANGE OF FATWA

(CONTEMPORARY APPLIED STUDY)

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Abstract

This study is concerned with a contemporary, applied, and fundamental investigation of the issue of fatwa change and its impact on the change of time and place, with the assertion that Islamic jurisprudence is not rigid on the transmitted and that this change occurs on rulings based on diligent principles. Following the definition of the rules and grounds for this shift, we will analyze what the word “change of time and place” means and how it affects the fatwa, using examples from current culture. The researcher used an inductive-deductive approach to write the research. And reached various conclusions and recommendations, the most essential of which are that the change in the fatwa has controls that must serve the legislative aims and the interests of the people, so it is not governed by whims and does not diverge from what the legislator intends. Similarly, the revision in the fatwa has a lawful basis, because the judgement would have required suffering and harm to people, and the ruling would have broken Sharia laws that are based on mitigation, facilitation, and warding off harm and corruption.

Keywords: fatwa, jurisprudence, change of fatwa, change of time, change of place.

INTRODUCTION

The issue of a fatwa is one of the most significant things that the nation should be concerned about, and it should be aware of the hazards of its practice, whether in terms of the eligibility of those who lead it or the standards that must be followed in issuing it. And among God Almighty's favors to this nation and His mercy to the servants is that He made the Muhammadan Sharia valid for all times and places, taking into account the interests of the servants in the pension and the hereafter, by which the people's condition is corrected and their affairs are straightened, and by its absence, their conditions deteriorate and become turbulent.

As a result, it is not surprising that the tolerant Sharia takes into account the conditions of time, place, and cultures, as everyone who has studied its goals recognizes. Scholars have discussed and described this extensively in their works, and they have proven it with proof from legal documents and what was related by the righteous forebears. As a result, one of the most important things for the mufti to consider is the requirements for changing the fatwa, which were stipulated by the nation's scholars' investigators, and as a result, the fatwa changes to what suits the time, place, custom, and situation, in accordance with the purposes of the legislation.

As a result, this research (a contemporary applied original study) is an attempt to highlight the meaning of the change of the fatwa and its controls, to indicate the type of provisions subject to



change, and to indicate the justifications for the change of the fatwa, including the change of time and place, by tracking the sayings of fundamentalists and the inherited and contemporary jurisprudence.

THE IMPORTANCE OF THE RESEARCH AND THE REASONS FOR ITS SELECTION

The modification of a fatwa based on good jurisprudence is regarded as one of the pillars of Islamic law and a sign of its adaptability and universality. The relevance of research and the lack of stagnation of Islamic law in its transmission can be found in the following points:

1. The urgent need that necessitates a review of fatwas, given the many changes taking place in the era.
2. The specificity of each country, which has a great impact on the fatwa, is due to the fact that each era and country has its own needs and circumstances, which necessitate the existence of provisions that suit their situation.
3. Highlighting the danger of those who deceive religion without considering the purposes of legislation and the reasons for rulings.

PREVIOUS STUDIES

1. The principle of changing the fatwa according to the change of time and conditions and its impact on clarifying the ruling on contemporary jurisprudential issues, Prof. Rashad Saleh Al-Kilani.
2. Fatwa change, Prof. Waleed bin Ali Al-Hussein.
3. The effect of the rule of changing the fatwa according to the change of time and circumstances, Prof. Ahmed bin Bakr Al-Bakri.

In developing this research, the researcher profited from and relied on them and others.

STUDY NOVELTY

It is a collection of fragments on the subject, as each prior study was concerned with the alteration of the fatwa from a specific jurisprudential standpoint. My research was a compilation of images of the change of time and location that operated in the change of the fatwa, as well as the applied side that I added, which is contemporary examples of the change of the fatwa with the change of time and place.

METHODOLOGY

1. The researcher used an inductive-deductive approach, resolving to read what jurists stipulated in their books regarding the fatwa, as well as books of jurisprudential rules and books written in the provisions of the fatwa in particular -- ancient and modern -- to extract what is related to the research in terms of sayings and rulings. Because the research focuses around them, the study was limited to what is connected to two explanations for the change of the fatwa, namely the change of time and the change of place, and their impact on the change of the fatwa.
2. Attributing the verses to the Qur'an by referring to the surah and verse number. The researcher extracted the hadiths from their sources, noting the hadith number and the book in which the hadith was found.

3. Some jurists' works were quoted to support and enrich the material included in the research. And the researcher completed the investigation with a conclusion in which he gave the study's findings as well as a review of what had been discovered in this research, as well as the most essential recommendations.

RESEARCH STRUCTURE

This research is divided into an introduction, two sections, and a conclusion, as follows:

- **Preface:** It includes two requirements:
- **The first requirement:** the definition of the fatwa and related terms.
- **The second requirement:** the meaning of changing the fatwa and its controls.
- The first section: the changing provisions and their connection to the fatwa, the extent of the need for change in the fatwa, and the justifications for changing the fatwa, which include three requirements:
- **The first requirement:** the provisions that are subject to change and their connection to the fatwa.
- **The second requirement:** the extent of the need for change in the fatwa.
- **The third requirement:** justifications for changing the fatwa.
- The second section: the impact of the change of time and place on the change of the fatwa, which includes two requirements:
- **The first requirement:** the change of the fatwa according to the change of time and its contemporary applications.
- **The second requirement:** the change of the fatwa according to the change of place and its contemporary applications.
- **Conclusion:** It includes the most important results and recommendations.

PREFACE

The first requirement: definition of the fatwa and related terms.

The second requirement: the meaning of the fatwa change and its controls.

THE FIRST REQUIREMENT

DEFINITION OF FATWA AND RELATED TERMINOLOGY

First: the linguistic definition of the word fatwa: noun of action (infinitive) *afta yofte ifta'an* (أفتى) (يفتي إفتاء): The scholar issued a fatwa: If he clarifies the ruling. *istaftaitho* (استفتيته): asked him to give a fatwa (Al-Fayrouzabadi, 2005). Ibn Alatheer, in his book *Al Nihaya fe Ghareeb al Hadeeth*, said, "The scholar gave a fatwa in a matter of *aftah* (افتاه) and *yofteeh* (يفتيه) i.e., issued a fatwa, the singular Al-Fatwa (Ibn al-Atheer, 1979), and the plural *Fatawa*, *Fatawe* (). There is also a fatwa and a *fotya*. Ibn Faris mentioned that "Al-Fa'a (ف), Ta'a (ت), with an Arabic vowel (أ،و،ي), form two origins: one of them indicates freshness and seriousness, and the other indicates the clarification of judgment" (Ibn Faris, 1979). The fatwa is a clarification of the problem from the rulings, which is derived from the word *fata*, (فتى) meaning a young man who has grown up and become strong, so it is as if the mufti strengthens and rectifies what is problematic. *Al istifta'a* (الاستفتاء): is the request for an answer to a certain problematic matter (Ibn Manzoor, 1994). Allah said in the Qura'an: (And say: God will give you fatwas regarding them) (An-Nisa: 127)—that is, He clarifies to you the ruling of what you asked about (Al-Qurtubi, 2003).



Idiomatically: There are definitions of fatwa in similar terms, including:

- Reporting a legal ruling in a non-compulsory manner (Al-Hattab, 1977).
- The answer to what constitutes judgments (Al-Isfahani, 1999).
- Clarifying the legal ruling on the basis of evidence for those who asked about it, and this includes asking about facts and others (The Kuwaiti Encyclopedia of Jurisprudence, 1995).

These and other definitions show that they almost all agree on one interpretation of the fatwa, with minor differences in some phrases. They are all quotations from the linguistic meaning, which is the questioner's response to a ruling or legal question, with the term (not obligatory) added to distinguish it from the judiciary.

Second: Terms that are related Because the judiciary and ijthad are intimately tied to the fatwa, the researcher summarized the words in them, demonstrating their relationship to the fatwa, as follows:

1. **Judiciary (al qada'a القضاء):** The word judiciary is derived from the verb judge (qada قضى), which has many meanings, the most famous of which is judgment (al hokm الحكم). i.e., the judge has decided the final judgment. The word judiciary in the language is in many ways a reference to the finalizing of something and its completion, and everything that is finally established, completed, sealed, performed, obligated, informed, implemented, or passed (Al-Fayrouzabadi, 2005). And as for terminology, the jurists defined the judiciary with many definitions, which are almost similar in meaning, but their expression differed due to the difference in their views, and among these definitions:
 - Ibn Rushd defined the judiciary by saying: "Information of a legal ruling by way of compulsion" (Ibn Alish, 1989).

Other definitions of the judiciary exist among jurists, but all agree that the judiciary is the obligation of disputing parties and all people to Sharia law and its enforcement on them. In terms of the fatwa's relationship with the courts, they both share in informing about legal rulings, but they differ in ways that can be stated as follows:

- The fatwa is a manifestation of Sharia law on a certain incident and what is similar to it. Its ruling is universal (transitive), and the person who issued it is qualified to do so. As for the judiciary, it is also a manifestation of the Sharia law in the dispute from those who are qualified to judge, and it does not transcend it to another (limited) litigation, i.e., a specific ruling on a specific person.
- The fatwa is not obligatory; a person may follow it or not, and he or she may seek another fatwa. while a judiciary considers it obligatory (Al-Qarafi, 1994).

2. **Ijtihad (اجتهاد) linguistically** means exerting effort in order to seek a certain matter, (Ibn Manzoor, 1994), the word (اجتهاد) is derived from (الجهد al-johd), which is the energy. Allah says in the Qura'an: (And those who find nothing but their efforts (Al-Tawbah: 79). Al-Isnawi said: "Ijtihad is an expression of exhausting one's capacity in obtaining something, and it is not used except in what involves cost and hardship. Idiomatically, it is making every effort to obtain a practical legal ruling by way of deduction (Al-Asnawi, 1999).

A way of deduction: includes acquiring decisions from the texts openly, or by memorizing previous similar circumstances, or by questioning the Mufti, or by revealing them in fatwas, hadiths, and



Qura'n texts, therefore the term *ijtihad* is linguistic, not idiomatic (Al-Zarkashi,2000). The following demonstrates the relationship between *ijtihad* and *fatwa*:

1. The connection between *ijtihad* and *fatwa* is tight, because *ijtihad* is the *fatwa*'s manner of dealing with emergent concerns, but they differ in that *ijtihad* is only for matters and speculative decisions, but *fatwa* is definite and presumptive.
2. *Ijtihad* is unique in that it focuses on matters that require thought and reflection. It is limited to tough issues, as opposed to *fatwas*, which cover all concerns, whether stipulated or inferred from them, and whether they are clear and obvious or obscure and hidden.

THE SECOND REQUIREMENT

THE MEANING OF CHANGING THE FATWA AND ITS CONTROLS

First: The meaning of the fatwa change Change (at tagaior التغيُّر) in language is the defective form of the verb (tagaior تَغَيَّرَ), which is an indication of the difference of two or more things (Ibn Faris, 1979). The change of something from its state is called transformation. And to change it (to transform it) (Ibn Manzoor,1994). To change something is to make it different (Al-Fayoumi,1996). Therefore, al-Jurjani defined it as the transition of something from one state to another (Al-Shatby,2004).

In terminology: Through the study of jurists' writings, it is discovered that they did not stipulate a definition of the phrase (changing of *fatwa*), but rather stated that judgements without a text, as well as *fatwas*, change with time, place, situations, and customs. (Al-Shatby,2004).

Among the contemporary definitions of the *fatwa* change are:

- That the *fatwa* differs in explaining the ruling on one issue from one situation to another, or from one person to another, or from time to time, or from one custom to another (Researches of the *Fatwa* Conference and its Controls, 2009).
- It is the movement of the *mujtahid* (jurists) from one ruling to another due to a change in the form of the issue, or the unreliability of the one who issued the first ruling, or its expiration, or the emergence of a legitimate interest, or to block a pretext for corruption, or to remove embarrassment, accompanied by the legal principles, the observed causes, and the interests that are labelled by the will of God Almighty and His Messenger (Researches of the *Fatwa* Conference and its Controls, 2009).
- The ruling was transformed into another ruling for a legitimate reason, in accordance with the purposes of the legislation (Seminar Research,2011).

DEFINITION EXPLANATION:

- The statement (the ruling is turned into another ruling) means that the ruling changes from one to another, like if it goes from obligation to prohibition or from prohibition to permissibility.
- a legitimate cause: To demonstrate that the ruling has changed for a reason that demands modification and that it is a legitimate reason, any change that is not accompanied by a legitimate reason is not considered.
- in accordance with the purposes of the legislation: to demonstrate that the change occurred in accordance with the purpose of the lawgiver from the provisions that achieve



the interests of the people and protect them from harm, so the change that contradicts the Sharia purposes is not acceptable and will be canceled.

It must be said that the change in the fatwa is divided into two parts, according to the circumstances leading to:

1. Change for the better (the evolution of the fatwa), through:
2. Arriving at the provisions of the renewed facts.
3. Directing attention to the facts by realizing interests and warding off harm.
4. Finding collective diligence in fatwas through councils and conferences is necessary to achieve the legitimate objective of cooperation in righteousness and piety, to avoid error as much as possible, to show correct opinions, to distance fatwas from excess or negligence, and to benefit from all the opinions presented.
5. Change for the worse (indulgence in the fatwa), through:
6. Leniency in seeking evidence and methods of ruling, negligence in research, haste in answering out of ignorance, and referring to God without knowledge.
7. Leniency in asking for permissions, opening the door to interpretation, twisting and distorting texts, concealing the truth, or responding to people's desires and the pressure of reality.

SECOND: RULES FOR CHANGING THE FATWA

Because the mufti is an interrupter of God's orders, it was necessary to put controls in place to change the fatwa, so that it is rooted in a legal basis, not governed by whims, and does not deviate from what the legislator wants. A Muslim cannot amend the fatwa to suit his personal preferences. The most essential of these safeguards are:

1. the change in rulings based on diligent principles, such as interest, custom, and others. As for the legal textual rulings, they are fixed and do not change with the passage of time or with changing circumstances and place (Al-Zarqa, 1968).
2. taking into account the purposes of the Sharia in the change and not deviating from it, and moving from one destination to another that the Sharia called for.
3. The availability of the reasons calling for change invites the mujtahid to reconsider the perceptions of rulings, and if he or she ascertains the weakness of the perception, or its disappearance, or the weighting of others over it for a legitimate interest that is not imaginary, then he or she considers changing the fatwa, relying on the legal evidence, away from desire, aims, or prejudice.
4. That the change in the fatwa be limited to the scholars, so no one has the right to dispute this matter with them or interrupt God's orders without knowledge.
5. taking into account the time, place, and custom, so the scholar must have knowledge about the country and the customs of that country before issuing a fatwa, because a fatwa must accommodate the customs of a particular country or people and may differ from one to another.

Based on the foregoing, it can be said that the fatwa changes, if that is required, within these controls because this Sharia is the Sharia of every time and place, so its texts and rules are flexible and applied at every time and place and in every case, without prejudice or neglect.

THE FIRST SECTION



The changing provisions and their connection to the fatwa, the extent of the need for change, and the justifications for changing the fatwa

THE FIRST REQUIREMENT

THE CHANGING PROVISIONS AND THEIR RELEVANCE TO THE FATWA

Among the rules based on the change of jurisprudence: **The fatwa changes with the change of time and place rule.**

Anyone may understand that this rule can be applied to all rulings, whether established by the legal text or by methods of *ijtihad*, but this generality is not intended by the concept of the rule. As it is established among general jurists and scholars, rulings, with regard to the occurrence of change in them or not, are of two types:

THE FIRST TYPE: TEXTUAL JUDGMENTS:

They are the regulations established by the Holy Qur'an and Sunnah, which Sharia eventually came to establish in its original writings. These clauses cannot be amended or altered since they have stood the test of time. Scholars represent these rules in two ways: through the rulings of faith and worship and the prohibition of taboos such as usury, adultery, drinking alcohol, and theft; and through the Sharia-prescribed restrictions on crimes, such as the obligation of mutual consent in sales contracts, among others. These provisions are not subject to change or modification and are not subject to keeping up with reality and the evolution of the times since their purposes do not change, being among the constants that are intended to defend the Sharia's purposes as they never alter from their status (Al-Zarqa, 1968, Al-Shatby, 2004, Haider, 1991,). For example, it is not permitted to argue that the fasting rule should be amended to encourage output or that usury is permissible owing to the need for it and the passage of time, all under the guise of amending the fatwa with the passage of time.

THE SECOND TYPE: IJTIHAD RULINGS OR PROVISIONS.

These are the decisions established by *ijtihad* based on evidence, such as analogy, interest, or others. These provisions are subject to change as required by the interest in accordance with the Sharia's purposes, so the mufti looks at what achieves the interest or wards off the corrupt, so it changes according to what the interest requires in time, place, and situation (Al-Zarqa, 1996).

As a result, fatwas based on a specific custom or meaning, or in a specific situation, if these conditions and customs change, the rulings change, and thus the fatwa changes to what suits people's conditions, needs, customs, time, and place, without contradicting the legal texts. Furthermore, altering the fatwa is permitted under Islamic law, and the companions did so, therefore their fatwas altered in some discretionary rulings as a result of changes in situation, time, place, and tradition.

THE SECOND REQUIREMENT

THE NEED TO CHANGE THE FATWA

Adopting the rule of altering the fatwa based on time and place is a sign of Islamic law's flexibility in absorbing growing challenges and happenings and keeping up with scientific development at any



time and place it occurred. The truth is that legal judgements that change with the passage of time and place, no matter how much they alter, share one basic legal principle: the realization of rights, the provision of benefits, and the prevention of corruption.

The change in judgments is just a shift in the tools and techniques by which the lawgiver achieves his or her aim. These means and procedures are largely not defined by Islamic Sharia, but rather left absolute in order to choose what is the most appropriate in terms of organization as a product and the most successful in rectifying the treatment at any time and place (Al-Zarqa, 1996). As a result, it was obligatory on Muslims and their jurists to keep up with the advancements and changes brought about by reality and not to obstruct any scientific progress that would benefit humanity and achieve public good.

Similarly, whoever issues a fatwa must understand that one of the purposes of Sharia law is to legislate for judgment and meaning to be applied to people's conditions, which may change with the change of their customs, circumstances, times, and locations, as the provisions are closely related to people's conditions, reality, and general morals.

THE THIRD REQUIREMENT

JUSTIFICATIONS FOR CHANGING THE FATWA

The provisions subject to change mentioned in the well-known rule (it is not denied that the provisions change with the change of times) are discretionary rulings based on interests and benefits, and they are subject to alteration and change with the change of time, place, situation, or any of the factors that affect the change of interests. The change of the fatwa tries to retain the legislative purposes, which is that each incidence takes its legal decision in a way that achieves the foundation of the judgments, and then the fatwa is modified by modifying the basis in order to achieve the legislator's purpose. The jurists defined in their books numerous reasons for modifying the fatwa (Al-Zarqa, 1996, Al-Qarafi, 1998), and they considered it among the causes for changing the fatwa, as stated below:

1. **Changing customs and traditions:** revising the custom on which the fatwa is based is one of the requirements for revising the fatwa. Customs change, habits renew, and a change in custom necessitates a change in rule to reflect what the renewed custom necessitates, because custom has an impact on Sharia judgments. According to Al-Qarafi, "the rulings arranged on returns follow returns and change when they change" (Al-Qarafi, 1998). As a result, the mufti must take into account changes in customs and customs, so that he does not issue his fatwa based on what was transmitted in the books of jurists, but rather looks at people's customs and customs in order to achieve the purpose of rulings, which is to bring interest and ward off corruption.
2. **Changing the jurisprudence (al Ijtihad):** A change in the mufti's diligence is one of the arguments for amending the fatwa, which indicates that the mufti issues a fatwa, then retracts it and issues a new fatwa opposed to it for a reason that necessitated a change in the jurisprudence. The change in the mujtahid's diligence has a significant impact on the change in the fatwa since the mufti's fatwa is influenced by his nature, methodology, reality, society, and surroundings, as well as his foresight and maturity of thinking. And because the expansion in knowledge has an effect on the fatwa (Researches of the Fatwa Conference and its Controls, 2009), the mufti's diligence varies as the causes that need the change in diligence change.



3. **Changing interest:** Changing the face of interest is one of the justifications for changing the fatwa, and it is definitive among Muslim scholars and their general public that the purpose of the lawgiver is to achieve the interest of the people sooner or later, and thus they decided that Sharia is based on achieving an interest that does not conflict with the texts of Sharia and its colleges and judgments. And, because the interest is prone to change, the judgements based on it change and change with it. (Ibn Qayyim, 1991).
4. **Change of fate:** One of the justifications for changing the fatwa is that the interest or corruption that the ruling leads to changes, so what was conducive to an interest is prevented if it becomes corrupt, or the act did not achieve the purpose for which it was legislated, and what was conducive to corruption becomes permissible or legitimate if it becomes conducive to interest, and this is a large chapter in the fatwa. Because a change in the outcome of the action needs a modification in the fatwa, a fatwa is issued to prevent the lawful or permissible conduct from becoming detrimental or causing the loss of a more significant interest. Or if perseverance in the lawful deed leads to corruption, lest it be used as a pretext for anything forbidden, such as believing something is required or taking a sunnah that is not a sunnah (Researches of the Fatwa Conference and its Controls, 2009).
5. **The passage of time:** The passage of time is one of the grounds for the change in the fatwa, and we will discuss it in the next issue because that is the center of the inquiry.
6. **modifying the location:** One of the reasons for modifying the fatwa is a change in location, which will also be mentioned in the following section.

This topic's conclusion is that Islamic law is, by definition, subject to change, development, renewal, and non-stagnation on the movables. And many of the rulings and fatwas based on ijtihad that achieve the interest in a given time, location, and circumstance are subject to change in line with another period, place, and scenario. If the verdict stood, it would cause people pain and harm, and it would contravene Sharia laws that are focused on mitigation, facilitation, and warding against harm and corruption.

THE SECOND TOPIC

THE EFFECT OF THE CHANGE OF TIME AND PLACE ON THE CHANGE OF FATWA

It includes two requirements:

The first requirement: the change of the fatwa according to the change of time and its contemporary applications.

The second requirement: the change of the fatwa according to the change of place and its contemporary applications.

It is well understood that time and place have a tangible and clear effect on the fatwa, as times and places differ, and it is very difficult to apply all of the legal provisions that existed at one time to other people who differ in the environment and circumstances, so the change of the fatwa and its change with the change of time and place is a clear indication of the law's perfection. And its applicability for all times and places, as well as its incorporation of developments and keeping up with the scientific phase, in accordance with legislative objectives, as Islamic jurisprudence is refreshed and not frozen, and it deals with:



THE FIRST REQUIREMENT

FATWA CHANGES ACCORDING TO THE CHANGING TIMES, AND ITS CONTEMPORARY APPLICATIONS

One of the justifications for changing the fatwa is the change of time, and by that he means the change of the people of the time.

First: the fact that time changes. The change in time is due to two things:

1. **Time corruption:** The change in time that needs the changing of the fatwa may emerge from the corruption of people, the fall of their morals, the loss of scruples, and the weakness of piety, which leads to a change in rulings to reflect and avoid this corruption. (Al-Zarkashi, 1998). As a result, later jurists of various schools of thought issued fatwas on many issues that contradicted what their schools' imams and early jurists issued, and these later scholars claimed that the difference between their fatwas and those of those who came before them was due to time and moral corruption. So, if the first imams lived in the later ones' era and saw the corruption of time and morals, they would return to what the later ones issued fatwas (Ibn Abidin, 2013), as the famous saying passed down from the later ones to the schools is: It is a difference of era and time, not of argument and proof (Ibn Abidin, 2013, 2000). This idea is evidenced by the Companions' jurisprudence, which changed some judgements in light of the corruption of the period, notably.
 - **Third Irrevocable Divorce** It used to happen just once during the time of the Prophet and Abu Bakr, as well as the first two years of Omar's caliphate, so when the people of the time got corrupt and proliferated by swearing by divorce, and they followed suit, Omar signed it three times, not once. Saying: The people have hurried in a matter where they had patience, therefore if we had passed it on them, he would have passed it on them (Al-Nisaburi, 1972).
 - **Alcohol drinking punishment:** When he saw people preoccupied with drinking, Omar doubled the limit of the drinker's permission to discourage them from drinking (Al-Bukhari, 1997).
2. **Evolution of time:** The occurrence of organizational conditions may cause a change in time, and new time means things of importance such as legal orders, administrative arrangements, economic procedures, and so on (Al-Zarqa, 1968). This type, like the first, requires the change of the fatwa that was decided before it if it becomes inconsistent with this development, in order not to harm those who are responsible and to demonstrate that Sharia is free of tampering, as it is the organization for people's lives in all times and places. Here are several examples:
 - **Handing over the sold property:** It is common knowledge that giving over the property to the buyer occurs only by unloading the property and physically handing it over to him, or by allowing him to hand over his key, and so on. However, as time and real estate records progressed, it became clear that delivery occurs as soon as the contract is registered in the real estate registry (Al-Zarqa, 1968).

SECOND: CONTEMPORARY APPLICATIONS ON THE CHANGE OF FATWA ACCORDING TO THE CHANGE OF TIME.

1. **Contracting (concluding contracts) by telephone and other modern means of communication:**



The principle of contracting is that it takes place between two people who are present, and then it is required that the contract council be united, as well as the rest of the contract's pillars and other conditions, and contracting can take place between absentees through writing or an agent, but the question that arises is: What is the ruling on making contracts through modern means of communication (such as telephone, fax, internet, and other means of communication) that have been produced by the evolution of time and scientific and technological development, especially since it has made it easier for many people to fulfill their needs through that?

In the past, the contract between absentees was done by writing or by the agent, but with the passage of time and its development, modern means of communication fulfilled the purpose through approval or rejection of the contract, and it is established that the cornerstone of any contract is the expression of consent and approval from the two parties. And if we looked at these means, we would find that this is achieved through them, and therefore it is issued that it is permissible to make contracts through modern means of communication. And that the ruling on it is due to the development of time within the conditions stipulated in the decision of the International Islamic Fiqh Council No. 3/52/6). In the session of its fourth conference in Jeddah in the Kingdom of Saudi Arabia from 17-23 Shaaban 141 AH, corresponding to 14-2 March 1990 CCE, regarding conducting contracts with modern communication machines, (The International Islamic Fiqh Academy, 1990). it stated that the great development that took place in the means of communication, and the fact that it is being implemented at this time, because of the speed it achieves in completing financial transactions and actions, allows the conduct of a contract between two people through the service of modern means of communication, and the contract between them is considered a contract between two attendees.

2. THE FATWA REQUIRING A MEDICAL EXAMINATION AND THE REGISTRATION AND CONFIRMATION OF MARRIAGE IN COURT RECORDS

Marriage was understood to be finished with offer and acceptance between the two parties, with no medical examination required prior to marriage. However, it has been medically proven that some diseases can be transmitted from one spouse to the other or to their children, and given the passage of time and scientific progress in the detection of these diseases, the ruling authority has the right to control the matter of marriage by requiring the obtaining of a medical certificate proving the health safety of each of the spouses.

The marriage contract was also finished through letter, so if the wife's guardian said to the suitor: I will marry you to my daughter or my client, and he accepted, and two witnesses bore witness to that, the marriage took place and is confirmed. For these and other reasons, it was necessary to reconsider changing the fatwa from what it was previously, and thus the fatwa was issued in the Kingdom of Saudi Arabia, obligating the registration and confirmation of the marriage contract in court, in order to preserve the honor, lineage, and rights of the children, given the corruption of time and the changing conditions of people. (Al-Zuhaili, 2006)

THE SECOND REQUIREMENT

THE FATWA CHANGES ACCORDING TO THE CHANGE OF PLACE AND ITS CONTEMPORARY APPLICATIONS.

One of the justifications for changing the fatwa is the change of place, and scholars, both ancient and modern, have stated that the place has an effect on changing the fatwa.



First: The fact that a place has changed What is meant by a change of place is two things:

- **Environmental differences:** Because environmental and social variables have a direct impact on fatwas, differences in the environment have a significant impact on changing legal judgements. What is usual and customary in one country may not be conventional in another, and so on. Also, environmental differences (such as heat, cold, rain, drought, and so on) The age of assignment frequently differs between hot and cold nations, thus the mufti had to account for that in his fatwa, so he asks the mufti from which country he is so that the fatwa fulfills the legislator's goal. Many facts support this principle regarding the change in some judgements as a result of a shift in location, including:
 - **Cutting off hands in battle:** Taking into account the location, the Prophet disallowed severing hands in battle (Al-Tirmidhi, 1975), lest carrying out the penalty result in restricted punishment being imposed on the infidels due to the vicinity of homeland (Ibn Qayyim, 1991).
 - **Al-Fitr charity:** The Prophet's hadith came to give a saa (a specific amount of food or goods) (Al-Bukhari, 1987), such as dates, barley, raisins, or cotton wool, scholars said: It is permissible to give charity al-Fitr from corn, rice, or others if these types are the majority of the country's food, they justified this by the fact that the types mentioned in the Prophet's hadith came because they were the majority of the people of Medina's food and did not come as a matter of limitation and allocation (Ibn Qayyim, 1991).
- 2. **Changing in the country of residence:** The fatwa for Muslims living in the House of Islam differs from the fatwa for Muslim castes living in non-Muslim countries. When a Muslim resides outside the Islamic nations, they have unique challenges in their dealings, marriages, returns in terms of food and clothes, interacting with people in joys and sorrows, voting, and so on. All of this requires the mufti, when it comes to minorities' rulings, to review his jurisprudence and take into account the reality and condition of these minorities, so that the fatwa is commensurate with place and reality, fulfilling the Sharia's purposes without embarrassment or hardship (Researches of the Fatwa Conference and its Controls, 2009) and, as a result:
 - The imams Abu Hanifa and Muhammad discussed the permissibility of dealing with corrupt contracts between a Muslim and a non-Muslim beyond the bounds of the Muslim state (Al-Sarkhasi, 1993).

Second: Contemporary applications of the change of fatwa according to the change of place:

1. FATWA REGARDING COUNTRIES IN WHICH THE SUN DOES NOT SET FOR SIX MONTHS IN TERMS OF ESTIMATING PRAYER AND FASTING TIMES:

It is common knowledge that the Sharia establishes prayer times. "And when you have completed the prayer, remember Allāh standing, sitting, or [lying] on your sides. But when you become secure, re-establish [regular] prayer. Indeed, prayer has been decreed upon the believers a decree of specified times". (Qura'n, An-Nisā, 103)

Fasting is also restricted from morning to dusk. In the case of natural conditions, this is the premise in Islamic law. And the country used to have day and night consecutively every day and year, but the question that emerges is: What is the rule of the country in which the sun rises for six months and sets for another six months, and this is a confirmed, true, and well-known matter? Does the rule of origin stay in all countries, causing pain and shame, or does Sharia take into consideration



the change of rule by altering the place, achieving the legislator's objective and making it simpler for taxpayers?

As a result, the fatwa was issued, and jurisprudence holds that this spatial change has an impact on the fatwa, so the people of these places take into account the estimations regarding the five daily prayers and fasting Ramadan, in the moderate countries closest to them, or, according to the times of Mecca and Medina, the countries in which the revelation came. (Researches of the Fatwa Conference and its Controls, 2009)

2. RULING REGARDING WODO' (A PRAYER WASH) IN THE BATHROOM (TOILETS):

People during the Prophet's time, as well as those who followed them, used to go to the toilet to satisfy their requirements because there was no bathroom in the modern sense. So, what is the main rule of the restroom as we know it now? Especially because modern bathrooms provide a spot to relieve one's self as well as a sink for ablution, bathing, and the like? The fatwa varies from place to place; thus the mufti must inquire as to what is meant by the restroom. If the restroom is solely used to relieve need and is a breeding ground for pollutants, it is hated, and the cleansing may be invalid if he is certain that the place is filthy, as the Hanafis and Malikis required (Ibn Abidin, 2000).

But if the objective is the bathrooms of today- and they are multi-purpose- then ablution is valid without animosity, and the name is provided at the start, and the *tashahhud* is given at the conclusion, as well as washing, because they have become pure and clean places. Rather, ablution was despised in them because they were the only venues for defecation and it was assumed that impurities would build up. In this way, the fatwa follows the intended location and changes as it changes.

3. CUSTOMARY MARRIAGE:

Customary marriage, which comes in a variety of forms, is one of the emerging challenges in this period. What is the ruling on customary marriage in Islamic law, according to the mufti? Because its rule differs from country to country, the fatwa in it changes according to the change of place, and below are its forms and ruling, in short:

The first type refers to a secret marriage that takes place without the presence of a guardian, in which the man prepares a paper between himself and the lady confirming that she is his wife, and two witnesses testify about her.

The second type is the ordinary marriage, which has all of its characteristics but is not officially registered with the appropriate authorities. Based on this, if the respondent inquires about the decision on customary marriage, the fatwa will be based on the location he inquires about, for example, what is meant by secret marriage in the UAE, and so it is invalid. In Syria, for example, it refers to a marriage that was not documented in court documents, and hence its ruling is that it is lawful, even if one party is missing.

In conclusion, the change of the fatwa and its replacement with the change of time and place is a clear indication of the Sharia's perfection, its validity for all times and places, its absorption of developments, and its keeping pace with development and scientific progress, in accordance with the purposes of legislation, achieving people's interests, and warding off corruption from them. This



was demonstrated by providing examples of fatwas that were based on a given period and place and subsequently amended in line with another time and place, such as:

- Jurisprudence of the Companions.
- Some contemporary applications in which the fatwa has changed according to the change of time and place.

CONCLUSION

Through my study of this research titled (The change of time and place and its impact on the change of the fatwa), the research reached a number of results, with the suggestion of some recommendations.

RESULTS

1. The fatwa is a solution to the question of what defines a ruling, and it is associated with several phrases, the most important of which are diligence and judiciary.
2. By amending the fatwa, it implies changing the judgement for a legal basis and in conformity with the aims of the legislation.
3. The change in the fatwa includes controls that must meet the legislative goals as well as the interests of the servants, so it is not governed by whims and does not diverge from what the Lawgiver desires.
4. Textual rulings do not accept change because their aims remain constant. Rather, the shift occurs in diligent rulings based on interest, analogy, and custom, which are intimately tied to temporal and geographical contexts, so they change according to what the interest requires in time, place, and situation.
5. The change in the fatwa is a legally recognized principle, as some of the companions' fatwas changed due to the need for change, because if the ruling remained unchanged, hardship and harm would be required for the people, and the ruling would contradict Sharia rules based on mitigation, facilitation, and warding off harm and corruption.
6. There are several reasons for modifying the fatwa, including custom and custom, ijthad, change of interest, fate, time, and place.
7. The fatwa evolves with the passage of time, and this evolution is caused by one of two factors: time corruption or development.
8. The fatwa changes with location, and the explanation could be: a change in the environment or a change in the dwelling.
9. There are several modern jurisprudential applications in which the fatwa changes depending on the time or place.

RECOMMENDATIONS

1. The need to review the fatwas based on jurisprudence related to time and location, so that the fatwas serve the legislative aims.
2. Calling for collective fatwas diligence through councils and conferences in order to achieve the legitimate goal of cooperation in righteousness and piety, and to avoid error as much as possible, and to show correct opinions, and to distance fatwas from excess or negligence, and to benefit from all the opinions presented.

References

- [1.] Abu Ghuddah, A. S. (1998). Decisions and recommendations of the Islamic Fiqh Academy (2nd ed.). Dar Al-Qalam.

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- [2.] Al-Asnawi, A. R. bin A. H. bin A. (1999). *The End of the Soul, Explanation of the Access Minhaj* (1st ed.). Dar Al-Kutub Al-Ilmiyyah.
- [3.] Al-Bahouti, M. B. Y. (1982). *Scouting the Mask on the Board of Persuasion* (H. Moselhi & I. Hilal, Eds.). Dar Al-Fikr.
- [4.] Al-Bukhari, A. A. bin A. (1997). *Revealing secrets about the origins of Al-Bazdawi: (A. M. Omar, Ed.)*. Dar Al-Kutub Al-Ilmiya.
- [5.] Al-Bukhari, M. bin I. (1987). *Sahih Al-Bukhari* (M. Al-Bagha, Ed.) (3rd ed.). Dar Ibn Katheer.
- [6.] Al-Fayoumi, A. bin M. bin A. Al-M. (1996). *Al-Misbah Al-Munir fi Gharib Al-Sharh Al-Kabeer* (1st ed.). Al-Asriyyah Library.
- [7.] Al-Fayrouzabadi, M. bin Y. (2005). *Al-Qamoos Al-Muheet* (3rd ed.). Dar Sader.
- [8.] Al-Harrani, A. bin H. (1961). *Description of the Fatwa, Mufti and Asker* (M. N. al-Albani, Ed.) (1st ed.). Islamic Office.
- [9.] Al-Hattab, al-Tarabulsi. (1977). *The talents of the Galilee in a brief explanation of Sheikh Khalil* (2nd ed.). Dar Al-Fikr.
- [10.] Al-Jurjani, Ali bin Muhammad bin Ali. (1987). *Definitions* (1st ed.). Dar Alam al-Kutub.
- [11.] Al-Kharshi, Muhammad bin Abdullah. (1977). *Brief explanation of Khalil* (Dr. I). Dar Al-Fikr.
- [12.] Al-Maqdisi, Abdullah bin Qudama. (1984). *Al-Mughni* (1st ed.). Dar Al-Fikr.
- [13.] Al-Nisaburi, Muslim bin Al-Hajjaj. (1972). *Sahih Muslim* (Dr. T., D. T.). Dar Revival of Arab Heritage.
- [14.] Al-Qarafi, Ahmed bin Idris. (1994). *Ath thakhera* (1st ed.). Dar Al-Gharb Al-Islami.
- [15.] Al-Qarafi, Ahmed bin Idris. (1995). *Judgment in distinguishing fatwas from rulings and the actions of the judge and the imam* (2nd ed.). Dar Al-Bashaer Al-Islamiyyah.
- [16.] Al-Qarafi, Ahmed bin Idris. (1998). *Al-Furaq* (Dr. I). Dar Al-Kutub Al-Ilmiya.
- [17.] Ibn Qayyim, Al-Jawziyyah. (1991). *Informing the signatories of the Lord of the Worlds* (investigation: Muhammad Abd al-Salam Ibrahim, 1st ed.). Dar al-Kutub al-Ilmiyyah.
- [18.] Ibn Qayyim, Al-Jawziyyah. (n.d.). *Relief from the Devil's Traps* (Investigation by: Muhammad Hamid al-Faqi, Dr. I). Al-Ma'arif Library.
- [19.] ibn Al atheer, Majd al-Din. (1979). *Alnihayat Fi Gharayb Alhadith Wal'athar* (investigation by: Taher Ahmed al-Zawy, Mahmoud Muhammad al-Tanahi). The Scientific Library.
- [20.] Al-Qurtubi, M. b. A. b. A. Bakr. (2003). *The Collector of the Rulings of the Qur'an* (H. S. Al-Bukhari, & Dr. Dar Alam Al-Kutub, Eds.). Riyadh: Dr. Dar Alam Al-Kutub.
- [21.] Al-Ragheb Al-Isfahani, A. b. H. (1999). *Vocabulary in Gharib Al-Qur'an* (M. K. Itani, Ed.). 2nd ed. Beirut: Dar Al-Maarifa.
- [22.] Al-Salami, A. b. N. (2005). *Fundamentals of jurisprudence that the jurist cannot afford to be ignorant of*. 1st ed. Riyadh: Dar Al-Tadmuriyyah.
- [23.] Al-Sarkhasi, M. b. A. (1993). *Al-Mabsout* (I. Dr., Ed.). Beirut: Dar Al-Maarifa.
- [24.] Al-Shafei, M. b. I. (1990). *Mother*. Beirut: Dar Al-Maarifa.
- [25.] Al-Shatby, I. b. M. (2004). *Al-Muwafaqat fi Usul al-Sharia* (A. Daraz, Ed.). 1st ed. Cairo, Beirut: Dar Al-Kitab Al-Hadith.
- [26.] Al-Sheikh, S. M. b. I. b. A. Latif. (1978). *Fatwas and letters* (M. b. A. R. b. Qasim, Ed.). 1st ed. Makkah Al-Mukarramah: Government Press.
- [27.] Al-Sijistani, S. b. A. bin I. (2009). *Sunan Abi Dawood* (S. Al-Arnaout, Ed.). 1st ed. Beirut: Dar Al-Resala.
- [28.] Al-Tirmidhi, M. b. I. b. S. (1975). *Sunan Al-Tirmidhi* (A. M. Shaker, Ed.). 2nd ed. Egypt: Mustafa Al-Babi Al-Halabi Press.
- [29.] Al-Zarkashi, M. b. A. b. B. (2000). *Al-Bahr Al-Muheet* (Dr. I, Ed.). Beirut: Scientific Books House.
- [30.] Al-Zarkashi, M. b. A. b. B. (1998). *Classification of hearings by collecting mosques* (S. Abdulaziz, A. Rabie, & Dr. I, Eds.). Cordoba Library.
- [31.] Al-Zarqa, A. (1996). *Explanation of jurisprudential rules*. 4th ed. Damascus: Dar Al-Qalam.



- [32.] Al-Zarqa, M. (1968). *The General Jurisprudential Introduction* (Dr. I, Ed.). Damascus: Dar Al-Fikr.
- [33.] Al-Zuhaili, M. (2006). *Jurisprudential Rules and Their Applications*. 1st ed. Damascus: Dar Al-Fikr.
- [34.] Borno, M. S. b. A. (1996). *Al-Wajeez in Explanation of the College Rules of Jurisprudence*. 4th ed. Beirut: Al-Risala Foundation.
- [35.] Haider, Ali. (1991). *Pearls of Rulers Explanation of Al-Ahkam Magazine* (1st ed.). Dar Al-Jeel.
- [36.] Ibn Abidin, Muhammad Amin Effendi. (2000). *Footnote to the Confused Response to Durr Al-Mukhtar* (Dr. I). Dar Al-Fikr.
- [37.] Ibn Abidin, Muhammad Amin Effendi. (2013). *Ibn Abidin's Letters Collection*.
- [38.] Ibn Alish, Muhammad bin Ahmed. (1989). *Manah al-Jalil, a brief explanation of Khalil*. Dar al-Fikr.
- [39.] Ibn Farhoun, Ibrahim bin Ali bin Muhammad. (1986). *The Insight of the Rulers in the Fundamentals of the Judiciary and the Methods of Judgments* (1st ed.). Al-Azhar Colleges Library.
- [40.] Ibn Faris, Ahmed bin Zakariya Al-Qazwini Al-Razi. (1979). *Lexicon of Language Measurements* (Abd al-Salam Muhammad Haroun, Ed.). Dar al-Fikr.
- [41.] Ibn Manzoor, Abu al-Fadl Muhammad bin Makram bin Ali al-Afriqi. (1994). *Lisan al-Arab* (3rd ed.). Dar Sader.
- [42.] Ibn Qadi Shahba, Abu Bakr bin Ahmed bin Omar. (1987). *Tabaqat Al-Shafi'i* (Al-Hafiz Abdul Alim Khan, Ed.) (1st ed.). World of Books.
- [43.] *Researches of the Fatwa Conference and its Controls*. (2009). Riyadh, Saudi Arabia.
- [44.] *Seminar Research: Towards an Original Scientific Approach to Study Contemporary Jurisprudential Issues*. (2011). Imam Muhammad bin Saud Islamic University.
- [45.] *The International Islamic Fiqh Academy No. (3/6/52) in its fourth conference session in Jeddah in the Kingdom of Saudi Arabia from 17-23 Shaaban 141 AH corresponding to 14-2 March 1990*.
- [46.] *The Kuwaiti Encyclopedia of Jurisprudence: A Group of Scholars*. (1995). Ministry of Awqaf and Islamic Affairs in Kuwait (1st ed.).