

A Study of E-Fatwā as a Modern Development in Uhūl al-Fiqh

By: Abdul Hameed Badmas Yusuf, PhD

Department of Religions,

Faculty of Arts, University of Ilorin
002348134924170

abdulhameed1403@gmail.com

ABSTRACT

The advent of ICT with various sophisticated media has affected many a field of knowledge. Precisely, the internet has made available useful materials and data thereby facilitating teaching and learning processes. This impact is equally manifest in the field of Islamic studies, whereby the internet is being employed to communicate fatwā i.e. Islamic legal verdict. This development has considerably broadened the scope of fatwa as it is no longer an affair between muftī [the scholar] and mustaftī [the questioner]. Therefore, this article seeks to study this phenomenon from both negative and positive perspectives. The objective is to dwell on the need and ways to ensure a judicious use of the medium. This is necessary when we take into consideration the lofty position of fatwā in the field of Islamic Studies. For this purpose, related materials are consulted in the library, while analytical method is employed. The article finds that the internet has facilitated the dissemination of religious verdicts through dedicated website such as Islam online and Islam q&a. It however recommends that to avoid the abuse of this opportunity efforts must be made by all concerned most

especially scholars who issue fatwa via internet. Also, the institution of fatwā must be recognized as an area of specialization in order to ensure that only qualified scholars undertake the task of communicating fatwā online to the general public.

Keywords: fatwā, muftī, mustaftī, Islam online, and Islam Question and Answer

INTRODUCTION

Islam is a revealed religion with a divine legal system which regulates every action of its adherents. Proper observation of religious dictates is exclusively hinged on knowledge whose acquisition is considered compulsory and an act of Ibādah in its own right. In this regard, the content of the first revelation is instructive as it touches on two important features of acquiring Knowledge, namely reading and pen:

Proclaim! (or read!) in the name of thy Lord and Cherisher. Who created-Created man, out of a (mere) clot of congealed blood: Proclaim! And thy Lord is Most Bountiful,- He Who taught (the use of) the pen,-Taught man that which he knew not.(Q96:1-5).

Accordingly, Muslims have been commanded in a number of Qurānic verses and prophetic Traditions to seek knowledge, especially that of religion so that all rituals-alāh, Zakāh, Sawm, Haj, etc. - may be observed as prescribed by the Lawgiver. In fact, both the Qurān and the Sunnah have unequivocally extolled

the position of knowledgeable people as being lofty compared to those who are not:

Say: Are those equal, those who know and those who do not know? It is those who are endowed with understanding that receive admonition. (Q39:9)

Even though it is axiomatic that human beings are not equal in terms of acquisition of knowledge, lack of it cannot justify arbitrary and random observation of the religious precepts. Thus the Supreme Creator has equally instructed those with no knowledge to ask those endowed with it:

And before thee also the apostles We sent were but men, to whom We granted inspiration: if ye realize this not, ask of those who possess the Message. (Q16:43).

Also:

Before thee, also, the apostles We sent were but men, to whom We granted inspiration: If ye realize this not, ask of those who possess the Message. (Q21:7)

Against this backdrop, the concept of fatwā is a medium through which those who do not know of religious rulings ask those with knowledge.

In the following paragraphs, a considerable amount of discussion shall be devoted to this concept vis-à-vis the impact of scientific and technological development on it, hence the term e-fatwā. Both merits and demerits of e-fatwā shall be considered with a view to unearthing its strengths and weaknesses. Unlike the

conventional medium of passing fatwā, e-fatwā enjoys wider coverage as it can reach millions of users at different places, towns and countries in no time. Any individual with access to the internet service may make use of this means to ask about the religious stance regarding issues of concern. But responses thereof can be accessed by other users across the globe. This modern means, no doubt, affords Muslims a great opportunity to communicate the pristine Islamic teachings to the global audience. However, the concern lies in its proper and positive utilization by the Muslim community, especially the muftī and mustaftī, who happen to be the two key players in the process of e-fatwā.

Meaning of Fatwā

An Arabic word, fatwā refers to explication of Islamic legal verdicts regarding issues of concern. In other words, it is a proclamation on the law of the Creator based on evidence. For the sake of clarification, fatwā has always been illustrated by the scholars as a pronouncement of Sharīah ruling with no binding force. This is to distinguish it from qaā (judgment) which once pronounced, carries a binding force. In addition, while fatwā can address a wide range of issues relating to integral aspects of □Ibādah, qaā has a limited scope. Thus fatwā can be passed in respect to Salāh, Zakāh, Sawm, Haj and other □Ibādah as to their validity and otherwise. A muftī can pass fatwā regarding all aspects of Islam, both Ibādah and Muāmalāt. But a qāī (judge) is only concerned with the latter, and not the former; he cannot give a ruling validating or invalidating any ritual aspects. His duty is limited to settlement of disputes between individuals.

Being a modern trend, the concept of e-fatwā does not enjoy a definite definition as far as the writer knows. As such a definition of e-fatwā may be given as: "any fatwā passed via means other than the traditional face-to-face or writing mediums. Such medium could be of any electronics such as television, radio, telephone and the internet". But for the purpose of the present study, the internet is our focus as a medium for e-fatwā.

It is also necessary to define the following key words: muftī, mustaftī and Istiftāu due to their importance in this paper. The word 'muftī' refers to the scholar who is qualified to pass fatwā. By virtue of his qualification, he should be able to derive legal rulings from the sources of the Sharīah i.e. Qurān, Sunnah, Ijmā and Qiyās. The term, mustaftī, however means a person who asks the muftī about Islamic rulings. As for the word Istiftāu, it refers to the act of making enquiry. These three technical terms constitute the fundamental pillars of fatwā, any default therein changes fatwā to irshād, a sheer advice. For instance, if a pronouncement is made without a prior enquiry, such would be considered as irshād. However, according to Imām Amā, any default in these pillars does not necessarily change the pronouncement made from fatwā to irshād. This position is especially logical since in either instance, the pronouncement would have no binding force. So whether or not there is a prior enquiry, any pronouncement made regarding Islamic rulings should be deemed a fatwā so long the purpose is to explain an Islamic legal verdict concerning a given issue.

Significance of fatwā

Classical scholars have emphasized the significance of fatwā a great deal. For instance, in his seminal work on fatwā, Ibn al-Qayyim notes that the position of passing fatwā must only be

occupied by someone who is knowledgeable, pious and of impeccable character. This is because fatwÉ derives its importance from the fact that it is an exercise first embarked upon by the Supreme Creator, the Lawgiver Himself. In His Glorious Book, the Almighty Allah gives answers to a number of questions directed to the Prophet (SAW) by his Companions as well as his detractors. For instance, Allah (SAW) says:

They ask thy instruction concerning the women say: Allah doth instruct you about them: And (remember) what hath been rehearsed unto you in the Book, concerning the orphans of women to whom ye give not the portions prescribed, and yet whom ye desire to marry, as also concerning the children who are weak and oppressed: that ye stand firm for justice to orphans. There is not a good deed which ye do, but Allah is well-acquainted therewith.(Q4:127)

Also:

They ask thee for a legal decision. Say: Allah directs (thus) about those who leave no descendants or ascendants as heirs. If it is a man that dies, leaving a sister but no child, she shall have half the inheritance: If (such a deceased was) a woman, who left no child, Her brother takes her inheritance: If there are two sisters, they shall have two-thirds of the inheritance (between them): if there are brothers and sisters, (they share), the male having twice the share of the female. Thus doth Allah make clear to you (His law), lest ye err.

And Allah hath knowledge of all things. (Q4:176)

In the above verses, Allah (SWT) gives a detailed exposition on women affairs and intestacy respectively. Although, instances where Allah (SWT) responds to questions and challenges posed to the Prophet (SAW) are many in the Qurān, the two verses above are significant due to the fact that the technical terms germane to fatwā were used in both. These are *yastaftūnak* (the are asking thee for a legal decision) and *yuftīkum* (Say Allah directs thus). This shows clearly that the exercise of passing fatwā is of divine origin.

Moreover, all the messengers were saddled with the responsibility of explaining the divine orders and rulings to the people. Particularly, the Prophet (SAW) was tasked to explain the Ummah all rules and regulations contained in the Book:

We sent them) with Clear Signs and Books of dark prophecies; and We have sent down unto thee (also) the Message; that thou mayest explain clearly to men what is sent for them, and that they may give thought. (Q16:44).

Expectedly, the Prophet (SAW) did not leave any stone unturned; he explained all the fundamental legal verdicts for the Ummah. Rulings relating to the cardinal fundamentals of Islam such as *Salāt*, *Sawm*, *Haj*, *Zakāh*, viz-a-viz. *Halāl* and *Harām*, have been clearly explained by him (SAW). Detailed explanations on various legal issues are what constitute his Traditions technically known as *Sunnah*. Therefore, the Prophet (SAW) could be rightly regarded as a pioneer *muftī* in Islam beside his other positions as *Imām*, *Qāī*, and statesman. His fatwa commands authority due to

the fact that he did not speak out of his own volition. The Islamic literatures are replete with references to occasions where he (SAW) responded to his Companions' inquiries regarding one religious issue or the other. For instance, it was reported that Hindī, wife of Abū Sufyān, consulted him (SAW) lodging a complaint against her husband's miserliness, of him not meeting her financial needs. In his response, the Prophet (SAW) gave a legal verdict that she should take from her husband's money an amount deemed to be customarily reasonable.

After his demise (SAW), the Companions followed in his footsteps as they responded to many religious enquiries from the Muslims. The 'reciters' (qurra') was the term used at the time to refer to those Sahabah who had a good understanding of fiqh and passed fatāwā (pl. fatwā) on different occasions. Those who passed the highest number of fatwā include □ Umar bin al-Khajāb, Ali bin Abī Tālib, Abdullah bin Masjūd, Āishah Umm al-Muminīn, Zayd bin Thābit, Abdullah bin Abbās, and Abdullah bin Umar. Having learnt and witnessed most events with the Prophet (SAW) both home and away, these Companions were ever informed and well equipped as far as religious matters are concerned.

The issuing of fatwā is a serious matter. The Qurān has warned against speaking without proper knowledge and certitude in matters involving the legal categories of Halāl and Harām. Such arbitrary determination and decision based on subjective judgment has been expressly condemned by Allah (SWT):

But say not - for any false thing that your tongues may put forth,- "This is lawful, and this is forbidden," so as to ascribe false things to Allah.

For, those who ascribe false things to Allah, will never prosper. (Q16:116)

Based on this, the institution of fatwā was accorded a lofty status in the past so much that those aforementioned Qahābah as well as those who came after them (i.e. Tābi ūn) used to avoid giving fatwā. They used to refer important religious issues to their colleagues for correct verdicts to be issued. This does not, in any way, suggest their ignorance, neither does it mean that they were shying away from their responsibilities. Rather, it was in the recognition of the risky nature of passing fatwā. But, whenever it became necessary for one of them to give a fatwā, he would be ever meticulous and painstaking in doing so.

Moreover, the Prophet (SAW) was reported to have warned against giving fatwā without sufficient knowledge:

Verily Allah does not retrieve knowledge from people after having been given to them. Rather He only takes it back with steady death of the knowledgeable ones. Until when they have all died, ignorant people will succeed them; then they will be passing religious verdicts based on mere reasoning. Thus they will mislead people and they too will go astray.

In his book, al-Khajīb al-Baghdād related from Imām Mālikī that the latter said: "a man informed me that he visited Rabīah and asked him: why are you crying? Highly terrified by his cry, the man asked him again: are you inflicted with calamity? He (Rabīah) replied him: No, (I am only sad because) people are now consulting ignorant ones about religious issues; a serious problem has surfaced in the fold of Islam."

Furthermore, Imām Mālikī did not give fatwā until after he had been certified by a large number of highly versed scholars. He was reported to have said:

I did not engage in the act of fatwā giving until after seventy (scholars) had confirmed that I was capable of giving fatwā. And I never attempted to issue a fatwā until after I had asked someone who was more knowledgeable than I am: do you think I am the right person for that? So did I ask Rabīh at and Yayā bin Saīd and both of them permitted me to proceed. I (the narrator) then asked him (Mālikī): O father of Abdullah, what if they stopped you from issuing fatwā? He replied: I would be ready to comply. For, it is not proper for a man to consider himself capable of something unless he had consulted someone who is more knowledgeable than him.

In his attempt to articulate the importance of fatwā, Ibn al-Qayyim submits that "muftī could be considered as a deputy officer signing on behalf of his principal, say the chief judge. If such lofty position could require utmost care and diligence, what if the principal officer is the Supreme Judge, the Lord of the universe?"

It may also be argued that the effect of erroneous fatwā on the mustaftī and the society at large would be much more disastrous than the effect of ill-prescribed drug administered on a patient by a quack doctor. This similitude further depicts the delicate nature of fatwā. While such drug could either aggravate the health condition of the patient or kill him, an ill-informed fatwā would

have a worst effect on both the health and faith of individuals.

The muftī must bear all these in mind and discharge his duty with utmost sincerity and meticulousness. He should not hesitate to say 'I don't know' when necessary. After all, despite their knowledge and competency, the Companions of the Prophet (SAW) used to declare their ignorance whenever a difficult issue was posed to them. Once upon a time, both Abdullah bin Zubayr and Ā'im bin Umar were asked about the rule of divorce that was pronounced three times in a moment. Having come out boldly that they were not with the answer, they referred the case to Abdullah bin Abbās and Abū Hurayrah. The former immediately asked the latter to address the issue: "O Abū Hurayrah, give them a fatwā, a serious case has been presented before you". Accordingly, Abū Hurayrah gave a verdict that a divorce made once may be revoked, but if made thrice, the husband would not be able to remarry the divorced woman until after she had married a new man and be divorced afterwards.

Furthermore, the importance and relevance of the institution of fatwā in contemporary time cannot be overemphasized. In view of endless novel issues unfolding every moment, there is an urgent need for this institution to be judiciously employed. For novel issues such as test tube baby, insurance, organ transplantation, etc., there must be appropriate religious positions so that Muslims can observe the limit of Sharīah. Also it is necessary that the Islamic positions regarding unprecedented issues be explained clearly so that the claim of Sharīah dynamism and adaptability may be practically substantiated.

In addition, given the rapid territorial expansions in the universe which may in turn make the consultation of muftī for the purpose

of seeking religious verdicts somewhat difficult, e-fatwā has become the most important and effective medium for such purpose. As a result, it has now become possible for someone from far west or anywhere around the world to make inquiries about religious issues via the Internet, without having to go extra miles in search of a muftī. This development is capable of paving the way for significant improvement in religious awareness. Moreover, non-Muslims can have equal access and opportunity to read about Islam. But all this can be possible only if the medium is judiciously used by both muftī and mustaftī.

Qualifications of muftī

In view of the significance of fatwā as elaborated earlier, classical scholars have set some conditions, the satisfaction of which qualifies one to become a muftī. Apart from basic ones such as being a Muslim, sane, mature, upright and intelligent, the ability of the prospective muftī to engage in Ijtihād is a standard requirement. Virtually all scholars across the extant schools of Islamic legal thought are unanimous on the fact that no one should occupy the position of muftī except a mujtahid. The ideal muftī needs to be capable of making independent initiatives to derive legal rulings from both revelational and rational sources with respect to novel issues for which there is no known legal rule.

The term ijtihād refers to the ability of the scholar to exert his utmost effort with the end of deriving rulings from the primary sources of the Sharīah. For this mission to be possible, the prospective muftī must be well versed in the primary sources of Sharīah namely the Qurān and Sunnah. This is because on one hand, the Qurān is a repository of all rulings concerning human

endeavours on the planet. Although there is some disagreement among scholars as to what amount of verses must be committed to memory by perspective muftī, the fact remains that he must be conversant with all ruling-generated verses technically known as Āyāt al-Akām. He must understand the status of every verse in order to identify which one is Ām (generic) or Khā (specific), Nāsikh (abrogator) or Mansūkh (abrogated), Makkī (makkan) or Madanī (madinite), Muqayyad (restricted) or Mulag (unrestricted), as well as Asbāb al-Nuzūl (causes of revelation). All these aspects would enhance his correct understanding and application of every text, thereby arriving at correct legal rulings.

On the other hand, the Prophetic Traditions technically known as Sunnah is a viable vehicle through which the Qurān can be firmly grasped. The Prophet (SAW) was vested with the authority to explain the Glorious Book, because the rulings in the Qurān sometimes occur in general, unrestricted or in ambiguous terms. The Sunnah supplies details of the ambiguous, restriction of the unrestricted, and specification of the general rulings. The example of the Sunnah being an explanatory medium of the ambiguous statements of the Qurān are the traditions which specify the times and numbers of Salāh, the rak'ah and nature of every prayer; the items on which Zakāh is payable, the amount which is due on all kinds, the time of the payment and all the conditions of its obligation. Similarly, it is by the means of Sunnah that detailed rules relating to marriage, commercial transactions, criminal offences and punishments, etc. are explained.

Equally crucial to the attainment of the position of muftī is mastery of the Arabic language. It is incontrovertible that Arabic is the language of Islam; Islam can only be adequately understood with Arabic language as the medium. Beside the

primary sources of Sharīah, all classical works in which Sharīah precepts are explained are in Arabic language. Hence, it would be suicidal to embark on the study of Sharīah with zero knowledge in Arabic language. Imām al-Shāibī considers understanding of Arabic language and the objectives or spirits of the Islamic law technically called Maqājid al-Sharīah as the most essential requirements for one to become a mujtahid.

But, according to al-Ghazālī, the perspective muftī is not required to master Arabic up to the standard of its foremost luminaries such as khalīl, etc. The basic requirement is for him to be familiar with some fundamental elements of the language (grammar, rhetoric, etc.) such that would enable him to understand denotative and connotative meanings of the sources of Sharīah.

Having satisfied the above conditions, still, the perspective muftī has yet to arrive. He is in need of some methodological principles which would guide him as to how to understand and unearth legal rulings in the sources of the Sharīah with high degree of precision. Uhūl al-fiqh is the science that provides such expertise. It deals with the principles by which the mujtahid/muftī arrives at the legal rules through the specific evidences. As its subject matter, this science deals with the proofs in the Sharīah source-texts, viewing them from the perspective of how, by means of Ijtihād, legal judgments are derived from their particulars; though after, in cases where texts may appear mutually contradictory, preference has been established. The science of uhūl al-fiqh engenders the ability to have knowledge of Sharīah rulings through study, on the part of those qualified to perform ijtihād and those who meet all its requirements, of the legal proofs revealed in the sources by the lawgiver. Substantial

knowledge of this science will also familiarize the perspective muftī with some equally important sub-branches of Islamic law namely al-Qawā'id al-Fiqhiyyah, i.e. legal maxims and Maqā'id al-Sharīah, i.e. higher objectives behind the Islamic legal rulings. While the former would make the rules readily accessible to him within succinct expressions, the latter would make him aware of the sublime purposes for which the Sharīah is meant, namely, ja al-malaah wa daru al-mafsadah i.e. ensuring the benefit and prevention of the harm. According to the theory of maqā'id, the Sharīah, through all its rulings, aspires to preserve and protect five things, namely, religion, life, intellect, progeny and property.

Since the rulings of Sharīah are meant to be implemented and applied to our daily activities, it is inevitable for the muftī to understand the subjects of Sharīah i.e. human being together with his milieu and environment. This goes without saying that the perspective muftī must be familiar with the customs of the people seeking fatwā from him. The theoretical knowledge of Sharīah is incomplete without blending it with the practical aspect of life. This is what can ensure the universality and adaptability of Sharīah to every place and time. Especially, given the complex nature of the contemporary time, it is incumbent on the muftī to acquaint himself with local and international affairs in various aspects of life. His familiarity with sciences that deal with man and his environment i.e. geography, sociology, psychology, medicines, politics, economics and law would greatly help and facilitate his correct application of Islamic law. Otherwise how can he pass a valid verdict on unprecedented issues such as abortion of defective foetus, etc. without some awareness and understanding of medical sciences? The impact of milieu on Sharīah rules is a fact that several scholars across the centuries have come to realize. On his arrival in Egypt, Imām al-Shāfi'ī, the

acclaimed architect of *uhūl al-fiqh* and one of the four prominent leaders of schools of law, could not but review some of his legal stances which he had earlier upheld while in Irāq. This fact accounts for division of his schools of law into old and new.

To round up this section, it is apposite to reiterate the fact that the act of passing *fatwā* is a demanding task. It may not be assumed without adequate knowledge of the corpus of *Sharīah*. The afore-stated conditions represent the standard level which an ideal *muftī* must endeavour to attain. In reality, however, such conditions are seldom met by those who assume the post. In contemporary time, the best that an average *muftī* would do is to report past *fatwā* passed on issue similar to the one at hand. However, as asserted above, scholars from the school of *anafī* do not consider attainment of the *Ijtihād* status as a compulsory requirement. To them, any *muftī* with the lowest status of *Ijtihād* may pass *fatwā* so long as he can give a correct answer on the issue asked. In actual sense, this view point would make it possible for layman to always have access to *Sharīah* rules concerning his multi-faceted life situations. The standard conditions are only required of the first class or independent *muftī*, i.e. *al-muftī al-mulaq* who can pass *fatwā* on unprecedented issues.

Above all, the perspective *muftī* must be of impeccable character, pious, and sincere. These qualities would help him succeed in his daunting task, namely signing on behalf of the Creator.

Impacts of ICT on Religious Awareness:

Prospects and Challenges.

As rightly asserted by a researcher, types of falsehood,

accusation, denigration and sarcasm necessitates a strong Islamic presence on the Internet. The notion of what it means to propagate Islam may, in the future, become associated with the internet, as the Internet becomes a conventional medium in which all human groups express ideas, knowledge and opinion regarding Islam. Although the internet, just like other electronic media is believed to be a product of the West, it can be used as a vehicle for the propagation of Islamic teachings and values. It has the potentialities of facilitating the work of scholars at disseminating useful and correct information about Islam. The Muslim world could not afford to lag behind. It will also serve as a notice board for the global Muslim community, providing adequate information about Islamic organizations, places of worship, academic institutions specializing in Islam, student organizations, seminars, conferences, etc.

It is pertinent to quickly remark that Islam encourages excellence in all fields of knowledge including science and technology. The first revelation is an eye opener and a needed stimulus from which past Muslim scholars derived inspirations to explore and research into various aspects of knowledge. The outstanding contributions of those Muslims to the basic understanding of mathematics, medicine, science, technology, sociology, and philosophy are remarkable. They are remarkable despite the fact that Western scholarship always tends to undermine those contributions and promote Western scholars who plentifully benefited from knowledge that the past Muslim scholars had bequeathed for the benefit of humanity. It is appalling to note that Western scholarship has mischievously appropriated all scientific and technological advancements as its own achievements without acknowledging the significant contributions made by other civilizations, namely, Indian,

Chinese and indeed Muslim scholars. Thus though the Internet is a product of the Western civilization, other civilizations especially Islamic, could be regarded as major contributors to the eventual scientific evolution that took place later in the Western world!

Furthermore, the internet can be regarded as a neutral tool that can be judged and evaluated based on the intentions of its users. It does not have inherent values. In itself, the Internet is neither Islamic nor un-Islamic. It can only become Islamic when it is used for religious purpose, i.e fatwa dissemination, and un-Islamic when its users decide to use it for immoral motives i.e. pornography, blasphemy, libel, etc. A Knife could be a perfect similitude in this respect; if used for domestic purpose in the kitchen for cutting of beef, fish, vegetables, etc., it can be regarded as positive and useful, but if it is used to stab and kill people it becomes negative and harmful.

Against this backdrop, it is remarkable to note that Muslims have been making good use of the Internet. Many websites have been established with the purposes of passing fatwā alongside other Islamic activities. At every continent, there are a number of sites devoted to the propagation of Islam. The proliferation of such sites in recent time explains eagerness and willingness on the part of Muslims to know religious positions in every activity they engage in. It is a manifestation of their strong desire to maintain their Islamic identity in the face of pervasive western-materialistic value system and its impacts on every aspect of contemporary life. Islam online and Islam Q&A are among prominent Islamic sites devoted to fatwā passing.

Launched in 1999, Islam online is an example of a substantial

fatwā resource, operating in a Muslim majority context, but reflecting the expertise from authorities and counselors from a broad range of minority and majority contexts. The key scholar is the Qatar-based scholar Shaykh Yusuf al-Qarāwī, who also has an 'official' Arabic website. Although registered in Doha, Qatar, it is based in Cairo with more than 100 staff including students and graduates from Al-Azhar University. Operating in Arabic and English languages, Islam online has an array of scholars who are specialists in different fields of Islamic Revealed Knowledge and Human Sciences.

On the other hand, Islam Question & Answer site was founded by Shaykh Muhammad Saalih al-Munajjid from Saudi Arabia in 1997, which in Internet terms makes it one of the long-standing fatwā question sites in a web format. In August 2002, it was registered to al-Munajjid, at an address in al-Khobar in Saudi Arabia, and hosted by a company in Florida. The site has sections in Arabic, English, French, Indonesian, Japanese, Turkish, Urdu, Spanish and Chinese languages. Elsewhere, there are lectures, sermons, a mailing list and Holy Qurān Radio.

These two sites like many other Islamic sites attract a huge number of audiences across the globe. Fundamental issues concerning various aspects of Islam namely worship, matrimony, financial transaction, politics, economics, biomedical, etc. are regular issues addressed by concerned scholars with relative satisfaction. What is interesting is that the posting of questions is not limited to Muslim countries. Rather, Muslims living in the West as minorities are maximizing the opportunity offered by the internet to know Islamic rulings regarding various issues. This could not have been possible with the traditional medium of passing fatwā i.e. face-to-face and

writing. A typical example has to do with a mustaftī residing in Minnesota in the US. Consequent on the damage of his house, he wanted to know whether he could benefit from the house insurance scheme which has been made compulsory by the government. Invoking the principle of necessity (arūrah), the responding muftī submitted that he could benefit only from the exact amount he had paid. Since the conventional insurance is illegal in Islam, he must give out the residual amount as Sadaqah, the muftī concludes. Given the location of the mustaftī, the prompt response he got from the muftī might not be envisaged with the traditional medium. What more, the fatwā could not have benefited other Muslims who are undergoing similar experience in other Western countries where house insurance is made mandatory as a government policy.

Further still, the fact that most Islamic sites operate in major world languages presents an ample opportunity for all Muslims of different races and languages to understand Islam. This is a practical manifestation of the fact that language of specific nation should be taken into consideration in the spread of Islamic message. By extension, it justifies the universal status of Islam; it is not a birth-right of the Eastern people in whose language the Qurān was revealed. Dissemination of Islamic message can be done via various languages spoken by mankind, however, Arabic remains the original language of Qurān, hence of Islām.

It is also important to note that, the internet as a medium of fatwā ensures the preservation and documentation of fatawā with the highest degree of safety and reliability. Since it is not passed verbally or in writing, there may be no concern of forgery of e-fatwā. Also, instead of directing treated issues to the muftī repeatedly, the perspective mustaftī is only required to check the

list of relevant issues about which fatāwā have been passed. Shyness and other social factors associated with traditional medium of passing fatwā could hardly be the case in the context of e-fatwā. The muftī is free to express himself as clearly as possible. His ability to give a clear picture about the issue would guide the muftī in providing a correct and informed fatwā. In fact the prospects of e-fatwā are many and cannot be exhausted.

However, the challenges associated with e-fatwā are also noteworthy. The very fact that it has a wider coverage underscores these challenges. Any slight mistake on the part of the muftī in the process of passing fatwā will have a far-reaching negative impact on millions of Muslims who are able to access the fatwā in question. A practical example here is a medical doctor committing a blunder while carrying out surgical operation on his patient. The resulting effect of this erroneous operation is lesser than the effect of muftī's erroneous verdict. This is because the medical doctor only takes care of certain part in the body, while the muftī is concerned with well-being of both body and soul of the mustaftī.

Also, given the high tendency of hiding of identity and location in e-fatwā, the muftī is always faced with the problem of generalization. As noted earlier, change in place and custom is a factor that always informs change in fatwā. In other words, the kind of fatwā passed with respect to a Muslim residing in the West will not be the same regarding those living in Muslim countries. This fact is often articulated by classical scholars as "tagayyur al-fatwā bi tagayyur al-zamān wa al-makān" (fatwā changes consequent on changes in time and space). Precisely, a fatwā premised on custom of a specific locality or certain malaah may not have a universal application. As such, a fatwā passed in

the predominantly Muslim countries, e.g. Saudi, Egypt, etc. may not be imported into other countries if such is based on the prevailing custom in those lands or peculiar malaah which are necessarily relative. It was the realization of the impact of custom on certain rulings that propelled al-Shatibi to remark that the implication of leaving the head uncovered is different from one locality to another based on peculiar custom; whereas, it is considered a disgraceful act in the East, it is not in the West. As such, the Islamic ruling vis-a-vis such habit would be different; to the former it negates uprightness, while to the latter it does not. The point here is that, there is a possibility of random 'exportation' and 'importation' as far as e-fatwā is concerned. This may not be the case if the muftī and mustaftī are to meet face-to-face.

Moreover, under the pretext of anonymity which is an integral feature of e-fatwā, it is not impossible for the mustaftī to raise controversial issues which might have a negative impact on the unity of the Ummah. While Islam encourages us to inquire about religious matters, it does however, caution against generating inconsequential issues. The following verse is instructive in this respect:-

O ye who believe! Ask not questions about things which, if made plain to you, may cause you trouble. But if ye ask about things when the Qur'an is being revealed, they will be made plain to you, Allah will forgive those: for Allah is Oft-forgiving, Most Forbearing. Some people before you did ask such questions, and on that account lost their faith. (Q5: 101-102)

Further still, free accessibility to the Internet may pave way for wanton abuse of e-fatwā, as it is possible for some to 'shop' around for 'cheap' fatwā that will satisfy their whims and caprices. What more, some may try to test the ability of different muftūn (pl. muftī) at different sites by directing the same question to them in order to expose them to mockery.

The most perturbing challenge of e-fatwā is the fact that it facilitates the presence of opportunists and pseudo-muftī on some fatwā-making sites. Lacking requisite requirements of assuming the position of muftī, some self-styled scholars might not be wary of passing ill-informed fatwā on burning issues with decisive impact on the general well-being of the Ummah. Many erroneously passed fatāwā could have contributed to political upheavals and religious crises in some Muslim countries especially and the globe entirely. Minor issues which approve of different views are often presented as representing the fundamental tenets and the exact positions of Islam. Also, the principle of malaah could be manipulated by some muftī to challenge the established issues in Islam. It may be observed that these bad tendencies on the part of many muftīs are mostly informed by unscrupulous quest for fame. Thus it is not uncommon to hear or read from certain scholars that 'Bank interest is not ribā', 'Jihād may be carried out against non-Muslims indiscriminately', 'Jihād may be declared against a secular government even though headed by Muslims', 'Western education is absolutely Harām' among many issues which require meticulous study and understanding of the spirit of Sharīah before a word can be said about them. The consequences of such erroneous fatāwā could not have been far-reaching with the medium other than the Internet.

Recommendation and Conclusion

In as much as e-fatwā is a potential medium to propagate and disseminate the message of Islam, there is a need to correct some anomalies that are associated with it. It will not be a realistic position to suggest that the Internet should not be used to pass fatwā, just on account of such anomalies as pointed out above. It is unwise to throw away the baby with the bath water. If things are put in their proper perspectives, the anomalies responsible for the abuse of e-fatwā can be addressed and mitigated appropriately.

Of paramount concern is the abuse that might emanate from the instance of the muftī. Gone are those days when qualified muftūn would avoid any attempt at passing fatwā, due to the risk nature of the task. Then, piety, sincerity and accountability were their hallmark and guiding principles. More so, their mastery and expertise in the essential sciences and skills is incontrovertible. An overview of the climate of the institution of fatwa in the contemporary time suggests a status-quo far removed and different from the past. Now any 'scholar' is qualified to give fatwā on any issue however sensitive it may be.

But, sanity can be restored to the institution of fatwā in general and e-fatwā in particular. For this to be possible, a standard manual book containing the modus operandi of e-fatwā should be prepared by a league of scholars recognized across the world. Therein conditions and ethics of mufti operating online should be set out in clear terms. This initiative will be useful and beneficial especially in those countries that have fatwā board or committee. Also it will greatly help regulate fatwā, so that chaos can be avoided regarding vital issues that concern the Ummah. To ensure proper observance of such manual book, it will not be too

much to stipulate punishment against erring muftī. This would not be difficult in countries like Malaysia, etc. where the fatwā committee is given the constitutional role. As for others where such status is non-existent, the league of scholars may take the initiative to persuade and convince the government (Muslim, of course) concerned to spell out some punishment for the abuse of fatwā.

Also, in order to stem the tide of impunity in the institution of fatwā, it is important to give fatwā a deserving place of pride in our educational curriculum. The incessant incidence of unprecedented issues in various aspects of our life has rendered the institution of fatwā more complex than before. This has made the concept of 'specialization' a reality to contend with. As rightly proposed by a scholar, there is really a need for the field of fatwā to become an autonomous discipline like other fields of knowledge. To ensure Sharīah-compliant responses to novel issues in bio-medicine, finance and other aspects of our life, there must be an enduring and thorough study and effort to achieve the goal. Having spent a considerable period in the "college of fatwā" for instance, the graduate should be awarded certificate of competency to give fatwā at least in simple cases. Such graduate may go ahead and specialize in certain aspects such as finance, so that he can be more qualified in the area. It is remarkable to note that, in some Muslim countries e.g. Jordan, for the perspective muftī to be so qualified as a member in the National fatwā board, the law states that he must be a graduate in the field of Sharīah sciences and a period of twenty years must have passed after his graduation. As for the perspective muftī in the provincial fatwā board, the period of ten years after his graduation is a condition. This regulation is a good development and a right step towards restoring sanctity of the institution of fatwā. Above all,

sincerity on the part of policy makers and muftūn is inevitable. It will be counter-productive if political and selfish interests are allowed to influence this noble and genuine endeavour.

In conclusion, all these measures are necessary in view of importance of fatwā. After all, its importance is much more than the field of medicine where no one can be qualified as a medical doctor without undergoing proper training for a certain period of time. A medical doctor is concerned with the body of his patient as well as his mundane well-being, while a mufti is to ensure good condition of both the body and soul, and maximum mundane and eternal pleasure of his 'patient' i.e. mustaftī.

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 was a judgment i.e. Hukm having a binding force. However, Ibnqayyim
 jauziyyah contends that it was a fatwa by the Prophet. As such, it does
 suffice as evidence that a judgment can be passed in absentia as argued
 some, on the basis that the husband of Hindī was not present. But
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