



## Methods of Issuing Fatwas in Islamic Legislation: A Historical Review

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### **Abstract**

*The methodology of issuing fatwas is highly significant to ensure that fatwas are issued based on discipline to meet the requirements of Islamic law, are relevant to the needs of society, and simultaneously preserve the sustainability of Islamic teachings. This article highlights the development of fatwa methodology in Islamic legislation, starting from the time of revelation until later periods. By using a fully qualitative approach, this article discusses the concept of fatwa, the current reality of fatwas in Malaysia, and reviews the development of fatwa issuance methods in Islamic legislation. The research findings reveal that fatwa methodology is diverse in line with the changing times. The scope of ijtihaad also depends on the circumstances of the era, society, and the approach taken by the authorities based on the reality of that time.*

*Keywords: Fatwas, Methodology, Islamic*

### **1. Introduction**

A systematic and effective methodology can ensure the success of any task or action. The field of fatwa issuance, or the provision of legal rulings, is no exception. The methods used by authoritative figures such as muftis will determine the presentation style and its impact on the continuity of religious activities within the Muslim community. The history of Islamic legislation has demonstrated how the methods employed by the Prophet Muhammad (peace be upon him) in conveying Islamic teachings not only successfully achieved their general objectives but also educated an ignorant society to become the most noble of nations, respected and honored to this day. Therefore, this article discusses three main aspects: the concept of fatwa methodology, the methods of issuing fatwas in Islamic legislation, and the methods of issuing fatwas in the context of the Malaysian Muslim community.

### **2. The Concept of Fatwa in Islam**

In general, according to al-Qaradawi (1988) and al-Zuhaili (1996), a fatwa refers to any legal answer to questions about religion, whether individual or collective. A fatwa is an Arabic word derived from fata-yaftu-fatwan. According to Ibn Manzur (1956) and Khalid Ramadhan Hasan (1997), futyan and fatwa are nouns used for al-ifta', which means the act of issuing a fatwa by a mufti on a certain ruling or a legal significance issued by a faqih (Makhluf, 1965). Some scholars, such as al-Baidawi (685H) and al-Badakhshi (1953), define the authority to issue fatwas to those who are mujtahid.

The strength of a fatwa is assessed based on the authority of the mufti (Razak, 2012) and the strength of the argument based on sharia evidence through specific methods of istinbat applied (Bar, 2005). Thus, if a fatwa is issued by those who lack the qualifications, driven by desires, mere intellect, or contrary to sharia evidence (Al-Qasimi, 1986), it is not a true fatwa (Othman, 1996). Another term related to the definition of fatwa is "mustafti," the person who asks, and the act of answering called "istifta'" (Razak, 2012).

In the Quran, the word fatwa appears eleven times in nine different verses. These usages are based on different meanings and purposes (Rahman, 2001). In other words, each brings a meaning that depends on the context and usage. The first usage refers to seeking clarification or a legal answer resulting in the application of a law (Surah al-Nisa', 127). The second refers to seeking explanation and clarification that does not involve legal issues (Surah Yusuf, 41, 43, 46), while the third is a directive to the Prophet Muhammad (peace be upon him) not to ask for fatwa from unbelievers and to seek fatwa from them to challenge and discredit their beliefs (Rahman, 2001).

Regarding the connection of fatwa with al-Sunnah, a fatwa is one of its main components. In line with the meaning of a fatwa as a legal answer, the Prophet Muhammad (peace be upon him), who clarified the laws, was the first recognized mufti in Islam (Rahman, 2001). In another perspective, the Prophet's fatwa is part of al-Sunnah because Sunnah means all the sayings, actions, and approvals of the Prophet (peace be upon him) (Al-

Zuhaili, 1986).

### 3. Categories of Fatwa in the Malaysian Context

Based on the practices of fatwa institutions in Malaysia, fatwas can be categorized into two: official and unofficial fatwas. However, in detail, fatwas can also be divided into three forms: gazetted fatwas, non-gazetted fatwas, and mufti's opinions. Gazetted fatwas refer to official fatwas decided by the mufti or the mufti committee after obtaining the consent of the sultan or king. In some states, they are approved by the State Executive Council and the State Legal Advisor and gazetted through the government gazette. A gazetted fatwa becomes law, and all Muslims in the state where it is gazetted are bound by it (Buang & Hambali, 2004).

Non-gazetted fatwas refer to answers to questions without any agreement for gazetting. They are difficult to implement and enforce because they lack court recognition. Not all questions brought to the fatwa committee or mufti are gazetted into law. However, when a fatwa is officially requested through a letter or query, it is considered a government document and subject to related regulations (Ridzuan, 2024). Therefore, some fatwas are considered confidential and cannot be disclosed to the public. This includes the National Fatwa Council's discussions, which are considered confidential even though they lack legal authority (Buang & Hambali, 2004). The first and second types of fatwas involve major societal issues with no definitive answers in any Islamic reference sources.

The third category refers to the mufti's opinions, either written or spoken, based on personal views through religious Q&A sessions or phone calls. This type of fatwa does not specifically bind any Muslim because it is a personal opinion of the mufti without involving committee meetings. These unofficial fatwas, especially if made orally, can be published for public reference. An example is the Compilation of Fatwas by the State Mufti of Kelantan, published in the magazine *Pengasuh* in the 1920s (Ridzuan, 2024).

Since fatwas have various categories in terms of practice and authority, the methodologies used by muftis or Islamic scholars involved undoubtedly differ. However, any fatwa issued must comply with sharia within the permissible scope of *ijtihad*.

### 4. Methodology of Fatwa

Imam Barnadib (1982) defines methodology as “the science of conducting research.” It derives from the Greek word *methodos*, meaning ways, and *logos*, meaning knowledge. According to Koentjaraningrat (1977), methodology means a science of ways. The

Kamus Dewan (2007) defines methodology as “a system encompassing methods and principles used in an activity.” The term *method*, according to Kamus Dewan, means “a way of doing something or a system.” The word 'method' is taken from the English 'method,' meaning a systematic rule or approach. Therefore, the word 'method' in Malay is synonymous with its use in English (Zin, 2005). These definitions indicate that the word 'method' is more relevant to the writer's study than the general term 'methodology.'

In Arabic, several words closely relate to 'method.' These words are *uslub*, *manhaj*, and *wasilah*. 'Uslub' means style, form, pattern, path, or way, 'wasilah' also means path, and 'manhaj' means a clear path (Marbawi, n.d.). Based on Ab. Aziz's analysis of da'wah methodology, the words 'uslub' and 'manhaj' in terms of usage are very close to the word 'method' in Malay because 'uslub' is the general and specific way of doing da'wah, while 'manhaj' matches the general meaning of 'uslub' (Zin, 2005).

Therefore, it can be concluded that the methodology of fatwa refers to the science encompassing methods and principles related to fatwas, while the method of fatwa refers to specific ways or methods used for issuing fatwas, referring to content, targets, and presentation. These methods are generally based on *usul al-fiqh*, then elaborated by the author following scholars' opinions and specific methods to be applied in issuing fatwas.

### 5. Methods of Issuing Fatwas in the History of Islamic Jurisprudence

Tracing the history of fatwas in Islamic jurisprudence, the author divides it into five main eras: the era of the Prophet Muhammad (PBUH), the era of the Rightly Guided Caliphs (Khulafa' al-Rasyidin), the era of the Tabi'in (followers of the companions), the era of the Tabi' Tabi'in (followers of the Tabi'in), and the era of Taqlid (imitation). This division is based on the stages of development in Islamic teachings, which directly influenced the issuance of fatwas and the evolution of their methodologies.

During the lifetime of the Prophet Muhammad (PBUH), he held a crucial and central role for the Muslim community. In addition to being the clarifier (*mubayyin*) of Allah's laws, he also had the executive authority (*tanfizi*) to implement the Sharia itself. Therefore, there were two primary sources of law: the Quran and the Sunnah (Al-Qattan, 2001). The period of the Prophet Muhammad's (PBUH) mission represents the first stage of the development of Islamic jurisprudence, particularly the practice of issuing fatwas. During this stage, the practice of issuing fatwas did not

encounter many issues because everything was based on divine revelation through the Prophet Muhammad (PBUH), whether through the Quran or the Sunnah. It was more practical, with the Prophet acting as the messenger, a leader, a wise judge (qadi), and a mufti receiving divine knowledge from Allah (SWT). Thus, any fatwa issued by the Prophet Muhammad (PBUH) was not disputed by Muslims because it was based on divine revelation. However, during this period, not all fatwas issued by the Prophet Muhammad (PBUH) were binding in an absolute sense. Fatwas involving the use of intellect (ijtihad) by the Prophet himself were still subject to divine confirmation from Allah to either endorse or reject them (Rahman, 2001). Meanwhile, fatwas by the Prophet in the form of ijtihad that were not corrected by divine revelation served as approved legal evidence (dalil syarak). In conclusion, there is a distinction between fatwas and dalil syarak (Nyazee, 2002). Dalil syarak are absolute and free from error, while fatwas are based on ijtihad and dependent on the confirmation of textual sources (nas) for validation.

However, in brief, the method of issuing fatwas during the time of the Prophet Muhammad (PBUH) was guided by divine revelation (Al-'Ainan, n.d.). Although ijtihad (independent reasoning) was practiced by the Prophet to train the Companions in its application, the ultimate measure of the validity of such ijtihad still depended on divine revelation, directly referring to the Prophet Muhammad (PBUH) (Zaind, 2006). This clearly shows that there were no major issues in the process of legal interaction within the Muslim community at that time because it was under the guidance of revelation.

Regarding the approach to issuing fatwas, the Prophet Muhammad (PBUH) was the wisest mufti in understanding the context and target audience. From this perspective, the approach to fatwas can generally be divided into two main stages: the Meccan period, which emphasized issues of faith (akidah) and the development of moral character in a corrupted society, and the Madinan period after the hijrah (migration). During this latter stage, the fatwas of the Prophet Muhammad (PBUH) focused more on Islamic laws and individual responsibilities to build a noble Islamic society (Zin, 2005). An example of the chronological development of fatwas during this period can be seen in the process of the prohibition of alcohol (Surah al-Nahl (16): 67, al-Baqarah (2): 219, al-Nisa' (4): 43, and al-Maidah (5): 90-91). The development of fatwas after the death of the Prophet Muhammad (PBUH) became more pronounced in line with the spread of Islam and the opening up of space for ijtihad (independent reasoning). As is well known, the texts of the Quran and the Sunnah are very limited in terms of quantity,

whereas the societal issues that arise increase day by day (Rahim, 2009). Therefore, this compelled the Companions to use their intellectual abilities to address every new legal issue that emerged (Judli, 2006). The Companions who frequently issued fatwas included the Khulafa' al-Rasyidin, namely Abu Bakr, Umar, Uthman, and Ali (Ishak, 1981). Other Companions who also issued fatwas included Abdullah ibn Abbas, Abdullah ibn Mas'ud, Abdullah ibn Umar, Aishah, and others (Al-Bakri, 2005).

Generally, the method of issuing fatwas or legal reasoning (istinbat) by the Companions was based on the Quran and the Sunnah. The Companions would directly refer to the Quran if any issue arose, followed by reference to the Sunnah if the issue was not found or detailed in the Quran (Khallaf, n.d.). However, in referring to the Quran and the Sunnah, the Companions could not avoid differences of opinion among themselves, especially on matters of ijtihad (Musa, 2007). This situation was because each had different methods of interpreting the Quran and Hadith (Majid, 2000).

Although the jurists among the Companions had specific methods of issuing legal rulings, there was no effort to systematically organize these methods to serve as a specific reference for the method of legal reasoning during that time (Razak, 2013). This might be due to the fact that they lived with the Prophet, knew the reasons behind the revelation of verses, understood the secrets of the verses, and comprehended the objectives (maqasid) of those verses (Al-Amidi, 2003). Additionally, they were Arabs who frequently used the Arabic language, which is the language of the Quran and the Sunnah, and they knew about abrogation (nasakh) and possessed the skills of legal reasoning (Zaidan, 2006). This reality made the need for organizing specific methods unnecessary, as the activity of legal reasoning could be resolved by them without having to use particular usuliyah (principles of jurisprudence) methods (Al-Zuhaili, 1999).

Despite the lack of organized methods of legal reasoning, the Companions were very active in ijtihad to resolve issues faced by the Muslim community (Judli, 2006). However, their active engagement in ijtihad did not reflect their attitude toward issuing fatwas. Generally, the Companions were not bold enough to issue fatwas on their own without consulting other Companions (Al-Qattan, 1993). The conclusions drawn from these consultations (ijtihad ijtima'i) later became ijma' (consensus), which is recognized as one of the main sources of Islamic law (Al-Qaradawi, 1988).

The development of fatwas during the era of the Tabi'in (the generation after the Companions) did not differ much. Although the activity of ijtihad

became more vigorous (Ishak, 1981), there was still no effort to codify the methods of legal reasoning (Al-Zuhaili, 1999). This was because the Tabi'in were directly educated by the Companions (Zaidan, 2006). The attitude of the scholars of the Tabi'in toward fatwas remained the same as their teachers, the Companions. Prominent scholars of this era, such as Sa'id ibn al-Musayyib, al-Qasim ibn Muhammad, and al-Sha'bi, for instance, tried to avoid issuing fatwas as much as possible, fearing they might make mistakes in answering questions related to Islamic teachings (Al-Qaradawi, 1988). What became evident during this era was the continuation of two schools of legal thought that emerged since the time of the Companions: the Hadith school oriented towards textual evidence in Hijaz and the opinion (ra'y) school oriented towards public interest (maslahah) in Iraq (Zahrah, n.d.). The development of these two schools directly contributed to the methods of legal reasoning and fatwas of the jurists from each school up to the subsequent era (Majid, 2000).

As the development of Islam became more vigorous during the era of the Tabi' Tabi'in (the generation after the Tabi'in) and beyond, especially after the cultural assimilation and the broadening of knowledge exchange among different civilizations, the need to codify the methods of legal reasoning or the principles of istinbat (legal deduction) became increasingly important. Imam al-Shafi'i is recognized by most scholars as a pioneer in organizing the science of usul al-fiqh (principles of Islamic jurisprudence) (Al-Razi, n.d.). The combination of the legal thoughts he learned from his teachers eventually formed a new, more systematic school of thought (Zahrah, 2007). The codification efforts by him were significant as they provided guidance for followers of other major schools that existed at the time and after (Ibn Khaldun, 2006). These followers then systematically wrote down the methods of istinbat used by their teachers, even though their teachers only verbally stated the sources of law they adhered to or understood (Majid, 2004).

The legacy of fatwas issued by the prominent scholars of the Tabi' Tabi'in, such as the four Imams of the major schools of thought, was continued by their subsequent students. Most of their teachers' fatwas were upheld, but they still engaged in ijthad on several issues not found in the Quran, Hadith, or the fatwas of their teachers, using the methods that had been organized (Azhar, 2001). From an administrative perspective, during this period, official institutions for issuing fatwas began to emerge, known as Dar al-Ifta'. This clearly reflects that the methodology of issuing fatwas during this era experienced a golden age based on its flourishing and organized development (Ahmad, 1999).

At the end of the Abbasid era, the development of Islamic law saw a significant decline. This period, known as the era of taqlid (imitation), witnessed ijthad losing its role as a method for issuing fatwas except for a few minor issues, as Muslims felt comfortable adhering to their respective schools of thought (Azhar, 2001). In the 6th century Hijri, the Mongol invasion of Baghdad, which was the center of Islamic rule at that time, affected the development of Islamic law. Islamic thinkers prioritized the social harmony of the Muslim community, leading to the abandonment of renewal and new thinking. Consequently, the fatwas produced were characterized by taqlid to the views of their respective schools (Azhar, 2001).

Indeed, the culture of taqlid did not only impact that era but also had negative and positive implications up to the modern era of the fatwa institution. In Malaysia, the practice of issuing fatwas aligns with the traditional belief system of most Muslims, which is the Sunni school of thought following the Shafi'i madhhab (school of thought) (Abdullah, 1992). Although other belief systems exist, they have not been able to challenge the dominance of the traditional school (Sulong, 2008). However, there still exist opportunities for ijthad, either within the madhhab or beyond its boundaries, under certain conditions.

## 6. Conclusion

In conclusion, the method of issuing fatwas has developed through various stages. During the time of the Prophet Muhammad (PBUH), revelation was the basis for issuing fatwas, although ijthad (independent reasoning) was also practiced. Meanwhile, the Companions and the Tabi'in (the generation after the Companions) developed the method of issuing fatwas based on the Quran, the Sunnah, and ijthad. In the era of taqlid (imitation), the methodology of issuing fatwas became limited, focusing on the existing madhhabs (schools of thought). In the context of Malaysia, fatwas are recognized in official, unofficial, and mufti's opinions forms, with different methodologies depending on authority and the type of questions posed. This article concludes that although there are various categories of fatwas and methodologies, they all aim to comply with the requirements of Sharia, based on the knowledge of usul al-fiqh (principles of Islamic jurisprudence).

## Reference

- [1] Al-Qaradawi, Muhammad Yusuf (1988). *al-Fatwa Baina al-Indibat wa al-Tasayyub*. Kaherah: Dar al-Sahwah li al-Nasyar wa al-Tauzi'.
- [2] Al-Zuhaili, Wahbah (1986). *Usul al-Fiqh al-Islami*. j. 1. Damsyiq: Dar al-Fikr.
- [3] Ibn al-Manzur, Abu al-Fadl Jamal al-Din Muhammad Ibn Mukarram (1956). *Lisan al-'Arab*. j. 15. Beirut: Dar al-Sadir.

- [4] Hasan, Khalid Ramadan (1997), *Mu`jam Usul al-Fiqh*, Mesir: Dar al-Tarabisiy, h. 205
- [5] Al-Baidawi (685H). *Minhaj al-Wusul fi Ma`rifah `Ilm al-Usul*. Mesir: Maktabah wa al-Matba`ah al-Mahmudiyyah.
- [6] Hasanain Muhammad Makhluaf (1965) *Fatawa Syar`iyyah wa Buhuth Islamiyyah*, j.1, Kaherah: Dar al-Kutb al-`Arabi, hh. 12-19
- [7] Zulkifli Mohamad al-Bakri (2008), *Fatwa dan Mufti: Hukum, Etika dan Sejarah*. Nilai: Universiti Sains Islam Malaysia.
- [8] Al-Badakhshi (1953). *Sharh al-Badakhshi Manahij al-`Uqul*. j. 3, Kaherah: t.p.
- [9] Bar, S. (2005). *Jihad Ideology in Light of Contemporary Fatwas*. Washington: Hudson Institute.
- [10] Al-Qasimi, Jamal al-Din (1986). *al-Fatwa fi al-Islam*. Beirut: Dar al-Kutub al-`Ilmiyyah.
- [11] Othman, M.S.A. (1996). *Institut Pentadbiran Undang-undang dan Kehakiman Islam*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- [12] Rahman, N.N.A. (2001). *Fatwa dan Realitinya Pada Zaman Rasulullah*. *Jurnal Syariah*, 9, 15-22.
- [13] Azhar, A. (2001). *Metodologi Jawatankuasa Fatwa Negeri Kedah Dalam Mengeluarkan Fatwa-Fatwa: Kajian Dari Tahun 1985-1995*. Disertasi Sarjana, Jabatan Fiqh dan Usul, Akademi Pengajian Islam, Universiti Malaya, Kuala Lumpur.
- [14] Barnadib, I. (1982), *Arti dan Metode Sejarah Penyelidikan*, Yogyakarta: Yayasan Penerbitan FIP-JKIP.
- [15] Koentjaraningrat (1977). (ed.), *Metode-Metode Penelitian Masyarakat*. Jakarta: Penerbitan PT Gramedia.
- [16] Sheikh Othman Sheikh Salim et.al. (ed.). *Kamus Dewan*, ed. 4. Kuala Lumpur: Dewan Bahasa dan Pustaka
- [17] Zin, A.A.M. (2005). *Metodologi Dakwah*. Kuala Lumpur: Penerbit Universiti Malaya.
- [18] Buang, A.H. & Khambali, K.M. (2004). *Bentuk dan Statistik Fatwa*. Dlm. Ahmad Hidayat Buang. (ed.). *Fatwa di Malaysia*. Kuala Lumpur: Jabatan Syariah dan Undang-undang APIUM, 124.
- [19] Khallaf, `Abd al-Wahhab. (1943). *`Ilm Usul al-Fiqh*. Mesir: Maktabah Da`wah al-Islamiyyah.
- [20] Badran, Abu al-`Ainain, *Tarikh al-Fiqh al-Islami*, Beirut: Dar al-Nahdah al-`Arabiyyah
- [21] Nyazee, I.A.N. (2002). *Theories of Islamic Law: The Methodology of Ijtihad*, Kuala Lumpur: Islamic Book Trust
- [22] Zaid, M. (2006). *al-Maslahah fi al-Tasyri` al-Islami*. Mesir: Dar al-Yasar.
- [23] Razak, M.I.A. (2013). *Analisis metode jawapan hukum dalam ruangan soal jawab agama akhbar Harian Metro tahun 2010*. MA. Thesis. University of Malaya.
- [24] Abdullah, A.R. (1992). *Gerakan Islam Tradisional di Malaysia: Sejarah dan Pemikiran-Jamaat Tabligh dan Darul Arqam*. Kuala Lumpur: Penerbit Kintan.
- [25] Judli, N.A. (2006). *Manahij al-Fuqaha` al-Arba`ah*. Kuala Lumpur: Dar al-Tajdid.
- [26] Sulong, J. (2008). *Kedudukan Mazhab Syafi`i Dalam Amalan Pembahagian Pusaka dan Wasiat Islam di Malaysia*. *Jurnal Syariah*, 16 (1), p.164.
- [27] Majid, M.Z.A. (2000). *Fiqh Malaysia: Konsep dan Cabaran*. Dlm. Paezah Ismail & Ridzwan Ahmad (ed.). *Fiqh Malaysia*. Kuala Lumpur: al-Baian Corporation Sdn Bhd, 14.
- [28] Ahmad, M.S. (1999). *Pengantar Syariat Islam*. Kuala Lumpur: Pustaka Haji Abdul Majid
- [29] Majid, M.Z.A. (2000). *Fiqh Malaysia: Konsep dan Cabaran*. Dlm. Paezah Ismail & Ridzwan Ahmad (ed.). *Fiqh Malaysia*. Kuala Lumpur: al-Baian Corporation Sdn Bhd, 14.
- [26] Al-Razi, Abu `Abdullah Muhammad (t.t.). *Manaqib al-Imam al-Syafi`i*. Kaherah: Maktabah al-`allamah