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The Diachronic Change of the Practice of *Iftā'*: From Individual to Collective

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Abstract

The connection between Islamic legal methodologies and practice in the development of Islamic law has been made by the practice of iftā'. *Governmental and non-governmental religious institutions, along with individual Muslim scholars, emerged as the sources of legal authority. Although the origin of the practice of* iftā' *can be traced back to the time of the Prophet Muḥammad (peace be on him), its nature has changed from individual to collective in the modern age. The contemporary Muslim world has witnessed a rapid proliferation of modern religious institutions of* fatwās, *which significantly contributed to the dynamism of Islamic law and the regulation of local and regional practices. The practice of* iftā' *can be described as a legal formulation produced during the consultation process between a lay Muslim and a Muslim scholar. The product of* iftā' *is known as fatwā, which is an Islamic legal opinion that Muslim scholars issue to clarify a legal problem that Muslims face. Since the twentieth century, the practice of* iftā' *has begun to be assumed by modern religious institutions. This institutionalization process resulted in the practice of collective* iftā'. *Contrary to scholars who allege the immutability of Islamic legal methodologies, this change can be interpreted as demonstrating the progressive dimension of Islamic law within the area of legal theories and methodologies. The paper seeks to examine the diachronic transformation of* fatwā *and explores the driving factors behind the instrumentalization of collective* fatwā. *After giving a detailed terminological definition of* fatwā, *the research introduces the differences between* fatwā *(Islamic legal opinion) and* ḥukm *(court verdict) to forestall any terminological complexity. The diachronic process is then addressed by referring to key turning points that evidence the transformation of the practice of* iftā' *from individual to collective. In*

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the last instance, public, state, and collective fatwās *are engaged to adduce the diversification within the end-products of the practice of* iftā'.

Keywords

Islamic law (*sharīʿah*), legal opinion (*fatwā*), court verdict (*ḥukm*), institutionalization, the practice of *iftā'*.

Introduction

Many believers firmly commit to Islamic law because they view it as the ideal blueprint for Muslims, delineating what can and cannot be done.[1] Classical Islamic law, formulated and moulded during the early period of Islam, helped guide individual believers and Muslim societies throughout the centuries. Although legal methodologies, principles, and theories used by the early Muslim jurists and scholars continue to function as building blocks of Islamic law, specific instruments and mechanisms promote dynamism and progress within the framework of Islamic law. Masud, Messick, and Powers acknowledge the importance of the practice of *iftā'* as a revitalizing practical mechanism in the Islamic legal system. They state

> While the more theoretical aspect of the shariʿa is embodied in the literatures dealing with the "branches" of substantive law (*furū' al-fiqh*) and with the "roots" of legal methodology and jurisprudence (*uṣūl al-fiqh*), its more practical aspect is embodied in fatwas issued by muftis in response to questions posed by individuals in connection with ongoing human affairs.[2]

Accordingly, it is possible to argue that the practice of *iftā'* may be regarded as a mechanism that strengthens Islamic law by enabling it to make fresh responses to dramatically changing circumstances.

In being established as one of the dynamic and valuable mechanisms that introduce new norms and opinions within the scope of Islamic law, the practice of *iftā'* can establish interactions, interconnections and networks between Islamic legal theory and social context.[3] *Fatwā*s are

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[1] Alexandre Caeiro, "Transnational Ulama, European Fatwas, and Islamic Authority: A Case Study of the European Council for Fatwa and Research," in *Producing Islamic Knowledge: Transmission and Dissemination in Western Europe,* ed. Martin van Bruinessen and Stefano Allievi (Abingdon: Routledge, 2011), 121.

[2] Muhammad Khalid Masud, Brinkley Morris Messick, and David Stephan Powers, *Islamic Legal Interpretation: Muftis and Their Fatwas* (Cambridge, MA: Harvard University Press, 1996), 4.

[3] Emine Enise Yakar, *Islamic Law and Society: The Practice of Iftā' and Religious Institutions* (New York: Routledge, 2021), 2, 7.

perhaps the most explicit formulations of Islamic legal knowledge and opinions issued in response to context-related questions. When adequately studied, they potentially provide essential insights into the dynamics, interactions and interconnections between Islamic legal theories and the local context in which Islamic legal knowledge is produced. After defining *fatwā* and its components, the research seeks to explain the characteristic change within the practice of *iftā'* to understand the transformation of *fatwā*s from being individual to collective.

Definition of *Fatwā* and its Semantics

The practice of *iftā'* is a mechanism that Muslim scholars apply in responding to a controversial or straightforward issue raised by Muslims to produce Islamic legal interpretations and opinions (*fatwā*s). Etymologically, the term "*fatwā*" can be traced back to the Arabic word "*fatā*," which means young (also adolescent and juvenile) or opinion.[4] Referring to the various words derived from this origin, Ibrahim, Arifin, and Abd Rashid provide a lexical description. They state that its all derived forms include the meaning of giving an answer or a legal decision relevant to matters of law by Muslim scholars.[5] Badawi and Abdel-Haleem, in the *Arabic-English Dictionary of Quranic Usage,* provide further clarification. According to them, "*fatā*" has the following meanings: youthfulness, youth, to be youthful, (of an infant/child) to reach youthfulness; vigour, to be vigorous; to formulate an opinion, counsel, to counsel, to give an opinion."[6] In addition, seven derived forms of this root are used twenty-one times in the Qur'ān.[7] Even though the word "*fatwā*" is not directly used in the Qur'ān, its derivatives, which include the verb *yastaftūnaka* (asking a valid answer) and *yuftīkum* (giving a valid answer) are explicitly indicated here. Examples include the Qur'ānic verses 4:127 and 4:176.[8] These applications of its derivatives in the Qur'ān clarify that the word "*fatwā*" refers to an elucidation,

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[4] Hans Wehr, *A Dictionary of Modern Written Arabic*, ed. J. Milton Cowan, 3rd ed. (New York: Spoken Language Services, 1976), 696.

[5] Badruddin Ibrahim, Mahmad Arifin, and Siti Zainab Abd Rashid, "The Role of *Fatwa* and *Mufti* in Contemporary Muslim Society," *Pertanika Social Sciences & Humanities* 23 (2015): 316.

[6] Elsaid M. Badawi and Muhammed Abdel Haleem, *Arabic-English Dictionary of Qur'anic Usage* (Boston: Brill, 2008), 693.

[7] Ibid.

[8] The verse (4:127) provides detailed Islamic legal rulings that relate to orphaned women and their divorce, property, and marriage, while the verse (4:176) provides a legal answer to a question that relates to inheritance.

guidance, opinion or ruling. A further derivative form is also referenced by the verse "The matter has been decreed about which you both inquire (*tastaftiyān*)."[9] Here the derivative form (*tastaftiyān*) conveys the meaning of interpreting a dream—it can, therefore, be perceived as the act of seeking advice or guidance upon an ideal object or a complicated problem.[10] In the Qur'ānic usage, *istiftā'* simply refers to asking a question, or seeking clarification and *iftā'* to answering a question or interpreting an occurrence.[11]

At the level of legal terminology, "*fatwā*" can be said to refer to an Islamic legal interpretation or opinion that is issued by a qualified and authoritative Muslim scholar (generally known as "*muftī*"). It is an Islamic legal tool that efficient and proficient Muslim scholars use to clarify legal issues faced by Muslims. Hallaq approaches the practice of *iftā'* and its components through the prism of classical Islamic law. He observes that in its basic form, the practice of *iftā'* is a process that includes asking a question by a lay Muslim and answering this question by a *muftī* (jurisconsult).[12] Masud further underlines the importance of *istiftā'* in the production of *fatwā* and states that *istiftā'* (question) is a tool that conveys contextual, social, legal, and cultural problems to Muslim scholars.[13] In developing an anthropological approach, Agrama presents the *fatwā* as an ethical praxis. He observes

> The fatwa, as a practice of discerning and of saying the right words at the right times, mediates multiple temporalities in which a self is embedded in order to keep and advance it on an ethical path that has become obscured from it.[14]

In presenting the *fatwā* in this form, Agrama implicitly invokes the desire of an ordinary Muslim to maintain a connection with Islamic

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[9] Qur'ān 12:41.

[10] Ibrahim, Arifin, and Abd Rashid also refer to some *ḥadīth*s that emphasize the practice of *iftā'*. See Ibrahim, Arifin, and Abd Rashid, "Role of *Fatwa* and *Mufti*," 317-18. Masud, Messick, and Powers also assert the existence of this practice in the *ḥadīth* literature. See Masud, Messick, and Powers, *Islamic Legal Interpretation*, 6.

[11] In addition to the words which derive from *fatwā*, there are other words in the Qur'ān that are equivalent to the word *fatwā* and which refer to a question-and-answer process. For example, *yas'alūnaka* can be interpreted as being almost synonymous with *fatwā*. See Muhammad Khalid Masud, "The Significance of *Istiftā'* in the *Fatwā* Discourse," *Islamic Studies* 48, no. 3 (2009): 342.

[12] Wael Hallaq, "From *Fatwās* to *Furū'*: Growth and Change in Islamic Substantive Law," *Islamic Law and Society* 1, no. 1 (1994): 31.

[13] Masud, "Significance of *Istiftā'*," 342.

[14] Hussein Ali Agrama, "Ethics, Tradition, Authority: Toward an Anthropology of the Fatwa," *American Ethnologist* 37, no. 1 (2010): 14, accessed June 10, 2020, http://onlinelibrary.wiley.com/doi/10.1111/j.1548-1425.2010.01238.x/epdf.

ethical values. Skovgaard-Petersen emphasizes a different aspect of the *fatwā.* He argues, "As the established 'Q & A' exercise in the Islamic tradition, the consultation for a fatwa (*istiftā'*) is the mundane activity through which Islamic norms, ethics and jurisprudence are spread."[15] In being applied as a traditional Islamic legal instrument, the practice of *iftā'* can be acknowledged as an ethical-legal formulation produced during the consultation process between a lay Muslim and a Muslim scholar. Ibrahim, Arifin, and Abd Rashid. make an important point by referring to the instrumentality of the *fatwā* in providing Islamic legal explanations to issues that arise from Islamic law, and that confront Muslims.[16] To put it more succinctly, the term *fatwā*, when applied in Islamic legal terminology, entails an answer, opinion or interpretation that authoritative and qualified Muslim scholars have given in response to questions on religious affairs or matters presented by Muslims.

Within the parameters of *iftā'* process, the questioner is known as *mustaftī*; the Muslim scholar who answers the question is referred to as *mufti*; the question is termed *istiftā'*; and while the answer of the Muslim scholar is called *fatwā.*[17] The *mustaftī* both initiates and concludes the interaction: the questioner addresses the question to a *muftī* and is ultimately responsible for deciding whether to pursue the *muftī*'s advice. After attaining a *fatwā*, the questioner has two options, adduced per the questioner's satisfaction with the *fatwā.*[18] If the questioner is content and is mentally and spiritually satisfied with the *fatwā*, they ought to follow the *fatwā* issued by the *muftī.* If this is not the case, the questioner should find another Muslim scholar and solicit their question as a second choice.[19] After obtaining Islamic legal advice from a *muftī*, the questioner is free to choose whether to follow the issued *fatwā.* The *fatwā* presents itself as a non-binding Islamic ruling given to the questioner.[20] The religiosity of the individual questioner—whose pious conscience and creed purely seek to know and then obey the intended law of God—is the root principle of obedience to the *fatwā.*

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[15] Jakob Skovgaard-Petersen, "A Typology of Fatwas," *Die Welt Des Islams* 55, no. 3-4 (2015): 278.
[16] Ibrahim, Arifin, and Abd Rashid, "Role of *Fatwa* and *Mufti,*" 322.
[17] Masud, "Significance of *Istiftā'*," 349; Agrama, "Ethics, Tradition, Authority," 13.
[18] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 26.
[19] Ibrahim, Arifin, and Abd Rashid, "Role of *Fatwa* and *Mufti*," 322.
[20] Masud, "Significance of *Istiftā'*," 358; Yakar, *Islamic Law and Society*, 3-4.

Origins of the Practice of *iftā'*

The practice of *iftā'* can be traced back to the first Muslims who asked direct questions to the Prophet and received answers during his lifetime.[21] It has already been noted that the use of the term *istiftā'* and its derivatives and other semantically related words in the Qur'ān is not only intended to signify the existence of a *fatwā* prototype but it also demonstrates that *iftā'* was practised during the time of the Prophet (peace be on him).[22] Hallaq has, therefore, argued that the Prophet Muḥammad and his Companions were the first practitioners of *iftā'*.[23] The Muslim scholars in succeeding generations preserved the practice. In early Islamic history, the process of *iftā'* (formulating a *fatwā*) and the issuance of *fatwā* were practised by individual and independent Muslim jurists and scholars.[24] However, after the late nineteenth century, this individual and the non-governmental legal practice began to be superseded by institutional religious bodies or establishments.[25] Especially during the modern period, many Muslim states have sought to control the mechanism of *fatwā* by instituting national religious organizations that conduct religious affairs and issue *fatwā*s.[26] As a result, the Muslim world witnessed a rapid proliferation of modern institutions of *iftā',* which significantly contributed to the dynamism of Islamic law and, to a more limited extent, to the regulation of local and regional practices.

To a substantial extent, the connection between Islamic legal methodologies and practice has been made by the practice of *iftā'*. Hallaq's seminal work demonstrates how *fatwā*s can help deal with new issues and bring about legal change by updating the connection between Islamic law and the social realities of Muslim societies.[27] His contribution

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[21] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 5-6.

[22] For a more detailed explanation concerning the existence of the practice of *iftā* during the time of the Prophet and after his demise among the Companions, see Masud, Messick, and Powers, *Islamic Legal Interpretation*, 3, 5-8 and Hallaq, "From *Fatwās* to *Furū'*," 63-65.

[23] Hallaq, "From *Fatwās* to *Furū'*," 63.

[24] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 5, 7-10.

[25] Ibid., 27.

[26] Emine Enise Yakar and Sümeyra Yakar, *The Transformational Process of the Presidency of Religious Affairs in Turkey* (Riyadh: King Faisal Center for Research and Islamic Studies, 2017), 9-24; Emine Enise Yakar, "A Critical Comparison between the Presidency of Religious Affairs (Diyanet İşleri Başkanlığı) and the Office of Shaykh Al-Islām," *Kilis 7 Aralık Üniversitesi İlahiyat Fakültesi Dergisi* 6, no. 11 (2019): 434-37, accessed June 10, 2020, https://dergipark.org.tr/en/pub/k7auifd/issue/51357/640278.

[27] Hallaq, "From *Fatwās* to *Furū'*," 29, 38, 61-62.

can be further extended to the proposition that the practice of *iftā'* provides Muslim scholars with a practical mechanism that enables them to adapt Islamic law to the everyday needs of Muslims by producing Islamic legal opinions that address controversial and modern changes. Thus, there is a complex and interlocking relationship between *fatwā*s and their surrounding social context. Kaptein refers to the dynamic connection between the practice of *iftā'* and social context and defines it as a "compromise" between the ideals of Islamic law, as identified by the *'ulamā'*, and the reality of daily life, as presented by the believers.[28] Skovgaard-Petersen further clarifies that "fatwa collections have been seen as a literature stemming from the depths of authentic social life in Muslim societies throughout the ages."[29] Thus, these presentations acknowledge that the *fatwā* mechanism enables unchanging Islamic legal doctrines to be adapted to novel circumstances.

A twofold significance can be attributed to the practice of *iftā'* in Islamic law. In the first instance, it is an Islamic legal mechanism that enables Muslim scholars to creatively formulate legal-religious views about controversial issues, important doctrinal questions, and social changes. It enables a simultaneous engagement with changes and continuities within the lives of Muslims. The practice of *iftā'*, therefore, establishes a connection between Islamic law and contemporary life. In the second instance, a substantial number of *fatwā*s issued through the practice of *iftā'* have assisted Muslims from various backgrounds in arranging their affairs and lives per Islamic law.

Differences between *Fatwā* of a *Muftī* and *Ḥukm* of a *Qāḍī*

The *fatwā*s and *ḥukm*s (court judgements) are legal rulings that are respectively outlined by *muftī*s and *qāḍī*s after their *ijtihād* efforts. Even though the Islamic legal system applies these legal rulings and explanations, specific differences between them need to be noted in more detail. Ibn Qayyim al-Jawziyyah (d. 1350 CE), the Ḥanbalī scholar, has sought to define these differences as follows:

> [The *muftī*'s] fatwā states a general divine law (*sharī'a 'āmma*) concerning both the requestor and others. As for the judge (*ḥākim*), his ruling (*ḥukm*) is particular and specific (*juz'ī khaṣṣ*), not extending to anyone but the two parties. The muftī opines in a ruling that is generally worded and generally applicable (*ḥukm 'āmm kullī*). . . . The *qāḍī* makes a particular judgement

[28] Nico J. G. Kaptein, "The Voice of the *'Ulamâ': Fatwas* and Religious Authority," *Archives de Sciences Sociales des Religions* 49, no. 125 (2004): 115.
[29] Jakob Skovgaard-Petersen, *Defining Islam for the Egyptian State: Muftis and Fatwas of the Dār al-Iftā* (Leiden: Brill, 1997), 5.

> (*qaḍā' mu'ayyan*) upon a particular person, and his judgement is specific in terms and obligatory, while the fatwā of the scholar is general in terms and not obligatory.[30]

Considering Ibn al-Qayyim's identification of apparent differences between the *fatwā* and the *ḥukm*, four distinguishing features can be identified. First, the practice of *iftā'* does not produce obligatory results. Accordingly, compliance with a *fatwā* is ultimately the responsibility of the questioner, even in instances where a *muftī* appointed by the state issues a *fatwā*.[31] In contrast, a *ḥukm* given by a *qāḍī* is a specific verdict whose observation is compulsory for both the claimant and defendant.[32] Moreover, because the *ḥukm* is adjudicated by a *qāḍī* in a state court, which is a state legislative branch responsible for resolving disputes between its subjects, the state has the power to implement and enforce judgements issued by *qāḍīs*.[33] A *ḥukm*, in contrast with a *fatwā*, therefore, requires state intervention to execute the result of a prosecution process.

Second, a *fatwā* typically seeks to resolve a questioner's internal conflicts; in contrast, a *ḥukm* is generally addressed to external problems, such as relations between two parties.[34] Vogel has further clarified this critical difference between the *muftī* and *qāḍī* as follows: "The muftī is concerned with facts in the internal forum of conscience, the qāḍī only with the facts in the external forum of the court."[35] A *fatwā* provides Islamic legal advice or a ruling by mainly assessing the internal dimensions of any issue to resolve an inward (*bāṭin*) conflict of the questioner (although here it should be clarified that it may require an evaluation of the circumstances in which individuals live). A *ḥukm* is instead the result of the evaluation of real and apparent proofs (although here it should be recognized that the *qāḍī* nonetheless attempts to understand the intentions of the two parties by reviewing actual

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[30] Cited in Frank Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Leiden: Brill, 2000), 16-17.
[31] Ibid., 17.
[32] For the practice of *ḥukm* in contemporary Islamic legal system of Saudi Arabia, see Sumeyra Yakar, "The Usage of Custom in the Contemporary Legal System of Saudi Arabia: Divorce on Trial," *Kilis 7 Aralık Üniversitesi İlahiyat Fakültesi Dergisi* 6, no. 11 (2019): 382-83.
[33] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 3.
[34] Ibid., 18.
[35] Vogel, *Islamic Law and Legal System*, 17.

evidence).[36] Aḥmad b. Idrīs al-Qarāfī (d. 1285 CE), the Mālikī scholar, provides further clarification by observing that the *qāḍī*'s interpretative work, when judging, resides in the evidential proofs (*ḥujaj*), which include acknowledgement, oath, and testimony; meanwhile, the *muftī* relies upon *adillah* that encompass indications and proofs in textual sources of Islamic law—this includes both the Qur'ān and the *ḥadīth* literature.[37]

Third, a *fatwā* is usually requested privately by a single individual but provides a general ruling to the problem in question. As Ibn al-Qayyim observes, a *fatwā* includes a more general ruling applicable to all similar cases, thus benefitting individuals who face similar problems. Conversely, a *ḥukm* is a binding legal verdict for people engaged in a specific occurrence between two parties. For this reason, the *qāḍī*'s judgement does not extend to anyone other than the two parties involved in the specific case.[38]

Fourth, a *fatwā*, by its very nature, has a communicative and informative quality that provides access to Islamic legal knowledge in the form of a considered and voiced opinion. However, Masud observes, "Both the judgements of *qāḍīs* and the *fatwās* of the *muftīs* addressed specific cases, which were not considered of lasting importance. These cases could not be generalised to become norms which would be universally applicable to all cases."[39] Hallaq, however, claims precisely the opposite when he observes, "The *fatwā* was not merely an ephemeral legal opinion or legal advice given to a person for immediate and mundane purposes but also an authoritative statement of the law that was considered to transcend the individual cases and its mundane reality."[40]

It seems that Hallaq does not acknowledge Masud's observation that the application of *fatwā*s is constrained by circumstances, social realities, and time. The opinions derived through the *ijtihād* efforts of the *muftī*s cannot be generalized as universal norms, nor can they, by their context-specific character, be regarded as universally applicable rules. Upon this basis, it can be ascertained that Hallaq's argument relates to the magnitude of *fatwā*s that contribute new materials to the existing

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[36] Aḥmad b. Idrīs al-Qarāfī, *al-Iḥkām fī Tamyīz al-Fatāwā 'an al-Aḥkām wa Taṣarrufāt al-Qāḍī wa 'l-Imām* (Beirut: Maktab al-Maṭbū'āt al-Islāmiyyah, 1995), 46-56; Masud, Messick, and Powers, *Islamic Legal Interpretation*, 18.
[37] Al-Qarāfī, *al-Iḥkām fī Tamyīz al-Fatāwā*, 56.
[38] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 18-19.
[39] Masud, "Significance of *Istiftā'*," 362.
[40] Hallaq, "From *Fatwās* to *Furū'*," 34.

body of Islamic legal doctrines rather than their opinions.[41] Specifically emphasizing this point, he observes, "Primary and secondary *fatwā*s incorporated into *furū'* works reflect the growth and change in the doctrine of the school (*madhhab*)."[42] The incorporation of *fatwā*s into *furū'* establishes that the issuance of *fatwā*s can be considered as an essential mechanism that enables Islamic law to, from a doctrinal perspective, align itself with changing circumstances.

A further noticeable difference between *fatwā* and *ḥukm* arises within their respective jurisdictions – to this extent, it is clear that the former has a wider jurisdictional scope.[43] This difference is illustrated by the fact that matters such as '*ibādāt* (ritual practices and religious duties) are excluded from the realm of *qaḍā',* even though they are an essential part of Islamic law. The relevant explanations, rulings, and statements relating to ritual practices mostly appear in *fatwā*s and *fiqh* manuscripts.[44] The differences between *ḥukm*s and *fatwā*s indicate that *fatwā* is an informative, non-binding and optional legal opinion, whereas *ḥukm* is a binding and enforceable judicial verdict.

While there are important continuities with the Islamic legal tradition, it is essential to mention that the era between the nineteenth and twenty-first centuries represents a shift in the legal system across the Muslim world. In this regard, the practice of *iftā'* is a particularly instructive reference point as it transformed from an individual into a collective practice. This transformation is just one manifestation of an ongoing confrontation between Islamic law and modernity. In addition to individual Muslim scholars (*'ulamā'*), religious institutions, whether governmental or non-governmental, have emerged as new sources of authority in the area of Islamic law.[45] For the most part, the practice of *iftā'* began to be collectively implemented by modern religious institutions after the twentieth century, representing a clear divergence from the previous convention in which individual Muslim scholars conducted it.

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[41] Ibid., 50-52, 55-56.

[42] Hallaq refers to the categorization of *fatwā* collections when he writes about primary and secondary *fatwā*s. In primary *fatwā*s, the question and answer are retained, more or less, in their original form and content, while the question and answer have undergone systematic alteration in secondary *fatwā*s. See Hallaq, "From *Fatwā*s to *Furū'*," 31-32.

[43] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 18.

[44] Ibid., 18-20.

[45] Yakar and Yakar, *Transformational Process*, 9-12.

The Institutionalisation of the Practice of *Iftā'*

During the early history of Islamic law, the *fatwā* institution was independent of the state. The earlier *muftī*s themselves carefully regulated this institution, which primarily operated outside of government control or supervision.[46] For this reason, *muftī*s were placed at the apex of the legal hierarchy, where they generally acted as "the guardians of the law and of the community at large."[47] Hallaq has further reiterated this independent character in the implementation of the practice of *iftā'* when he observes: "The government stood in the periphery of their profession. . . . A *muftī*, as a rule, did not need the government's approval to engage in *iftā'*. All he needed was the approval of his peers".[48] However, after the eleventh century, public *muftī* offices began to be instituted alongside the private vocation of *iftā'*. For example, in eleventh-century Khorasan, the *Shaykh al-Islām* of a city was assigned as the official head of its local *'ulamā'*; meanwhile, some official *muftī*s were also appointed to the appeal courts of provincial capitals in the Mamluk Sultanate.[49] During the Ottoman Sultanate, the practice of *iftā'* was integrated into the hierarchical, bureaucratic system of the Sultanate, and the official office of the *Shaykh al-Islām* was established for the first time in 1424 CE.[50] Most notably within the Sunni tradition, the practice of *iftā'* began to lose its independent character from the ideological and physical control of the state and became incorporated into the bureaucratic machinery of the state. However, the practice of *iftā'* was still individually shouldered and performed by Muslim scholars (*muftī*s) who worked privately or in the public offices of *iftā'* almost until the twentieth century.

The period from the nineteenth to the twentieth century coincided with major transformations within Muslim societies worldwide. The decline in the centralized power of the Ottoman Sultanate and its ultimate collapse resulted in colonial domination being exerted over Muslim countries and the concomitant reordering of sociopolitical and social-legal configurations. The codification attempts throughout the

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[46] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 3.
[47] Hallaq, "From *Fatwās* to *Furū'*," 59.
[48] Ibid.
[49] Muhammad Khalid Masud et al., "Fatwā," in *the Oxford Encyclopedia of the Islamic World. Oxford Islamic Studies Online*, accessed August 10, 2020, http://www.oxfordislamicstudies.com/print/opr/t236/e0243.
[50] Talip Ayar, *Osmanlı Devletinde Fetvâ Eminliği (1892-1922)* (Ankara: Diyanet İşleri Başkanlığı Yayınları, 2014), 14-15; Masud, Messick, and Powers, *Islamic Legal Interpretation*, 11-12; and Yakar, "A Critical Comparison," 430.

Muslim world began with the *Majallah* in the Ottoman Sultanate and spread to other countries, including Egypt. Elgawhary analyses the *jtihād* initiation of the codification committees and alludes to their way of treating and using the *fatwā* compilations to produce an applicable codified ruling.[51] The expansion of colonial power and its side effect, the codification process, resulted in a gradual decline in the practice of *iftā'*.[52] However, even during this period, some *fatwā*s were effectively used to resist colonial hegemony and advance various national independence struggles. In the nineteenth century, many *fatwā*s were used in this manner. For example, during the Algerian anti-French rebellion that was led by 'Abd al-Qādir al-Jazā'irī (d. 1883), al-Jazā'irī requested the esteemed *'ulamā'* of Fes to issue *fatwā*s that would promote emigration from the French-controlled parts of Algeria and the initiation of an uprising or *jihād* that would resist French colonial power in the region.[53] Although he succeeded in obtaining the *fatwā*s, the initiation ultimately resulted in his arrest. In response to these *fatwā*s, the French authorities obtained a counter *fatwā*, which stated that Muslim subjects under the rule of non-Muslims are not obliged to rebel if they are permitted to practise their religion freely.[54]

In the aftermath of attaining independence, many Muslim nation-states sought to establish their own modern administrative, bureaucratic, and institutional systems to meet their societies' economic, legal, political, and social needs. In the modern age, many Muslim countries established national religious institutions, which were then tasked with organizing religious affairs and issuing *fatwā*s or restructured existing religious bodies in their regions.[55]

In many Muslim countries, the practice of *iftā'* became increasingly bureaucratized, institutionalized, and modernized. The Egyptian *Dār al-Iftā'*, which was established in 1895, was one such example, having issued *fatwā*s in response to the government's queries on state policies and the concerns of Muslim residents since its establishment.[56] In Lebanon, the *Dār al-Fatwā* was created in 1922 and tasked with administering religious

[51] Tarek Elgawhary, *Rewriting Islamic Law: The Opinions of the Ulamā towards Codification of Personal Status Law in Egypt* (New Jersey: Gorgias Press LLC, 2019), 24-40.
[52] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 26-27.
[53] Danish Faruqi, "The Spiritual Reformist Thought of the Amir 'Abd al-Qādir al-Jazā'irī' in the Eyes of His Western Interpreters: A Critical Historiographical Review" (master's thesis, Washington University, 2012), 17-18.
[54] Masud et al., "Fatwā."
[55] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 27-28; Yakar, *Islamic Law and Society*, 5-6.
[56] Skovgaard-Petersen, *Defining Islam*, 28.

schools, issuing Islamic religious advice and opinions specific to the Sunni community and supervising mosques.[57] The *Dār al-Iftā'* in Saudi Arabia was established in 1953 and controlled the state and society through the *fatwā*s until the 2000s.[58] The Indonesian Council of 'Ulamā' (*Majelis Ulama Indonesia*) has issued *fatwā*s and advised the Muslim community on contemporary issues since 1975.[59] Other relevant examples include Jordan's General Iftaa' Department in Amman, Turkey's Presidency of Religious Affairs (Diyanet), and Singapore's Fatwa Committee of Islamic Religious Council. These newly-established national religious institutions have conducted religious affairs and sought to promote a form of official national Islamic understanding through *fatwā*s, sermons, religious occasions, and publications.

Many of these national religious institutions are closely aligned with either the incumbent government or the state. In addition, many international non-governmental religious institutions exercise the practice of *iftā'*. For example, at the international level, the Islamic Research Academy (which was opened at al-Azhar University), Jeddah's Organisation of Islamic Conference (OIC), and Mecca's Muslim World League are among the most influential and prestigious international Islamic religious academies and organizations that are established across the Muslim world.[60] These organizations research debatable Islamic legal subjects and discuss complex issues that confront contemporary Muslims to identify and develop Islamic legal solutions. A further example is of the Islamic Fiqh Academy, which is an academy based in Jeddah, Saudi Arabia, whose works thoroughly discussed a wide range of complex issues including AIDS, birth control, credit cards, human cloning, human rights, incorporeal rights, inflation and changes in the value of the currency, insurance and re-insurance, male doctors treating female patients, milk banks, resuscitation equipment, the payment of *zakāh* (alms) to the Islamic solidarity fund, sales on instalments, the transplantation of brain, nervous system cells and genital organs, the use of the fetus as a source of transplant, traffic accidents and women's

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[57] Raphaël Lefèvre, "Lebanon's Dar al-Fatwa and Search for Moderation," Carnegie Endowment for International Peace, January 5, 2015, accessed June 14, 2020, http://carnegieendowment.org/sada/?fa=57627.

[58] Muhammad Al-Atawneh, *Wahhābī Islam Facing the Challenges of Modernity: Dār al-Iftā in the Modern Saudi State* (Leiden: Brill, 2010), 6, 42; Emine Enise Yakar, "The Influential Role of the Practice of Iftā' in Saudi Politico-Legal Arena," *Manchester Journal of Transnational Islamic Law and Practice* 16, no. 1 (2020): 40-43, 46.

[59] Kaptein, "Voice of the *'Ulamâ'*,"121.

[60] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 27.

role in developing Muslim societies.[61] These subjects were then extensively deliberated, throughout discussions that extended from a second to a twelfth session, held in the Hashemite Kingdom of Jordan, the Kingdom of Saudi Arabia, the Sultanate Brunei Darussalam, the State of Bahrain, the State of Kuwait, and the United Arab Emirates. The Islamic Fiqh Academy then issued Islamic legal recommendations and resolutions on legal issues through collective *ijtihād*. The Council also drew upon the contributions of lay experts and scholars in astronomy, economics and medicine before issuing its recommendations and resolutions.[62] The engagement with experts and scholars from other fields is a significant development in the practice of *iftā'*, which reflects how specialized modern knowledge and associated disciplines have impacted upon the practice of collective *iftā'*.

The contemporary situation within the Muslim world reiterates that the practice of *iftā'* has become a central institution that brings Islamic legal solutions to contemporary issues and challenges that currently confront Muslim residents in both Muslim and non-Muslim countries.[63] Many Muslim countries have established their religious institutions before commissioning them with the practice of *iftā'* and other religious responsibilities. However, it should be noted that these institutions' function, position, and role vary from one country to another, due to the place and position of Islamic law in these countries. Thus, despite evidencing a clear continuity as answers to questions in the general sense, the practice of *iftā'* appears to have experienced significant changes in the modern period.[64]

Kaptein's study, which considers the mediums through which *fatwā*s are transmitted to the Muslim public and the methods through which

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[61] Islamic Fiqh Academy (Jeddah), *Resolutions and Recommendations of the Council of the Islamic Fiqh Academy 1985-2000* (Jeddah: Islamic Development Bank, 2000), i-xi, accessed June 30, 2020, https://uaelaws.files.wordpress.com/2012/05/resolutions-and-recommendations-of-the-council-of-the-islamic-fiqh-academy.pdf.

[62] Ibid.

[63] Yakar, *Islamic Law and Society*, 6-7; Agrama, "Ethics, Tradition, Authority," 3. During the twenty-first century, some voluntary religious institutions were established to issue *fatwā*s for problems that confront Muslim residents in non-Muslim countries. The European Council for Fatwa and Research (ECFR) and the Figh Council of North America (FCNA) can be referred to as relevant examples. For further insight into the ECFR, see Alexandre V. Caerio, "Fatwas for European Muslims: The Minority Fiqh Project and the Integration of Islam in Europe" (PhD diss., Universiteit Utrecht, 2011), 123-81 and for further insight into the FCNA, see Yakar, *Islamic Law and Society*, 123-69.

[64] For a further detailed explanation concerning the continuities and changes in the practice of *iftā'* in modern times, see Masud, Messick, and Powers, *Islamic Legal Interpretation*, 26-32.

Muslim scholars issue *fatwā*s, engages with the practice of *iftā'* in the Indonesian context. He classifies *fatwā*s into four categories: traditionalist *fatwā*s, modernist *fatwā*s, collective *fatwā*s, and other forms of religious advice.[65] More comprehensively, Skovgaard-Petersen identifies six types of *fatwā*s: ephemeral, school, court, public, state and collective *fatwā*s.[66] When both typologies are compared, Kaptain's "modernist *fatwā*s" and "other forms of advice" may, within Skovgaard-Petersen's *fatwā* typology, come to match the public and state *fatwā*s. According to their explanation about the collective *fatwā*, the hallmark aspect of this type results from the combined efforts of Muslim scholars.[67] Kaptein's and Skovgaard-Petersen's *fatwā* typologies provide grounds for assuming that the state *fatwā* (the modernist *fatwā*) and the collective *fatwā* have become established as a prominent common practice of *iftā'* which is conducted by either governmental or non-governmental religious establishments in the contemporary world.

The public, state, and collective *fatwā*s substantively illustrate several recent changes and trends within the practice of *iftā'* that have been generally implemented by the national and state-dependent religious institutions. These three types of *fatwā*s will now be briefly explained and framed from a general perspective to understand the institution-based *iftā'* practice further.

Public *Fatwā* and State *Fatwā*

Public and state *fatwā*s may be perceived as the most recent iteration of modern changes and developments within the traditional practice of *iftā'*. The history of Islamic law establishes that the public *fatwā* can be compared with public announcements associated with state affairs, including the declarations of new rulers. Skovgaard-Petersen's typologies of *fatwā*s establish that the public *fatwā* is an Islamic legal opinion either published in print or other modern mass media.[68] Upon issuing this type of *fatwā*s, Muslim scholars seek to make a controversial and specific legal point clear and easily comprehensible to a broader target group. In contrast to the traditional *fatwā*-making process, Muslim scholars consider the general ethical and legal principles of Islamic law rather than the individual circumstances of the questioner (*mustaftī*).

[65] Kaptein, "Voice of the *'Ulamâ'*,"116-21.
[66] Skovgaard-Petersen, "Typology of Fatwas," 279-84.
[67] Kaptein, "Voice of the *'Ulamâ'*,"120.
[68] Skovgaard-Petersen, "Typology of Fatwas," 282.

This engagement of Muslim scholars transforms this type of *fatwā* into a public statement that clarifies a specific issue, matter, or problem.

The public and state *fatwā*s share many features, to the point of almost being identical. Considering this overlap, Skovgaard-Petersen places the state *fatwā* under the category of the public *fatwā* while defining this type of *fatwā* as a *fatwā* given by a *muftī* who has been appointed as the official *muftī* by the state.[69] The main difference between the public and state *fatwā* originates within the issuing party. The public *fatwā* can be issued by private or state-appointed *muftī*s, while only the state *muftī*s should officially issue the state *fatwā.* Accordingly, the public *fatwā* is broader than the state *fatwā* in its scope, that is, the state *fatwā* may be accepted as a subset of the public *fatwā.* Skovgaard-Petersen contends that the main distinguishing feature which sets public and state *fatwā*s apart from other *fatwās* is that they transcend the nexus between the *muftī* and *mustaftī* in addressing to more comprehensive audiences, who appear to be the actual recipients of the *fatwā.*[70] Thus, the *fatwā*s issued in the two categories are addressed to a broader target group, and Muslim scholars, who are fully cognizant of the situation, strongly emphasize the issuance of generally applicable and valid *fatwā*s.

The state *fatwā* may, in both an official and social sense, be an influential instrument that helps articulate and defend the state's interest while being embedded in a nationwide comprehension of religion. Skovgaard-Petersen has previously reflected upon the noticeably instrumental character of these *fatwā*s in backing and legitimizing Muslim states' certain activities and political policies. He observes

> In many countries, the very fact that the state law was considered insufficiently Islamic led to a sustained interest in fatwas as a valuable extra-legal source of legitimacy. Most Muslim states realised the importance of having a national public sphere with national media, including in the field of religion. To demonstrate territorial integrity and bolster their domestic religious legitimacy, many countries instituted the office of state mufti.[71]

In common with Skovgaard-Petersen's argument, Kaptein also reiterates the extent to which the state-dependent religious institutions (or the state *fatwā*) function as a critical legitimizing soft power. He argues

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[69] Ibid., 283.
[70] Ibid., 282-83.
[71] Ibid., 283.

> As far as the involvement of the *'ulama'* in the state apparatus is concerned, it may be said that the administrators, both in colonial era and after independence, have always been aware of the potential political power of the *'ulama'*, and therefore have always sought ways to use the authority of the *'ulama'* to legitimize state policy.[72]

The state *fatwā*, therefore, may function to legitimize the political powers. However, this feature is not widely evidenced within this type of *fatwā*, as Skovgaard-Petersen and Kaptein claim. This is because the legitimizing role of the state *fatwā* may change per the position of Islamic law within the legal system of Muslim countries.[73] It is possible that Kaptein and Skovgaard-Petersen mistakenly overlooked this subtle distinction when seeking to demonstrate how the state *fatwā* helps to generally legitimize the legal, political, social, and religious policies of any Muslim state. To take one example, Turkey's Diyanet (Presidency of Religious Affairs), a state-dependent institution, issues Islamic legal interpretations and opinions that are identical to the state *fatwā*, but their jurisdiction lacks legal power and political influence to legitimize the state's policies within the Turkish Republic's secular political and legal systems.[74]

However, the situation is different for Muslim states that either declares Islam the official state religion or self-identify as Islamic. As Skovgaard-Petersen observes, state *fatwā*s officially issued by state-dependent religious institutions or state-appointed *muftī*s provide a legal foundation for policies implemented by the state.[75] *Fatwā*s issued by the Egyptian *Dār al-Iftā'* and the Saudi *Dār al-Iftā'* generally reinforce the authority of the state and, to this extent, can be conceived as exemplary models of religious institutions that were established by Muslim states to attain support for their state policies and bolster their domestic religious legitimacy.[76] Considering that groups opposed to the government may issue their *fatwā*s, state *fatwā*s present themselves as the state-sided rope in a "tug-of-war" between the governments and domestic political dissidents. Consequently, state *fatwā*s in some Muslim countries can be theorized as a mechanism that reduces the impact of *fatwā*s issued by

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[72] Kaptein, "Voice of the *'Ulamâ'*," 125.
[73] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 27.
[74] M. Hakan Yavuz, "Tukey: Islam without Shari'a?" in *Shari'a Politics: Islamic Law and Society in the Modern World*, ed. Robert W. Hefner (Indiana: Indiana University Press, 2011), 165-66; Yakar, "A Critical Comparison," 441-446.
[75] Skovgaard-Petersen, "Typology of Fatwas," 283.
[76] Al-Atawneh, *Wahhābī Islam*, 52-54; Skovgaard-Petersen, *Defining Islam*, 27-30; and Yakar, "The Influential Role," 46-48.

anti-government groups in contested and divided political environments.

Collective *Fatwā*

During the twentieth and twenty-first centuries, when many Muslim countries restricted the scope of Islamic law to the personal and family spheres, the practice of *iftā'* emerged as an essential mechanism of Islamic jurisprudence which provides Muslims with Islamic legal guidance on controversial and novel subjects.[77] In the contemporary period, the concept of collective *ijtihād* has come to function as the principal means of arriving at consultative decisions through both international and national religious institutions and organizations. It can be inferred that the collective *fatwā* is the final consequence of the collective *ijtihād* exercised by authorized, competent, and efficient Muslim scholars who function within international or national religious bodies.

In contemporary times, increases in knowledge have undoubtedly contributed to the spread of scientific specialization.[78] This development has been particularly apparent about the practice of *iftā'*, where it has compelled many Muslim scholars to work collectively rather than individually when producing Islamic legal knowledge or deriving Islamic legal opinions from authentic sources. DeLorenzo observes

> While admitting that all expertise has its limits, the classical jurists held that the unrestricted mujtahid needs to be familiar with the entire range of legal issues, while the restricted mujtahid needs only to have knowledge of the issues which pertain to his field of specialization. In modern times, given the way that human knowledge and interests have literally increased in every direction it is less than realistic to suppose that anyone, owever gifted, could acquire the sort of knowledge necessary to make him or her an unrestricted mujtahid.[79]

This phenomenon suggests that the collectivization and institutionalization of the practice of *iftā'* is a product of modernity which has become increasingly accentuated during the modern period of Islamic law.

Considering modern realities, the contemporary practice of *iftā'* has entailed that Muslim scholars should collectively engage in issuing a

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[77] Masud, Messick, and Powers, *Islamic Legal Interpretation*, 30.
[78] Ibid.
[79] Yusuf Talal DeLorenzo, "The Fiqh Councilor of North America," in *Muslims on the Americanization Path?* ed. Yvonne Y. Haddad and John L. Esposito (Oxford: Oxford University Press, 2000), 68.

fatwā about any controversial legal issue. This helps to produce the concept of a collective *fatwā*, which Skovgaard-Petersen defines as being "given not by an individual mufti, but by a group of muftis who have reached a consensus (*ijmāʿ*) on the issue."[80] At both the international and national levels, there are important religious bodies, institutions, and organizations that provide Muslim scholars with a forum or a platform to collectively assess a controversial issue and derive an appropriate collective *fatwā*. Skovgaard-Petersen implicitly laments the shortage of these intellectual Islamic legal platforms.[81] However, he does not consider the fact that almost every national-level religious institution officially established by Muslim states produces its *fatwā*s upon a collective rather than individual basis. In the contemporary world, this may be perceived as one of the changing features of the *fatwā* that helps to partially distinguish it from the individual practice of *iftā'* in the classical sense of Islamic law. Some of the collective *fatwā*s issued by each of the organizations (governmental/non-governmental; national/international) have had a substantial impact at the international level. This was particularly true of the collective *fatwā*s issued by Al-Azhar University's Islamic Research Academy (which is based in Cairo) and the Muslim World League (which is based in Mecca). In addition, these types of *fatwā*s are powerful enough to shape state legislation and policies within several Muslim countries—examples include Malaysia's National Fatwa Committee and Saudi Arabia's *Dār al-Iftā'*.[82]

The standard procedure of issuing a collective *fatwā* begins with preparing a working agenda that includes topics. This agenda is sent to the members of the Muslim organizations beforehand (at least a week, a month, or a year) to request information from the members and prepare a study related to the topics listed on the agenda. At a determined date, the members of the Muslim religious institutions gather and discuss the issues listed on the working agenda to issue a generally valid *fatwā* or make a general statement. In addition, the collective *fatwā* may also include a consultation process that draws upon specialist knowledge from an expert in his/her field. After discussing and evaluating the issue in question and, if necessary, consulting an expert, the decision (*qarār*) is

[80] Skovgaard-Petersen, "Typology of Fatwas," 284.
[81] Ibid.
[82] Yakar, *Islamic Law and Society*, 64-71; Sümeyra Yakar and Emine Enise Yakar,"A Critical Comparison between the Classical Divorce Types of Ḥanbalī and Jaʿfarī Schools," *Darulfunun Ilahiyat* 31, no. 2 (2020): 277-78, DOI 10.26650/di.2020.31.2.803260.

generally issued upon the basis of a majority vote within collective *fatwā*-issuing bodies.

Considering how a collective *fatwā* is issued, it is possible to identify several changes and developments within the practice of *iftā'*. In the first instance, there is a terminological paradigm shift from the term *fatwā* to the term *qarār*. As Skovgaard-Petersen notes, "The collective fatwa-issuing bodies often employ the term *qarārāt* (decisions) for fatwas that are issued after studies, preparations, and discussion."[83] In the second instance, a variation of a democratic voting scheme is procedurally incorporated into the *fatwā*-making process. Finally, the practice of *iftā'* begins to take the form of a collective effort amongst Muslim scholars that operate within governmental or non-governmental religious institutions.

It should be noted that the collective character of this type of *fatwā* may serve to, in comparison to other individual *fatwā*s, increase its authority, credibility, and validity.[84] Al-Qaraḍāwī echoes this sentiment by asserting that an opinion decided by a group of Muslim scholars is substantially preferable to the view of an individual Muslim scholar because of the advantage that derives from mutual consultation.[85] This type of consultation, he contends, prevents Muslim scholars who perform the practice of collective *iftā'* from neglecting certain aspects of the issue under discussion and encourages them to engage other dimensions of the problem sufficiently.[86] In echoing this sentiment, Skovgaard-Petersen claims that having appeared "in the second half of the 20th century, the collective fatwa can be considered an attempt to procure or deliver fatwas with a degree of authority that is not readily challenged."[87] These observations suggest that *fatwā*s produced through

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[83] Skovgaard-Petersen, "Typology of Fatwas," 285.

[84] Focusing upon religious authority and the types of *fatwā*s in Indonesia, Kaptein states, "In the Muhammadiyyah a *keputusan*, which forms the end of long formal deliberations, is regarded as expressing more authority than a *fatwā*." Writing about the term "*keputusan*," Kaptein refers to a decision that reached at the end of regular meetings of the Majlis Tarjih, a special board of the Muhammadiyyah that was charged with the issuance of Islamic legal decisions, rulings, and *fatwā*s. These *keputusan*s are the product of the collective effort of the members of Muhammadiyyah, and the decisions (*keputusan*s), Kaptein argues, are more authoritative and credible than other forms of *fatwā*s, especially than those *fatwā*s issued by only one individual Muslim scholar, in the specific context of Indonesia. See Kaptein, "Voice of the *'Ulamā'*," 121, 124, 126.

[85] Yūsuf al-Qaraḍāwī, *al-Ijtihād al-Mu'āṣir bayna al-Inḍibāṭ wa 'l-Infirāṭ* (Beirut: al-Maktab al-Islāmī, 1998), 103-05.

[86] Ibid., 103.

[87] Skovgaard-Petersen, "Typology of Fatwas," 284.

the mutual efforts of Muslim scholars may be more authentic, credible, and solid than those put in place by a single Muslim scholar.

Even today, the *fatwā* mechanism is one of the main instruments that produce Islamic legal opinions and accommodate Islamic law to new circumstances and situations. A *fatwā* can be interpreted as an immediate legal answer that responds to the challenges and exigencies that confront Muslims in the modern world. This mechanism has undergone incremental developments and changes due to the differences in time and the changing conditions of society. The above-mentioned three types of *fatwā* may attest, to a certain extent, to the changing and thriving nature of the contemporary practice of *iftā'* in the modern period.

Conclusion

It is generally agreed that the practice of *iftā'* plays a significant role in contemporary Muslim societies. While deviations within the practice of *iftā'* can be identified, this does not detract from its importance for Muslims in the modern world. A *fatwā* is not just a melting pot of Islamic legal methodologies and social realities. Instead, it is part of Muslim scholars' ongoing hermeneutical and intellectual effort in producing applicable legal solutions to challenging and complex problems. As Agrama demonstrates, the practice of *iftā'* is not only a legal tool for introducing new thinking and opinions in the area of Islamic law but also an influential mechanism that conjoins ordinary Muslims to Islamic law to a certain extent.[88]

One may argue that this independent and private practice enables Muslims to continue to live per Islamic law by connecting Islamic legal theory to social practices. The practice of *iftā'* is an Islamic legal instrument that forms Islamic legal opinions before conveying their content to Muslims. This instrument is usually applied to provide solutions to economic and medical issues, new social practices, and scientific/technological developments. However, in the process, the interpretative authority has begun to pass from the hands of individual Muslim scholars to the collective bodies of international and national religious establishments. In a development that became particularly pronounced after the twentieth century, the practice of *iftā'* underwent a diachronic change as a result of the interventions of modern Muslim nation-states that sought to control almost every aspect of society and legitimize their existence by invoking extra-legal Islamic sources, which

[88] Agrama, "Ethics, Tradition, Authority," 13-14.

is an institutionalization, modernization and nationalization process.[89] Therefore, many Muslim states launched their religious institutions, and these modern state-dependent religious institutions, in turn, instituted the practice of *iftā'* as a state-delivered public service.

During the second half of the twentieth century, international religious centres and organizations began to institutionalize through the voluntary efforts of Muslim scholars. This process was initiated to issue *fatwā*s and disseminate these authoritative and functional Islamic legal opinions worldwide. Within governmental and non-governmental religious institutions, Islamic legal decisions, interpretations, and opinions (*fatwā*s) were initiated through the collective effort of Muslim scholars who functioned within these religious establishments. As a consequence, the practice of *iftā'* became synonymous with a collectivization process during the modern period. Additionally, new forms of *fatwā* have begun to appear in Islamic law, while other Islamic decisions and legal opinions which closely resemble the *fatwā* have begun to be issued by either state-dependent or state-independent religious establishments that generally operate collectively. These changes and developments in the practice of *iftā'* do not only demonstrate the possibility of change in *uṣūl al-fiqh* (Islamic legal sources, methodologies and theories) but also make this practice an effective instrument that produces Islamic legal opinions by combining Islamic legal principles and social reality.

At this point, one can emphasize the increasing need for a collective effort amongst Muslim scholars, which takes place in a collegial body and embodies a variety of collective *ijtihād* in the modern world. In many parts of the Muslim world, Muslim scholars came to realize the complexities of modern life that require interdisciplinary skills and mental energies that far outstrip the capacities of any single Muslim scholar in search of an Islamic legal opinion.

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[89] Skovgaard-Petersen, *Defining Islam*, 22.