

Shuratic *Iftā'*: The Challenge of Fatwa Collectivization

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Abstract

One of the primary challenges to the process of juristic development in the modern world is the specialization of knowledge, for this has made the issuance of legal opinions more difficult than ever before. Among this challenge's contributing factors are the amount of data available, the sophistication required to understand it, the variations in the cultural contexts in which juristic decisions are applied, the jurists' increasing distance from the original languages and contexts of the textual sources, and the complexity of the social conditions in which the decisions are to be applied. A new methodology has been suggested: collectivizing the process of issuing fatwas. The argument has been made that since no single scholar can master all of the knowledge necessary to arrive at a decision on a number of pressing issues, some mechanism of collective *iftā'* is necessary.

We consider this argument, as well as some objections and obstacles to it. We suggest that rather than developing a totally new collective methodology, we combine the traditional concept of *shūrā* (consultation) with the modern scientific methodologies of peer review and new developments in online communication. This approach will allow us to implement techniques that take advantage of the latest technological and scientific developments to preserve the fundamental principles of juridical development. This process supplements the classical texts with the discoveries of scientific inquiry, provides a way to include social and physical scientists along with scholars of traditional disciplines, restores the separation between state and scholarship of early Islamic society, and avoids the sectarianization of institutions. After discussing how the results can be made available to civil and political society, we illustrate the issue by examining such particularly difficult contemporary issues as calendar reform and embryonic stem cell research.

Introduction

In the classical era of Islamic jurisprudence – from the rise of the Abbasids to the fall of Andalusia – the best scholars were those who not only possessed the keen intellect required for clear original and analytical reasoning, but who had a broad general knowledge of each field that might bear on their legal reasoning. The rate of developing new knowledge has risen exponentially in recent centuries, and there has been a dearth of “Renaissance men” since, well, the Renaissance. Today, specialists who master the intricate details of particular fields of knowledge far outnumber those who have a broad general knowledge. And even the best of these latter scholars can specialize in a few fields at most, and thus must rely on other specialists for detailed knowledge of other fields. This extreme specialization, a hallmark of modernity, poses one of the primary challenges to juristic development today and makes the issuance of legal opinions (*iftā'*) more difficult than ever before.

Some suggest that since no single scholar can possibly possess all of the knowledge needed for engaging in *ijtihād* on issues that require significant technical knowledge in specialized fields, we must develop a new methodology for collectivized *iftā'*. This paper explores the arguments for fatwa collectivization, the particular challenges faced while formulating this collectivization, and solutions to overcome the ensuing obstacles and objections. While no one person can master all the fields of knowledge existing today, anyone engaged in *iftā'* in any capacity must have a basic understanding of many disciplines, among them research methodology, textual analysis, and the physical and social sciences.

Historical Perspective

We do not intend to engage in a detailed historical review, but rather to present a brief summary with some highlights that may put the problem into a historical perspective. We will then consider how circumstances have changed and what modifications of the existing methodology are necessary.

As always, it is best to begin by defining our terms. A *fatwa* is a non-binding legal opinion, and *iftā'* is the process of issuing such opinions. The resulting legal opinion must be distinguished from the binding legal judgment (*qaḍā*) issued by a judge (*qāḍī*). The judge is concerned with legal disputes, while the mufti provides jurisconsultation on issues ranging from ritual to family relations to political questions. The mufti, who implements the *iftā'* and issues the fatwa, may be of two kinds: (1) a *mujtahid*, one who is qualified to engage in original legal thought and issue fatwas, based on his/her own rea-

soning, derived from the sources of Islamic law, and (2) one who is not qualified to that extent, but who is well-versed in the analysis of the earlier *mujtahids* (a *muqallad*) and thus must cite the sources for his/her fatwa.¹

Interestingly, some of the issues with which contemporary *iftā'* deals have been present from the earliest times, including “fatwa shopping” and evaluating the mufti’s competence.² As the overwhelming majority of such opinions were delivered orally, there is no record of them.³ This is not a problem, however, because most of them dealt with routine non-controversial matters and were prompted only by the fact that the questioners’ low level of literacy prevented them from looking up the answers themselves. In such an environment, the paucity of the written record posed no problem.⁴ While issues of *fiqh* and *iftā'* overlap, the former’s development is distinguished by its formal systematic evolution. *Ifiā'*, which is directed at answering particular real-world inquiries, is often unrecorded.

Over the centuries, changes in the environment (political and scholarly at first, and then technological) altered the institutions of *iftā'*: “Before the eleventh century CE a *muftī* was simply someone who issued fatwas, knowledge and recognition by the scholarly community were the only prerequisites for a muftī. Beginning in the eleventh century a public office of *muftī* was affixed to the private vocation of *iftā'*.”⁵ This office became increasingly politicized until, under the Ottomans, the chief mufti, the “*shaykh al-Islām* [was] appointed and dismissed only by the Sultan,” who “depended on the secular authority [of] the qāḍīs to execute his judgments.”⁶

Over the last couple of centuries, muftis have increasingly asserted a right not to be bound by *taqlīd* to earlier fatwas. Further, the administrative structures of the colonial powers and the subsequent postcolonial regimes’ usurpation of *iftā'*’s functionality shifted the muftis’ focus from questions of daily life to areas of “anti-colonial resistance and ... the struggle for national independence.”⁷ Muftis must now wrestle with the challenges posed by various aspects of modernity as well.

At the same time, there has been an exponential rise in the amount of human knowledge and in the degree of specialization in the proliferating fields of knowledge. How can a mufti answer a question about medical ethics, for example, if he has no grasp of the medical issues involved and no comprehension of the discourse of ethicists within the medical profession? If he has no familiarity with the available technical information and none of the sophistication required to understand it, he must either make wild guesses or accept the advice of technical advisors. But these advisors, in turn, may have no familiarity with the Qur’an and Sunnah. Those of us living in the West

are confronted with additional problems: immigrant and/or foreign muftis who are unfamiliar with the cultural context in which their juristic decisions are to be applied. Throughout the world, problems are posed by the jurists' increasing distance from the textual sources' original languages and contexts, as well as by the complex social conditions in which their rulings are to be implemented.

Obstacles and Objections to Collectivization

Some have posited that many of the problems alluded to above may be addressed by collectivizing *iftā'*. Since no single scholar can master all of the knowledge necessary to formulate a realistic and appropriate ruling, some mechanism of collective *iftā'* has been declared necessary. Let's consider these arguments, along with some objections and obstacles.

Setting aside for the moment what these mechanisms might be, let's consider the abstract benefits of having multiple participants in the process. How are more heads better than one? By allowing multiple parties to collaborate in the decision, the group engaged in *iftā'* benefits from the complementarity of its members' knowledge. Medical researchers with no knowledge of Qur'anic Arabic, Arab grammarians with no knowledge of medicine, bioethicists unschooled in Islamic history, political theorists with no knowledge of hadith, and classically trained Islamic legal scholars who have no experience in modern scientific research can compensate for one another's weaknesses. Such collaboration can also provide a context for each other's contributions in addressing particular problems that might, in theory, be resolved by a hypothetical al-Azhar graduate in Islamic studies who had won the Nobel prize in medicine, had such a person existed.

Attractive as this fantasy may be, serious objections arise when we try to imagine the most appropriate mechanism. Let's imagine that a committee has been appointed to deal with embryonic stem cell research. Let's ignore the problems posed by its size. For the sake of argument, let's assume that every conceivable relevant discipline is represented. If the committee members form a deliberative body modeled on a Parliament, how will their relative areas of strength be integrated into the deliberative and decision-making processes? Qualified *mujtahids* will object to giving any role whatsoever to medical technicians and would relegate them to the status of non-voting advisors to be consulted for technical information. Medical experts may well feel that their insights are not sufficiently understood by religious legal experts, who are incapable of integrating them into a coherent fatwa.

Another problem we must confront is the scope of such committees' mission. Is their mandate revolutionary or evolutionary? Are they to weave an entirely new understanding of the Shari'ah, one that would replace the old *fiqhī* schools? Are they required to hew as closely as possible to precedent and thus merely tweak old fatwas by the smallest quanta necessary to meet the challenges posed by the questions asked? For example, when a resident of Vancouver (Canada) complains that the old fatwas on when to begin and end fasting cannot be implemented because the classic definitions of *ishā'* and *fajr* times do not obtain, should he/she be told to break the fast at the local maghrib time (8:17 p.m. on Ramadan 1 of this year) and similarly a resident of the Hague be told to begin to fast at dawn time at the Hague of 2:03 a.m.? Or should everyone at his/her longitude adopt the *maghrib* and *fajr* times of the latitude of Makkah, 6:50 p.m. and 4:22 a.m., respectively?

Modes of Collectivization

When we consider how to collectivize a traditionally individualized process, we should begin by identifying the two modes of collectivization that may be brought to bear: the "parliamentary mode" and the "academic research mode" of interaction among the members of the collective.

In the parliamentary mode, those identified as participants engage in a formalized debate on such questions as may be put to them by proposing fatwas. As is customary for such debates, each proposal's merits are discussed; amendments are put forward and considered; and votes are taken on the proposed amendments, substitute amendments, modifications, alterations, and so on until a majority (or some super majority), as may be required, can agree upon its final form.

Such an approach, however, has enormous drawbacks. As mentioned above, there will be a debate as to who is entitled to vote in such a discussion. Some members of the deliberative body will be more equal than others, in the sense that the latter may be allowed to participate but not to vote. While formulating amendments, political compromises may be made and the final fatwa may be a hybrid that is fully endorsed by few, if any, of the constituent body's members. However, it is the only end product that the parliamentary process can formulate. In other words, what should be a legal process will be politicized. The similarity of such a method to parliamentary legislation evokes the famous dictum that those who like legislation, like those who like sausage, should never see it being made.

The alternative mode, that of academic research, calls for the *mujtahid* to develop his/her opinion in an iterative fashion and then submit it for expert review at each iteration. It is subjected to peer review at every step, and the relevant suggestions are incorporated into the next iteration. Further, the publication of such fatwas allows competitors to publish alternative fatwas informed by the work of their peers. The drawbacks to this mode are that it is slow and does not guarantee that competing fatwas will be dropped. I think that these drawbacks are an acceptable price to pay for a process that promises to match the success of modern scientific research (which is also slow and often results in competing models) in arriving at the truth. One must recall that competing fatwas are a common feature in Islamic history. Those who require an instant fatwa may have to be content with an individualized fatwa and forgo the advantages of collectivization.

A Proposed Mechanism

Rather than develop a totally new collective methodology, we suggest combining the traditional concept of *shūrā* with the modern scientific methodologies of peer review and the new developments in online communication. Such an approach will enable us to implement techniques that take advantage of the latest technological and scientific developments to preserve the fundamental principles of juridical development. This process supplements the classical texts with the discoveries of scientific inquiry, provides a way to include social and physical scientists along with scholars of traditional disciplines, restores the separation between state and scholarship of early Islamic society, and avoids the sectarianization of institutions.

I use OCI to signify an *online collaborative ifiā'* to designate this proposed method, for it combines academic research with the expert review capabilities of the latest technology, while preserving the benefits of an evolutionary approach that remains linked to traditional methods. The wiki technology, best known for its implementation in Wikipedia, is a popular method of online collaboration. The work of an initial drafter is published online, after which approved collaborators can alter and/or add to it. But this approach is plagued by “thrashing,” defined as people who hold different perspectives repeatedly changing one another’s material. Therefore, I do not propose it as a viable OCI method. My proposal is closer to what is called a “collaborative Q&A site,” such as those powered by the online technology known as stackoverflow.⁸

An OCI site can be established, and the general public can post questions for which they desire a fatwa. The resulting responses of first-draft fatwas

will be posted to a closed audience of reviewers, and then revised by authorized peers and commented upon by a broader circle of experts who can comment upon (but not change) the posted text. Once a fatwa has been refined and assumed its final form, it will be available to the general public for reading and further comments. Nothing in this model prevents competing fatwas from being published in response to a single inquiry. Although mechanisms for combing or reconciling such fatwas could be put in place, the possibility of admitting multiple solutions (even if mutually exclusive) must be retained if we are to avoid sectarianism. If, for example, there is a Sunni and a Shi'i answer to a particular inquiry, there is no reason not to publish both of them. The traditions to which they belong would be clearly identified in order to help non-experts select one of them.

Writers for the initial draft may either be *mujtahids* who have some knowledge of the technical areas of expertise in the question, or technical experts who have some familiarity with the traditional texts on related issues. Commentators and editors may base their comments and amendments on technical, *maqāṣidī*, or traditional considerations, since it is desirable that the final product consider all of these. As with scientific peer review, those who issue fatwas need to fully consider all possible criticisms, although they may rebut any of them as well. As much of the debate over controversial points would be retained in the final fatwa, as is historically found in a well-written classical fatwa, all fatwas would conclude with *Allāhu a'lam* (God knows best).

Implementing this proposal will require cooperating teams of computer programmers and an administrative board to screen and appoint the fatwa writers, editors, and consulting experts. Propagating the results is built into the mechanism itself, as the Internet provides its own propagation. Such civil society institutions as mosques and Islamic federations can be motivated to use the resulting fatwa by giving them a role in the recruitment and administrative process. Muslim businesses can be invited to advertise on the site, thereby giving them an incentive to implement it in their operations. It is essential, however, that the academic integrity of the selection and review process be maintained. Constitutional safeguards must be in place in order to insulate operations from corruption (e.g., an advertiser seeking a fatwa favorable to a halal designation for a particular food or financial product). The prescription for such safeguards is beyond the scope of this paper.

Illustrated Applications

Calendar Reform

The Fiqh Council of North America (FCNA) has attempted to reform the Islamic calendar via the parliamentary mode of collective *iftā'*. One almost successful effort during June 2006 involved the official council members consulting with three non-member scientists: an engineer, a nuclear physicist, and an astronomer. These consultants presented their individual competing proposals for how to define the date of the *hilāl* crescent and were questioned by FCNA members. In turn, as these members made their *iftā'* arguments the scientists were allowed to comment and question them. A vote was taken to adopt the astronomer's proposal, the "Uniform Islamic Calendar for the Western Hemisphere" (UIC),⁹ that the date of the new month be based on the convention of the astronomical new moon before sunset at Makkah.

However, within forty-eight hours FCNA reversed itself, out of session, and adopted the proposal of the nuclear physicist, who had privately lobbied its members after the session had ended. This called for adopting the convention of the new moon's birth at noon GMT, which would result in a one-day delay in the start of the Islamic month in about one case out of eight. The official position given on the FCNA website says only that "to determine a lunar Islamic calendar, a conventional point of reference must be used. The International Date Line (IDL) or the Greenwich Mean Time (GMT) may be used."¹⁰ The very next year it changed its position again and adopted the European Council for Fatwa and Research's (ECFR) position: The conjunction must take place before sunset in Makkah *and* the moon must set after sunset in Makkah. This allowed the date to be one day *earlier* than that of the UIC about one time in eight, and, as regards FCNA's previous position, about one time in four.¹¹

The above history reveals the politicization of *iftā'* to which a parliamentary approach is susceptible. The continual changing of position, not to mention the frequent failure to follow one's own fatwa (too well-known to require citation here), are among the problems of such an approach. How might events have unfolded if an OCI had been employed? A fatwa based on the UIC could have been the original draft, with the comments, questions, and criticisms of the consulting scientists and FCNA members annotated and debated online with the proposal's ongoing evolution. After this, it could have coalesced into a final form or, failing convergence, into two or three variations. It seems to me that even in the event of divergence, it is unlikely that we would have ended up with more than the three positions described above or that the evo-

lution would have taken more than the five years that have passed since that original FCNA meeting in 2006 to arrive at the vague statement on the FCNA website cited above.

Embryonic Stem Cell Research

The Shi'i position on embryonic stem cell research is well established,¹² and research in Iran on the subject is reportedly well underway.¹³ The American Muslim community was still wrestling with this issue as recently as 2010, when the Islamic Institute “convened a panel of experts, in cooperation with the Fiqh Council of North America (FCNA), the North American Council of Islamic Jurisprudence, the Graduate School of Islamic and Social Sciences (GSISS), and the International Institute of Islamic Thought (IIIT) ... consisting of medical doctors, scientists, and Islamic scholars” to deliberate “all aspects of this topic at length, in order to develop an Islamic perspective on stem-cell research.”¹⁴ Their conclusion was that such research is permissible, subject to certain conditions; however, they concluded: “It is an Islamic opinion subject to further enhancements in the case of scientific developments unknown to us at this time.”¹⁵

An OCI could have started by stating the Shi'a position and allowing the consultants participating in the FCNA conference to make whatever comments and changes they wished. The unlimited varieties of areas of expertise that can be brought to bear in an OCI would make up for the lack of training in bioethics, which is a fact of life for those muftis who have dealt with this subject to date.¹⁶ The worst-case scenario is that convergence would remain incomplete. But even in that case, the current state of opinion would be constantly updated and available to inquirers without needing to hold any further conferences. In other words, there would be a state-of-the-art fatwa available at all times.

Conclusions

We live in an era of high literacy, including computer literacy, when more and more Muslims can avail themselves of the ability to look up a fatwa rather than rely on oral delivery. This has exacerbated the problem of fatwa shopping on the demand side and the posting of fatwas of undetermined pedigree on the supply side. Creating a well-organized OCI would address both problems. Participants would receive a real-time as-needed education in the relevant areas of texts, *tafsīr*, context, science, and technology. A one-stop site for online fatwas would provide the opportunity for quality control

on the demand side and a market deterrent to the proliferation of fatwa sites on the supply side (as Wikipedia and Google dominate the wiki encyclopedia and online search engine, respectively). Including all experts in the process would both deter sectarianism and enhance the fatwas' quality. The Internet's mass marketing aspects could facilitate education on *iftā'* as well as the propagation and adoption of the fatwas produced. Neither the ideas proposed here nor any form of collectivization can remove the need for participants in modern *iftā'* to have a basic understanding of multiple disciplines, including research methodology, textual analysis, and the physical and social sciences.

Endnotes

1. Brinckley Messick, "Fatwa: Process and Function," *The Oxford Encyclopedia of the Modern Islamic World*, ed. John Esposito (Oxford, NY: Oxford University Press, 1995), 10.
2. Ibid., 11.
3. Ibid., 10.
4. Ibid., 11.
5. Ahmad S. Dallal, "Fatwas: Modern Usage," *The Oxford Encyclopedia*, 13.
6. Ibid.
7. Ibid., 15.
8. See stackoverflow.com. Accessed July 17, 2011.
9. Imad-ad-Dean Ahmad, *A Uniform Islamic Calendar for the Western Hemisphere* (Bethesda, MD: Imad-ad-Dean, Inc., 1990).
10. FCNA, "Decision on Determining the Islamic Lunar Calendar," FCNA (December 5, 2010), <http://www.fiqhcouncil.org/node/13>, accessed 5/26/2011.
11. This convention is identical to the Umm al-Qurra calendar used by Saudi Arabia as its civil calendar.
12. Megan Meyer, "Stem Cell Research Is Consistent with Shia Islam," *Muslim Voices* (December 9, 2009), <http://muslimvoices.org/stem-cell-research-consistent-shiite-islam/>, accessed May 26, 2011.
13. Washington Times, "Iran at forefront of stem cell research," *Washington Times* (April 15, 2009), <http://www.washingtontimes.com/news/2009/apr/15/iran-at-forefront-of-stem-cell-research/?page=1>, accessed May 26, 2011.
14. FCNA, "Embryonic Stem-Cell Research," *FCNA* (December 6, 2010), <http://www.fiqhcouncil.org/node/23>, accessed May 26, 2011.
15. Ibid.
16. Abdulaziz Sachedina. "Islam, Healthcare, and Spirituality," IIIT Summer Institute on *Iftā'* and Fatwa in the Muslim World and the West: Challenges of Authority, Legitimacy, and Relevance (see pages 163-82 of this publication).

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- Washington Times. "Iran at Forefront of Stem Cell Research," *Washington Times*, April 15, 2009, <http://www.washingtontimes.com/news/2009/apr/15/iran-at-forefront-of-stem-cell-research/?page=1>, accessed May 26, 2011.

Discussion

Discussant: Muhammad Adam al-Sheikh

I believe that collective fatwas are very important for the reasons stated. When the Prophet was asked who would answer their questions after his death, he told to make a collective effort. *Hilāl* and *ḥalāl* are examples of areas identified by the Fiqh Council. Unfortunately fatwa shopping does exist. Some may ask you whether a boyfriend/girlfriend relationship or a *muṭ'ah* marriage is better? If you say both are *ḥarām*, you will be ignored. One can say that *muṭ'ah* is not allowed, but that at least you will not be subjected to *ḥadd*. Truly, *Allāhu a'lam*. It is the one part of any fatwa that is beyond debate. It is better to say "I don't know" rather than do *tahbīz*. As to FCNA, we invite Dr. Imad back.

Discussant: Jamal Barzinji

Whether a fatwa is binding depends on who's issuing it. I would like more of a discussion of the Sunni vs. Shi'i methods. I make a distinction between *shūrā* approach and collective fatwa. In Saudi Arabia they do consult with experts but they think they know more, so you should be advocating that the knowledge of the experts should be

binding. We assume that those who go into Shari'ah are inferior scholars, which is unfortunately true. Is it easier to teach a banker Islam or to teach an Islamist banking? I would like to see a degree in Shari'ah given only to those who have first earned an advanced degree in any other discipline. I would prefer a Supreme Court model. I worry about the control of advertisers. Dr. Taha took some really courageous positions in *maqāsid al-Sharī'ah*. Since we lost him to Egypt, we have found no replacement. The Organization of Islamic Cooperation (OIC) would have been the right ones to take on this task. NASA can pinpoint the moon's location and phase at every second, so why doesn't our political leadership accept that? My suggestions are to (1) revive FCNA; (2) beef it up with experts in medicine, astronomy, and other fields; (3) encourage more scientists to take intensive courses in Shari'ah and expose our respectable scholars of Shari'ah to intensive courses of general knowledge and modern technology, because the brightest of them would appreciate this; (4) insist on the role of *maqāsid* in taking us out of stagnation; and (5) exhibit pride in *fiqh al-'aqallīyāt*, which, *inshā' Allāh*, will become *fiqh al-awlawīyāt*.

Ahmad: I would be glad to consult with FCNA, whether they agree with me or not, so long as my views are not misrepresented. The binding fatwas that Dr. Jamal mentioned demonstrate the problems of state-scholar entanglement. The great early Islamic scholars were famous for refusing to cooperate with the government. Academic authority is different, because it is a non-coercive authority derived from the listener's respect for the professor. The Shi'a do have a more structured system than the Sunnis, and they require the people to attach themselves to a scholar. But even their leading scholars, those like Ayatullah Sistani, allow people the flexibility to accept other scholars' decisions.

The experts' knowledge is binding in a way comparable to the peer review process. Scientific experts with no knowledge of Islamic law should be allowed input into the process, but should not be allowed to impede the output of the process. The same goes for so-called Shari'ah scholars with no knowledge of the matter in question. Dr. Jamal's suggestion of earning an advanced degree in anything else as a prerequisite for Shari'ah scholarship is fascinating, and perhaps would obviate the need for collective *iftā'*. But if not, I think it could be incorporated into my proposal so that those with editorial control over the published fatwas would have to be knowledgeable in both Islamic law and the relevant secular science(s).

I will have to give your proposal of a Supreme Court model serious thought; however, if you look at the United States Supreme Court, you will see it has not totally eliminated the problems of politicization. I also worry about the adverse impact of advertisers, but I think this can be dealt with constitutionally because the Internet is so inexpensive that you are not a slave to them. In any case, you always face the possibility of competition. Given this reality, I think that the objective of any site should be to have such a degree of quality and integrity that the most qualified scholars will be drawn to it. I don't have much faith in the OIC because of my concerns over politicization. Why NASA doesn't suffice is that there are some strictly Islamic

concerns on which it has no opinion. For example, the Prophet did not take the science of his day into account. Those issues must be answered on grounds of *maqāṣid* rather than science.

General Discussion

- *Muṭ'ah* has nothing to do with fatwa; it is a *fiqhī* debate. All know it was practiced in the beginning, but disagree with whether it was abrogated. I would suggest fatwa institutionalization rather than collectivization. Some have proposed establishing research institutions to deal with these issues for *mujtahids* to sign off on. Much of this paper could be incorporated into this. There is freedom, and we have to be careful what we call fatwa. One might jest that shuratic fatwa is a contradiction in terms. Whether we accept a legal opinion or not, we shouldn't call just any conclusion a fatwa.
- The objective of institutionalization has always been there, but the challenge of authoritarianism has always been there as well. Why has Dr. Taha's example not led to a tradition? The political culture and psychology has prevented it.
- There is a fear of chaos if everyone were to speak as a *faqīh*. What we need is area research. Expertise and authority need not clash.
- It is not just a question of competence; it is also a question of courage. One very respected scholar who has excellent positions on two highly controversial issues has declined to make them public because he fears that if he were to do so he would lose his following and position.
- Collective fatwa can lead to *ijmā'*. This happened in the sciences. The theory of relativity was shocking when it was first published, but now it is the consensus view. Peer review need not be a drawn-out process; but on controversial issues it will be. As regards those controversial issues that require an immediate answer, a questioner may have to be satisfied with an individual fatwa until the peer review process works itself out.
- It is not colonialism per se that causes fragmentation of knowledge, but the explosion of knowledge. Interdisciplinary study is a means of managing the fragmentation. There is a role for interdisciplinarians. Non-Muslims friends can have knowledge of Islam, but those who do not should be included in the discussion in an appropriate way.
- Are we talking about an approach to *ifiā'* in the United States or on a global scale? Who is the audience? Is the inclusion of non-Muslim experts in Islamic studies problematic in the area of authority?
- The audience is initially Muslims living in the United States, but it doesn't end there. There is no problem with allowing non-Muslim experts in Islamic studies to have input, although to give them editorial control over fatwas would simply be inappropriate.
- People need to master the Shari'ah from the beginning of their lives. It can't be done in six months.

- Not master, but being able to pass the tests given to the graduates of these schools of Shari'ah. He will not master it, but he will have enough knowledge to challenge the graduates of those schools. The dismantling of the *awqāf* has been an obstacle to obtain the best brains. Brilliant scientists, doctors, and IT specialists with strong Islamic background can enroll in a twelve-month program of intensive study to gain access to that knowledge, know how to handle it, and have access to it. *Allāhu a'lam*.
- The Imam Association in Michigan is an interesting model for the collectivization of fatwas in the North American context. Iran shot down some of these ideas because each has his own *khums* and followers. Yet somehow they will sometimes issue a fatwa together. All the *marāji'* are represented on the council in Qom.
- The Shi'a may have remained truer to the academic model.
- It's striking how conservative the use of Internet has been in the case of fatwa. Does this election of participants not politicize the process? The presentation indicates confidence in the capitalist model, even to the point of allowing advertising on the site. Are there any limits? Also, what are the long-term consequences of academization? Will flexibility be lost?
- Selecting participants will politicize the process, but it need not be fatal. We have the same problem in selecting the editors of an academic journal. If an author submits a paper to an academic journal and a reviewer with an opposing position rejects it, the author has an opportunity to rebut the criticism and ultimately another editor or reviewer will resolve the issue. The site's constitutional structure must be established in a way designed to minimize the risks of politicization and commercialization. As to the long-term consequences, we may be returning to an earlier model. In the early days of Islam, the people who did this work were not political appointees, but those scholars whose ability to do it made them respected by their peers and those who brought them the questions. Nuances need not be lost. The paper outlines a structure in which there is a great deal of input from many sources. If one person says something is haram and another says it is makruh, a debate will ensue and the final fatwa should reflect its nuances.
- There should be a happy marriage of the *fiṭrah* of creation and the injunctions of *wahy*. Finally certain scholars, when starting their research, say that some of their opinions are contrary to the common understanding and they are afraid to publish them while they are alive. This is very sad. Can we at least convince them to write them down while they are alive for publication after their death?
- We should weaken rather than strengthen this institution of non-enforceable fatwas. Science is not collective but individual. We should fear the loss of individual creativity.
- The first established council of collective *ifiā'* was in Egypt. The European Council was created in this mold. Independence doesn't necessarily lead to openness. Look at the fatwas of Muhammad Hussein Fadlallah. Would the institutionalization of fatwa work in the American context, with its amazing ethnic, sectarian, and doctrinal diversity?

- Non-binding *iftā'* can be compared to dietary advice. Nutritionists can't stop anyone from eating junk food, but their advice is valuable. Rather than weaken the institutions of *iftā'*, the mission should be to strengthen the sense of individual responsibility among the people. American diversity is not a problem. Consider Kuhnian paradigm shifts. When you look at the immigrant community here it appears to be hopeless, but their children all know they cannot justify a position because their fathers do it, because their opponents can say the same thing.
- The contempt of people in the field for others who have not been in it from the beginning is a problem. Two non-ulama FCNA members make very valuable contributions. There are at least three kinds of *muṭ'ah*: temporary marriage, *muṭ'ah al-ṭalāq* (termination by unilateral divorce) which is Sunnah but not applied, and the fatwa of Bin Baz (marrying with the undisclosed intention of divorce).
- No priest would ask a Muslim his opinion on canon law, and no rabbi would ask his opinion on rabbinic law; Islam, however, is an open field.