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Wahhābī Islam Facing the Challenges of Modernity

Dār al-Iftā in the Modern Saudi State

By

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In memory of my parents

CONTENTS

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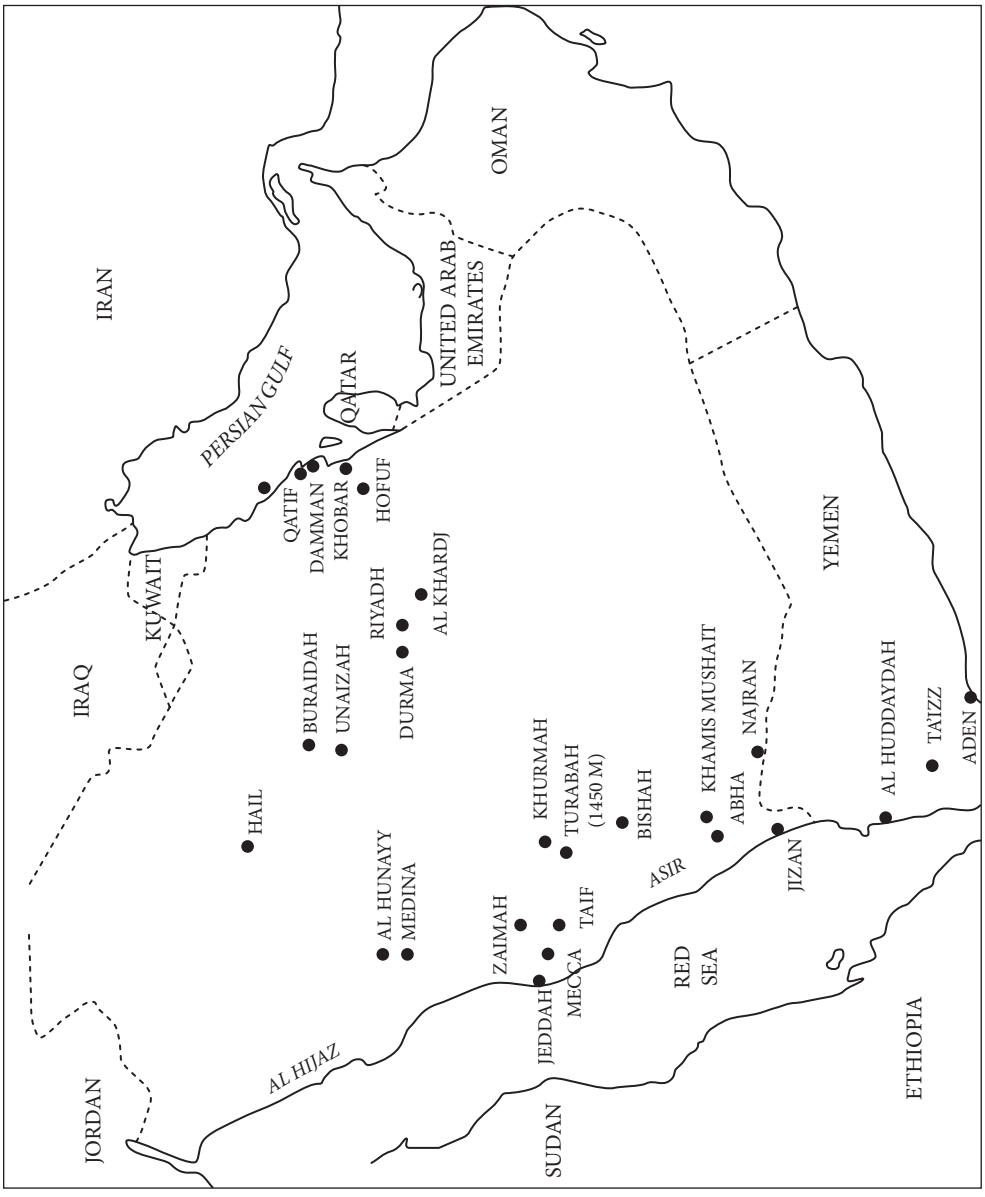
MAP OF ARABIA



INTRODUCTION

This book examines Dār al-Iftāʾ, the official Saudi religious establishment for issuing fatwās between 1971 and 1999, chiefly under the leadership of the prominent Grand Muftī, Shaykh ʿAbd al-ʿAzīz Ibn Bāz (d. 1999). Specifically, I explore the challenges that this scholarly body encountered when applying Wahhābī interpretations of the Sharīʿa to late twentieth-century modernity.[1]

In Saudi Arabia, the history of Dār al-Iftāʾ goes back to 1953. Previously, for almost two centuries following the well-known Saudi-Wahhābī pact of 1744, muftīs had practiced *iftāʾ* (the issuing of fatwās) in an informal manner.[2] In an attempt to modernize the religious structure of the Kingdom, King ʿAbd al-ʿAzīz Ibn Saʿūd (d. 1953), the founder of the Kingdom of Saudi Arabia, appointed Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh, one of the most prominent modern Wahhābī muftīs, to head Dār al-Iftāʾ and other religious agencies.[3] At this point, Dār al-Iftāʾ becomes virtually a one-man institution, because Āl al-Shaykh was perhaps the most influential Wahhābī scholar and held the highest religious authority in the Kingdom until his death in 1969.

In August 1971, King Fayṣal (1904–1975) restructured Dār al-Iftāʾ, co-opting an unprecedented number of senior scholars to serve in the State Administration. These scholars were divided into two public

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[1] The Sharīʿa and its implementation in the modern Islamic world has been central to numerous studies on Islamic law. Most scholars have expressed their conviction that, for centuries, Islamic law was applied chiefly in the spheres of ritual and family law, while in the more public spheres of law, such as: property, tort, contract, commercial, procedural, criminal, administrative, fiscal and constitutional law, it was given lip service, rather than actually being obeyed. Khaled Abou El Fadl went even further, claiming: "…If Islamic law consists of a set of rules, then by that measure, Islamic law is thriving in the present age…But as an epistemology, a process and a methodology for understanding and searching, as *fiqh*, Islamic law, for the most part, is dead." See Abou El Fadl, *Speaking*, 171. More on the implementing of the Sharīʿa in modern times see, Hallaq, "Can," 21–53; Schacht, *Introduction*, 75–85, 112; Coulson, "Law," 1449; idem, *History*, 126; idem, "Doctrine," 220, 225–226; Nielsen, *Secular justice*, 95; Haddad & Stowasser, *Islamic law*, 1–17; Bonderman, "Modernization," 1169–1193. [Note that the footnote references throughout the book provide only short titles; full references are provided in the Bibliography.]

[2] See Masud, Messick & Powers, *Legal interpretation*, 27.

[3] Āl Rashīd, *ʿAllāma*, 23–25.

agencies intended to conduct religious research and to issue fatwās: 1. The Board of Senior ʿUlamāʾ (*Hayʾat Kibār al-ʿUlamāʾ*; hereafter: BSU); and 2. The Permanent Committee for Scientific Research and Legal Opinions (*al-Lajna al-Dāʾima lil-Buḥūth al-ʿIlmiyya wal-Iftāʾ*; hereafter: CRLO).[4] Today, BSU and CRLO together, under the leadership of the State Grand Muftī, constitute Dār al-Iftāʾ, the highest official authority for Sharīʿa interpretation and the issuance of fatwās in Saudi Arabia—the subject matter of this book.

In Saudi Arabia, Dār al-Iftāʾ plays a vital role in the conduct of day-to-day life, perhaps more than in any other country in the Middle East. It is often involved in social, political, legal and judicial procedures and its fatwās constitute an important factor in the formulation of social and cultural norms in Saudi society. These fatwās function as a medium for discourse, re-evaluation and redefinition of the connection between state, society and religion. Official and unofficial muftīs, as well as other ideological groups in the Kingdom, use fatwās to define and negotiate these links, stemming from the strong fusion of religion and state.[5] Islamic law is crucial to State legislation, since the Saudi judicial and constitutional systems rest on traditional Islamic legal principles, i.e. the Qurʾān and the Sunna form the basic Constitution.[6] For example, Article 7 of the Basic Regulations for Governance (*al-Niẓām al-asāsī lil-ḥukm*) from 1992 reads: "Government in Saudi Arabia derives its power from the Holy Qurʾān and the Prophet's tradition." Article 23 reads: "The State protects Islam and implements its Sharīʿa; it orders people to do right and shun evil; it fulfills the duty regarding God's call."[7]

The 1971 restructuring of Dār al-Iftāʾ occurred in response to the challenges of modernity. Over the second half of the twentieth century, especially since the 1970s, Saudi Arabia became one of the wealthiest countries in the Middle East. The Oil Price Revolution of 1973 intensified the pace of economic development and change, generating

[4] Kingdom of Saudi Arabia, *Niẓām wa-lāʾiḥat sayr al-aʿmāl fī Hayʾat Kibār al-ʿUlamāʾ*, Royal Decree A/137, Aug. 29, 1971. See also al-Shalhūb, *Niẓām*, 218–219.

[5] See, Masud, Messick & Powers, *Islamic legal interpretation*, 3–31; Hearn, "Fatawa," 84–97.

[6] See al-Hamad, "Legislative process," 2; Vogel, *Islamic law*, 169–221; Kechichian, "Role," 53–71; Layish, "Ulama," 29–63; Bligh, "Saudi religious elite," 37–50; Nevo, "Religion," 34–53; al-Yassini, *Religion*, 21–81.

[7] Royal Decree No. 90/A, March 1992.

a substantial increase in Government income.[8] This translated into a rapid and overwhelming modernization of the country, accompanied by impressive advances in infrastructure, education and technology.[9]

To better engage in these transformations, the Saudi State set out to improve administrative, bureaucratic and legal systems while buttressing the Sharīʿa, the raison d'état of this theocratic monarchy. Turkī al-Ḥamad noted, in this respect, that: "Modernizing Islam was a necessary step, socially and ideologically—for the purpose of social mobilization and regime legitimacy. In other words, its adaptation was imperative."[10] King Fayṣal, whom scholars perceive as a modernist, sought to preserve the Wahhābī religious nature of the State as a basis for Saudi dynastic rule, all the while adapting state and society to far-reaching technological and economic changes.[11] In Fayṣal's own words:

> Our religion requires us to progress, advance and bear the burden of the highest tradition and best manners. What is called 'progress' in the world today and what reformers are calling for, be it social, human or economic progress, is all embodied in the Islamic religion and laws.[12]

The challenge of leading the monarchy into the modern age by means of a more flexible interpretation of Islam was far from straightforward. In Saudi Arabia, Islam serves to legitimize the regime and provide stability; at the same time, Islam is the ideology of various conservative groups, who tend to distinguish between those who seek modernity

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[8] A quick glimpse at the fluctuation in oil prices since 1950 proves this fact indisputably. In November 1950, the price per barrel of Arabian light was U.S. $1.75; by October 1, 1973, the price had increased to $3.00 per barrel; by October 15th, 1973, the price of the same grade of oil had increased from $3.01 to $5.19! In other words, though it took 23 years (1950–1973) for the price of oil to increase by ca.72%, during only two weeks (from October 1st–16th, 1973) oil prices rose extremely rapidly, increasing by nearly the same percentage, ca.70%! See Organization of Petroleum Exporting Countries, *Annual Statistical Bulletin*, 1980.

[9] Al-Yassini, *Religion*, 61–67. For further accounts of the modernization of the Saudi State see al-Hamad, "Political order," 12–18, 152–171; Abir, *Saudi Arabia*, 19–34, 69–94; al-Farsy, *Modernity*; idem, *Saudi Arabia*; Shaw, *Saudi Arabian modernization*; Thompson, *Modernization*; Lenczowski, "Tradition," 98–104; Looney, *Economic development*; idem, "Saudi Arabia's development," 75–96; al-Sadhan, "Modernization," 75–124.

[10] Al-Hamad, "Political order," 143.

[11] See, for example, Abir, *Saudi Arabia*, 108–165.

[12] Cited in Al-Hamad, "Political order," 143–144; al-Farsy, "King," 58. On Fayṣal and Pan-Islamism, see al-Sindi, "King," 184–201; Kechichian, *Faysal*, 26–30. More on King Fayṣal in De Gaury, *Faisal*.

and change and those who try to preserve tradition.[13] Dār al-Iftāʾ was the natural candidate for accommodating the Sharīʿa to modern times in a way that preserves the delicate balance between these divergent groups. In other words, Dār al-Iftāʾ was expected to bridge the gap between uncompromising, conservative idealism and ever-changing reality, as reflected in the traditional and the modern segments of Saudi society.

The tradition/modernity dichotomy, which suggests that societies converge toward modern secular values and gradually abandon their traditional religious ones does not hold for Saudi Arabia.[14] Rather, my study of the first three decades of Dār al-Iftāʾ finds two distinct approaches for dealing with the reality of a developing country—the first is an innovative stance regarding modern technology and the other is a conservative attitude toward social norms. When dealing with modern innovations and political issues, Saudi Arabian muftīs are relatively open and liberal, whereas, in the realms of social norms (e.g. ritual, the status of women), they maintain a ʿPuritanicalʾ Wahhābī approach. Dār al-Iftāʾ has played a significant role in creating the current Saudi socio-cultural dynamics, an uneasy coexistence of modernity and traditionalism, a reality often perceived as being paradoxical. Fandy Mamoun noted, for example, that: "In Saudi Arabia, different times and different places exist at once. Saudi Arabia is both a pre-modern and a post-modern society."[15] For Clarke Killian this ʿprofound paradoxʾ is clearly manifested in the new al-Fayṣaliyya Shopping Center in Riyadh, where "…economic modernity and western-style mass consumerism are strikingly juxtaposed with the rigidly imposed cultural mores that have changed only marginally since the days when Riyadh was little more than a collection of dirt streets and mud houses."[16] This rigidity, according to Killian, is a result of Saudi

[13] Al-Hamad, "Political order," 144.

[14] The scholarly literature on tradition and modernity and the epistemological and methodological disputes therein are beyond the scope of this book. More in: Galland & Lemel, "Tradition"; Bill & Hardgrave, *Comparative*; Huntington, *Change*.

[15] Fandy, *Saudi Arabia*, 6.

[16] He adds: "Women roam from shop to shop clothed in full black abayas—garments that cover the entire body in order to disguise a woman's form—and scan shelves of children's clothes from behind face-covering niqabs; in the neighboring restaurants, unmarried men and women are not allowed to interact, and couples who choose to eat out are segregated by portable partitions. Women wishing to shop in the center or dine in these restaurants must rely on their male relatives to drive them, and they are not allowed to vote for the council members that advise the government on

Government policy enforcing certain social mores that, in his words: "…set Saudi Arabia apart as one of the world's strictest and most traditional societies."[17]

Here, I analyze the reactions of the traditional Saudi legal system to the challenges and innovations faced by Saudi society during the late 20th century.[18] Indeed, this research adopts both the 'emic' and 'etic' perspectives, albeit, preference is given to the former. My central concern is the transmission of Islamic doctrines and attitudes, mainly from the perspective of their defenders (the muftīs), the sources utilized and the way in which they were approached. Emphasis is placed on understanding the textual and sociopolitical components of fatwās and their implications for the study of Islamic law. Much can be learned from the given arguments, the methods used and the overall perceptions of the issues raised. Fatwās not only reveal unique features of modern Wahhābī Islamic legal thought, but they shed light on the tensions between efforts to preserve Islamic traditions—as prescribed in classical legal texts—and attempts to face modern challenges.[19] A substantial portion of the fatwās issued is dedicated to in-depth discussions of technological innovations and the challenges of modernity in various spheres of life.

For a long time, the study of fatwās as legal sources drew the attention of western scholars of Islamic law, but their studies dealt more with the forms and procedures of fatwās than with their contents.[20]

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the development and establishment of these modern institutions." See Killian, "Modernization," 30.

[17] Ibid.

[18] The nature of Saudi law and its implementation is still being disputed amongst scholars concerned with the contemporary Saudi legal system; however, most scholars stress the traditional nature of the Saudi legal system. Frank Vogel noted, for example, that it is indisputable that Saudi Arabia applies: "traditionalist Islamic law in many spheres; and it does this, again, with certain notable successes relative to Islamic antecedents." According to Vogel, western law and legal concepts have never infiltrated the essential core of the Saudi legal system, this, perhaps, due to the fact that Saudi Arabia never experienced the western colonization that, in virtually every other Muslim country, drastically transformed the legal system. Since the 1970s, western-style, legal bodies have been instituted, such as: special arbitrators, a Labor Board and others; and new regulations have been enacted, e.g., traffic regulations, social security regulations and rules for government tenders. However, these new legal institutions remain, in Vogel's words: "…mere superadditions to a preexisting legal system," which never acknowledges them. See Vogel, *Islamic law*, xiv.

[19] See, for example, Schacht, *Introduction*, 73 ff; Gibb, *Mohammedanism*, 71–72; and Hodgson, *Venture*, 2:123.

[20] See Skovgaard-Petersen, *Defining Islam*, 11.

The 1970s witnessed renewed interest in fatwās and scholars increasingly began to use them as a source for the study of Muslim legal and socio-cultural history. The importance of the fatwā in the study of Islamic civilization has been noted by several scholars. David S. Powers acknowledges their importance as significant historical sources of Muslim legal thought. He noted, however, that the usefulness of the fatwā as a source of socio-cultural information is limited, in that it does not reflect the social significance of the dispute at hand.[21]

Surprisingly, few scholars have studied fatwās, muftīs and Dār al-Iftāʾ, with the notable exception of Jakob Skovgaard-Petersenʾs remarkable history of Dār al-Iftāʾ in Egypt, published in 1997.[22] Some have examined fatwās to elucidate the intellectual or political histories of Islamic societies and countries. Thus, Brinkley Messickʾs article on the muftīs of Yemen offers an anthropological perspective on the close links between Yemenite fatwās and a number of classical legal texts.[23] Johannes Benzing assesses the role of fatwās in the social history of Anatolia during Ottoman times.[24] Rudolph Peters and Herbert Liebesny studied the role of the muftī in the Islamic legal system.[25] Perhaps the most significant collection of fatwā studies, *Islamic legal interpretation* (1996), compiled by Masud, Messick & Powers, focuses mainly on contemporary fatwās.[26]

To date, there are no comprehensive studies on the history of Dār al-Iftāʾ, fatwās and muftīs in Saudi Arabia, either in Arabic or in European languages. The most relevant studies on Saudi law are those by Frank Vogel, Khaled Abou El Fadl and recently by Dorthe Bramsen.[27] Vogelʾs pioneering comparison of the Sharīʿa courts and their western counterparts contributes to our understanding of the Islamic legal process and procedures in Saudi Arabia.[28] In an another short article, Vogel presented three fatwās issued by Ibn Bāz concerning the legal status of divorce, focusing on the function of fatwās as a means to imple-

[21] See Powers, "Fatwas," 295–297.
[22] See Skovgaard-Petersen, *Defining Islam*.
[23] Messick, "Mufti," 102–119.
[24] Benzing, *Islamische Rechtsgutachten*, 4.
[25] Liebesny, "Stability," 16–34; Peters, "Muhammad," 66–82.
[26] Masud, Messick & Powers, *Islamic legal interpretation*. Other recent studies on fatwās are those of Mudzhar, "Fatwas"; al-Ḥimṣī, *Tārīkh*.
[27] Vogel, *Islamic law*; Bramsen, "Divine law".
[28] Vogel, *Islamic law*, xi.

ment the law, and demonstrated how *iftāʾ* and *qadāʾ* (adjudication) serve distinct, but complementary, purposes in the application of the Sharīʿa.[29] Abou El Fadl studied a number of CRLO fatwās concerning women, arguing that such fatwās often reveal the abuse of authority in Islamic law.[30] Lastly, Bramsenʾs dissertation focuses on contemporary Wahhābī jurists, particularly the ways in which they approach the primary sources (Qurʾān and Sunna) in the modern context.

There are a few additional studies limited to the role of the ʿulamāʾ and the fatwās in the Saudi political system.[31] Aharon Layish observed that in Saudi Arabia fatwās dealing with political issues have been used both to legitimize Government actions and to curtail the activity of radical movements.[32] Dana Hearn used the political fatwās of the Saudi muftī, Shaykh Ibn Bāz, to examine the role of the fatwā in Saudi political discourse.[33]

My study of Dār al-Iftāʾ builds upon these outstanding scholarly works and aims to delineate the nature of fatwās, both in terms of their content and of the methodology used to formulate them. The former aspect contributes to the understanding of *fiqh* (Islamic jurisprudence) and the latter to the comprehension of *uṣūl al-fiqh* (Islamic legal theory). On the practical level, this book focuses on how contemporary Saudi-Wahhābī muftīs tackle the practical challenges of life in the context of increasing socioeconomic and administrative complexity in Saudi Arabia.[34]

The actual work of Dār al-Iftāʾ provides the primary sources for this study, specifically the fatwās and published research of both BSU and CRLO, and the collective or individual writings of their muftīs.[35]

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[29] Vogel, "Complementarity," 262–269.

[30] Abou El Fadl, *Speaking*, ix, 209–249, 264–271. The extent to which Saudi society complies with or opposes official fatwās is quite interesting but remains outside the scope of this book.

[31] The three most salient articles in this field are: Bligh, "Saudi religious elite"; Layish, "Ulama" and Kechichian, "Role".

[32] Layish, "Saudi Arabian legal reform," 279–292.

[33] Hearn, "Fatawa," 84–97.

[34] Other issues related to worship (*ʿibādāt*) are not dealt with here.

[35] These fatwās and studies have been published in a number of different ways:

(1) In *Majallat al-Buḥūth al-Islāmiyya* (*MBI*), as well as in a collection entitled: *Research of the Board of Senior ʿUlamāʾ in Saudi Arabia* (*Abḥāth Hayʾat Kibār al-ʿUlamāʾ bil-Mamlaka al-ʿArabiyya al-Saʿūdiyya*);

(2) CRLO fatwās are arranged chronologically in various editions, the latest in 23 volumes (2003) entitled: *The Fatwās of the Permanent Committee for Scientific*

Secondary sources include the works of muftīs—Ibn Bāz, al-Fawzān, Ibn ʿUthaymīn among others—who published books and articles both before and during their muftiship. Additional sources are sermons, biographies and interviews of other Dār al-Iftāʾ members. These are often found in their collected fatwās and in official Dār al-Iftāʾ publications, such as the *Majallat al-Buḥūth al-Islāmiyya* (henceforth: *MBI*) and *al-Daʿwa* (the CRLO weekly journal). My research also relies on additional periodicals (e.g.,*ʿUkāẓ*, *al-Jazeera*, *al-Muslimūn* and *al-Yamāmā*), all of which provide important platforms for scholarly debate and are a part of the fatwā publishing apparatus.

Various methods have been employed in the study of fatwās, depending on the different research objectives. Skovgaard-Petersen provides an excellent survey of the descriptive and analytical methods used to study of official Egyptian fatwās in the introduction to his book.[36] The actual analyses of fatwās in this book take place on three levels. Firstly, the fatwās are classified by their content into two

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Research and Legal Opinions (*Fatāwā al-Lajna al-Dāʾima lil-Buḥūth al-ʿIlmiyya wal-Iftaʾ wal-Daʿwa wal-Irshād*). See al-Dawīsh, *Fatāwā al-lajna*.

(3) In a compilation of 200 select CRLO fatwās. See al-Shawādifī, *Fatāwā*.

(4) The fatwās of three prominent BSU members: Shaykh ʿAbd al-ʿAzīz Ibn Bāz, Shaykh Muḥammad b. ʿUthaymīn and Shaykh ʿAbd Allāh b. Jibrīn are arranged in two volumes (containing 827 fatwās). See al-Shammāʿī, ed. *Fatāwā Islāmiyya* (1989);

(5) Another collection of fatwās is Ibn Bāzʾs *Fatāwā al-marʾa* (1993);

(6) A second edition of the fatwās of Ibn Bāz appear chronologically in 30 volumes (containing thousands of fatwās, plus his articles, lectures and interviews) may be seen at: http://www.binbaz.org.sa/mat/8822 (last access Mar. 2009);

(7) The fatwās of Shaykh Ṣāliḥ al-Fawzān (a member of both BSU and CRLO) are published in five volumes (containing more than 600 fatwās). See al-Frīdān, *Muntaqā* (1999); and

(8) The fatwās of Shaykh ʿAbd al-Razzāq al-ʿAfīfī, also a member of BSU and CRLO, in four volumes (more than 500 fatwās). See Bin Mansī & ʿAbduh, *Fatāwā* (1997).

[36] Among the major methods of analysis employed by Vardit Rispler-Chaim; criticized by Skovgaard-Petersen as being an historical exposition of the fatwās on medical subjects. Another method, employed by Kate Zebiri focused on the contributions of Maḥmūd Shaltūt. Zebiri examines Shaltūtʾs use of the Qurʾān, the Sunna, and the texts of classical *fiqh*, and then proceeds to investigate Shaltūtʾs independent opinion. According to Skovgaard-Petersen, this method was adopted and elaborated upon by Andreas Kemke in his study of Muḥammad ʿAbduhʾs fatwās on *awqāf*. Like Zebiri, Kemke analyzes the methodology applied by ʿAbduh, but his analysis is more limited in scope, concentrating only on one muftī and one subject over a six-year period. Skovgaard-Petersen, on the other hand, suggests that one must consider the worldview of the muftīs when distinguishing between new sources and the sources contained in the classical legal heritage. He added that new sources have a greater impact on the muftīʾs understanding of the issue and, as a result, on the fatwā itself. See Skovgaard-Petersen, *Defining Islam*, 15–21.

categories dealing with: (1) traditional social and religious norms; and (2) modern innovations. This distinction is essential, on the one hand, in order to enable the comparison of these cases with the classical texts of Islamic law, and, on the other hand, to establish their divergence from existing tradition. Secondly, analysis of the fatwās touches on their utilization of the Qurʾān, the Sunna, the traditional texts, independent opinions (*raʾy*) and consensus (*ijmāʿ*), as well as citing empirical evidence. Thirdly, the interactions between the text and its context are studied; texts have no inherent meaning in and of themselves, but must be approached in context, in light of the ongoing ideological debate. This book identifies some of the sociopolitical factors that have influenced the work of Dār al-Iftāʾ. Arguments put forth in certain fatwās are examined, as are the motives of individuals or institutions requesting fatwās, and finally, reactions to these fatwās are noted, mainly those of Saudi Opposition groups.

This book has six chapters. Chapter 1 provides the historical background of the pre-institutionalized era of Wahhābī fatwās and *iftāʾ* from the very inception of the Saudi-Wahhābī alliance in 1744 and until 1953. The initial centralizing process (1953–1971) that *iftāʾ* institutions underwent will also be examined. Chapter 2 focuses on Dār al-Iftāʾ (1971–1999) from an historical perspective, including its creation, power structure, functions and fatwā issuance procedure. Chapter 3 examines the sociopolitical environment likely to have influenced the authority and performance of Dār al-Iftāʾ, as a pragmatic and conscientious guardian of Islamic law, its cooperation with the Government and the mechanisms that enable this cooperation.

Chapter 4 introduces the conceptual, theoretical and jurisprudential framework of Dār al-Iftāʾ, namely legal theory (*uṣūl al-fiqh*), independent legal reasoning (*ijtihād*), adherence to opinions of other scholars (*taqlīd*) and affiliation to a particular legal school (*madhhab*). Chapter 5 elaborates on the legal concept of *bidʿa* (forbidden innovations). Emphasis is placed on the traditional means by which muftīs differentiate between legitimate and illegitimate innovations. Chapter 6, the concluding chapter, presents actual cases in which muftīs deal with specific modern issues: (1) visual media; (2) financial matters; and (3) medical issues. Throughout the book, I will draw on case studies to make salient points regarding the links between state, society and religion. However, in view of the vast range of subjects and issues undertaken herein, and for the sake of clarity, this book is limited to

prime examples of fatwās on some of the more poignant legal dilemmas in which tradition must confront modern know-how. Tracing the history and role of Dār al-Iftāʾ deepens our understanding of the social and cultural dynamics underlying the relationship between Wahhābī Islam and the Saudi State—a self-proclaimed Sharīʿa monarchy.

CHAPTER ONE

MUFTĪS AND FATWĀS IN SAUDI ARABIA: BACKGROUND

In Saudi Arabia, the issuance of fatwās (*iftāʾ*) is linked to the historical alliance of 1744 between Shaykh Muḥammad Ibn ʿAbd al-Wahhāb (d. 1792), the founder of the Wahhābī movement, and Muḥammad Ibn Saʿūd (d. 1765), the forefather of the Saudi dynasty. Based on this alliance, Ibn Saʿūd became the political leader (*Amīr*), while Ibn ʿAbd al-Wahhāb became the supreme religious authority (*Imām*): the spiritual leader, chief judge, grand muftī and official administrator of religious affairs under the rule of Ibn Saʿūd (r. 1744–1765) and his son ʿAbd al-ʿAzīz (r. 1765–1803).[1]

Ibn ʿAbd al-Wahhāb was born in 1703 in the small town of al-ʿUyayna in the eastern Arabian Peninsula to a family of prominent religious scholars, expert in the realms of *iftāʾ* and judgeship (*qaḍāʾ*) in the Najd region. Both his father, ʿAbd al-Wahhāb, and his grandfather, Shaykh Sulaymān, were well-known senior *qāḍī*s and muftīs in their day; their fatwās constituted an important legal corpus for the Najdī people at that time. Ibn ʿAbd al-Wahhāb spent his formative years with his father, studying Qurʾān, ḥadīth tradition, legal theory, Islamic jurisprudence and theology, as well as the opinions of the prevalent, local Ḥanbalī school of law. He was, therefore, well prepared to follow in his familyʾs footsteps of legal scholarship and to practice as both a *muftī* and a *qāḍī*.[2]

Although the chronicles do not specifically name these roles, nor do they describe the entire scope of his authority and responsibility under the newly-formed Saudi State, Ibn ʿAbd al-Wahhāb and his fatwās played a fundamental role in the formation of the socio-cultural norms of early Saudi-Wahhābī society. The Najdī chronicler Ibn Bishr

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[1] This Saudi/Wahhābī alliance has been treated by numerous studies and from various perspectives. See, for example, Commins, *Wahhabi mission*; Delong-Bas, *Wahhabi Islam*; al-Rasheed, *History*; Rentz, *Birth*; idem, "Wahhabism"; Winder, *Saudi Arabia*; Crawford, "Civil war"; al-ʿUthaymīn, *Ibn ʿAbd al-Wahhāb*.

[2] Āl al-Shaykh, *Mashāhīr*, 21; Ḍāhir, *Daʿwa*, 33. More on Ibn ʿAbd al-Wahhābʾs teachings in al-ʿAbbūd, *ʿAqīdat al-Shaykh Muḥammad Ibn ʿAbd al-Wahhāb*.

noted, for example, that Ibn ʿAbd al-Wahhābʾs authority was as influential as that of the Amīr: "…the opinions and statements made by Muḥammad Ibn Saʿūd and his son, ʿAbd al-ʿAzīz, were based on the Shaykhʾs statements and thinking."[3] His fatwās were not only a means of interpreting the legal sources, but also formed a legal source, in and of themselves. He issued fatwās on various subjects in response to questions posed both by political institutions and by individuals, including some *qāḍī*s.[4] These fatwās served as a flexible mechanism reinforcing the relationship between religion and politics, thus, constituting one of the most important legal sources of the first Saudi State (1745–1818), often enforced by the Committee for Commanding Right and Forbidding Wrong (*Hayʾat al-Amr bil Maʿrūf wal-Nahī ʿan al-Munkar*) or, as it is called by the Wahhābīs, *Muṭawwiʿa* [henceforth, *Muṭawwiʿa*], appointed by the Shaykh himself.[5] Any member of the community who did not fulfill his/her religious obligations, or who violated the principles of the Sharīʿa as interpreted by the Wahhābīs, was harshly punished.[6]

The Amīr-Imām partnership (also well-known as ʿthe ʿUlamāʾ-Umarāʾ Pactʾ) has remained intact between the Saudi royal family and the Ibn ʿAbd al-Wahhāb dynasty for over two hundred years, despite all the geo-political and socio-cultural challenges. For example, some early Saudi military activities, undertaken in order to consolidate the State and to accumulate power, were not supported by Ibn ʿAbd al-Wahhāb.[7] In a recent study focusing on the classical Wahhābī doctrine of jihād, Natana Delong-Bas, noted, for example, that Ibn ʿAbd al-Wahhābʾs teachings and writings on jihad, his tendency to withdraw from Ibn Saudʾs company during jihād engagements and his ulti-

[3] Ibn Bishr, *ʿUnwān*, 15; Ibn Ghannām, *Tārīkh*, 89. Both Ḥusayn Ibn Ghannām and ʿUthmān Ibn Bishr were considered the most important chroniclers of early Wahhābī scholars. Their accounts contain the most biographical information and are the most accurate. They provide a wealth of information about early Wahhābī scholarly activities and describe how the Wahhābīs viewed and presented themselves in the early stages of their movement. Other sources are accounts written by western travelers to Arabia, and monographs by Wahhābī scholars, and finally polemical works written by Ibn ʿAbd al-Wahhābʾs opponents, such as Aḥmad Ibn Zaynī Daḥlān. More on classical Wahhābīs in: Ibn ʿĪsā, *ʿIqd*; al-Bassām, *Khizānat*; Abū ʿAliyya, *Dirāsa*; al-Qāḍī, *Rawḍat*; al-ʿUmarī, *ʿUlamā*; Ibn Ḥamdān, *Tarājim*.

[4] See for example Ibn Ghannām, *Tārīkh*, 397–480.

[5] Cook, *Commanding right*, 167; Edens, "Anatomy," 7.

[6] Ḍāhir, *Daʿwa*, 165.

[7] Delong-Bas, *Wahhabi Islam*, 35.

mate withdrawal from his position as Imām in 1773, strongly suggest that he did not actively support all Saudi military actions.[8] Delong-Basʾ observation challenges the commonly held opinion of historians, who often assumed that military activities undertaken by the Saudis after the 1744 alliance were jihād activities.

In any event, one possible explanation of ongoing Saudi-Wahhābī cooperation is the tendency toward interdependence amongst semi-autonomous bodies. In his article on politics and religion, sociologist S. N. Eisenstadt, argues that each side seeks to advance its own interests through domination of the otherʾs center of power.[9] When applied to Saudi Arabia, Eisenstadtʾs theory explains that the mutual dependence of the ʿulamāʾ-umarāʾ actually serves to enhance the historic alliance between Wahhābīs and Saudis.

The Genealogy of Wahhābī Muftīs

Ibn ʿAbd Wahhābʾs mission was continued by his descendents (known as Āl al-Shaykh), whose education, as well as authorization as muftīs, was handed down from father to son (see Appendix C).[10] Amongst the most prominent descendents of Ibn ʿAbd al-Wahhāb was his eldest son, ʿAbd Allāh, who was considered the most prolific and, as such, assumed the mantle of his father as the supreme religious authority in the first Saudi State.[11] ʿAbd Allāh served as Chief Qāḍī and Grand Muftī under three Saudi rulers: ʿAbd al-ʿAzīz Ibn Muḥammad Ibn Saʿūd (r. 1765–1803), Saʿud Ibn ʿAbd al-ʿAzīz (r. 1803–1813) and ʿAbd Allāh Ibn Saʿud (r. 1813–1817).[12] ʿAbd Allāh was born and grew up in Dirʿiyyah and studied with his father and other prominent scholars from the Najd region. He specialized in the Islamic schools of law, legal theory, Qurʾānic commentary, philology and ḥadīth tradition. Amongst the various students of ʿAbd Allāh were his sons Sulaymān, who served

[8] Ibid.

[9] Eisenstadt, "Religious organization," 283.

[10] Al-Ghnīm, *Mujaddid*, 16; al-Bassām, *ʿUlamāʾ*, 1:175; Āl al-Shaykh, *Mashāhīr*, 50. On the muftiship tradition in 18th century Arabia, see Voll, "Muhammad Hayat al-Sindi," 32–39.

[11] The first Saudi State lasted for nearly 75 years (1744–1818). For further accounts of the first Saudi State, see Niblock, *Saudi Arabia*, 23–30; al-ʿUthaymīn, *Tārīkh*, 79–209; ʿAbd al-Raḥīm, *Dawla*, 209–246.

[12] Āl al-Shaykh, *Mashāhīr*, 48–50; al-Ghnīm, *Mujaddid*, 16.

as *qāḍī* in Mecca, ʿAbd al-Raḥmān and ʿAlī. Both Sulaymān and ʿAlī were killed in 1817 during the Egyptian invasion of Dirʿiyyah, while ʿAbd Allāh himself was arrested and sent to Egypt with his remaining son, where he died in 1826.[13]

The most eminent muftī of the second Saudi State (1824–1891)[14] was Shaykh ʿAbd al-Raḥmān, who was often portrayed by the chronicles as being ʿthe second reformerʾ (*al-mujaddid al-thānī*), following his grandfather, Shaykh Muḥammad Ibn ʿAbd al-Wahhāb.[15] He had been tutored by his grandfather, Shaykh Muḥammad Ibn ʿAbd al-Wahhāb, and by other prominent, though unrelated, Wahhābī scholars, such as Shaykh Ḥamad Ibn Naṣir Ibn Muʿammar and Ḥusayn Ibn Ghannām.[16] Upon the destruction of the first Saudi State by Ibrahīm Pasha, Shaykh ʿAbd al-Raḥmān had been exiled to Egypt, where he remained for eight years. While in Cairo, he attended lessons at al-Azhar with scholars from different *madhhab*s. In 1826, he returned to the Najd region and served as Grand Muftī and Chief Qāḍī in Riyadh, and was the supreme religious authority of the second Saudi State until his death in 1868.[17] In his capacity as the head of the Wahhābī religious authority, he appointed *qāḍī*s and teachers, gave lessons, advised the rulers and above all issued fatwās on various spheres of life. Among his many religious writings, he wrote a commentary (*sharḥ*) on his grandfatherʾs book, *Kitāb al-tawḥīd*.

Shaykh ʿAbd al-Raḥmānʾs son, Shaykh ʿAbd al-Laṭīf, who had accompanied his father to Cairo after the conquest of the Saudi capital by the Egyptians, remained there, in exile, for over 30 years. Upon his return, he was made a *qāḍī* in al-Aḥsāʾ, where he spent a year before rejoining his father, who was then a *qāḍī* in Riyadh.[18] As his father advanced in age, Shaykh ʿAbd al-Laṭīf gradually assumed his fatherʾs mantle, becoming the new leader of the Āl al-Shaykh and the prominent Wahhābī muftī of the second Saudi State until his death in 1876.[19] ʿAbd al-Laṭīf was also succeeded by his son, ʿAbd Allāh, who

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[13] Ḍāhir, *Daʿwa*, 60–61.

[14] The second Saudi State lasted for 67 years, until Āl al-Rashīd captured and annexed Riyadh and the Saudi family was exiled to Kuwait. For a further account of the second Saudi State, see al-ʿUthaymīn, *Tārīkh*, 209–325.

[15] See al-Ghnīm, *Mujaddid*, 69–71.

[16] Ibid., 58, 74–88.

[17] Ibid., 105; Ibn Bishr, ʿ*Unwān*, 8–9.

[18] Āl al-Shaykh, *Mashāhīr*, 95.

[19] Ibid., 93–96.

had been tutored by his father and grandfather in Riyadh in theology, law, ḥadīth tradition and Qurʾānic commentaries. Thus, ʿAbd Allāh assumed the mantle of his ancestors, as Grand Muftī and Chief Qāḍī in the Najd region under the extended rule of ʿAbd al-ʿAzīz Ibn Saʿūd, until his demise in 1920.[20]

Note that Wahhābī ʿulamāʾ not from the Āl-al-Shaykh family practiced *iftāʾ* alongside the Āl al-Shaykh muftīs. Some preeminent non-Āl al-Shaykh muftīs were: Shaykh Ḥamad Ibn Nāṣir Ibn Muʿammar (d. 1811), Shaykh ʿAbd Allāh IbnʿAbd al-Raḥmān Abū Buṭayn (d. 1865), Shaykh Ḥamad Ibn ʿAtīq (d. 1888) and lastly Shaykh Sulaymān Ibn Saḥmān (d. 1930).[21] Most of these muftīs were trained by and educated with members of the Āl al-Shaykh family. For instance, Shaykh Ibn Muʿammar was instructed by Muḥammad Ibn ʿAbd al-Wahhāb. After the Saudi conquest of Ḥijāz in 1805, Ibn Muʿammar became the Supervisor of Meccan *qāḍī*s until his death.[22]

All the while, the Āl al-Shaykh family continued to play key roles in the practice of *iftāʾ* under Saudi reign alongside the other leading muftīs, whose number varied. Historian, H. St. John Philby, stated, for example, that in 1918 the leading Wahhābī muftīs (Āl al-Shaykh and others) numbered: "six at Riyadh, three in al-Qaṣīm, a similar number in al-Aḥsāʾ, and one in each of the other districts or provinces of the Najd region—some twenty or more altogether."[23] According to Philby, the Riyadh muftīs enjoyed a position of preeminence due to their presence in the Capital and their proximity to the ruler.[24] These muftīs were differentiated according to a set of informal criteria, such as the degree to which they were recognized by their colleagues as being qualified to issue fatwās. Some fifteen muftīs signed the famous fatwā issued on January 1927, following a conference of the Ikhwān.[25]

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[20] Ibid., 129.

[21] Ibid., 235–239, 290–295, 244–254. For more on these muftīs, see al-Bassām, *ʿUlamāʾ*, 1:526, 594, 601; al-ʿAjlān, *ʿAbd Allāh*, Ch. 1&2.

[22] Āl al-Shaykh, *Mashāhīr*, 202–206.

[23] Philby, *Heart*, 297; see also Layish, "Ulama," 42.

[24] Al-Yassini, *Religion*, 42.

[25] These muftīs were Muḥammad Ibn ʿAbd al-Laṭīf, Saʿd Ibn ʿAtīq, Sulaymān Ibn Saḥmān, ʿAbd Allāh Ibn ʿAbd al-ʿAzīz al-ʿUtayqī, ʿAbd Allāh al-ʿAnqarī, ʿUmar Ibn Salīm, Ṣāliḥ Ibn ʿAbd al-ʿAzīz, ʿAbd Allāh Ibn Ḥasan, ʿAbd Allāh Ibn ʿAbd al-Laṭīf, ʿUmar Ibn ʿAbd al-Laṭīf, Muḥammad Ibn Ibrāhīm, Muḥammad Ibn ʿAbd Allāh, ʿAbd Allāh Ibn Zāḥim, Muḥammad Ibn ʿUthmān al-Shāwī and ʿAbd al-ʿAzīz al-ʿAnqarī. See Wahba, *Jazīrat al-ʿArab*, 292.

The next eminent muftī from the Āl al-Shaykh lineage was Muḥammad Ibn Ibrāhīm (d. 1969), who was appointed by Ibn Saʿūd to fill the religious functions previously handled by his uncle, Shaykh ʿAbd Allāh Āl al-Shaykh, who had passed away in 1920. Shaykh Muḥammad Ibn Ibrāhīm was born in Riyadh in 1890 to a pious family and received his education and training from his father and grandfather. From the perspective of the Saudi people, the history of *iftāʾ* in the 1950s and 1960s is linked to the name of Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh, perhaps more than to any other Saudi-Wahhābī muftī. He held many key religious positions, such as: Grand Muftī, Chief Qāḍī, President of the Islamic University in al-Madīna, Supervisor of Girlsʾ Education, and a long list of other religious positions.[26]

Most importantly, a new form of *iftāʾ* emerged in 1952, when Shaykh Muḥammad Ibn Ibrāhīm became the Official State Grand Muftī. One year later, for the first time in the history of the Saudi State, the Government established a new, official *iftāʾ* institution.[27] This was an historic landmark in Saudi *iftāʾ* and consistent with the attempts to modernize, that is to say, bureaucratize, Islam in Muslim and Arab worlds.

Iftāʾ Institutional Manifestations

Twentieth century *iftāʾ* is characterized by the emergence of the *hayʾa*, or ʿfatwā committeeʾ, where more than one muftī ratifies the same fatwā.[28] One of the earliest official *iftāʾ* bodies was the *Hayʾat Kibār al-ʿUlamāʾ* (Board of Senior ʿUlamāʾ) in al-Azhar, Egypt founded in 1911. This Board consisted of 30 leading ʿulamāʾ from among whom the Shaykh al-Azhar was selected.[29] In Indonesia, the first such organization, called Nahdatul ʿUlamāʾ, was founded in 1926 by traditionalist ʿulamāʾ.[30] Other fatwā boards included: the World Muslim League in Mecca, the Fatwā Committee of the Organization of Islamic Countries, the Council of Islamic Ideology in Pakistan, *Majlis Agama Islam*

[26] Āl al-Rashīd, *ʿAllāma*, 18–20.

[27] *Umm al-Qurā*, December 26, 1952; Āl al-Shaykh, *Mashāhīr*, 178, 183–184; Āl al-Rashīd, *ʿAllāma*, 23–25.

[28] Masud, Messick & Powers, *Islamic legal interpretation*, 28.

[29] Ibid., 147; Jomier, "Azhar," 818. More on the movement to reform al-Azhar in al-Ṣaʿīdī, *Tārīkh*; Crecelius, "al-Azhar," 31–49.

[30] Mudzhar, "Fatwas," 6–7.

in Malaysia and, recently, the *al-Majlis al-Aūrūbbī lil-Iftāʾ* (European Council of Iftāʾ) and others.[31]

Various Muslim scholars stressed the essential nature of collective *iftāʾ*, due to the magnitude of the challenges facing modern Islamic societies. Shaykh Yūsuf al-Qaraḍāwī argues, for example, that dealing with important legal problems, especially those related to public affairs, requires collective scholarly efforts. According to him, an opinion issued by a group of muftīs is much better than the opinion of an individual muftī, since a group has the advantage of mutual consultation, thereby preventing the inadvertent neglect of certain aspects of the problem under discussion and ensuring that all the relevant issues are properly addressed. Therefore, collective decisions are to be considered much more solid than those of individual muftīs, regardless of those individualsʾ intellectual capacities. Al-Qaraḍāwī draws on specific traditions, such as the Prophetʾs answer to ʿAlī Ibn Abī Ṭālib, when asked what to do when approaching a certain problem not treated by the Qurʾān or in ḥadīth tradition. The Prophet instructed ʿAlī to consult scholars and other believers familiar with the problem in question, and not to make any decisions on his own. Al-Qaraḍāwī also produced several examples of consultations by Abū Bakr and ʿUmar Ibn al-Khaṭṭāb, the first two caliphs. Both often summoned scholars to consult with them, to make informed, collective decisions on legal and other religious problems. In any event, Al-Qaraḍāwī stresses that collective *iftāʾ* today should be conducted by an international Islamic scientific council of ʿulamāʾ (*majmaʿ ʿilmī Islāmī*). Such a council would be an autonomous body, independent of any governmental or political pressure.[32] Most importantly, decisions of this council should be accepted as ʿbinding consensusʾ (*ijmāʿ*), obligating all Muslims the world over.[33] In the same vein, ʿAlī al-Sālūs, a Sharīʿa professor at Qatar University, argues that, in contemporary global societies, individual *iftāʾ* no longer makes sense; while a muftī is entitled to give

[31] More on the emergence of the collective practice of iftāʾ in Masud, Messick & Powers, *Islamic legal interpretation*, 8–15, 26–32; and Skovgaard-Petersen, *Defining*, 284–286.

[32] Such a council was actually established in July 2004, called International Union for Muslim Scholars (*al-Ittiḥād al-ʿĀlamī li-ʿUlamāʾ al-Muslimīn*). See their website at: http://www.iumsonline.net/english/index.shtml (last access, July 4, 2009).

[33] Al-Qaraḍāwī, *Ijtihād*, 103–105.

his opinion, only a collective body of scholars may issue fatwās on important matters.[34]

In Saudi Arabia, the institutionalization of *iftāʾ* was undertaken as part of an overall bureaucratic and administrative reform begun in the 1950s. The earlier 1932 declaration of Saudi Arabia as a unified kingdom had not effected the preexisting traditional administrative structures, because the King traditionally administered the political affairs of state and of his family, as one personal household, however large.[35] The discovery of oil in 1937—a significant turning point in the history of Saudi Arabia—had a great impact on the Countryʾs socio-economic development. M. W. Wenner described the impact of this historical event as follows:

> Oil has had a great political, economic, and social impact on Saudi Arabia. Future changes are certain to be even more profound. The difference between the traditional order and what is taking place is very great; and, for the present at least, change is occurring more rapidly here than in any other country in the Middle East.[36]

A modern administrative and bureaucratic system was needed to respond to this new economic situation. This was manifested as a broad institutionalization process, spanning a large number of social realms, including those formerly regulated by the religious establishment, including *iftāʾ*.[37] This process began on December 18, 1952, when King Ibn Saʿūd appointed Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh as the State Grand Muftī.[38] A similar step was taken one year later by the Kingʾs son and successor, King Saʿūd (r. 1953–1964), when he established the first official *iftāʾ* institution, called *Dār al-Iftāʾ wal-Ishrāf ʿalā al-Shuʾūn al-Dīniyya* (Institute for the Issuance of Religio-Legal Opinions and the Supervision of Religious Affairs), under the chairmanship of the same Grand Muftī.[39]

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[34] Skovgaard-Petersen, *Defining*, 284–285.

[35] Al-Yassini, *Religion*, 59; Yizraeli, *Remaking*, 101; al-Shalhūb, *Niẓām*, 164; Wahba, *Arabian days*, 65; al-Awaji, "Bureaucracy," 20.

[36] Wenner, "Saudi Arabia," 180.

[37] Indeed, the steep rise in oil revenues in the 1950s and the resulting rapid growth of the Saudi petroleum industry brought about intense changes, which peaked in the 1970s. More on the initial manifestation of Saudi State institutionalization, see al-Hamad, "Political order," 175; Chapman, "Administrative reform," 332–47.

[38] *Umm al-Qurā*, December 26, 1952.

[39] Āl al-Shaykh, *Mashāhīr*, 178, 183–184.

Dār al-Iftāʾ played a key role in religious matters until the death of its head, Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh, in 1969. Thousands of fatwās were issued, most of which were compiled and published for the first time in 1978 in a 13-volume edition by Muḥammad Ibn Qāsim, under the title *Fatāwā wa-rasāʾil samāḥat al-Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh* (Fatwās and letters of His Excellency, Shaykh Muḥammad Ibn Ibrāhim Āl al-Shaykh).[40] A quick glimpse at these fatwās shows that they had been solicited either by individuals or by Government authorities and dealt with a range of topics, including worship, customs and innovations, oaths and pledges, family law, etc.[41] Thus far, there have been only a few critical works published about these fatwās and Dār al-Iftāʾ. One significant work addressing these fatwās was published by Gerd-Rudiger Puin, who analyzed 675 fatwās that had been published in *al-Daʿwa* between 1965–1974. He discusses how these fatwās reflect contemporary social developments. Nevertheless, he notes that the issues raised in these fatwās may not be representative of society in general, since most of them were replies to submissions made by religious officials and dealt with traditional religious duties. Only 22% of them provided solutions to contemporary issues.[42]

An attempt to reform Dār al-Iftāʾ was made by Prince and Prime Minister Fayṣal in 1962. Fayṣal realized that reforms could not be implemented without the support of the religious establishment, especially that of Dār al-Iftāʾ. Therefore, this institution would have to undergo certain changes in order to meet the objectives that Fayṣal had set for his reforms, as expressed in his famous "Ten Point Program" (October 1962):[43]

1. To promulgate a Fundamental Law, establishing the relationship between the ruler and those being ruled, and to define State administration;
2. To regulate the provincial administrations;

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[40] Some sources cite the number as being 4,575 fatwās issued by Shaykh Muḥammad Ibn Ibrāhīm; see *MBI* 51:362.

[41] Ibid.

[42] Puin, "Moderne Alltag".

[43] *Umm al-Qurā*, November 9, 1962. See also al-Shalhūb, *Niẓām*, 168; Abir, *Saudi Arabia*, 94; al-Sāmirrāʾī, *Malik*, 83. More on reforms by Fayṣal in al-Farsy, "King Faisal," 58–74; Kechichian, *Faysal*, 172–191.

3. To establish a Ministry of Justice;
4. To establish an *iftāʾ* council;
5. To propagate Islam (*daʿwa*);
6. To reform the Committee for Commanding Right and Forbidding Wrong;
7. To improve the nationʾs quality of life;
8. To issue new regulations accommodating new social developments and economic changes;
9. To promote financial and economic development;
10. To abolish slavery in the Kingdom.

The creation of a new *iftāʾ* council (item no. 4 above) was an attempt to develop a new *modus operandi* between the Government and the muftīs, so that Government might gain more cooperation. King Fayṣalʾs endeavors to reform *iftāʾ* were only realized in 1971, two years after the death of the Grand Muftī, Shaykh Muḥammad Ibn Ibrāhīm. In August 29, 1971, Fayṣal, now King, issued a royal decree initiating the creation of two new agencies authorized to issue fatwās: 1. *Hayʾat Kibār al-ʿUlamāʾ* (Board of Senior ʿUlamāʾ or BSU for short) and 2. *Al-Lajna al-Dāʾima lil-Buḥūth al-ʿIlmiyya wal-Iftāʾ* (Permanent Committee for Scientific Research and Legal Opinions or CRLO for short).[44] In 1993, King Fahd issued a royal decree commanding the reestablishment of the State Grand Muftī Office, after its having been vacant for more than two decades.[45] The above institutions constitute the current Dār al-Iftāʾ in Saudi Arabia.

The history and work of these bodies form the primary subject matter of this book. To better appreciate modern Wahhābī fatwās, we must first examine some early legal opinions and their contribution to the formation of Wahhābī Islam in Saudi Arabia.

The Early Fatwās and the Formation of Wahhābī Islam

Early Wahhābī fatwās, particularly those of the 18th and 19th centuries, were compiled relatively late, during the reign of ʿAbd al-ʿAzīz

[44] Kingdom of Saudi Arabia, *Niẓām wa-lāʾiḥat sayr al-aʿmāl fī Hayʾat Kibār al-ʿUlamāʾ*, Royal Decree A/137, Aug. 29, 1971. See also al-Shalhūb, *Niẓām*, 218–219.
[45] Royal Decree A/4, July 9, 1993. See *Umm al-Qurā*, July 15, 1993.

Ibn Saʿūd (r. 1902–1953) and his successors, mainly under Kings Fayṣal (d. 1975), Khālid (d. 1982) and finally Fahd (d. 2005). Today, these fatwās can be found in various, modern-style collections, together with queries (*masāʾil*), letters (*rasāʾil*) and other writings by Wahhābī scholars, ranging from the classical, e.g., Ibn ʿAbd al-Wahhāb, to the contemporary. The first such collection was published in 1928 by al-Manār of Muḥammad Rashīd Riḍā in a four-volume work entitled *al-Rasāʾil wal-masāʾil al-Najdiyya li-baʿḍ ʿulamāʾ Najd al-aʿlām*. An elaborated second edition of this collection was published in 1988, in which fatwās, letters and other writings by Najdī ʿulamāʾ were recompiled in a five-volume work. The contents of this collection is divided into three parts organized chronologically. Part one is dedicated to fatwās and other writings by Ibn ʿAbd al-Wahhāb and his sons; the second part to those by his grandsons; and finally, the third part contains fatwās by non-Āl al-Shaykh Wahhābī muftīs.[46]

Another important collection of early Wahhābī fatwās is *al-Durar al-saniyya fī al-ajwiba al-Najdiyya*, published in 1937 in an 11-volume edition. This collection has since been re-edited and re-published in six further editions, the last appearing in 1996 in 16 volumes, expanded to include fatwās and writings of prominent, contemporary Wahhābī muftīs, such as Shaykh ʿAbd al-ʿAzīz Ibn Bāz, Ṣāliḥ Ibn ʿUthaymīn and others. Unlike the previous editions, this collection is organized into ʿbooksʾ, each dedicated to a specific topic.[47] The third collection was published in the early 1960s and is dedicated to the writings and fatwās of Muḥammad Ibn ʿAbd al-Wahhāb, under the title *Muʾallafāt al-Shaykh Muḥammad Ibn ʿAbd al-Wahhāb* in 13 volumes.[48]

The above fatwā collections focus on a wide range of topics including: creed; unity and worship of God; idolatry and polytheism; customs and innovations; oaths and pledges; family law, etc. These fatwās, as well as other sources, such as biographical dictionaries, epistles and some monographs, indicate Āl al-Shaykh leadership in the religious realm and demonstrate their awareness of the continuity of both their

[46] See Bin Birjis, *Majmūʿat al-rasāʾil*.
[47] See Bin Qāsim, *Durar*.
[48] Classical Wahhābī fatwās may be found in other collections, such as: al-Bassām, *ʿUlamāʾ Najd*; Ibn Ghannām, *Tārīkh*; Āl Farrāj, *Fatāwā*; al-Kharāshī, *Tārīkh*. More on religious publications in Saudi Arabia, see Ochsenwald, "Religious publication," 135–144.

lineage and of the message of their predecessors.[49] A conspicuous, religious polemic was waged in mosques throughout the Arabia Peninsula to firmly establish the teachings of Muḥammad Ibn ʿAbd al-Wahhāb as being the only valid interpretation of Islam. Wahhābī ʿulamāʾ transmitted their teachings to pupils attending study circles and to townsmen at the Friday sermons and public lessons. In addition, they usually responded to critiques by other ʿulamāʾ in the Arabian Peninsula.[50] A good example appears in the case of ʿAbd Allāh Ibn ʿAbd al-Wahhāb's written response to Meccan ʿulamāʾ when he accompanied the third Saudi ruler, Saʿūd Ibn ʿAbd al-ʿAzīz, during the Saudi conquest of Mecca in 1803.[51] In his letter, ʿAbd Allāh presented Wahhābī doctrines in their earliest stages. Arabian chroniclers and European travelers recorded their observations that townsmen under the second Saudi State publicly conformed to the early Wahhābī teachings.[52]

Returning to the fatwās, one may learn a lot from their contents about eighteenth century Wahhābī trends in Islamic thought, jurisprudence and affiliation to the Ḥanbalī school of Islamic law. However, a great portion of the queries and fatwās were dedicated to problems on creed, the unity of God (*tawḥīd*) and forbidden innovations (*bidaʿ muḥditha*).[53] This is clearly indicated in the contents of a recent collection, the *al-Durar al-saniyya fī al-ajwiba al-Najdiyya*, which is organized as follows: The book of creed (*Kitāb al-ʿaqāʾid*); The book of the unity of God (*Kitāb al-tawḥid*); The book of names and attributes (*Kitāb al-asmāʾ wal-ṣifāt*); The book of beliefs (*Kitāb al-ʿibadāt*); The book of transactions (*Kitāb al-muʿāmalāt*); The book of marriage (*Kitāb al-nikāḥ*); The book of jihād (*Kitāb al- jihād*); The book of apostasy (*Kitāb ḥukm al-murtadd*); The book of responses to foes (*Kitāb al-rudūd ʿalā dhawī al-shubah wal-zaygh wal-juḥūd*); Qurʾanic com-

[49] On the muftiship tradition in 18th century Arabia see Voll, "Muhammad Hayat al-Sindi," 32–39; Commins, *Wahhabi mission*, Ch. 1.

[50] Various letters responding to criticism of the new Wahhābī message, openly disputing basic points of Wahhābī doctrine. Initial opposition to the Wahhābī movement appeared during Muḥammad Ibn ʿAbd al-Wahhāb's lifetime in his own region of Najd, as evidenced in his letters, in which he refers to opposing scholars, such as: Ibn Suḥaym, ʿAbd Allāh Ibn Muways, Dawūd Ibn Jirjis, Muḥammad Ibn Sallūm al-Faraḍī and others. See al-Bassām, *ʿUlamāʾ*, 3:696. Commins, *Wahhabi mission*, 19–20.

[51] Āl al-Shaykh, *Mashāhīr*, 51–68.

[52] Al-Bassām, *ʿUlamāʾ Najd*, 3:696. Commins, *Wahhabi mission*, 19–20.

[53] For further accounts on *bidʿa* in Wahhābī thought, see Ch. 5.

mentary (*Kitāb al-istinbāṭ wa-tafsīr āyāt min al-Qurʾān*); and, finally, The advisory book (*Kitāb al-naṣāʾiḥ*).

The Wahhābī emphasis on the unity of God (*tawḥīd*) is asserted in contradistinction to polytheism (*shirk*, defined as ʿthe act of associating any person or object with powers that should be attributed only to God'). These fatwās often portray specific acts that Wahhābīs view as leading to *shirk*, for example: votive offerings, praying at saints' tombs or at gravesites, or any prayer ritual in which the supplicant appeals to a third party for intercession with God. The following is one of the classic Wahhābī fatwās issued by Ibn ʿAbd al-Wahhāb's grandson, Shaykh ʿAbd al-Raḥmān Ibn Ḥasan, in response to a query regarding visiting the Prophet's grave:

> …As to the question of whether traveling to visit the Prophet's grave is permissible, some ʿulamāʾ have claimed that it is permissible to travel with the intention of visiting the graves of the Prophet or of the pious, such as the author of the *Mughnī* [i.e., the Ḥanbalī scholar, Muwaffaq al-Dīn Ibn Qudāma (d. 1146)]. Some other later Ḥanbalī and Shafiʿī scholars found support in His [the Prophet's] words, who said: "Visit it" and "Visiting me after my death resembles visiting me when I'm alive." This is a baseless tradition for those who are familiar with ḥadīth science…The right path is that adopted by preceding scholars, such as b. Baṭṭah, Abū al-Wafā b. ʿUqayl and others, all of whom agreed that such traveling is prohibited…This act can be legitimate only when a traveler intends to visit the Prophet's mosque [then the traveler may also visit His grave]…[54]

Clearly, classical Wahhābīs forbid visiting graves, even that of the Prophet himself. Consequently, religious festivals, including celebrations of the Prophet's Birthday, Shīʿa mourning ceremonies, Sufī mystic practices at the graveside or in tombs and the building of shrines of any sort are all potentially *shirk*.[55]

Although early Wahhābī fatwās emphasize the relationship between God and man, many others were related to the social, economic, ethical and political realms. These early fatwās often provide the name of the muftī to whom they were submitted; however, the name of the inquirer (*mustaftī*) and the date of the fatwā are not always known. Fatwās vary in length and their contents can be devoted to one or

[54] Bin Birjis, *Majmūʿat al-rasāʾil*, 2:51–52.
[55] See Bin Qāsim, *Durar*, 1:67–74.

more topics, such as: women's affairs, family law, ruler/ruled relationship, jihād, relations with non-Muslim minorities, alms tax (*zakāt*) and so forth. Much can be learned from them on the Saudi-Wahhābī religious discourse from the eighteenth to early twentieth centuries.[56] These fatwās also shed light on the socio-political realities of the early Saudi State.

As to politics, fatwās play a traditional role as a mechanism for reinforcing the historic formula of *ʿulamāʾ-umarāʾ*, helping to maintain legitimate sources for Saudi dynastic policies, particularly in sensitive situations. For example, in 1926, following Ibn Saʿūd's conquest of the Ḥijāz, a fatwā was issued providing him the legal basis for the takeover of the holy places and urging all Muslims to obey the new ruler.[57] In 1927, the Ikhwān accused King ʿAbd al-ʿAzīz of pursuing his personal ambitions and of betraying the faith.[58] The Ikhwān wanted King ʿAbd al-ʿAzīz to declare jihād against the people of Iraq, whom they considered to be heretics, and to enforce Wahhābī rule in the Ḥijāz.[59] Some of the Ikhwān vied for authority over the Saudi dynasty and jeopardized its rule. King ʿAbd al-ʿAzīz was compelled to confront them militarily, crushing their opposition, but not before obtaining a fatwā in 1929 legitimizing his actions.[60]

A quick glimpse at classical Wahhābī methodology and fatwā sources indicates that they follow Ḥanbalī legal doctrine, as elaborated by Ibn Ḥanbal's disciples, especially Ibn Taymiyya (d. 1328) and Ibn Qayyim al-Jawziyya (d. 1350). According to Ibn Qayyim al-Jawziyya, Ibn Ḥanbal's legal sources (*uṣūl*) are: (1) the texts of the Qurʾān and the Sunna; (2) the Companions' (*ṣaḥāba*) legal opinions (*fatāwā*); (3) in the event of disagreement between the Companions, the view closest to the Qurʾān and the Sunna; (4) certain weak (*ḍaʿīf*) or weakly attested (*mursal*) ḥadīths; and lastly, (5) sound analogy (*qiyās ṣaḥīḥ*), but only when no other solution exists.[61] The first two *uṣūl* are texts from the Qurʾān or the ḥadīths. If such texts provide the answer, there is no need to turn elsewhere. The third source suggests following the

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[56] See Johansen, "Legal literature," 29–47.

[57] Wahba, *Jazīrat al-ʿArab*, 290–293.

[58] On the Ikwān movement, see Habib, *Ibn Saud's warriors*, 14–25.

[59] Armstrong, *Lord of Arabia*, 265–266; al-Rīḥānī, *Najd*, 433–436; Wahba, *Jazīrat al-ʿArab*, 290–293.

[60] Al-Rasheed, "Criminal procedure," 11.

[61] Ibn Qayyim al-Jawziyya, *Iʿlām*, 1:36–40. See also Abū Zahra, *Tārīkh*, 528–37; al-Maṭʿanī, *Fiqh*, 35–6; Ziadeh, "Law," 2:461.

consensus (*ijmāʿ*) of the Companions and the path of least deviation from the textual sources.[62] In other words, the Wahhābīs acknowledged the necessity of returning directly to the sacred textual sources, mainly the Qurʾān and Sunna, as the initial and primary sources of Islamic law, when researching any given topic. Only then, they followed the legal opinions reached by consensus of the Prophet's Companions (*Ṣaḥāba*) and the opinions of later generations of scholars, particularly those of the founders of schools of Islamic law—Ḥanafī, Mālikī, Shafiʿī, Ḥanbalī and *Úahiri*, as long as they did not contradict the primary, sacred sources.

This leads to the questions of *ijtihād* and *taqlīd* in classical Wahhābī doctrines.[63] A hallmark of the Wahhābī approach to Islamic law is the radical rejection of *taqlīd* in favor of *ijtihād*. For Wahhābīs, blind *taqlīd*, the adherence to a certain muftī's opinions, or blindly following local customs (*ʿurf*) may even lead to polytheism.[64] Thus, the Wahhābīs declared local customs as inappropriate legal sources, rejecting practices by certain Muslim jurists, such as in the Mālikī *madhhab*, who considered the customary practices of Medina as authoritative. They are generally suspicious of muftīs' opinions, since they are merely educated human beings, and, as such, are liable to err or misinterpret. For example, Ibn ʿAbd al-Wahhāb rejected the notion of any individual being more authoritative than the Qurʾān and Sunna. He often expressed his concern regarding the great authority granted to the muftīs during his lifetime. According to Ibn ʿAbd al-Wahhāb, people place too much credence on muftīs' opinions. Consequently, he warned believers against adhering too closely to the teachings of any particular muftī, preferring the personal study of the Qurʾān and ḥadīth tradition. He sought to limit muftīs' opinions to especially difficult cases, requiring greater scholarship and experience.[65]

All in all, the classical Wahhābī fatwās played an important part in introducing the Wahhābī interpretation of Islam as distinct from other Islamic groups. This is clearly manifested in the trend of consulting various sources; muftīs often cite a variety of opinions about a given matter, while including their opinions as to which interpretation is correct, typically using the phrase "and as for us…" This was the

[62] Vogel, *Islamic law*, 73.
[63] A detailed discussion on *ijtihād* and *taqlīd* follow in Ch. 4.
[64] Bin Qāsim, *Durar,* 4:29–64; al-Dawīsh, *Fatāwā al-lajna*, 5:16–46.
[65] Ibn ʿAbd al-Wahhāb, *Kitāb al-tawḥīd*, 39.

subtle way in which early Wahhābī scholars expressed their distinct position, revealing their understanding of Islam.

The Wahhābī version of Islam was often portrayed as puritanical scholarship, characterized by strictness in such matters as the prohibitions against wearing silken clothing, using tobacco, using a rosary in prayer—all taken to be examples of forbidden innovations (*bidʿa muḥditha*).[66] These attitudes towards early Wahhābīsm were recently rejected by Delong-Bas, who noted that attributing strictness to classical Wahhābī teachings is nothing but a misconception of Ibn ʿAbd al-Wahhāb's religious attitudes in the social and ethical realms.[67]

In this study, I neither deal with nor evaluate classical Wahhābī doctrines in terms of 'liberalization' or 'conservatism', topics outside the purview of this book. It goes without saying that classical Wahhābī muftīs and their fatwās played a key role in the definition of Wahhābī Islam. Moreover, these early fatwās differ both in context and contents from the modern ones. While classical Wahhābīs exercised *iftāʾ* in an informal manner for more than two centuries (1745–1952), Dār al-Iftāʾ today is considered a State agency. Muftīs are more subordinate to the Government than ever before. Regarding their contents, classical Wahhābī fatwās dealt mostly with the definition and promotion of Wahhābī Islam, while modern Wahhābī fatwās seem to be increasingly dealing with the accommodation of Wahhābī legal thought to the challenges of modern life. It is these transformations in Saudi *iftāʾ* that form the core of this book.

[66] See, for example, Commins, *Wahhabi mission*, 71–104.
[67] Delong-Bas, *Wahhabi Islam*, 158.

CHAPTER TWO

DĀR AL-IFTĀʾ TODAY

The Board of the Senior ʿUlamāʾ (BSU)

In Saudi Arabia, BSU, led by the Grand Muftī, constitutes the head of the religious pyramid, providing the ultimate decrees on Sharīʿa. The legal status, composition, functions and even the name of the Board are based on a 1971 Royal Decree.[1] Administratively, it is a State agency called *al-Amāna al-ʿĀmma li-Hayʾat Kibār al-ʿUlamāʾ* (the General Secretariat of BSU), directed by a Secretary-General (*Amīn ʿĀmm*), who is responsible for its administration, as well as its connections with CRLO:[2]

> A secretary-general of the Board is to be appointed by the Council of the Ministers…to be responsible for the Board's administrative system, as well as for coordinating between the Board and the Presidency of CRLO.[3]

Ordinarily, members of BSU must be selected from among the Saudi senior ʿulamāʾ. However, with certain provisos and the King's approval, non-Saudi ʿulamāʾ can become members.[4] Among the members of the First Board were:

1. Shaykh Ibrāhīm b. Muḥammad Ibn Ibrāhīm Āl al-Shaykh
2. Shaykh ʿAbd al-ʿAzīz b. Bāz
3. Shaykh ʿAbd Allāh b. Ḥamīd

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[1] Kingdom of Saudi Arabia, *Niẓām wa-lāʾiḥat sayr al-aʿmāl fī Hayʾat Kibār al-ʿUlamāʾ*, Royal Decree A/137, Aug. 29, 1971, 3–8. The only legal update on this Royal Decree is in article 2 of the bylaw supplement concerning BSU chairmanship; Royal Decree A/4, July 9, 1993. See *Umm al-Qurā*, July 15, 1993.

[2] From its creation in 1971 and until 1999 (the period covered by this book) three secretary-generals held this position: Shaykh Muḥammad b. ʿAwda, Shaykh ʿAbd al-ʿAzīz al-Fāliḥ and, finally, Shaykh ʿAbd al-ʿAzīz ʿAbd al-Minʿim.

[3] Royal Decree A/137, Aug. 29, 1971, 4.

[4] One proviso was that they must be *Salafī*s. For more on Wahhābī-Salafī thought see Chap. 4. Also, al-Būṭī, *al-Salafiyya*, 9–23; al-Zinīdī, *al-Salafiyya*, 30–44; Khadduri, *Political trends*, 67–68; Enayat, *Modern*, 69; Roy, *Failure,* 31–34.

4. Shaykh Muḥammad al-Amīn al-Shinqīṭī
5. Shaykh ʿAbd Allāh Khayyāṭ
6. Shaykh Ṣāliḥ b. Laḥaydān
7. Shaykh ʿAbd al-Razzāq ʿAfīfī
8. Shaykh Ṣāliḥ b. Ghuṣūn
9. Shaykh Miḥḍār ʿAqīl
10. Shaykh Muḥammad al-Ḥarkān
11. Shaykh ʿAbd al-ʿAzīz b. Ṣāliḥ
12. Shaykh Muḥammad b. Jubayr
13. Shaykh ʿAbd Allāh al-Ghudayyān
14. Shaykh ʿAbd Allāh al-Manīʿ
15. Shaykh Rāshid b. Khanīn
16. Shaykh Sulaymān b. ʿAbīd
17. Shaykh ʿAbd al-Majīd Ḥasan.[5]

Despite the fact that this Royal Decree named seventeen ʿulamāʾ as members of the First Board, this number was not fixed, nor was the length of their term of office. It seems, however, that this position was granted for a three-year term, with the option of an extension granted by royal decree.[6] Changes in the composition of the Board seldom occurred and were random; some members have continued to hold office since the establishment of the First Board in 1971, while others served shorter terms.[7] Two significant changes have occurred in BSU's composition. The first was in 1987, when five additional members joined the Board to replace four members that had passed away.[8] These five new members were: Shaykh Ṣāliḥ b. Fawzān al-Fawzān, Shaykh Muḥammad b. Ṣāliḥ al-ʿUthaymīn, Shaykh Ḥasan b. Jaʿfar al-ʿAtmī and Shaykh ʿAbd Allāh al-Bassām, in addition to Shaykh ʿAbd al-ʿAzīz b. ʿAbd Allāh Āl al-Shaykh (the current Grand Muftī, who was appointed in the same year).[9] The second change occurred five years

[5] Royal Decree A/137, Aug. 29, 1971, 7; and *MBI* 1:407.

[6] For example, in 1986, Shaykh al-Laḥaydān's membership in BSU was extended for another three years. See Royal Decree A/65, October 11, 1986.

[7] Those members who retained their positions since the creation of the first Board were: Ṣāliḥ b. Laḥaydān, Muḥammad b. Jubayr, ʿAbd Allāh al-Ghudayyān, ʿAbd Allāh al- Manīʿ, and Rāshid b. Ṣāliḥ b. Khanīn. See *al-Riyadh*, September 12, 2001.

[8] Royal Decree 285/A, March 11, 1987; Shaykhs who passed away were: Miḥḍār b. ʿAqīl, Muḥammad Amīn al-Shinqīṭī, Shaykh ʿAbd Allāh b. Muḥammad b. Ḥamīd, and Muḥammad b. ʿAlī al-Ḥarkān.

[9] Royal Decree No. A/285, Mar. 11, 1987; Royal Decree No. A/441, June 17, 1987. See also *Riyadh*, May 17, 1999.

later, in 1992, following the retirement of seven members, who were replaced by ten new ones.[10] These ten new members were:

1. Shaykh Nāṣir b. Ḥamad b. Rāshid
2. Shaykh Muḥammad b. ʿAbd Allāh al-Sabīl
3. Shaykh ʿAbd Allāh b. Muḥammad b. Ibrāhīm Āl al-Shaykh
4. Shaykh ʿAbd Allāh b. ʿAbd al-Muḥsin al-Turkī
5. Shaykh ʿAbd al-Raḥmān b. Ḥamza al-Marzūqī
6. Shaykh Muḥammad b. Zayd Āl Sulaymān
7. Shaykh Bakr b. ʿAbd Allāh Abū Zayd
8. Shaykh Ṣāliḥ b. ʿAbd al-Raḥmān al-Aṭram
9. Shaykh Muḥammad b. Sulymān al-Badr
10. Shaykh ʿAbd al-Wahhāb Ibrāhīm Abū Sulaymān.[11]

In May, 1999, after the death of Shaykh Ibn Bāz, Shaykh ʿAbd al-ʿAzīz Āl al-Shaykh was appointed as Grand-Muftī and as the Chairman of both BSU and CRLO. The new Board now consisted of 21 ʿulamāʾ, including the Chairman, as below:

1. Shaykh ʿAbd al-ʿAzīz Āl al-Shaykh (Chairman)
2. Shaykh Ṣāliḥ b. Laḥaydān
3. Shaykh ʿAbd Allāh al-Ghudayyān
4. Shaykh Ṣāliḥ b. Fawzān al-Fawzān
5. Shaykh Rāshid b. Ṣāliḥ b. Khanīn
6. Shaykh Muḥammad b. Ibrāhīm b. Jubayr
7. Shaykh ʿAbd Allāh b. Muḥammad b. Ibrāhīm Āl al-Shaykh
8. Shaykh ʿAbd Allāh b. ʿAbd al-Muḥsin al-Turkī
9. Shaykh ʿAbd al-Wahhāb b. Ibrāhīm Abū Sulaymān
10. Shaykh Bakr b. ʿAbd Allāh Abū Zayd
11. Shaykh Ṣāliḥ b. ʿAbd Allāh b. Ḥamīd
12. Shaykh ʿAbd Allāh b. ʿAlī al-Rakbān
13. Shaykh Aḥmad b. ʿAlī Sayr al-Mubārakī
14. Shaykh Muḥammad b. ʿAbd Allāh al-Sabīl
15. Shaykh ʿAbd Allāh b. Sulaymān al-Manīʿ

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[10] The Shaykhs who retired were: ʿAbd al-Razzāq ʿAfīfī, Shaykh ʿAbd Allāh Khayyāṭ, ʿAbd al-ʿAzīz b. Ṣāliḥ, ʿAbd al-Majīd Ḥasan, Sulaymān b. ʿUbayd, Ibrāhīm b. Muḥammad Āl al-Shaykh, and Ṣāliḥ b. Ghuṣūn. Royal Decree 6396/2, December 29, 1992. See also *al-Daʿwa*, December 3, 1992.

[11] Royal Decree A/138, December 2, 1992.

16. Shaykh ʿAbd al-Raḥmān b. Ḥamza al-Marzūqī
17. Shaykh ʿAbd Allāh b. ʿAbd al-Raḥmān al-Bassām
18. Shaykh Muḥammad b. Zayd Āl Sulaymān
19. Shaykh Muḥammad b. Jaʿfar al-ʿAtmī
20. Shaykh Muḥammad b. Sulaymān al-Badr
21. Shaykh ʿAbd Allāh b. Muḥammad al-Miṭliq.[12]

Most of these muftīs were educated in the traditional manner, usually having received instruction from a well-known Wahhābī scholar, considered an authority (*marjiʿ*) in the field. Their studies were conducted by means of an informal network of scholarly lectures (*ḥalaqāt*), offering instruction in various subjects such as Islamic jurisprudence, Arabic language, Qurʾānic commentaries (*tafsīr*), ḥadīth tradition, literature and rhetoric. Many of these muftīs continued their studies in Saudi universities or in other academic institutions for higher degrees.[13] For instance, Shaykh Ṣāliḥ b. Muḥammad al-Laḥaydān attended and graduated from the Scientific Academy (*al-Maʿhad al-ʿIlmī*) in Riyadh and later received his M.A. degree from the Supreme Institute for Adjudication (*al-Maʿhad al-ʿĀlī lil-Qaḍāʾ*).[14] Shaykh ʿAbd Allāh b. Jibrīn was awarded an M.A. in 1971 by the University of Imām Muḥammad Ibn Saʿūd in Riyadh and later, in 1988, he earned a Ph.D. at the same university.[15] In the late 1990s, eight BSU members held doctoral degrees in religious studies. Among those were: Shaykh ʿAbd Allāh b. Muḥammad b. Ibrāhīm Āl al-Shaykh, Shaykh ʿAbd Allāh b. ʿAbd al-Muḥsin al-Turkī, Shaykh ʿAbd al-Wahhāb b. Ibrāhīm Abū Sulaymān, Shaykh Ṣāliḥ b. Fawzān al-Fawzān, Shaykh Bakr b. ʿAbd Allāh Abū Zayd, Shaykh Ṣāliḥ b. ʿAbd Allāh b. Ḥamīd, Shaykh ʿAbd Allāh b. ʿAlī al-Rakbān, and Shaykh Aḥmad b. ʿAlī Sayr al-Mubārakī.[16]

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[12] During the decade 1999–2009 (not covered in this book), the structure of Dār al-Iftāʾ has remained constant, though some changes in membership have occurred.

[13] Such higher academic institutions were founded in the early 1950s. Two of the first founded *inter alia* by the Grand Muftī, Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh, were the Sharīʿa College in Riyadh (in 1953) and an Arabic Language College (in 1954). Today, there are three Sharīʿa colleges located in three universities: Ibn Saud University in Riyadh, Umm al-Qura University in Mecca, and the Islamic University in Medina. According to Saudi ʿulamāʾ, the goal of Sharīʿa education in these universities is to produce ʿulamāʾ. Āl Rashīd, *ʿAllāma*, 19–20; Abir, *Saudi Arabia in the oil era*, 36, 41; Vogel, *Islamic law*, 79.

[14] *Al-Sharq al-Awsaṭ*, Aug. 12, 2001.

[15] See *MBI* 42:388; *al-Sharq al-Awsaṭ,* Aug. 12, 2001.

[16] Ibid. Note that the Saudi Government also values higher academic credentials.

BSU's roles, as specified by the same Royal Decree, were: "to issue legal opinions, based on the Sharīʿa, on matters submitted by the King (*walī al-amr*),[17] and to act as an advisory body in Common Law issues, to facilitate the King's decisions."[18] In theory, BSU functions only as an advisory board. However, as the highest religious authority in the country, its decisions are crucial to public affairs. In many cases, BSU decisions became State laws with the King's approval. For instance, the issue of *khulʿ* (divorce in return for monetary compensation paid by the wife to her husband),[19] the death penalty for drug smugglers[20] and many other cases.[21] In other words, BSU functions not only as a watchdog that ensures that no law contradicts the Sharīʿa, but also as a pre-legislative mechanism.

BSU conventions are conducted biannually at the CRLO residence at Riyadh, except in extraordinary cases.[22] These conventions last a week or more and must be attended by at least two thirds of BSU's membership. The ʿulamāʾ are only allowed to discuss topics listed in the convention's agenda. Discussions are usually based on research conducted by CRLO and submitted to BSU members at least two weeks beforehand. BSU decisions, recommendations, statements and fatwās are processed by its Secretary-General together with the CRLO Directorate and published.[23] Usually, the chairmen for these sessions were selected from among the five eldest members of the Board, except the first session, presided over by the eldest among them. However, this policy changed in 1993, following the reappointment of the Grand Muftī, who then became the permanent chairman of both BSU and CRLO (more on the Grand Muftī below).

From its creation in 1971 and until the death of Shaykh Ibn Bāz in 1999, BSU has convened more than 50 biannual meetings that have dealt with a wide range of subjects, ranging from ritual to social life, from sciences and arts to politics. These discussions and resolutions

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[17] On the king/muftīs relationship, see below in Ch. 3.

[18] Royal Decree A/137, Aug. 29, 1971, 3.

[19] BSU decision No. 26 of September 8, 1974 became law by Royal Decree 6895 on March 13, 1975.

[20] BSU decision No. 53 of March 24, 1977 became law by Royal Decree 4/S/1283 on May 17, 1977.

[21] This is discussed in Ch. 3 as part of the discussion on the cooperation of Dār al-Iftāʾ and Government.

[22] Royal Decree A/137, Aug. 29, 1971, 6.

[23] Ibid.

were all recorded and have recently been published in 7 volumes under the title: *Abḥāth Hayʿat Kibār al-ʿUlamāʾ* (*Research by the Board of Senior ʿUlamāʾ*).[24] The following is a list of some of these subjects:[25]

1. When to stone the devil during pilgrimage (*ramī al-jamarāt*);
2. How to declare holidays by sighting the Moon (*ithbāt al-ahilla*);
3. Changing the status of a cemetery for the sake of public interest;
4. Cultivation of *thamūd* (virgin land);
5. Currency issues (*al-awrāq al-naqdiyya*);
6. How to portray the lives of the predecessors;
7. Conditions of divorce (*al-ṭalāq al-muʿallaq ʿalā sharṭ*);
8. Three simultaneous divorces (*al-ṭalāq al-thalāth bi-lafẓ wāḥid*);
9. Broadening the area of circumambulation around Kaʿba (*tawsiʿat al-maṭāf*);
10. Construction in Mina, Saudi Arabia;
11. How to collect and distribute alms-taxes (*maṣārif al-zakāt*);
12. Penalties in contracts (*al-sharṭ al-jazāʾī*);
13. The qāḍīʾs authority to grant a wife divorce in cases of marital conflict (*ḥukm al-qāḍī bi-faskh al-zawja ʿinda ṭūl al-shiqāq wa-taʿadhdhur al-wifāq*);[26]
14. Insurance;[27]
15. Autopsy;[28]
16. Limitation of dowry;[29]
17. Birth control;[30]
18. Drug smuggling, trafficking and abuse;[31]
19. Clandestine murder (*al-qatl ghīlatan*);[32]
20. Traffic accidents;[33]
21. Right of first refusal in sale of property, preemption (*al-shufʿa*).[34]

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[24] See website at: http://www.alifta.net/Fatawa/FatawaChapters.aspx?MenuID=4&View=tree&NodeID=1&PageNo=1&BookID=1&Rokn=false (last access, Jan. 2009); and Hayʾat Kibār al-ʿUlamāʾ, *Abḥāth.*

[25] On August 12, 2000, BSU conducted its Meeting No. 53 in Ṭāʾif, Saudi Arabia. See *al-Jazeera*, August 11, 2000.

[26] The first fourteen topics were discussed at its first six meetings; see *MBI* 1:409–410.

[27] *MBI* 19:17–133 and 20:13–144.

[28] Ibid. 4:35–47.

[29] Ibid. 1:95–110.

[30] Ibid. 1:111–128.

[31] Ibid. 23:11–82.

[32] Ibid. 28: 23–50.

[33] Ibid. 26:27–77.

[34] Ibid. 18:13–69.

In addition to its ordinary sessions, BSU is entitled to call special meetings in the event that urgent cases require the coordinated efforts of both CRLO's Chairman and BSU's Secretary-General.[35] In practice, BSU convened nine special meetings from 1971–1995 in response to both global and domestic events related to Islam. For example, the ʿulamāʾ issued a condemnatory fatwā regarding the November 1979 attack on the sanctuary of the Meccan Grand Mosque by a militant group of the Ikhwān. A special meeting was also convened in August 27, 1994, in order to discuss the contents of the International Conference for Demographic Development, to be held in Cairo on September 5, 1994,[36] resulting in the issuance of a fatwā rejecting the Conference's agenda, found to be in contradiction to Islamic law.[37] A similar special meeting took place one year later, in August 29, 1995, concerning the Fourth International Conference of Women, to be held on September 15, 1995 in Beijing, China. Again, the ʿulamāʾ rejected this Conference's agenda and warned Muslims against participation.[38]

External experts have participated in certain BSU sessions, particularly when contemporary topics were involved. The 1971 Royal Decree also states:

> When discussing issues related to social and economic affairs, [i.e.,] labor, commerce and banks, the Board should consult one or more experts in the required fields, provided that they do not have the right to vote. Both BSU's Secretary-General and CRLO's Chairman should select and summon these experts.[39]

Such experts are likely to play an important role in BSU decisions on issues in areas with which the ʿulamāʾ are not familiar, such as medicine, science or technology. Although expert recommendations are excluded from published BSU decisions, it stands to reason that they do affect the muftīs' understanding of the material under discussion and, accordingly, the fatwā itself.

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[35] Royal Decree A/137, Aug. 29, 1971, 5.
[36] *MBI* 18:42, 383.
[37] Ibid., 383–388.
[38] *MBI* 45:331–334.
[39] Royal Decree A/137, Aug. 29, 1971, 6.

The Permanent Committee for Scientific Research and Legal Opinion (CRLO)

CRLO was created as a branch of BSU. The aforementioned Royal Decree specified that: "In addition to its managerial tasks, this Directorate will consist of a Permanent Committee, derived from the Board of the Senior ʿUlamāʾ."[40] Administratively, CRLO is part of a large, government *iftāʾ* agency called the *al-Riʾāsa al-ʿĀmma li-Idārat al-Buḥūth al-ʿIlmiyya wal-Iftāʾ, wal-Daʿwa wal-Irshād* (The General Presidency of the Directorate of Scientific Studies, Issuance of Fatwās, Propagating Islam, and [Religious] Guidance), which is responsible not only for the issuance of fatwās, but also for *daʿwa* (the propagation of Islam), *irshād* (religious guidance) and logistic aid for BSU.[41]

In the realm of *daʿwa*, this Directorate has sponsored research projects on Islam and Wahhābism, organized seminars for training preachers and sent them on foreign assignments. It has published many religious books in order to propagate Wahhābī views and principles. Among these books are the following: a number of books written by or about Muḥammad Ibn ʿAbd al-Wahhāb; ʿAbd al-Raḥmān Ibn Muḥammad Ibn Qāsim al-ʿĀṣimī al-Ḥanbalī, *Taḥrīm ḥalq al-liḥā* (The religious prohibition against shaving off beards); Shaykh Sulaymān Ibn Muḥammad al-Ḥāmidī, *al-Ṭuruq al-Sharʿiyya li-ḥal al-mashākil al-zawjiyya* (Legal ways of solving marital problems); Shaykh Nāṣir Ibn ʿUthmān Ibn Muʿammar, *Irshād al-Muslimīn fī al-radd ʿalā al-qubūriyyīn* (The guidance of Muslims in answering those who advocate visitation of gravesites); Muḥammad Sulṭān al-Maʿṣūmī al-Makkī, *Hal al-Muslim mulzam bi-ittibāʿ madhhab muʿayyan min al-madhāhib al-arbaʿa*? (Is the Muslim obliged to follow a certain school of the four Islamic schools?); and ʿAbd al-Raḥmān Ibn Nāṣir al-Saʿdī, *Ḥukm shurb al-dukhkhān* (The religious opinion on smoking tobacco). In 1993, both *daʿwa* and *irshād* were transferred to the new Ministry of Islamic Affairs, Endowments, [Religious] Instruction and Preaching, now called *al-Riʾāsa al-ʿĀmma lil-Buḥūth al-ʿIlmiyya wal-Iftāʾ* (the General Presidency of Scholarly Research and Iftāʾ).[42] Conse-

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[40] Ibid., 3–6.

[41] Royal Decree A/137, Aug. 29, 1971, 5. See al-Yassini, *Religion*, 70–71; Vogel, "Complementarity," 263.

[42] *Umm al-Qurā*, July 15, 1993. See also al-Shalhūb, *al-Niẓām*, 219.

quently, CRLO became the main player in this Directorate, acting as its executive arm in all matters concerned with research and fatwās.[43]

In practice, with the exception of certain spheres (particularly those related to *qaḍāʾ*), CRLO represents a permanent forum that maintains the same *iftāʾ* functions as those of 1953. However, a new *iftāʾ* hierarchy came into effect after the 1971 reformation. As mentioned above, BSU became the highest authority, having the final say on religious affairs, while CRLO's functions can be classified into two major domains:

1. The preparation of research for BSU discussions;
2. The issuance of fatwās in response to personal inquiries concerning matters of faith (*ʿaqāʾid*), worship (*ʿibādāt*) or transactions (*muʿāmalāt*).[44]

Since its creation in 1971, CRLO has conducted various research projects.[45] The King, BSU and CRLO are entitled to select the topics to be discussed: "…taking into consideration the King's inquiries, research to be discussed by BSU should be selected by BSU itself, its General Secretariat, CRLO or its Directorate."[46] Procedurally, the King's inquiries take priority.[47]

The issuance of fatwās constitutes the bulk of CRLO's work. Since its establishment in 1971, thousands of fatwās have been issued on various subjects, including rituals, marriage, culture, politics, medicine, theology, economics, sophisticated technology, food, inter-faith relations, family planning, Muslim minority sects, gender issues and even astronomy. Queries may be submitted either in person, by telephone or in writing, and may be submitted not only by Saudis, but also by Muslims living in other countries.[48] Answers are posted directly to the inquirer and also published, in most cases, in the *MBI* (BSU's quarterly journal),[49] or in other periodicals, such as *al-Daʿwa* and *al-Muslimūn*,

[43] Ibid.
[44] Royal Decree A/137, Aug. 29, 1971, 4.
[45] Some of these research projects will be discussed in Ch. 6.
[46] Royal Decree A/137, Aug. 29, 1971, 6.
[47] Ibid., 6; *MBI* 1:406–410.
[48] See for example Abou El Fadl, *Speaking*, 173.
[49] In addition to the ordinary publication of both CRLO and BSU fatwās, the *MBI* publishes articles on various religious topics submitted by outside participants.

or aired on the radio program "Light on the way" (*Nūr ʿalā al-darb*) and, more recently, on the new Dār al-Iftāʾ website.[50]

CRLO fatwās have been compiled and published in subsequent editions under the title: *Fatāwā al-lajna al-dāʾima lil-buḥūth al-ʿilmiyya wal-iftāʾ*".[51] Moreover, a great number of fatwās were recently published in various collections by individuals or groups of BSU and CRLO muftīs. For instance, Shaykh ʿAbd al-ʿAzīz b. Bāz's fatwās and articles were recently compiled and published in a thirty-volume work by his student, Muḥammad b. Saʿd al-Shuwayʿir under the title: *Majmūʿ fatāwā wa-maqālāt mutanawwiʿa*.[52] Other similar collections are those of Shaykh Ṣāliḥ b. ʿUthaymīn, Shaykh ʿAbd al-Razzāq ʿAfīfī, Shaykh Fawzān al-Fawzān, Shaykh ʿAbd Allāh b. Jibrīn and others. Among these collected works are those of Shaykhs ʿAbd al-ʿAzīz b. Bāz, Muḥammad b. ʿUthaymīn, and ʿAbd Allāh b. Jibrīn, entitled: *Fatāwā Islāmiyya*.[53]

CRLO meetings are conducted on a regular basis. To issue a fatwā, the Committee usually needs one meeting. Occasionally, a fatwā may require up to five meetings, whereas, on other occasions, one meeting may produce several fatwās. A fatwā often begins with a statement explaining the reason for its issuance, and then proceeds to mention the inquirer and the query, followed by the argument, which varies in depth and length according to the case, and finally the response in given. In general, the argument starts with the Qurʾānic precedent followed by relevant ḥadīths and quotations from Islamic legal texts. Sometimes fatwās are issued without the arguments presented at the meetings. Each fatwā must be assigned a serial number and signed by at least three CRLO members, though many are not dated. In any case, fatwās must be supported by a CRLO majority, as determined by the formative Royal Decree:

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[50] See http://www.alifta.net/default.aspx. See also private websites of prominent Wahhābī muftīs: Shaykh Ibn Bāz, www.binbaz.org.sa; Shaykh Ibn ʿUthaymīn, www.ibnothaimeen.com; Shaykh Ibn Jibrīn, www.ibnjebreen.com and others. More on Saudi cyber Islam, see Teitelbaum, *Dueling*, 232–237.

[51] Latest multivolume edition was published in 2003. See al-Dawīsh, ed. *Fatāwā al-lajna*. See also online at: http://www.alifta.net/Fatawa/FatawaChapters.aspx?MenuID=0&View=tree&NodeID=1&PageNo=1&BookID=3&Rokn=false (last access Jan. 2009).

[52] This edition was published by Dār Aṣḍāʾ al-Mujtamaʿ (2008?).

[53] See al-Shammāʿī, *Fatāwā*; Bin Mansī, *Fatāwā;* al-Frīdān, *Muntaqā.*

> No fatwā will be issued by the Permanent Committee unless accepted by the great majority of its members. In any case, the number of muftīs should not be less than three. Should the votes be tied, the Chairman determines the outcome.[54]

As in the case of BSU, this decree does not specify the exact number of CRLO members required. At the time of its creation, CRLO had four members, including the Chairman,[55] and a number of research assistants. These members were selected from among prominent BSU members.[56] However, this number was raised over time to six members, in addition to two other ʿulamāʾ, who were members of the Iftāʾ Directorate.[57] Some of the most prominent members, considered the main players in the modern Dār al-Iftāʾ, having left their mark on the creation of *iftāʾ* during the last third of the twentieth century, were Shaykh ʿAbd al-ʿAzīz b. Bāz, Shaykh Muḥammad b. Ṣāliḥ al-ʿUthaymīn,[58] Shaykh Ibrāhīm b. Muḥammad Āl al-Shaykh,[59] Shaykh ʿAbd al-Razzāq ʿAfīfī,[60]

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[54] Royal Decree A/137, Aug. 29, 1971, 6.

[55] Since its establishment in 1971, CRLO has been headed by three ʿulamāʾ: Shaykh Ibrāhīm b. Muḥammad Āl al-Shaykh (1971–1975), Shaykh ʿAbd al-ʿAzīz b. Bāz (1975–1999), and Shaykh ʿAbd al-ʿAzīz Āl al-Shaykh (1999 to the present).

[56] Royal Decree A/137, Aug. 29, 1971, 6.

[57] *Al-Riyadh*, September 12, 2001.

[58] Shaykh Muḥammad b. Ṣāliḥ al-ʿUthaymīn (known as Ibn ʿUthaymīn), one of the most eminent modern Wahhābī scholars, was born in 1929 in the city of ʿUnayza in the Qaṣīm region of Saudi Arabia to a famous religious family. He was educated under several prominent Wahhābī scholars, such as: Shaykh ʿAbd al-Raḥmān al-Saʿdī, Shaykh Muḥammad Amīn al-Shinqīṭī and Shaykh Ibn Bāz. In addition to his membership in BSU (from 1987 until his death in 2001), he held a long list of positions, such as Head of the Department of Theology and member of the Board of the Faculty of Sharīʿa in the al-Imām Muḥammad Ibn Saʿūd Islamic University. More can be found in Shaykh Ibn ʿUthaymīn's website: http://www.ibnothaimeen.com/index.shtml (last access, July 26, 2009).

[59] Shaykh Ibrāhīm b. Muḥammad Āl al-Shaykh, the former Grand Muftī's son, was born in 1925. He was educated by his father and other Wahhābī shaykhs, including ʿAbd Allāh b. Mifīrīj, ʿAlī b. ʿAbd Allāh al-Yamānī, and Saʿd Waqqāṣ. In 1956, he graduated from the Sharīʿa College in Riyadh. He later headed the Iftāʾ Directorate and became Deputy to the Grand Muftī (his father, Sahykh Muḥammad Ibn Ibrāhīm). In 1969, he succeeded his father as the Head of the Dār al-Iftāʾ and retained this position until 1971, when this institution was reorganized. In 1975, he became the Minister of Justice. He retained his membership in BSU until he retired in 1992. See Royal Decree A/139, Aug. 29, 1971; al-Dawīsh, *Fatāwā al-lajna*, 1:9–10.

[60] Shaykh ʿAfīfī is among the few non-Saudi ʿulamāʾ. Born in 1905 in the Shanshūr al-Minūfiyya region of Egypt, he received a religious education at the University of al-Azhar. In 1949, he traveled to Saudi Arabia to teach in the Sharīʿa School of Ṭāʾif (*Dār al-Tawḥīd*). In 1951, he moved to the Scientific Institution of ʿUnayza and, later the same year, he settled down in Riyadh to teach under the direction of the Grand Muftī, Shaykh Muḥammad Ibn Ibrāhīm. In 1964, he was appointed Principal of the

Shaykh ʿAbd Allāh b. ʿAbd al-Raḥmān al-Ghudayyān,[61] Shaykh ʿAbd al-ʿAzīz b. ʿAbd Allāh Āl al-Shaykh,[62] Shaykh ʿAbd Allāh b. Sulaymān b. Manīʿ[63] and Shaykh ʿAbd Allāh b. Ḥasan b. Quʿūd.[64]

Higher Institute of Judiciary. Upon the establishment of the modern *iftāʾ* institution, he was appointed to BSU and became Chief Deputy of CRLO. He died in 1994. See Ibn Mansī &ʿAbduh, *Fatāwā wa-rasāʾil*, 1:135; al-Dawīsh, *Fatāwā al-lajna*, 1:3.

[61] Shaykh ʿAbd Allāh b. Ghudayyān was born in 1926 in al-Zulfī, Saudi Arabia. Like other Saudi scholars, he was educated under several prominent Wahhābī scholars, such as: ʿAbd Allāh b. ʿAbd al-ʿAzīz al-Suḥaymī, ʿAbd Allāh b. ʿAbd al-Raḥmān al-Ghayth, Fāliḥ al-Rūmī and Ḥamdān b. Aḥmad al-Bāṭil. ʿAbd Allāh traveled to Riyadh in 1943 to spend eight years studying under the supervision of the Grand Muftī, Shaykh Muḥammad Ibn Ibrāhīm, and later under the Grand Judge of Riyadh, Shaykh Saʿūd b. Rushūd. In addition to his traditional education, he studied at the Sharīʿa College of Riyadh, where he graduated in 1961. He held various religious positions; he was a professor at various Sharīʿa colleges and a preacher in some mosques, besides issuing fatwās on the popular Saudi radio program *"Nūr ʿalā al-darb"* (Light on the Road). See al-Dawīsh, *Fatāwā al-lajna*, 1:10–12.

[62] Āl al-Shaykh was born in 1943 in Mecca to a pious family and educated within the religious circles of prominent Wahhabī ʿulamāʾ, such as the Shaykhs Muḥammad Ibn Ibrāhīm, ʿAbd al-ʿAzīz b. Bāz and ʿAbd al-ʿAzīz al-Shathrī. Āl al-Shaykh continued his studies in modern Islamic Sharīʿa colleges, like Imām al-Daʿwa Scientific Institute and the Sharīʿa College in Riyadh, where he studied religion and linguistics, achieving academic degrees in 1962 and 1964, respectively. He began his active career immediately after his graduation. In 1964, he was granted a professorship at the Imām al-Daʿwa Scientific Institute and later, in 1978, at the Sharīʿa College of Imām Muḥammad b. Saʿūd University. He was also an academic advisor in the Sharīʿa College in Umm al-Qurā University and elsewhere. In 1991, he was appointed to CRLO and later became the Grand Muftīʾs Deputy in 1996. See Royal Decree 8/838, January 16, 1996, *al-Riyadh*, May 17, 1999; *ʿAyn al-Yaqīn*, May 21, 1999.

[63] Shaykh ʿAbd Allāh b. Sulaymān b. Manīʿ was born in 1930 in Shaqrā, Saudi Arabia. He earned his first academic degree in 1957 from the Islamic University of Imām Muḥammad b. Saʿūd, after which he earned his M.A. in 1969 from the Higher Institute for Judiciary Studies at the same university. His *iftāʾ* career started in 1957 as a member of Dār al-Iftāʾ under the chairmanship of Shaykh Muḥammad Ibn Ibrāhīm. Simultaneously, he served as a professor at the Scientific Institute of Riyadh and as a judge in the Appeals Court of the western region of Mecca. ʿAbd Allāh was also a member of a number of important institutions, such as the *Dār al-Ḥadīth al-Khayriyya bi-Makka al-Mukarrama* (Mecca Institution of Ḥadīth) *and al-Majlis al-Aʿlā lil-Awqāf* (Highest Council for Endowment), and he also served as an advisor to the *Mīthāq lil-Taʾmīn al-Taʿāwunī* (Mīthāq Company for Communal Insurance). See al-Dawīsh, *Fatāwā al-lajna*, 1:12–14.

[64] Shaykh ʿAbd Allāh b. Quʿūd was born in 1924 in al-Ḥarīq, Saudi Arabia. His early education was supervised by the Shaykhs Muḥammad b. Saʿd Āl Sulaymān and ʿAbd al-ʿAzīz b. Ibrāhīm Āl ʿAbd al-Laṭīf. In 1947, he attended classes given by Shaykh ʿAbd al-ʿAzīz b. Bāz, who was, at the time, the Qāḍī of Kharj region. In 1957, ʿAbd Allāh graduated from the Sharīʿa College in Riyadh, where he studied under pre-eminent ʿulamāʾ, such as: Shaykh ʿAbd al-ʿAzīz b. Bāz, ʿAbd al-Razzāq ʿAfīfī, Muḥammad al-Amīn al-Shinqīṭī and ʿAbd al-Raḥmān al-Ifrīqī. He held several governmental positions, as a Supervisor of Religious Curricula in Secondary Schools and a member of the Board of Grievances. In 1985, he retired, though he maintained his unofficial

It is significant that among the muftīs of both *iftāʾ* institutions, the Āl al-Shaykh family is minimally represented. For instance, of the seventeen members of BSU, only Shaykh Ibrāhīm Āl al-Shaykh belongs to the Āl al-Shaykh family. This scant representation may be explained in two ways: firstly, it is consistent with the Monarch's policy of not allowing any group to attain more power than he himself has; secondly, members of this family seem relatively uninterested in becoming ʿulamāʾ. As a matter of fact, an increasing number of Āl al-Shaykh family members have received a secular education over the last three decades. Of the thirty-three students in this family enrolled in Riyadh University from 1979–1980, only thirteen took religious studies, while the remaining twenty pursued secular studies that varied from business administration to dentistry.[65]

The absence of Āl al-Shaykh family members in *iftāʾ* institutions should not be construed as a decline in their influence in the religious sphere. Most of the ʿulamāʾ who are not related to them have, nonetheless, a close relationship with the Āl al-Shaykh family and were educated within the traditional network initiated and supervised by the former Grand Muftī, Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh (d. 1969). This network served, in many cases, not only as an educational apparatus, but also aided its students in finding jobs. For example, Shaykh Ibn Bāz, who was educated and began his career under the direct supervision of Shaykh Muḥammad Ibn Ibrāhīm, later assumed his mentor's mantle as leader of the *iftāʾ* institutions in the Kingdom (see Shaykh Ibn Bāz below). Such relationships paved the way for ʿulamāʾ, not of the Āl al-Shaykh family, to gain access to the political and social elites in the Saudi State. Thus, these ʿulamā have both a keen understanding of the Government and of their political obligations.[66]

activities as a preacher and private muftī, in addition to other religious activities. See al-Dawīsh, *Fatāwā al-lajna*, 1:8–9.

[65] Al-Yassini, *Religion*, 72; Bligh, "Ulama," 38.

[66] *MBI* 51:324. On Shaykh Muḥammad Ibn Ibrāhīm's students see Āl Rashīd, *ʿAllāma*, 104–106; Āl al-Shaykh, *Mashāhīr*, 171.

The Grand Muftī

With the death of the Āl al-Shaykh Grand Muftī in 1969, the Grand Muftī position was discontinued for slightly over two decades (1969–1993). In July 1993, King Fahd issued a royal decree announcing the reestablishment of the Grand Muftī's office (*al-Muftī al-ʿĀmm*). Shaykh ʿAbd al-ʿAzīz Ibn Bāz was promoted to this position, together with the rank of Minister, and also became the permanent Chairman of both BSU and CRLO (see Appendix D).[67]

The authority of this newly reinstated Grand Muftī's office was limited mainly to the practice of *iftāʾ*. The previous Grand Muftī, Shaykh Muḥammad Ibn Ibrāhim, had exercised broader authority, holding a variety of religious positions, including that of Chief *Qāḍī*.[68] Henceforth, these functions were separated and assigned either to newly-created, independent agencies or to other ministries. For example, the Ministry of Justice was created in 1970 and a new Supreme Judicial Council (*Majlis al-Qaḍāʾ al-Aʿlā*) was established later on to assume *qaḍāʾ* affairs. While the Ministry of Justice, deals with administrative matters, the Supreme Judicial Council hears appeals and performs judicial oversight.[69]

Dār al-Iftāʾ continues, however, to exert significant influence on the judiciary, albeit informally. In Saudi Arabia, *iftāʾ* and *qaḍāʾ* play complementary roles in the legal system, as evidenced by the *qāḍī*sʾ respect for BSU fatwās.[70] In this regard, Vogel noted:

> …The Board's opinions seem to have a near-legislative effect on judicial decisions. It is impossible to know the exact extent of the *qāḍī*s conformity to the Board's decisions, but those *qāḍī*s whom I heard mention such decisions seemed to accept their holdings axiomatically…[71]

Dār al-Iftāʾ maintains its attachment to the judiciary in various ways. For instance, Shaykh Ibrāhim b. Muḥammad Āl al-Shaykh, CRLO's first Chairman, was also appointed as the Minister of Justice in 1975.

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[67] Royal Decree A/4, July 9, 1993. See *Umm al-Qurā*, July 15, 1993.

[68] Al-Rasheed, "Criminal procedure," 31; *al-Sharq al-Awsaṭ*, Aug. 12, 2001. See Ch. 1 above.

[69] Vogel, *Islamic law*, 93. On the Saudi adjudication system see Vogel's excellent aforementioned work; also, Solaim, "Constitutional"; Abū Ṭālib, *al-Niẓām*; ʿAbd al-Jawād, *al-Taṭawwur*.

[70] Vogel, "Complementarity," 263.

[71] Idem, *Islamic law*, 115–116.

In addition, Shaykh Ṣāliḥ al-Laḥaydān, a senior muftī and member of BSU since its creation, served as Chief Qāḍī from 1992–2009, when he was replaced by yet another BSU member, Shaykh Ṣāliḥ b. Ḥamīd. Moreover, the fact that Shaykh Ibn Bāz was respected in different circles of contemporary Wahhābī ʿulamāʾ signifies the impact of Dār al-Iftāʾ on the judicial system. In order to better understand the modern Saudi Dār al-Iftāʾ, we must look at the exemplary life of its vital Chairman, Shaykh Ibn Bāz.

Shaykh ʿAbd al-ʿAzīz Ibn Bāz

ʿAbd al-ʿAzīz Ibn ʿAbd Allāh Ibn Bāz was born in Riyadh, Saudi Arabia, in 1911 to a middle-class family that earned income from agriculture and held religious positions, such as *qaḍāʾ*. His father passed away when he was three years old and, at age 20, he became blind following an illness.[72] During his youth, he learned the Qurʾān by heart and studied the Sharīʿa with renowned ʿulamāʾ of the Āl al-Shaykh family in Riyadh, such as Shaykh Muḥammad b. ʿAbd al-Laṭīf and Shaykh Ṣāliḥ b. ʿAbd al-ʿAzīz, who both served as a *qāḍī*s in Riyadh. But the most important figure of all, the one who apparently most impressed Ibn Bāz, was Grand Muftī Shaykh Muḥammad Ibn Ibrāhīm Āl al-Shaykh, who was described by Ibn Bāz as being his ʿspiritual father'.[73] Ibn Bāz spent 10 years (1927–1937) with his mentor, during which he attended Āl al-Shaykh's scholarly lectures.[74] This period was germane to the political history of the present State of Saudi Arabia—the time of its formation and stabilization. The year 1926 saw the regions of Ḥijāz and Najd united, with Ibn Saʿūd crowned as their king. This course of events paved the way for the official establishment of the modern Kingdom of Saudi Arabia (*al-Mamlaka al-ʿArabiyya al-Saʿūdiyya*) in 1932 and the recognition of the Saudi monarch.[75]

Ibn Bāz had a close relationship with the family of Āl al-Shaykh. Following completion of his studies in 1937, his mentor, Shaykh Muḥammad Ibn Ibrāhīm, initially appointed him *qāḍī* for the city

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[72] Al-Jahnī, *al-Shaykh Ibn Bāz,* 6; al-Zahrānī, *Imām al-ʿaṣr*, 9–10.
[73] Al-Jahnī, *al-Shaykh Ibn Bāz*, 7.
[74] Al-Shuwayʿir, *Majmūʿ fatawā*, 1:9.
[75] For the early formation of the current Saudi State see Kostiner, *Making*, 71–140.

of al-Dammān in the region of al-Kharj. He held this position for fourteen years, until the end of 1951 (under the reign of Ibn Saʿūd, founder of modern Saudi Arabia).[76] Later on, Ibn Bāz filled a long line of religious roles, including some of the highest in the country. He served as a teacher and a lecturer at academic institutions in Riyadh, the Scientific Institute of Riyadh (*al-Maʿhad al-ʿIlmī bil-Riyadh*) and the College of Sharīʿa (*Kulliyyat al-Sharīʿa*), from 1951–1960. From 1961–1970, Ibn Bāz served as the Vice President of the State Islamic University, until he was appointed as the University President with the death of the former President, Muḥammad Ibn Ibrāhīm Āl al-Shaykh.[77] In 1975, he succeeded Shaykh Ibrāhīm b. Muḥammd Āl al-Shaykh as the Head of CRLO. He remained in this position for twenty-four years, his longest tenure.[78] In 1993, he was appointed as Grand Muftī and headed up both BSU and CRLO, thus becoming the highest *iftāʾ* authority until his death in 1999.[79]

Besides all of the above positions, Shaykh Ibn Bāz also had other internal religious roles and even international Islamic positions, such as: Chairman of the World Muslim League (*Rābiṭat al-ʿĀlam al-Islāmī*), Chairman of the World Supreme Council for Mosques (*al-Majlis al-Aʿlā al-ʿĀlamī lil-Masājid*), Chairman of the Islamic Jurisprudence Assembly in Mecca (*al-Majmaʿ al-Fiqhī al-Islāmī fī Makka*) and member of the Supreme Committee for Islamic Propagation.[80] By means of these positions and others, Ibn Bāz played a significant social role, participating in many activities, despite the physical limitations imposed by his blindness and advanced age. He would travel from city to city in Saudi Arabia (e.g., Riyadh, Ṭāʾif, Jeddah, Mecca, Medina, and many other places), accompanied by his many students, who also served in various senior religious positions throughout the Kingdom.[81]

Ibn Bazʾ actions, within the framework of his various important positions, made him the leading, non-Āl-al-Shaykh religious figure in the Saudi religious establishment. He was amongst those closest to the throne and enjoyed a special status amongst the ʿulamāʾ and religious functionaries in the State. Saʿd al-Faqīh, a member of the Saudi Oppo-

[76] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:9.
[77] Ibid.
[78] Ibid.
[79] Ibid.
[80] Ibid.
[81] Al-Zahrānī, *Imām al-ʿaṣr*, 95.

sition, went as far as to say: "The Saudis respect Ibn Bāz more than the *fiqh* itself".[82] In his eulogy of Ibn Bāz, Shaykh Yūsuf al-Qaraḍāwī noted that Ibn Bāz "…was close to the throne in the Kingdom and was honored by them. Yet, his positions and status did not separate him from his people, and he was never placed in an ivory tower. His heart, home and office remained open to the needy in the Islamic nation".[83]

Thanks to his proximity to both Saudi Government and society, he was able to serve as a liaison, e.g., constantly receiving petitions and requests for help and often referring these cases to the appropriate government agencies for consideration. In one such instance, Dr. Naṣir al-Misfir, a lecturer from the Umm al-Qurā University, who was also a preacher in a mosque (named after Ibn Bāz in Mecca), turned to Ibn Bāz requesting financial aid, in order to return a debt of 150,000 riyals on behalf of a Saudi citizen. Ibn Bāz submitted this request to the King, who, in turn, granted it.[84]

Ibn Bāz' prodigious social activity and involvement caused him to be greatly esteemed in a wide range of Saudi social circles, as can be clearly seen in the reactions following his death, which proved a strong blow to Saudi society. On the morning commemorating the *hijra* of 27 Muḥarram 1420 (13 May 1999), the Shaykh died of heart failure at the King Fayṣal Hospital in Ṭāʾif. His funeral was sponsored by the Saudi royal family and he was buried in the al-ʿAdl Cemetery in Mecca.[85] Two days later, Shaykh ʿAbd al-ʿAzīz b. ʿAbd Allāh Āl al-Shaykh (the current Grand Muftī) was appointed successor to Shaykh Ibn Bāz as Grand Muftī and Head of both BSU and CRLO.[86]

To conclude, the practice of *iftāʾ* in Saudi Arabia underwent a long centralization process during the second half of the twentieth century. This process first became apparent in 1952, when the official Grand Muftī was appointed. The establishment of the State Dār al-Iftāʾ one year later, chaired by the Grand Muftī, was another step in the same direction. Indeed, Dār al-Iftāʾ was almost a single-muftī institution, that is to say, the Grand Muftī was its exclusive functionary. However, in 1971, Dār al-Iftāʾ was dissolved and replaced by two new agencies,

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[82] Mamoun, *Saudi Arabia*, 233.
[83] Al-Jahnī, *al-Shaykh Ibn Bāz*, 42.
[84] See Ibn Bāz' letter to al-Zahrānī from 19 Shawwāl 1418 (17 February 1998) in al-Zahrānī, *Imām al-ʿaṣr*, 127.
[85] Al-Jahnī, *al-Shaykh Ibn Bāz*, 19–20.
[86] Royal Decree A/20 May 15, 1999; see also *MBI* 45:334, 388.

BSU and CRLO. These agencies were comprised of seventeen to twenty-one members, reaching the highest number of official muftīs working in conjunction thus far in Saudi history. The reestablishment of the Grand Muftī's office in 1993 further contributed to the centralization of *iftāʾ*, given that all *iftāʾ* institutions were subordinate to his control.

This centralization process came in the wake of the discovery of petroleum resources in Saudi Arabia. The new economic situation provided the Saudi people with innovations of all sorts that pervaded many realms of life. However, these changes often contradicted the tenets of Islam. Ibn Saʿūd and his successors realized this discrepancy and sought to promote Wahhābī Islamic legal thought and norms that would take into account the practical needs of the Kingdom. In other words, the Government would attempt to accommodate traditional religious values to the reality of a developing country.

As competent dispatchers of the Sharīʿa, the muftīs were the natural candidates to carry out this task. They were expected to provide religious legitimization for governmental reform policies, which they achieved by finding support in religio-legal sources. The King needed the cooperation of the muftīs to enhance his control of the social order. The formative Royal Decree explicitly delineated the limits of the muftīs' authority and determined *iftāʾ* procedure. The King was entitled to appoint and dismiss muftīs at will and reserved the right to preferential treatment for his queries.

Chapter 3, focuses on the relationship between Dār al-Iftāʾ and the Government, on the resulting tensions and on the internal mechanisms behind this crucial partnership.

CHAPTER THREE

MUFTĪS, STATE AND SOCIETY

Muftīs and King in Tandem

The alliance between the Saudi dynasty and the Wahhābīs has remained intact for over two hundred years, despite the many difficulties caused by changing geo-political and social conditions. All in all, both sides are mutually dependent and cannot survive one without the other. This is evidenced in Wahhābī political thought that represents the total fusion of religion and politics. According to Wahhābī doctrines, Islam is not only a religion, but is a comprehensive system for governing everything public, social and political, while Islamic law is a complete moral code that prescribes for every eventuality, including governance.[1]

The restructuring of the Saudi *iftāʾ* institutions in 1971, when an unprecedented number of senior muftīs were co-opted by the State Administration, is arguably indicative of the strong ties between the ʿulamāʾ and the State. However, the incorporation of ʿulamāʾ into State Administration caused changes in the traditional relationship between religion and state. These changes are manifested in the creation of a new *modus operandi* between the ʿulamāʾ and the Government, in which the ʿulamāʾ became integrally involved and directly subordinate to/and controlled by the King (as seen in Chapter 2).

Amongst scholars studying Saudi Arabia, there is no consensus regarding this new political setup existing between the ʿulamāʾ and the rulers. Two main views have emerged: one maintains that the ʿulamāʾ have ceased to constitute an autonomous body, but continue to have some sway over royal policies and decisions; the other argues that the ʿulamāʾ have lost their power in both the religious and the political spheres. Political scientist Ayman al-Yassini claims, for example: "The

[1] Al-Shuwayʿir, *Majmūʿ fatāwā,* 1:72.

ʿulamāʾ lost many of their traditional functions and became a pressure group limited to exerting influence over the governmentʾs activities and policies, but never acted as an autonomous center of power."[2] Likewise, Aharon Layish argues that modern Saudi ʿulamāʾ: "…have ceased to be one of the two foci of power alongside the umarāʾ, though they still belong to the political elite and play an important role, especially in times of crises."[3] Their decline resulted from the bureaucratization of Government activities in conjunction with a more affluent society, openness to alternative forms of knowledge and especially the exposure to mass media.[4] Al-Rawaf stresses that:

> The activities of the ʿulamāʾ are socially, and not politically, oriented. The ʿulamāʾ have exercised very little or no influence over major policies concerning: foreign affairs, internal security, economic development, oil production and prices, wealth distribution and regional allocation, and political participation.[5]

What emerges from recent studies of Saudi Arabia is the ʿulamāʾs non-involvement in national politics. This view, I believe, holds true. Yet analysis of the ʿulamāʾ-umarāʾ power structure in terms of predomination is problematic. One, there is little doubt that distinguishing position from influence is nearly impossible, as Aharon Layish and Ayman al-Yassini argue. Two, the distribution of power between the ʿulamāʾ-umarāʾ was never clearly defined throughout the more than two centuries of mutual relations. Neither the modern nor the classical Wahhābī scholars ever delineated the limits of the practical authority of either side.[6] Three, attributing the decline of the ʿulamāʾ to their incorporation into State administration requires further exploration. This incorporation may have enabled the ʿulamāʾ to increase their influence on official policies and in governmental circles. In other words, by holding official positions, the ʿulamāʾ became players from within the power structure. Had they remained outside the Government, their influence might have diminished over time.

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[2] Al-Yassini, *Religion*, 59.
[3] Layish, "Ulama," 53.
[4] More in ibid., 54–55. See also idem, "Saudi Arabian legal reform," 292; Abir, *Saudi Arabia in the oil era*, 29; and Huyette, *Political adaptation*, 117.
[5] Al-Rawaf, "Concept," 527, cited in Abir, *Saudi Arabia in the oil era*, 29.
[6] Al-Rasheed, *Contesting*, 45–54.

In any event, the ʿulamāʾ maintain their cooperation with the rulers and continue to exercise influence in several areas, including nearly all legal and religious affairs. They have even managed to gradually increase their power by expanding their control over other State ministries and various religious agencies, national and international, such as: the Ministry of Justice; the Ministry of Islamic Affairs and Endowments, Call and Guidance; the *Ministry of Pilgrimage;* the *Muṭawwiʿa*; notaries public; the supervision of mosques; and, finally, the World Muslim League and the World Assembly of Muslim Youth.[7] Thus, in Saudi Arabia, the ʿulamāʾ continue to play a significant role, at least in influencing social and internal policies, and in shaping modern Saudi society and culture.

I suggest that this relationship is based on an ongoing complementary, mutually-beneficial partnership between the two sides. On the one hand, the ʿulamāʾ play a central role in providing legitimacy to the Kingʾs policies, especially in sensitive situations; on the other hand, the King is obliged to consult them and to consider the ʿulamāʾs opinions, favoring the preservation of Wahhābī ideals in the Kingdom. As will be demonstrated below, the ʿulamāʾs religious aspirations are manifested in social legislation based on Wahhābī doctrine, particularly in matters of morality and ethics. Moreover, the ʿulamāʾ-umarāʾ partnership is embodied in the basic Wahhābī doctrines of politics and governance, which introduce both the ʿulamāʾ and the umarāʾ as authority-holders (*wulāt al-amr*).

Wulāt al-Amr: ʿUlamāʾ, Umarāʾ and the Question of Authority

In Saudi Arabia, authoritarian power can be drawn not only from religion/the sacred, but also stems from tribal or clan social structures and from long-standing cultural norms. This resembles Weberʾs notions of ʿtraditional authorityʾ and the dominance/subordination relationship.[8] The Saudi ruling family, acknowledging the importance of religion and

[7] Al-Yassini, *Religion*, 68.
[8] On different types of authority see Weber, *Economy*, 215–245.

tribalism to bolster its political power and stability, often portrays its institutions as representing the best of religious and tribal traditions.[9] Moreover, the Monarchy repeatedly attempted to develop a fusion of tribal and religious power throughout the various stages of state building, given that a harmonious relationship between these two is crucial to the stability of royal governance.[10]

Classical Wahhābī political theory is based on the premise that the purpose of government in Islam is to preserve the Sharīʿa and to enforce its dictates. To maintain and enforce the Sharīʿa, a temporal ruler is needed and obedience to him is a religious obligation. However, this ruler must consult the ʿulamāʾ, who are designated as those most authorized to clarify the tenets of the Sharīʿa.[11] Shaykh Muḥammad Ibn ʿAbd al-Wahhāb (d. 1792) divided State hegemony between the ʿulamāʾ, the authorities in matters of jurisprudence, and the ruling umarāʾ, who were in power and presumably consulted the ʿulamāʾ.[12] In this *pas de deux*, enforcement of the Sharīʿa requires a ruler committed to its tenets and the State needs ongoing support and legitimacy. However, as mentioned above, Ibn ʿAbd al-Wahhāb neither provided a precise model of cooperation between the ʿulamāʾ and the rulers, nor delineated the structure and functions of the Wahhābī State.

For the most part, contemporary Wahhābī ʿulamāʾ embrace the traditional stance of their forerunners, attributing authority to both the ʿulamāʾ and the umarāʾ, as clearly indicated in contemporary Wahhābī fatwās and writings. An example can be found in the debate conducted in the Fayṣal Ibn Turkī Mosque in Riyadh, during which Ibn Bāz was asked: How must we understand ʿauthority-holdersʾ in verse (Q. 4:59)? Should they be the ʿulamāʾ or the umarāʾ—though those leaders exploit their own people? Ibn Bāz responded:

> …The authority-holders are both the ʿulamāʾ and the umarāʾ of the Muslims, who must be obeyed on condition that their decrees match the will of God and do not contradict it. The ʿulamāʾ and umarāʾ must be obeyed by doing good, for only in this way will peace and safety reign and the usurped will be saved from the usurper, while disobedience will

[9] On the attempts of Arab Gulf monarchies to construct and use ideologies to gain the loyalty of their citizens see Davis, "Theorizing," 1–35. For a general discussion on the role of tribes in the politics of the Arab Gulf see Peterson, "Tribes," 297–312.

[10] See Kostiner, "Transforming dualities," 226–248; Helms, *Cohesion*, Ch. 1–3.

[11] For more on authority in Islam see Abou El Fadl, *Speaking*, 31–85.

[12] Al-ʿUthaymin, *Ibn ʿAbd al-Wahhāb*, 136.

> cause anarchy, allowing the strong to usurp the weak. If, however, a decree is issued counter to the will of God, neither the ʿulamāʾ nor the umarāʾ should be obeyed, e.g. a decree to drink wine or to deal in usury. However, no opposition need be raised against the rulers, even when they are remiss in fulfilling the Sharīʿa; rather they must be advised by gentle means…[13]

For Ibn Bāz, both the ʿulamāʾ and umarāʾ are authority-holders. According to him, the function of the ʿulamāʾ in a Muslim state is to interpret Godʾs will through the analysis and exegesis of His word, while the function of the umarāʾ is to apply such interpretations. This authority is, however, binding, because it is akin to obeying Allāh and his Prophet. In this manner, Ibn Bāz establishes obligatory obedience even to those royal decrees and rules not mentioned by the Sharīʿa, e.g., regulations regarding traffic accidents, employer-employee relations, and social norms, the claim being that rules of this sort deal with public welfare. Ibn Bāz says that the only exception regarding the obligation to obey is when authority-holders give orders in violation of the Sharīʿa. A Muslim must not, however, actively oppose a ruler who does not act in accordance with the Sharīʿa, but rather should enlighten him that he has been remiss in his duty.[14]

In any event, Wahhābīs acknowledge the broad authority of the King as based on the doctrine of *siyāsa sharʿiyya*, a fundamental legal doctrine in Islamic governance that establishes the relationship between the regime and its subjects in an Islamic state.[15] Ibn Bāz accepted the broad regulatory authority of the ruler to legislate laws and implement changes as he sees fit, providing this does not contradict the Sharīʿa. Indeed, in Saudi Arabia, *siyāsa sharʿiyya* is arguably the most

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[13] Due to the length of the response, only an excerpt is quoted. The full response may be found in al-Shuwayʿir, *Majmūʿ fatāwā*, 7:117–119. See also al-*Sharq al-Awsaṭ*, May 5, 1993.

[14] Al-Shuwayʿir, *Majmūʿ fatāwā*, 7:115.

[15] In modern, as in classical, Arabic discourse, the term *siyāsa* is defined as ʿproper administration of the subjects by political office-holdersʾ, and the practitioner is called *sāʾis*, derived from the root s-y-s. Ibn Khaldūn defined *siyāsa* as the *tadbīr shuʾūn al-raʿiyya* (administration of the affairs of subjects, executed by caring for their well-being and needs, their property and honor, and the dispatch of justice between and among them). The term *sharʿiyya* is derived from the root *sh-r-ʿ*, and is an expression of the application of *sharʿī* practice. Thus, the compound *siyāsa sharʿiyya* describes administrative practice (*siyāsa*) within the limits assigned to it by Islamic law. See, respectively, Ibn Manẓūr, *Lisān al-ʿArab*, 108; Ibn Khaldūn, *Muqaddima*, 213.

important tool in the hands of a monarch when conducting the affairs of state under the aegis of Islamic law.[16] The King's authority, based

[16] The doctrine of *siyāsa sharʿiyya* is well known in classical Islamic sources. These sources often define the traditional *siyāsa sharʿiyya* doctrine as a *maṣdar tashrīʿī tabʿī* (ancillary legislative source) based on Muslim legal principles, such as: seeking good will; striving for betterment for all (*istiḥsān*); public interest (*al-maṣlaḥa al-ʿāmma*); prohibition of evasive legal devices (*sadd al-dharīʿa*); local custom (*ʿurf*); consideration of practical outcomes (*iʿtibār maʾālāt al-afʿāl*); striving to correctly interpret the intentions of the Sharīʿa (*maqāṣid al-sharīʿa*); and sensitivity to disagreement in Sharīʿa matters (*murāʿāt al-khilāf*). In practice, these principles serve most of the *madhhab*s as the basis for legitimizing the use of *siyāsa sharʿiyya*. For instance, the Mālikīs rely on the principle of *istiṣlāḥ* to define the vested authority of the sovereign, empowering him to use his mental faculties in developing legal procedures in accordance with public interests. This principle is expressed in the deliberations of Ibn Farḥūn (d. 1397), who defined the actions of a ruler within the structure of *siyāsa sharʿiyya* doctrine as the *ikhrāj al-ḥaqq min al-maẓālim* (the uncovering of grievances). Ibn Farḥūn considered the discovery of the truth to be the essence of *siyāsa sharʿiyya*, so he emphasized that a ruler's actions fall within the framework of deterrence and the prevention of iniquity. For the Mālikīs, the ruler's decrees concerning matters of criminal justice of a Sharīʿa nature were recognized within the three categories of punishment (*ḥudūd*, *qaṣās*, and *taʿzīr*), as opposed to the view of the Ḥanafī school, which limited the ruler's activities to discretionary punishment (*taʿzīr*). Al-Shāṭibī (d. 1370), also a member of the Mālikī school, supported investing broad powers in the ruler within the structure of this doctrine, his main contention being that there was no imposition of obligation (*taklīf*) without independent reasoning (*ijtihād*). Al-Shāṭibī was of the opinion that the various innovations and challenges of the time require the constant adjustment of the law. Thus, the creation of new Sharīʿa methodology is a result of necessity, and a condition for imposing obligations (*taklīf*). The Shāfiʿīs defined *siyāsa sharʿiyya* by means of the application of the principle of the *maqāṣid al-sharīʿa* (the intentions of the Sharīʿa). For instance, Ibn ʿAbd al-Salām (d. 1240) claimed that it is the obligation of the ruler or his appointee to seek out the intentions of the Sharīʿa in order to reach the greatest common good. Ibn ʿAbd al-Salām's claim gained support among other Shāfiʿī scholars, whose position was backed by the practice of *ijtihād*, albeit they used *maṣlaḥa* instead of *siyāsa sharʿiyya*. The *siyāsa sharʿiyya* doctrine is also recognized by the Ḥanbalī school, where it merges with the mechanisms of *maṣlaḥa*. Ibn ʿAqīl (d. 1119), for instance, supported the broad discretionary authority of the ruler within the structure of *siyāsa sharʿiyya* doctrine. Ibn ʿAqīl defined it thus: "*…mā kāna fiʿlan yakūnu maʿahu al-nās aqrab ilā al-maṣlaḥa wa-abʿad ʿan al-fasād, wa-in lam yaḍaʿahu al- rasūl wa-lā nazila bihi waḥī*" (…Whatever draws people closer to justice and farther from corruption, even though it does not emanate from the Prophet or an angel). Ibn Taymiyya's pupil, Ibn Qayyim al-Jawziyya (d. 1350), followed in his master's footsteps, permitting the even wider use of *siyāsa sharʿiyya* doctrine by means of the same mechanism, the principle of *maṣlaḥa*. Ibn Qayyim al-Jawziyya defined *siyāsa sharʿiyya* as milestones (*ʿalāmāt wa-amārāt*) in the process in which the Divine will and that of the Prophet are revealed. It is worth noting that Ibn al-Qayyim's approach resembles that of Ibn Farḥūn in his *Tabṣirat al-ḥukkām*. The *siyāsa sharʿiyya* doctrine was viewed favorably also by the Egyptian *salafī* movement, mainly in the teachings of Muḥammad ʿAbduh (d. 1905) and his pupil Muḥammad Rashīd Riḍā (d. 1935). ʿAbduh regarded *siyāsa sharʿiyya* as one of the important tools for introducing changes and reform under the aegis of the Sharīʿa. Thus, for example, among his suggestions for the reform of the legal system, he proposed that decisions concerning religious endowment (*waqf*) and some of those concerning personal sta-

on *siyāsa sharʿiyya*, is supported by the *al-Niẓām al-Asāsī* (The Basic Regulations of the Kingdom of Saudi Arabia).[17] For example, Article 55 of these Regulations states: "The King shall undertake the governing (*siyāsa*) of the nation based on *siyāsa sharʿiyya,* in accordance with the rules of Islam (*ṭibqan li-aḥkām al-Islam*)."[18] Similarly, Article 67 states: "The regulatory authority shall have jurisdiction to enact any regulation (*niẓām*) and bylaws (*lawāʾiḥ*) in order to promote public welfare and avoid harm in the affairs of the State, in accordance with the general rules (*qawāʿid*) of the Sharīʿa."[19] Vogel accordingly suggests that the religious definition of *siyāsa sharʿiyya* in Saudi Arabia spells out a broad range of possibilities for royal legislation.[20] In other words, in Saudi Arabia, *siyāsa sharʿiyya* constitutes the most significant mechanism for practicing authority and cooperation between religious and political institutions, mainly in the area of legislation.

Official fatwās play an important role in the Saudi legal system. The most important fatwās are those of BSU, since they result from the *ijtihād* of many of the most respected and experienced Saudi muftīs, including members of the Judicial Council.[21] Instances of involvement of the *iftāʾ* institutions in the legislative procedure can be found, especially regarding controversial issues such as criminal law procedures, ethics and moral issues, family law and ritual prescriptions. Substantive legislation is formulated with full interaction and cooperation between the religious and political establishments.[22]

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tus should be made by the ruler. Riḍā, on the other hand, defined the ruler's authority and pointed out his obligation to provide solutions to contemporary problems by means of the *ijtihād* done by the Caliph himself in consultation with the ʿulamāʾ, as the masters of *ahl al-ḥall wal-ʿaqd* (jurisprudential knowledge). However, whenever the opinions of the Caliph and ʿulamāʾ clash, and neither contradicts the Sharīʿa, Riḍā calls upon the ʿulamāʾ to obey the Caliph. See, respectively, ʿAmrū, *Siyāsa al-sharʿiyya,* 5, 31; al-Qāḍī, *Siyāsa al-sharʿiyya*, 34, 116–117; Qaraḍāwī, *Siyāsa al-sharʿiyya*, 73; Abū Zahra, *Uṣūl*, 251–291; Ibn Farḥūn,*Tabṣirat*, 2:137–140; al-Shāṭibī, *Muwāfaqāt,* 4:60; Ibn ʿAbd al-Salām, *Qawāʿid,* 2:189; al-Dimashqī, *Kifāyat*, 48; al-Shīrāzī, *Muhadhdhab*, 220, 234; al-Māwardī, *Aḥkām*, 192; Ibn Qayyim al-Jawziyya, *Ṭuruq*, 5–7, 19; Kerr, *Islamic reform*, 159–160.

[17] More on the Saudi Constitution in Abu Hamad, *Empty reforms*; Bulloch, *Reforms*.

[18] Kingdom of Saudi Arabia, *al-Niẓām al-Asāsī lil-Ḥukm*, 15.

[19] Translated by Frank Vogel. See Vogel, *Islamic Law*, 169–170, 341–343.

[20] Ibid.

[21] Vogel, *Islamic law*, 115–116.

[22] Ibid., 222–223; Layish, "Ulama," 34. See also Abir, *Saudi Arabia*, *government*, 69–94; al-Farsy, *Saudi Arabia*, 128–170.

From a procedural perspective, this legislation is manifested in two different yet complementary ways: either lending legal validity to an existing fatwā or or by legislation based on an existing fatwā.[23] In the first instance, a royal decree transforms an existing fatwā into State law. Note that fatwās are considered by the Sharīʿa to be non-binding regulations; their purpose is to be informative (*ikhbār*), in contrast to judicial decisions, which are binding (*ijbār*) on all parties involved.[24] However, a royal decree can render a fatwā into binding law, as was the case for a number of fatwās, particularly in the socio-ethical realm. In the second instance, extensive legislation is based on existing fatwās, which provide the legal foundations. (See Chapter 5 for instances of fatwās rendered into law).

Muftīs and Politics

The above discussion strongly suggests that official Wahhābī muftīs are not usually involved in politics per se. On certain occasions, however, their services are required to deal with particularly sensitive political issues that require religious legitimacy. The fatwā plays an important role in this respect. Two famous fatwās will illustrate my argument: (1) the use of weapons in the Kaʿba Sanctuary (*al-ḥaram al-sharīf*) and (2) the stationing of U.S. forces in Saudi Arabia during the Gulf War.

The first fatwā was issued on November 24, 1979 by BSU and was intended to validate the use of physical force against a group of fundamentalists that had taken over the Kaʿba Mosque. This fatwā allowed the use of force and weapons by the authorities on the sacred premises, in contradiction to Sharīʿa prohibitions. It underlined the contradiction between the rebelsʾ acts and the Sharīʿa. James Piscatori described this fatwā as ʿrenewed lifeʾ for the royal familyʾs claim for legitimacy.[25]

Note the interesting methodology adopted by the muftīs to author this fatwā. It is based on six central arguments, each supported by textual sources:[26]

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[23] Vogel, *Islamic law*, 116.

[24] Brinkley, "Mufti," 111. On *iftāʾ* and *qaḍāʾ*, see for example al-Ashqar, *Futyā*; Reinhart, "Transcendence," 5–28; and Jackson, "Second education," 201–217.

[25] Piscatori, "Role," 135–136.

[26] This fatwā is found in *MBI*, 5:321–324; also in al-Shuwayʿir, *Majmūʿ fatāwā*, 4:92–96.

1. The desecration of the holiest shrine of Islam, turning it into a place of anarchy and turbulence, causing acts of murder and killing of Muslims in the holiest of places, run counter to the words of the Qurʾān and the Sunna. The ʿulamāʾ based this statement upon the Qurʾānic verse:

   > As to those who have rejected (Allah), and would hold back (men) from the way of Allah, and from the Sacred Mosque, which we have opened to (all) men equally, to the dweller there and to the visitor from the country; and any whose purpose therein is profanity or wrongdoing—them will we cause the taste of a most grievous penalty (22:25).

2. Bloodshed in the ʿHoliest of Holiesʾ (*Ḥaram*) and in the holy month (*al-Shahr al-Ḥarām*) in Mecca, the murder of tens of Muslims, counters the words of the Qurʾān, which forbids fighting during the [Islamic sacred] month *Muḥarram*;
3. Opposing the leader of the Muslims (*Imām al-Muslimīn*) for no reason and rebelling against him in spite of the oath of allegiance (*bayʿa*), in complete defiance of the sacred texts;
4. Delaying the ritual ceremonies for two weeks—the duration of the rebelsʾ fortification in the Mosque—negates the words of the Qurʾān;
5. The deception of a group of innocent women and children and the endangering of their lives;
6. Following someone who has left the right path, who claimed to be the Messiah (*mahdī*), despite no Sharīʿa evidence of this being the case.

BSU provided the King with the legitimacy to take political measures. To this end, the muftīs employed classical religious terms of governance, such as ʿthe Leader of the Muslimsʾ (*Imām*) and ʿthe oath of allegianceʾ (*bayʿa*) to the ruler. No special explanation was given for this behavior, though the political reality of the Saudi State was not fully identical to the nature of classic Islamic governance.[27]

With regard to the second fatwā—the stationing of U.S. forces in Saudi Arabia—Ibn Bāz based it extensively on the principle of public interest. He emphasized the political authority and even the religious

[27] More on this fatwā in Kechichian, "Role," 60–63. On the nature of current Saudi governance, see al-Atawneh, "Is Saudi Arabia," 721–737.

duty of the ruler, both as the leader of the nation and the *Imām,* to take measures that maintain the welfare of the public. Since the State is in danger and it is the duty of the leader to remove that danger, he is entitled to take any steps necessary to fulfill his duty, even to the extent of requesting the aid of non-Muslim foreigners. This fatwā is also based on stories from the biography (*sīra*) of the Prophet. For instance, Ibn Bāz described the aid that the Prophet gained from Muṭʿam b. ʿUday and ʿAbd Allāh b. Urayqaṭ, when returning to Mecca from Ṭāʾif, despite the fact that they were not Muslims. He also pointed to the migration of Muslims to Ethiopia by order of the Prophet, even though it was a Christian land, for the purpose of safeguarding them from enemies located in Mecca.[28]

The muftīs further cited the fact that the Prophet requested help from Ṣafwān b. Umayya on the day of the Ḥunayn campaign and borrowed his coat of armor (*dirʿ*), despite of his being a non-Muslim. An additional example was the agricultural assistance that the Prophet received from the Jews of Khaybar, while his Companions were engaged in jihād. Nevertheless, the muftīs stressed that a Muslimʾs accepting help from a non-Muslim does not necessarily express fidelity to the helper, which is forbidden by Islamic law. Hence, there was nothing wrong with allowing American troops into Saudi Arabia, since it in no way diminished belief in Islam.[29]

Again, BSU defines the authority of the King in accordance with the classical doctrine of *siyāsa sharʿiyya* regarding the broad authority of the Islamic leader. In this case, the muftīs not only recognize the great authority of the King in defending the nation, but they stress that it is his obligation as the leader of the nation. This fatwā is based on analogy (*qiyās*) and on a clearly discernible effective cause (*ʿilla*), i.e., the risk of the Muslimsʾ staying in Mecca constituted an effective cause for sending them to Ethiopia, indicating the Prophetʾs motive to protect those Muslims from their enemies. However, the muftīs paid little attention to the significant differences between these two cases (of Mecca then and the Saudi State in the late twentieth century). Indeed, the Prophet accepted assistance from foreigners to fight other non-Muslims, but not to fight against Muslim enemies, such as the Iraqi forces, as in the case of the Gulf War. Again, from a purely Islamic

[28] Al-Shuwayʿir, *Majmūʿ fatāwā*, 7:359–361.
[29] More on this fatwā in: Teitelbaum, *Holier*, 26–28.

legal perspective, these two historical events are actually not identical, thus, this fatwā demonstrates the muftīs' motivation for sanctioning certain critical Government policies.

The relationship between the muftīs and the Government is not without tension. Ideological and pragmatic constraints make it difficult, if not impossible, to find evidence of these tensions. Wahhābī doctrine condones only discrete advice given from the subjects to their rulers, never openly (*laysa min ʿalā al-manābir*). Should the official muftīs openly criticize the Government, it might undermine the long-standing ties between the ʿulamāʾ and the rulers, based on the eighteenth century Saudi-Wahhābī pact.[30]

However, the official muftīs were also not immune to criticism. In the late 1970s, prior to the events in the Grand Mosque in Mecca in 1979, Juhaymān al-ʿUtaybī, the leader of the rebels, accused Shaykh Ibn Bāz, CRLO's Chairman at the time, of being: "…in the pay of the Saudis, little better than a tool for the [royal] family's manipulation of the people…Ibn Bāz may know his Sunna well enough, but he uses it to bolster corrupt rulers."[31] According to al-ʿUtaybī, Ibn Bāz never objected to the Ikhwān's doctrine, except for the fact that they singled out Saudi Arabia as a corrupt state.[32]

An explicit and more fundamental criticism of the official muftīs was voiced after the first Gulf War (1991), a period described by some scholars as "the rise of political Islamism in Saudi Arabia."[33] The War's repercussions put the official muftīs' reputations on the line, probably for the first time.[34] Since the Gulf War in 1991, the Saudi Monarchy has been confronted with a growing Islamic movement that seeks to bring about a comprehensive socioeconomic and political transformation in the Kingdom. Two significant reform organizations are: the Committee for the Defense of Legitimate Rights (CDLR) and the Movement for Islamic Reform in Arabia (MIRA), both considered prominent members of the Saudi Opposition.[35]

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[30] For further accounts see al-Rasheed, *Contesting*, 50.

[31] Pamphlet 3, *The call of the Brethren*, as cited by Kechichian, "Role," 59.

[32] Ibid.

[33] Teitelbaum, *Holier*, 99–100; al-Rasheed, "God," 359–361. For more on the Islamic revival in modern Saudi Arabia see Ochsenwald, "Saudi Arabia," 271–286.

[34] Fandy, *Saudi Arabia*, 168.

[35] These demands were manifested in the "Letter of demands" and its elaborated version, the "Memorandum of advice," submitted to the King in the early 1990s, calling for comprehensive reform in many spheres of life.

In the name of religious reform, Islamists have assumed a bold, critical stance toward the Government and have even questioned the Islamic legitimacy of the Monarchy itself. Such a protest was expressed in a letter submitted to the King, entitled the "Letter of Demands" (*Kitāb al-maṭālib*) and was later elaborated upon in the "Memorandum of Advice" (*Mudhakkarat al-naṣīḥa*) of 1992.[36] Fifty two ʿulamāʾ signed and submitted the Letter to the King in May 1991, requesting the implementation of twelve ʿnecessaryʾ reforms. In addition to its demand for social, political and governmental reforms based on the Sharīʿa, the Letter emphasized the necessity of reforming the religious institutions. Among their demands were "…improving the countryʾs religious institutions, granting the ʿulamāʾ material and human resources, and removing all constraints that might prevent them from fully performing their tasks."[37]

The Memorandum, on the other hand, was addressed to Shaykh Ibn Bāz in September 1992, containing an elaborated form of the May 1991 Letter and advancing a new, more radical, list of demands.[38] Amidst the criticism of the religious institutions, these activists claimed that the role of the ʿulamāʾ and the religious institutions in public life is minimal and marginal. For example, they said that the ʿulamāʾ are not involved in national policies, potentially resulting in the separation between religion and state, thus defeating the very purpose of the Islamic state.[39] The authors of the Memorandum also claimed that the bureaucratization of the ʿulamāʾ has limited their independence. They proposed that BSU members be selected on the basis of merit, proper education and Muslim piety, and that they be dismissed from the Board only on religious grounds. An independent board of ʿulamāʾ, the Memorandum stated, should handle the financial activities of the religious institutions.[40]

Criticism of the official muftīs eventually led to a confrontation between the older generation (the official muftīs) and the relatively

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[36] Teitelbaum, *Holier*, 32–47; Fandy, *Saudi Arabia*, 22; Dekmejian, "Rise," 629–634.

[37] Dekmejian, "Rise," 631.

[38] *Mudhakkarat al-naṣīḥa* (Memorandum of advice). This Memorandum has been published in various forms. One English version appears in *History of dissent: The story of Islamic dissent in Arabia,* Ch. 10 at MIRAʾs website: http://www.miraserve.com/chap10.html.

[39] Ibid. See also Fandy, *Saudi Arabia*, 52; Dekmejian, "Rise," 633–634.

[40] Fandy, *Saudi Arabia*, 52.

young generation of Saudi ʿulamāʾ (the Opposition). Shaykh Salmān al-ʿAwda and Safar al-Ḥawalī, who have become known as the ʿawakening shaykhsʾ (*shuyūkh al-ṣaḥwa*), accused the senior muftīs of lacking independence and of acting like state-controlled functionaries. According to these ʿawakening shaykhsʾ, BSU is no more than an extension of the Government, since it issues fatwās in line with official interests.[41] Moreover, they are intolerant of the muftīsʾ method of backstage problem-solving and clandestine advice (*naṣīḥa*).[42] Therefore, they called on the public to be more critical of the official fatwās, especially those issued to legitimize the regimeʾs actions.[43]

Another criticism was leveled against the official muftīs by Saʿd al-Faqīh, a member of this new Opposition.[44] He argues that the fact that BSU constitutes a supreme religious *iftāʾ* authority in the Kingdom is not consistent with Sharīʿa teachings, since there is no clerical or religious hierarchy in Islam. Al-Faqīh further notes that such a situation brings to mind the relationship between church and state in Europe. In other words, BSU has become an entity designed to legitimize the Saudi regime. Moreover, al-Faqīh claims that BSU members are not entitled to issue fatwās. According to him, a true muftī not only reads and understands the Sharīʿa, but also "…speaks the truth to those in power."[45] He adds that Ibn Bāz and the other BSU members may be men of great personal morality and knowledge, but they do not always have the courage to speak the truth when confronted with worldly power. Therefore, the official muftīs fall short of meeting the criteria for muftiship. Al-Faqīh also accuses Ibn Bāz and Ibn ʿUthaymīn (the two most prominent members of BSU) of hypocrisy, because they portray Saudi Arabia as a *Rāshida* state (like the Caliphate under the Four Righteous Caliphs, *al-Khulafāʾ al-Rāshidūn*, 632–661).[46]

In addition, al-Faqīh claims that almost all of the fatwās issued by BSU at times of crisis have supported the Government policies.[47] He

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[41] See the fourth section of the Memorandum which deals with the reality of the Saudi propagators (*duʿāt*) and the ʿulamāʾ.

[42] Ibid. On BSU perception of *naṣīḥa* to rulers see the section on authority-holders above.

[43] Ibid.

[44] On Saʿd al-Faqīh and the Movement for Islamic Reform, see Fandy, *Saudi Arabia*, 149–175.

[45] Al-Faqīh, *Niẓām*, 75–86.

[46] Ibid.

[47] Ibid.

enumerates fatwās against CDLR, against the Memorandum, the fatwā concerning the landing of American troops in the Kingdom and those that allowed the State to arrest members of the Opposition, such as al-ʿAwda and al-Ḥawalī.[48] According to al-Faqīh, these fatwās violate Islamic law. For instance, he explains that the fatwā endorsing the invitation of American troops is legally baseless, since there is no concrete evidence, such as a Qurʾānic verse, a ḥadīth or any other reliable source that supports it. Instead, only the principle of ʿnecessityʾ (*ḍarūra*) was cited to deal with that extremely serious situation, one which should have been considered in depth by great minds. Thus, al-Faqīh calls for the adoption of a much more studied approach in the event of other such cases.[49] He also asks for the reevaluation of other religious establishments, such as the *Muṭawwiʿa* and the judiciary system. He does not excuse Shaykh Ibn Bāz or other BSU members who were linked to the State and they, in his opinion, were compromised.[50]

BSU was attacked by yet another Saudi dissident, Usama Bin Laden, whose criticism was considered to be much more dangerous, because it threatened the official/legal narrative. Bin Laden addressed the official muftīs in general and particularly Shaykh Ibn Bāz in several ways, basing his arguments mainly on Wahhābī legal references. For example, two famous, ʿopenʾ letters were sent to Shaykh Ibn Bāz, criticizing his fatwā that endorse peace with the State of Israel. The first letter, written on December 1994 and entitled "An open letter to Shaykh Ibn Bāz refuting his fatwā concerning the reconciliation with the Jews,"[51] presents a response to the fatwā issued by Ibn Bāz published in *al-Muslimūn*, in which Ibn Bāz endorsed the ongoing peace talks between the Arab states and Israel. Bin Laden accuses Ibn Bāz of giving Islamic legitimacy to: "the current terms of surrender signed by the cowardly tyrants of the Arab leaders and Israel."[52] This communiqué also contained messages formulated by other dissidents, warning Ibn Bāz against the consequences of his fatwā, among whom were: Safar al-Ḥawalī, Salmān al-ʿAwda, ʿAbd Allāh b. Jibrīn, ʿĀʾiḍ al-Qarnī and nine others.

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[48] Ibid.
[49] Ibid.
[50] Ibid.
[51] Bin Ladenʾs Communication No. 11 is dated December 29, 1994. An English version is in Calvert, *Islamism*, 173–190.
[52] Ibid.

The second letter (*al-Risāla al-thāniya ilā al-Shaykh ʿAbd al-ʿAzīz b. Bāz*) was sent nearly a year later for the same purpose.[53] However, this letter was more explicit and contained three reasons why Bin Laden regards that fatwā as being invalid, based on reliable Islamic sources. In the first place, he states that the current Arab-Israeli peace talks do not meet the conditions stipulated by the Sharīʾa for legitimate contacts between Muslims and their enemies. According to Bin Laden, an agreement might be reached between the Muslims and their enemies, as long as the Muslim negotiators are recognized as being legitimate leaders by the consensus of the Muslim Community. Thus far, such agreements are said to have been signed by *murtaddūn* (secular leaders, apostates).[54] Bin Laden reminds Ibn Bāz that he himself called those leaders ʿinfidelsʾ (*kuffār*) in earlier fatwās.

Secondly, says Bin Laden, agreements between Israel and the Arabs, such as those between Israel and the Palestinians, between Israel and the Egyptians, and between Israel and the Jordanians, are legally baseless. They are based on international law, rather than Islamic law, as their frame of reference, thereby rejecting Divine sovereignty.

Thirdly, Bin Laden claims that Ibn Bāz is not entitled to issue such a fatwā, since fatwās of this type must be issued by a muftī well-versed in the subject under discussion. Ibn Bāz falls short of these criteria, since he did not read the actual treaties and has a limited understanding of international law and the complexity of the actual situation. Moreover, Bin Laden states that Ibn Bāzʾs entire approach to issuing fatwās is problematic, since it is aimed at pleasing those in power at the expense of Muslim interests, the teachings of God and the consensus of the ʿulamāʾ.[55] Bin Laden also claims that, due to the fact that Ibn Bāz follows the whims of the rulers whose interests depend on changing political situations, his political fatwās are sometimes contradictory. He argues that Ibn Bāz should resign from his post as muftī and repent. He quotes a ḥadīth, telling the Shaykh: "Hold your tongue and stay within the confines of your home and cry over your sin." To substantiate his assertion, Bin ʿinfidelsʾ (*kuffār*) cites the writings of Ibn al-Qayyim al-Jawziyya, one of most revered Wahhābī authorities.[56]

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[53] Bin Ladenʾs second letter to Ibn Bāz is dated January 29, 1995.
[54] Ibid.
[55] Ibid.
[56] Ibid.

BSU objected to the critique and to the demands made by the new Opposition and some Opposition members were sent to prison. Objections by the official muftīs related both to the style and the substance of the Opposition's advice, arguing that such advice should be given respectfully in private, rather than aired in public. Moreover, to make public such advice would politicize the issue and strengthen the Opposition's standing.[57] BSU was uncertain of the real agenda of this developing Opposition. For instance, BSU issued a communiqué on May 12, 1993 denouncing CDLR as being incompatible with Sharīʿa:

> The Board [BSU] finds the behavior of those who signed the document [of CDLR] strange. The Board unanimously denounces this organization [CDLR] as illegitimate, because Saudi Arabia is a country that rules according to Islam. Islamic courts are spread across the country and no one has been prevented from complaining about any injustice to the specified agencies or to the ombudsmen.[58]

One cannot ignore, however, the political, legal and religious reforms that took place in 1992 and their connection to Opposition demands. For example, new laws were enacted bringing about reform, e.g. the Basic Law of Government (*al-Niẓām al-asāsī lil-ḥukm*), the Law of Consultative Council (*Niẓām majlis al-shūrā*) and the Law of Provinces (*Niẓām al-manāṭiq*).[59] Most importantly, however, was the appointment of a new Grand Muftī in 1993 (see Chapter 2 above), almost two decades after the death of the previous Grand Muftī, Shaykh Muḥammad Ibn Ibrāhīm, in 1969.[60] A partial explanation for this may be found in the political context of the early 1990s in Saudi Arabia. The reestablishment of the Grand Muftī position was part of the Monarch's effort to co-opt the leading religious figures, apparently as a result of the ongoing threat from the Opposition.[61] Shaykh Ibn Bāz was considered the most appropriate figure to hamper these anti-governmental tendencies and to question the religious legitimacy of Government policy.[62]

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[57] Fandy, *Saudi Arabia*, 120.
[58] Cited ibid.
[59] Al-Rasheed, "God," 363. See also Aba Namay, "Constitutional reform," 34–88.
[60] See regarding the Grand Muftī's position in Ch. 2 above.
[61] Kostiner & Teitelbaum, "State-formation," 145.
[62] Ibid., 146.

Muftīs in Society

Despite their integration into the ruling elite and all the criticism leveled against them, Saudi muftīs maintain their historical role as intermediaries between Government and society. Both sides continue to regard the muftīs as their ombudsmen.[63] The Government expects the muftīs to place the seal of legitimacy on its policies (as may be seen above), while Saudi society expects them to safeguard the Sharīʿa, thereby defending Islamic rights and protecting citizens from political abuse. In this way, these three components (Government, muftīs and society) are interrelated and interactive, with the muftīs as the mediators, placed in the difficult position of having to satisfy the demands of both sides.

Historically, the involvement of the Saudi ʿulamāʾ in social affairs was made possible by their traditional functions and positions in Islamic society. They often serve as: arbiters of disputes, *qāḍī*s, muftīs, members of official bodies (such as the *Muṭawwiʿa*) and disseminators of the faith. They may also perform other administrative functions in the mosques, e.g., leading the five daily prayers, preaching, teaching and, finally, managing endowment funds. They are also members and sometimes leaders of public morality committees, hold senior educational positions and are founders of institutions for religious and legal studies.[64]

The senior muftīs maintain their social ties via some of these functions, especially as mosque functionaries. For instance, the former Grand Muftī, Shaykh ʿAbd al-ʿAzīz Ibn Bāz, gave lessons after the morning prayers and hosted people for open discussions after the evening prayers and, thus, had constant contact with laymen on a daily basis.[65] He also traveled to attend social meetings in various cities in Saudi Arabia, such as Ṭāʾif, Mecca, Medina and Jeddah. [66]On route, he met preachers, students and laymen, thus maintaining an ongoing bond with various segments of society. Ibn Bāzʾs activity was described in eulogy by his colleague Shaykh Yūsuf al-Qaraḍāwī:

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[63] On the ʿulamāʾs traditional role as mediators between state and society see Winter, "Ulama," 21–46.

[64] See biographies of some CRLO members in al-Dawīsh, *Fatāwā al-lajna*, 1:2–14; Layish, "Ulama," 45.

[65] Al-Jahnī, *al-Shaykh Ibn Bāz*, 17–18.

[66] Al-Zahrānī, *Imām al-ʿaṣr*, 95.

> He was close to the Saudi Monarchy and enjoyed its respect. However, his positions did not isolate him from the people, and did not lock him in an ivory tower. His heart, house and office remained opened to laymen of the Muslim nation.[67]

The respect that Shaykh Ibn Bāz enjoyed from the Saudi Monarch brought him numerous social and political queries. He was often asked to intercede between certain individuals and the Government. For example, Dr. Nāṣir al-Misfir, a Professor in Umm al-Qurā University and the Imām of a mosque named after Ibn Bāz, submitted an application on behalf of a Saudi citizen who owed 150,000 riyals. Ibn Bāz, in turn, submitted this application to the King, whose reply favored the debtor.[68]

Another example of the great respect for muftī-mediation can be seen in the demand for social reforms. For example, the Memorandum of 1992 was first sent to Shaykh Ibn Bāz for endorsement before being forwarded to the King. The authors honored the Shaykh with the following words:

> This advice is the result of the tireless efforts of your sons, students of Islam, preachers and university professors. There are signatures of over a hundred individuals. Many ʿulamāʾ have read and corrected it. It was also endorsed by many trusted ʿulamāʾ, such as Shaykh ʿAbd Allāh Ibn Jibrīn, Shaykh Safar al-Ḥawalī, Shaykh Salmān al-ʿAwdah and Shaykh ʿAbd Allāh al-Jilālī… Our purpose is to follow the teaching of Islam that requests advice and consultation. We would like you to read it, add whatever is missing and improve it… Finally, we would like you to endorse it and submit it to the Custodian of the Holy Mosques (the King).[69]

Obviously, Shaykh Ibn Bāz was respected and trusted by the above authors. This improved the image of Dar al-Iftāʾ, especially while Ibn Bāz was its Chairman (1975–1999).

To sum up, this chapter has attempted to outline the sociopolitical context of Dār al-Iftāʾ and the way in which contemporary Wahhābīs define the relationship between religion and state, the rulerʾs authority, and the role of Dār al-Iftāʾ in this context. In principle, the official muftīs maintained the traditional stance in which religion and state

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[67] Ibid., 42.

[68] See, for example, the correspondence between Shaykh Ibn Bāz and al-Zahrānī in al-Zahrānī, *Imām al-ʿaṣr*, 126–127.

[69] Cited in Fandy, *Saudi Arabia*, 51.

are indissolubly linked. In other words, without the coercive power (*shawka*) of the state, religion is in danger; without Sharīʿa, the state becomes a tyrannical organization. Thus, in an ideal state, the ʿulamāʾ and the umarāʾ cooperate: the former interprets God's will through the analysis and exegesis of His word, while the latter implements these interpretations. Consequently, authority was divided between the ʿulamāʾ and the umarāʾ, both presented as authority-holders in Wahhābī doctrines.

For the most part, the official muftīs support Government policy, following a broad definition of *siyāsa sharʿiyya* and the doctrines of their predecessors, the Ḥanbalīs and classical Wahhābīs. These muftīs recognize the broad authority of the King, applying the classic Islamic model of the Caliphate, in which the ruler embodies the highest political and religious authority of the state. The legal terminology of the Saudi religious establishment is replete with classical terms, such as *bayʿa* and *walī al-amr*. Furthermore, this classical definition of the King's position transforms the obligation to obey his regulations into a religious duty, and considers opposition to him as being contrary to the Sharīʿa.

One may claim that the broad definition of the authority of the Saudi King laid the foundation for a legitimate, pragmatic government. By virtue of his authority, the King leads the State as he sees fit, while resolving potential contradictions between governmental practices and clear Sharīʿa teachings with the help of the muftīs and their fatwās. That is to say, the official muftīs bridge the gap between Saudi politics and Islamic law (which are not necessarily reconciled with each other), thereby contributing greatly to the stability of both the Saudi State and its society.

It would be amiss to think that the relationship between the senior muftīs and the Government is completely harmonious. The Wahhābīs favor discrete criticism of the ruler and, thus, make it difficult to learn about the tensions existing between the muftīs and the King. This said, the official muftīs and the Government maintain an ongoing complementary, mutually-beneficial partnership. The muftīsʾ usually support Government policy, especially in sensitive situations, and the King, in turn, respects the religious officials and their opinions, allowing them to be ʿthe conscienceʾ, as it were, of the Government; moreover, the King typically consults them and enforces their fatwās. This cooperation has engendered criticism against Dār al-Iftāʾ from some segments

of society, chiefly from dissident groups, complicating the work of the official muftīs, who must simultaneously defend their reputations in the eyes of Muslim society while cooperating with the Government and maintaining its respect.

CHAPTER FOUR

MODERN WAHHĀBĪ JURISPRUDENCE

Salafīsm as the Spirit of Wahhābī Legal Thought

Wahhābīs believe that genuine Islam is exemplified by the lives of the early Muslims, those Righteous Predecessors (*al-Salaf al-Ṣāliḥ*) who lived during the first three centuries after the Hijra and set the foundations of Islam. Wahhābīs seek a return to this earlier era, its religious thought, practices and teachings, as indicated in their fatwās and contemporary writings.[1] For instance, a CRLO fatwā describes the following:

> *Salafiyya* refers to the *Salaf*, who were the Companions of the Prophet, and to the imāms from the first three centuries, who were named in the ḥadīth: 'The best of the people are those who belong to my century, then those who follow them [the second century], then those who follow them [the third century]'…*Salafī*s are those who follow in the footsteps of the *Salaf* who, in turn, followed the Book [Qurʾān] and the Sunna and called for others to follow them [the Book and the Sunna] and to act according to their directions…[2]

For the Wahhābīs, being a *Salafī* is the only way in which a Muslim can assure his membership in the 'saved sect' (*al-firqa al-nājiya*), mentioned in the ḥadīth: "Indeed, before you, the People of the Book split into seventy-two sects. And this community [the Muslims] will split into seventy-three sects, all of them destined for Hellfire except one." When asked: Who is that one? Muḥammad replied: "That which follows myself and my companions."[3] The Wahhābīs often stress the superiority of the Wahhābiyya as a *Salafī* movement when comparing

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[1] Al-Dawīsh, *Fatāwā al-lajna*, 2:165–166; Bin Qāsim, *al-Durar*, 7:48; Dekmejian, "Rise," 635–638. On the *Salafī* trend in the modern Islamic world see Kerr, *Islamic reform*, 103–153, 187–208; Commins, *Islamic reform*, 70–78.

[2] Fatwā No. 1361 in al-Dawīsh, *Fatāwā al-lajna*, 2:165. More on Salafism in Ch. 2, ff. 4.

[3] Al-Tirmidhī, *Ṣaḥīḥ*, 4:381.

it to other Islamic groups. For instance, Shaykh Ṣāliḥ al-Fawzān, a BSU and CRLO member, states:

> To say that the *Salafī* [Wahhābī] movement resembles any other Islamic movements is wrong. The *Salafī* movement is the only one that must be followed by adopting its approach, joining it and doing jihād with it. Therefore, Muslims may not follow any other movement, since all the others are straying…[4]

For Shaykh al-Fawzān, the *Salafiyya* is an embodiment of the Prophet's legacy to his community. According to al-Fawzān, the Prophet's instructions in the above ḥadīth, in which Muslims must follow the Prophet and his Companions' steps in all their thoughts and deeds, are unequivocal. Therefore, anyone who departs from this path will cause separatism, sects and the threat of damnation.[5]

Most importantly, for contemporary Wahhābīs, Salafism constitutes the spirit of their legal philosophy and theology. They remain faithful to the jurisprudence of their predecessors, such as Muḥammad Ibn ʿAbd al-Wahhāb, stressing that people must obey the Book, the tradition and the Righteous Predecessors.[6] In other words, contemporary Wahhabīs continue to restrict the thought, will and action of the Muslim Community to the Qurʾān, the Sunna and the opinions and deeds of the *Salaf*. Theologically, they oppose the infiltration of foreign influences coming from conquered cultures into Islamic thought. Thus, they condemn the Muʿtazilite School (of speculative theology), accusing them of corrupting true Islam by adopting Greek philosophy. They also reject *kalām* (Islamic dogmatic theology, including Ashʿarism) and insist that innovations, such as mysticism, asceticism, philosophy and polemic theology, are all foreign to the Qurʾān.[7]

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[4] Al-Frīdān, *Muntaqā*, 1:361. See also a relevant interview with Shaykh Ibn Bāz in *al-Muslimūn*, July 28, 1996.

[5] Al-Frīdān, *Muntaqā*, 1:361. See other relevant CRLO fatwās in al-Dawīsh, *Fatāwā al-lajna*, 2:143–181; 12:241–242. The Wahhābī perception of Salafism was rejected by many modern movements and scholars who claimed that this trend is nothing but an independent school of legal thought. Shaykh Saʿīd Ramaḍān al-Būṭī, for example, argues that Salafism is no more than a *marḥala zamaniyya mubāraka* (a blessed historical period), that resembles others in Islamic history. However, al-Būṭī's criticism was rejected by BSU. See al-Būṭī, *Salafiyya*, 132–144; *MBI* 26:182–184.

[6] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:72–81, 211–222, 231–243; al-Frīdān, *Muntaqā* 5:96.

[7] Al-Dawīsh, *Fatāwā al-lajna*, 2:181–211; 3:152–153, 162–163, 177–178; al-Shuwayʿir, *Majmūʿ fatāwā*, 426. On Muḥammad Ibn ʿAbd al-Wahhāb's attitude see Ibn ʿAbd al-Wahhāb, *Muʾallafāt*, 1:225–227.

Nevertheless, Wahhābīs today show signs of liberation from the juridical shackles of the past, demonstrating a degree of openness and flexibility in their contemporary interpretation of legal theory (*uṣūl al-fiqh*), *ijtihād, taqlīd* and, finally, in their non-affiliation to a particular legal school (*madhhab*). This is also evident in their theological interpretation of modern life, particularly in regard to scientific and technological innovations. Below, I will show some transformations that have brought modern-day Wahhābīsm to resemble other modern Sunni *madhhab*s, perhaps more than ever before.

Legal Theory

In principle, contemporary Wahhābīs remain faithful to the tenets of their predecessors by privileging adherence to the text and to the transmitted tradition (*naql*) over reason (*ʿaql*) and, thus, make extensive reference to the Qurʾān and Sunna. However, it seems that contemporary Wahhābī jurists have turned to the pattern prevailing elsewhere in the Muslim world, using the same types of legal sources as the other three schools of law. Note the CRLO comment on this matter: "The rules of the Sharīʿa are based on the texts of the Book and the Sunna of the Prophet, and whoever combines them based on consensus and sound analogy".[8] While the Qurʾān and Sunna are the two fundamental textual sources, consensus and analogy both serve as supplementary sources.

For contemporary Wahhābīs, the Qurʾān is not only the highest source of Islamic law, but also a constant source of inspiration, unlimited in scope.[9] According to Shaykh Ibn Bāz, the Qurʾān is an 'eternal constitution', appropriate for any time and place, and, as such, it contains the basic principles of Islamic law and provides the ultimate

[8] Al-Dawīsh, *Fatāwā al-lajna*, 5:14.

[9] The Qurʾān contains between 500–600 legal verses that relate to many areas of life, such as: worship (prayer, fasting, alms-tax, pilgrimage); finance (usury, gambling, charities) criminal law (penalties on *ḥudūd*); personal status (oaths, marriage, polygamy, divorce, prescribed retreat or the waiting period for women after divorce or death of the husband (*ʿidda*); property rights (dower, alimony, custody of children, fosterage, paternity, inheritance, bequests); commercial transactions (sale, lease, loan, mortgage); and social norms (relations between rich and poor, justice, evidence, war and peace).

platform for developing legal and moral norms.[10] These principles, which are universal in nature, apply to all human deeds, regardless of a person's religion, ethnicity or race. Ibn Bāz supports the general principle (*qāʿida kulliyya*) of justice implemented by scholars authorized to promulgate just rules, i.e., it is the obligation of the jurist to be fair and impartial, even if advocating for an enemy or against a relative. The Qurʾān rejects injustice under any circumstance.

According to Ibn Bāz, it is incumbent upon Muslims to obey the Qurʾānic and Sunnaic instructions, to the exclusion of all other ideologies and instructions. For example, he rejects the spread of Communist ideology in the Arab world based on several Qurʾānic verses that mention obedience only to God and his Prophet:[11] "…They can have no [real] faith, until they make Thee judge in all disputes between them, and find in their souls no resistance against Thy decisions, but accept them with the fullest conviction" (Q. 4:65). Another verse reads: "O ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you. If ye differ in anything among yourselves, refer it to Allah and His Messenger, if ye do believe in Allah and the Last Day: that is best and most suitable for final determination" (Q. 4:59).[12] Both of these verses support the doctrine of exclusive allegiance to the will of God and His Prophet (*walāʾ wa-barāʾ*).[13]

As for Qurʾānic exegesis (*tafsīr*), the contemporary Wahhābī approach is the typical methodology of strict adherence to the textual sources of the Qurʾān and the Sunna, and the traditions of the *Salaf*. According to CRLO, "The best *tafsīr* of the Qurʾān is by the Qurʾān itself, the Sunna, and the Prophet's Companions."[14] There are two main trends in *tafsīr: Tafsīr bil-athar* relies predominantly on transmitted material and *tafsīr bil-raʾy* relies on independent thought and the application of rational opinions.[15] Contemporary Wahhābīs identify with the former as evidenced by the CRLO fatwā:

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[10] Al-Shuwayʿir, *Majmūʿ fatāwā*, 4:415; see also 1:82–129.

[11] Ibid., 1:268–270.

[12] Ibid., 1:268–269. Other Qurʾānic citations by Ibn Bāz are: 42:10; 5:44–45, 47, 50–51 and 9:23.

[13] On the doctrine of *walāʾ wa-barāʾ* in contemporary Wahhābī legal and theological thought see al-Dawīsh, *Fatāwā al-lajna*, 2:41–89.

[14] Ibid., 4:163.

[15] See, for example: al-Wahībī, "al-Tafsīr," 200–237.

> The most appropriate books for Qurʾānic exegesis are those of Ibn Jarīr al-Ṭabarī and Ibn Kathīr and other books of *tafsīr bil-athar*, which were written in simple language, producing the true meanings of the Qurʾān, closest to the Sharīʿa's intentions, based on ḥadīths and solid traditions.[16]

According to CRLO, independent *tafsīr* is prohibited by the Prophet in the ḥadīth: "He who gives his own interpretation of the Qurʾān will be in Hellfire." All exegesis must rely solely on the Qurʾān, the Sunna or the *Salafī* traditions.[17] Contemporary Wahhābīs reject the new trend in modern *tafsīr*, that of *tafsīr ʿilmī*, an analytical interpretation of the Qurʾān based on modern empirical science. According to CRLO, such *tafsīr* is nothing but a distortion of the real meaning of the Qurʾān, since, in due course, it becomes subordinated to secular (i.e., 'godless') scientific theories.[18]

In the same vein, modern Wahhābī jurists place great emphasis on the Sunna, extending its validity to a wide range of issues. They identify the Sunna as the life-model of the Prophet Muḥammad, articulated in (1) his utterances (*aqwāl*), (2) his deeds (*afʿāl*), (3) his silence (*sukūt*), and (4) his personality traits (*khuluq*).[19] The first three aspects are derived from the Prophet's social activities and moral instructions as judge and head-of-state, while the fourth is derived from his private life, which serves as a living example, a role-model for the proper conduct of Muslim daily life. These jurists consider the Sunna to be a divinely inspired source (*waḥy*) for both law and morals and, as such, authoritative. The Prophet is reported to have said: "I have received the Qurʾān and all that is similar."[20] Muslim scholars generally disagree about whether to consider as binding both aspects of Muḥammad's legacy or just those instructions with a legal nature. For contemporary Wahhābīs, all Sunna is binding, albeit not as legal norms, but as guidelines for correct behavior.

Wahhābīs also draw upon other traditions, such as ʿUmar's letter to Qāḍī Shurayḥ, in which he wrote:

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[16] Both sources, al-Ṭabarī's *Jāmiʿ al-bayān fī tafsīr al-Qurʾān* and Ibn Kathīr's *Tafsīr*, are the primary examples of *tafsīr bil-athar*. See al-Dawīsh, *Fatāwā al-lajna*, 4:163, 137–280. On modern *tafsīr* see Zebiri, *Mahmud Shaltut*, 128–181; al-Muḥtasib, *Ittijāhāt*, 54–71, 101–125, 245–325.

[17] Al-Dawīsh, *Fatāwā al-lajna*, 4:142.

[18] Ibid., 4:145.

[19] Ibid., 4:283.

[20] Ibid., 4:285.

> Judge by what is in God's Book. If you do not find in it [an explicit ruling], then [judge] by the Sunna of His Messenger. If you do not find [a solution] there, then by the judgment of the worthy who have preceded you, and by what the people approve unanimously.[21]

CRLO follows the traditional Wahhābī trend by holding the Sunna as an extension of the authority of the Qurʾān itself, as based on divine witness (Q. 59:7): "…So take what the Messenger assigns to you, and deny yourselves that which he withholds from you."[22] They hold the Sunna in high regard, as the key to understanding the Qurʾān. Authentic Sunna can never contradict the Qurʾān.[23] Wahhābīs tend to consider a ḥadīth as authorized and valid as long as the 'chain of transmitters' (*isnād*) is authentic. Ḥadīth tradition must be accepted, whether the *isnād* is: (1) transmitted along multiple paths (*mutawātir*); (2) solitary (*āḥād*); (3) widespread (*mashhūr* or *mustafiḍ*); or (4) rare (*gharīb*). Ibn Bāz asserts that scholars sometimes differ in their evaluations and applications of certain ḥadīths, i.e., one ḥadīth may be considered *mutawātir* by one scholar but not by another. Some scholars may consider a specific, informative ḥadīth, based on five, seven, eight or even ten transmitters, as *mutawātir* and more authentic than another less informative ḥadīth, based on 20 transmitters, because it lacks conclusive knowledge.[24]

In the worldview of both CRLO and BSU, the Sunna is second only to the Qurʾān as an authoritative source. The Sunna is applied in all three of its traditionally defined functions in relation to the Qurʾān: to confirm what is in the Qurʾān (*muʾakkida*), to clarify or elaborate on what is in the Qurʾān (*mubayyina*) and as an independent source to establish legal norms regarding matters on which the Qurʾān is silent (*munshiʾa*).[25] An example of the first function is the ḥadīth showing that touching a woman does not breach ablution (*wuḍūʾ*), confirming the Qurʾānic verse:

> O, ye who believe! When ye prepare for prayer, wash your faces and your hands (and arms) to the elbows; rub your heads (with water) and (wash) your feet to the ankles. If ye are in a state of ceremonial impurity, bathe your whole body. But if ye are ill, or on a journey, or one of you

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[21] Ibid. See also al-Shuwayʿir, *Majmūʿ fatāwā*, 1:211–221.
[22] Ibid.
[23] On Sunna in modern times see Brown, *Rethinking*, 108–132.
[24] Al-Dawīsh, *Fatāwā al-lajna*, 4:285–289, 5:13.
[25] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:211–221.

> cometh from offices of nature, or ye have been in contact with women, and ye find no water, then take for yourselves clean sand or earth, and rub therewith your faces and hands. Allah doth not wish to place you in a difficulty, but to make you clean, and to complete His favor to you, that ye may be grateful (5:6).

According to CRLO, the Prophet used to pray without ablution after kissing his wives. Thus, 'touching women' in Q. 5:6 must mean sexual relations.[26] An example of the second function (*mubayyina*) is the ḥadīth: "That which is forbidden [for the purpose of marriage] as regards blood relations is also forbidden as regards suckling (*riḍāʿ*)." That is, in Q. 4:23, which lists the categories of females with whom marriage is forbidden, the phrase: "and your foster-mothers and foster-sisters" does not refer exclusively to mothers and sisters by suckling, but to all blood relations previously mentioned in that verse.[27] Finally, Sunna *munshiʾa* relates to rules mentioned in the Qurʾān and elaborated by the Sunna, e.g. the prescribed number of daily prayers, alms-tax (*zakāt*), fasting, pilgrimage and the punishment of capital crimes.[28]

Contemporary Wahhābīs recognize only the consensus of the *Salaf*. For instance, CRLO rejects the notion that a decision taken by the Islamic Legal Academy (*Majmaʿ al-Fiqh al-Islāmī*) or by any other contemporary Islamic legal council constitutes consensus.[29]

> *Ijmāʿ* is one of the three fundamental *uṣūl* that must be obeyed: Qurʾān, authentic Sunna (*sunna ṣaḥīḥa*) and *ijmāʿ*. As for *ijmāʿ*, it is that of the *Salaf* from among the Prophet's *ṣaḥāba*, since disputes became widespread after them [in the later generations], as pronounced by Shaykh al-Islām Ibn Taymiyya and other scholars.[30]

Thus, *ijmāʿ* is a textual source, not merely a mechanism for endorsing new rules.[31] For Ibn Taymiyya, the definition of *ijmāʿ* requires, among other things, the unconditional and unanimous agreement of the jurists in any given age. If there is disagreement, there is no *ijmāʿ*.

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[26] Al-Rifāʿī, *Fatāwā*, 1:128–129. See also *al-Daʿwa*, Dec. 14, 1995.
[27] Al-Rifāʿī, *Fatāwā*, 2:115.
[28] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:211–221.
[29] Al-Dawīsh, *Fatāwā al-lajna*, 5:15. The Islamic Legal Fiqh Academy, a subsidiary of the Muslim World League (*Rābiṭat al-ʿĀlam al-Islāmī*) is thought to be sponsored by Saudi Arabia and is located in Mecca.
[30] Ibid., 9:46.
[31] More on *ijmāʿ* in contemporary Wahhābī legal thought in Vogel, *Islamic law*, 101–110.

He adds that some may think that a consensus has been established on many issues, but it has not, since the agreement of a certain number of members of the Islamic Community, such as the Four Imāms, does not make an *ijmāʿ* either true or binding.[32] A valid *ijmāʿ* has not been established since early Islam, because later Muslim scholars are numerous and widely dispersed, making it difficult to ascertain the consensus in each case. Indeed, if *ijmāʿ* means the unanimous agreement of all Muslim jurists, as it evidently did for Ibn Taymiyya, then it can no longer be attained. As a result, few cases of true *ijmāʿ* exist. Ibn Taymiyya, thus, negates the common assumption that most of the problems of Islamic law are dealt with through *ijmāʿ*. To the contrary, he suggests:

> He…who asserts that *ijmāʿ* is a reliable (*mustanad*) account of most of the Sharīʿa reveals that he, by reason of his deficient knowledge of the Qurʾān and Sunna, is in need of *ijmāʿ*…Aḥmad [Ibn Ḥanbal] used to say: 'There is no question [of law] that has not been addressed by the Companions, or they addressed similar questions'…They frequently stated an opinion.[33]

A crucial condition for the validity of modern Wahhābī *ijmāʿ* is that it be supported by a text from an authentic ḥadīth and that this text be known to at least some of the scholars participating in the consensus. That is to say, a consensus should never contradict a text, nor should a ḥadīth be provided simply as proof of an opinion *ex post facto*, since consensus must follow the text and not vice versa.[34]

As for *qiyās*, contemporary Wahhābīs seem to be less hesitant in using this source than their predecessors. As may be seen in Ibn Ḥanbal's *uṣūl*, the Ḥanbalīs restricted the use of *qiyās* to a minimum, preferring a weak but relevant ḥadīth. Note, however, that the Ḥanbalī attitude toward *qiyās* has never been settled and is still debated both by western and Islamic scholars. For instance, Nimrod Hurvitz has recently observed two distinct assessments of scholars concerning Ibn Ḥanbal's attitude toward *qiyās*.[35] While N. J. Coulson states that Ibn Ḥanbal: "…rejected the use of human reason altogether," H. Laoust,

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[32] Ibn Taymiyya, *Kitāb maʿārij al-wuṣūl*, 29–30.
[33] Ibid.
[34] Al-Dawīsh, *Fatāwā al-lajna*, 5:17–65.
[35] Hurvitz, *Formation*, 103–104.

claims that: "He [Ibn Ḥanbal] does not reject analogical reasoning (*qiyās*), but does not fully appreciate its value as an instrument of judicial systematization and discovery."[36] Hurvitz himself adopts Laoust's assessment, arguing that: "Ibn Ḥanbal utilized analogical reasoning, though silently and not in a polished manner. He did not state explicitly that he was doing so, and this question was never completely clarified even among his disciples."[37]

I find Hurvitz's and Laoust's arguments the most substantial. The Ḥanbalīs recognize the importance of *qiyās* in legal development, albeit not on par with the primary textual sources. According to Ibn Qayyim al-Jawziyya, this is endorsed by Ibn Ḥanbal himself:

> In cases in which Imām Aḥmad had no text or any opinions of the Companions, nor any weakly attested or weak tradition, he turned to the fifth root, i.e., the *qiyās*, but only out of necessity. He [Ibn Ḥanbal] is quoted in al-Khallāl's book as saying: 'I have asked al-Shāfiʿī about *qiyās*', and he answered: 'It is used for necessities', or something like that.[38]

Modern Wahhābīs often use analogies based on cases from the Qurʾān and the Sunna, without using the term *qiyās*. They base their analogies not only on 'an effective cause' (*ʿilla*) but also on principles of 'necessity' (*ḍarūra*) and 'public interest' (*maṣlaḥa*). A good example is Ibn Bāz's fatwā on drug abuse, in which he praises those who fight drug traffickers, claiming that those who are killed during such a fight should be considered martyrs (*shuhadāʾ*, sing. *shahīd*):

> There is no doubt that fighting alcoholism and drug abuse is considered among the high ranks of *jihād*. It is the obligation of every member of society to take part in this task, since [dangerous] drugs threaten the welfare of the entire society. Thus, he who he is killed while fulfilling his mission is a *shahīd*. Also, those who assist in uncovering drug-traffickers will be rewarded (*maʾjūr*) for serving the public good.[39]

Ibn Bāz's delineation of the death of 'fighters against drug-trafficking' as a form of martyrdom is based on analogy. A quick glimpse at the contents of this fatwā indicates that there is no effective cause, in other words, 'public interest' provides sufficient grounds for the analogy to

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[36] Cited in Hurvitz, ibid.
[37] Ibid.
[38] Ibn Qayyim al-Jawziyya, *Iʿlām*, 1:39.
[39] *Al-Daʿwa*, February 10, 1987. See also al-Shuwayʿir, *Majmūʿ fatāwā*, 4:410.

battlefield martyrs.[40] In other words, Wahhābīs extend the applications of *qiyās* and rely more on the general principles of the Sharīʿa, such as *maṣlaḥa*,[41] than on *ʿilla*.[42] In other cases, however, BSU made explicit use of *ʿilla* concerning dangerous drugs. In this case, the muftīs prohibited the use of dangerous drugs, based on the unlawfulness of drinking wine. They assumed that hashish, opium and cocaine are also unlawful. BSU muftīs stated that the reason for forbidding the drinking of wine is its harmful effects: mental, physical, spiritual, cultural, economic and social. Since the dangerous drugs above have similar harmful effects, they are also forbidden.

Ijtihād

Faithful to the tenets of Ibn Taymiyya and Muḥammad Ibn ʿAbd al-Wahhāb, contemporary Wahhābīs champion *ijtihād* and restrict blind *taqlīd*.[43] Muslims are obligated, in accordance with their individual capacities, to seek God's will through His Book and Prophetic tradition or with the help of knowledgeable scholars.[44] Religious scholars, however, are under a heavier obligation, since they are expected to provide answers as needed.[45]

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[40] According to Islamic tradition, there are two types of martyrs: The first and highest rank is the battlefield martyr (*shahīd al-maʿraka*), meaning a martyr in both this and the next world (*shuhadāʾ al-dunyā wal-ʿākhira*). The second type refers to a martyr in the next world only (*shuhadāʾ al-ākhira*), i.e., those who, in other respects, qualify as battlefield martyrs, but whose death is not a direct and immediate result of their wounds. The question of whether a person is to be regarded as a battlefield martyr or a martyr only in the next world arises particularly in three cases: a warrior who has been accidentally killed by his own weapon; a person who was killed by rebels (*bughāt*) or other erring Muslims; and finally, someone who dies while defending himself, his family, or his property against highway robbers (*quṭṭāʿ ṭuruq*). See E12, "Shahīd," 205; al-Atawneh, "Shahada," 18–28.

[41] More on the principle of *maṣlaḥa* in contemporary Wahhābī legal thought in Vogel, *Islamic law*, 720–734.

[42] See *MBI*, 19:17–133 and 20:13–144. The term *ʿilla* has been classified by scholars of *uṣūl al-fiqh* into various types. See al-Ghazālī, *Shifāʾ*, 21; Ibn Taymiyya, *Fatāwā*, 9:116; al-Shawkānī, *Irshād*, 2:157; al-Āmidī, *Iḥkām*, 3:17; al-Bukhārī, *Kashf*, 4:171; al-Zāhidī, *Taysīr*, 257–274. For more on *ʿilla*, see Kerr, *Islamic reform*, 68–75; Khallāf, *ʿIlm*, 63–79.

[43] See al-Dawīsh, *Fatāwā al-lajna*, 5:16–46.

[44] Ibid., 5:28–29.

[45] Ibid., 5:16–46.

The doors of *ijtihād* never closed.[46] Shaykh al-Ghuṣūn, a member of BSU, claims that there is a consensus on this matter in Saudi Arabia.[47] However, the doors remain open only to qualified jurists and only under certain conditions. Consider the following CRLO fatwā:

> Query
>
> Is the gate of *ijtihād* open to everyone, or just to those who are qualified to practice it? Is it permissible for a lay Muslim to issue fatwās based on his opinion, without being familiar with the legal sources? To what extent do you rely on the ḥadīth: 'Those who underestimate the issuing of fatwās are most likely closer to Hellfire'. What does this mean?
>
> Response
>
> The door of *ijtihād*, for exploring the rules of the Sharīʿa, is open only to those who are competent in *ijtihād*, that is, familiar with the Qurʾānic verses, the ḥadīth traditions, the consensus of the Muslims and the Arabic language…One is not allowed to issue fatwās based on one's personal opinion…[48]

BSU member Shaykh Ibn ʿUthaymīn clarifies the specific conditions that *ijtihād* must meet. He states that a *mujtahid* must be proficient in: (1) the Qurʾānic science: vocabulary and terminology, the circumstances in which a particular verse was revealed (*asbāb al-nuzūl*); abrogating (*nāsikh*) and abrogated (*mansūkh*), general (*ʿāmm*) and specific (*khāṣṣ*), comprehensive (*mujmal*) and explicit (*mubayyan*), and clear (*muḥkam*) and vague (*mutashābih*); (2) the ḥadīth corpus (*ʿilm al-ḥadīth*), i.e., a *mujtahid* must possess adequate knowledge of both the *isnād* and the substance (*matn*) of ḥadīths and should be able to reconcile apparently conflicting traditions; (3) the sources based on consensus; (4) legal theory; (5) the particularization (*takhṣīṣ*) and restriction (*taqyīd*) of legal rulings; (6) the Arabic language, literature and philology, in order to distinguish between various connotations of

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[46] Ibid., 18; see also Vogel, *Islamic law*, 78. The issue of whether *ijtihād* ever died out has been debated intensively by Islamic legal scholars. Until the early 1980s, Schacht's thesis that *ijtihād* ceased around the end of the 9th century was accepted. Wael Hallaq undermined Schacht's thesis, arguing that the first expression of the closing of the gate of *ijtihād* emerged in the 13th century. At that time, the term was used by al-Āmidī to refute the views of the Ḥanbalites. See Hallaq, "Gate;" Schacht, *Introduction*, 2–71; Coulson, *History*, 1–80; Rahman, *Islamic methodology*, 149.

[47] Vogel, *Islamic law*, 78.

[48] Fatwā No. 2171 in al-Dawīsh, *Fatāwā al-lajna*, 5:17–18. This fatwā was signed by four CRLO members: Shaykh Ibn Bāz (Chairman), ʿAbd Allāh b. Qaʿūd, ʿAbd Allāh b. Ghudayyān and ʿAbd al-Razzāq al-ʿAfīfī.

the same word; and (7) the proper methods for extracting rulings from evidence (*takhrīj*).[49] This restricted Wahhabī position for practicing *ijtihād* differs slightly from that of Ibn Taymiyya, who noted that:

> …The doors of *ijtihād* are open even to laymen, who are permitted to practice *ijtihād* without fear of punishment: the muftī, the soldier and the layman. If they speak according to their *ijtihād*…, intending to follow the Messenger to the extent of their knowledge, they do not deserve punishment; this is so by the consensus of the Muslims, even if they have erred in a matter for which consensus already exists.[50]

Contemporary Wahhābīs have modified various requirements of *ijtihād* in an attempt to adjust to the modern world. To better understand this new process, we must review the objectives (*manāṭ*) of *ijtihād*. Scholars identify at least three types of *ijtihād*: (1) *taḥqīq al-manāṭ*; (2) *tanqīḥ al-manāṭ* and (3) *takhrīj al-manāṭ*.[51] *Taḥqīq al-manāṭ* refers to accurately determining the objectives (*maqāṣid*) of the divine text regarding a concrete situation or the accurate representation of such a situation. For example, Q. 2:282 reads: "O, ye who believe! When ye deal with each other in transactions involving future obligations over a fixed period of time, reduce them to writing, let a scribe write down faithfully all that transpires between the parties…" According to this verse, a transaction must be recorded by a faithful scribe (*kātib bil-ʿadl*), who also serves as a witness to the transaction. The same verse adds: "If the liable party is mentally deficient, or weak, or unable to dictate by himself, let his guardian dictate faithfully and get two witnesses from amongst your own men, and if there are not two men, then a man and two women, such as ye choose."

This verse determines two separate facts about witnesses: (1) it authorizes the parties to select witnesses by mutual consent and (2) it stipulates that these witnesses should be 'righteous'. For Ibn Taymiyya, both conditions, righteousness and consent, must exist at the same time for the sake of *taḥqīq al-manāṭ*.[52]

Tanqīḥ al-manāṭ refers to the *mujtahid* who, working as a scientist, confronts evidence (*dalīl*) and hypothesizes that the effective cause (*ʿilla*) contained in the *dalīl* is x, y, or z. He then tests this hypothesis

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[49] Al-ʿUthaymīn, *Uṣūl*, 97–104. See also al-Fawzān, "Ijtihād," 245–259.

[50] See Ibn Taymiyya, *Majmūʿat*, 35:379; also idem, *Fatāwā*, 4:624.

[51] See, for example, al-Shāṭibī, *Muwāfaqāt*, 2:64–70; Ibn Taymiyya, *Fatāwā*, 22:329.

[52] Ibn Taymiyya, *Fatāwā*, 22:329.

against other data to see if it is sound. The *mujtahid* continues doing this until he determines whether x, y, or z, or a combination of them, is the actual *ʿilla*. Often, when a *mujtahid* is attempting to determine the *ʿilla*, he will rely on some empirical theory, especially if he believes that it is appropriate (*munāsib*) to the ruling. Here, 'appropriate' means that it serves one of the five comprehensive objectives (*maqāṣid kulliyya*) of the Sharīʿa—the preservation of religion, life, property, progeny and reason. When a fatwā incorporates an empirical judgment, the muftī must take steps to ensure that it is not erroneous.

Finally, *takhrīj al-manāṭ* refers to the ascertainment of the grounds of the divine strictures by means of clear (*maḥḍ*) *qiyās*. For instance, the drinking of wine (*khamr*) is forbidden due to the likelihood of intoxication. While this example is obvious, in other instances it is much more difficult to determine the grounds for a particular divine ruling; hence, jurists sometimes differ greatly.[53]

Contemporary Wahhābīs classify *mujtahid*s according to various degrees. For example, Shaykh Ṣāliḥ al-Fawzān, a member of BSU, basing himself on Mardāwī,[54] divides jurists into four major categories.[55] The first, a *mujtahid muṭlaq* is independent or absolute. A *mujtahid* of this type is not affiliated with any *madhhab*, nor bound by the methodology of any other scholar, and he may reach conclusions (major or minor) that are at variance with those of others. According to al-Fawzān, this type of *mujtahid* no longer exists.[56] He does, however, cite Ibn Ḥamdān (d. 1206), who said that, if scholars exhaust all of the *uṣūl*, yet must resolve a multitude of pressing issues, such a jurist might be found.

The second is a *mujtahid* in his imām's *madhhab* or in another school. This category is divided, in turn, into four subcategories: (a) a *mujtahid* who does not emulate his imām's evidence, but follows his own methods of *ijtihād*. Al-Fawzān states that a fatwā by a *mujtahid* of this type is equivalent to that of a *mujtahid muṭlaq*;[57] (b) a *mujtahid* who acts within his imām's *madhhab*, exercising independence when

[53] Note that '*manāṭ*', when used in the context of *takhrīj al-manāṭ*, is virtually synonymous with "*ʿilla*."

[54] *Al-Inṣāf fī maʿrifat al-rājiḥ min al-khilāf ʿala madhhab al-Imām al-Mubajjal Aḥmad b. Ḥanbal*, by ʿAlāʾ al-Dīn Abī al-Ḥasan b. Sulaymān al-Mardāwī.

[55] Al-Fawzān, "Ijtihād," 252–256. On the ranking of *mujtahid*s see al-Suyūṭī, *Radd*, 112–116; al-Āmidī, *Iḥkām*, 141; Hallaq, *Authority*, 24–57; Masud, *Iqbāl*, 17–20.

[56] Al-Fawzān, "Ijtihād," 252, 257.

[57] Ibid., 252.

selecting evidence (*mustaqillan bi-taqrīrihi bil-dalīl*). This *mujtahid* is not permitted, however, to go beyond his imām's legal theory and methodology; thus, he must be familiar with Islamic jurisprudence, legal theory,[58] evidence, analogy, deducing the law from its sources,[59] and referring positive legal rulings to their roots (*ilḥāq al-furūʿ bil-uṣūl*). Most importantly, such a *mujtahid* is allowed to develop his imam's opinions (*al-tafrīʿ ʿalā aqwālihi*), in the same manner as a *mujtahid muṭlaq* does with the Qurʾān, the Sunna, and *ijmāʿ*; (c) a *faqīh al-nafs* is a *mujtahid* who is familiar with his imām's *madhhab*, methodology and proofs, and is capable of determining the preponderance of opinions (*tarjīḥ*). Such a *mujtahid* falls short of the level of the *madhhab*'s eponyms for several reasons, such as not possessing adequate knowledge of the *madhhab*'s doctrines; and (d) a *mujtahid* familiar with the contents of his *madhhab*: e.g. the eponym's sources and opinions and new developments introduced by his disciples. This type of *mujtahid* is also identified as *faqīh al-nafs*, although (in contrast to the previous type), he is required to be familiar in part with his *madhhab*'s doctrines. Thus, he is authorized to issue fatwās only in spheres in which he is well-versed.

The third type is a *mujtahid* who is an expert in a specific body of knowledge. Such a *mujtahid* is authorized to conduct *ijtihād* and to issue fatwās within his particular area of expertise, using a specific methodology. Thus, a *mujtahid* who is familiar with *qiyās* is permitted to issue fatwās on cases of analogy (*masāʾil qiyāsiyya*). Similarly, a *mujtahid* acquainted with the law of inheritance (*ʿilm al-farāʾiḍ*) may issue fatwās on relevant matters—despite his having insufficient knowledge about other matters; and lastly, a *mujtahid* who deals with a single area or several areas may issue fatwās only regarding those matters.[60]

Of these four categories, al-Fawzān considers only the first category (*mujtahid muṭlaq*) as being irrelevant to modern times. He incorporates the other three categories into two major groups: partial *ijtihād* (*ijtihād juzʾī*) and *ijtihād* within the *madhhab* (*ijtihād madhhabī*).[61] Regarding the former, once a *mujtahid* gains solid evidence about a particular legal problem (*taḥaṣṣala lahu manāṭ al-ijtihād*), he is entitled to practice *ijtihād* without being familiar with other *ijtihād* domains.

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[58] See, for example, Hallaq, *History*; idem, "Usul," 172–202.
[59] On *takhrīj* see Hallaq, *Authority*, 43–56 and his article "Takhrij," 317–335.
[60] Al-Fawzān, "Ijtihād," 254.
[61] Ibid., 257.

Shaykh al-Fawzān finds support for this practice in the teachings of some classical jurists, such Ibn Daqīq al-ʿĪd (d. 1302), al-Ghazālī (d. 1111) and Ibn Taymiyya.[62] He claims that the invalidation of *ijtihād juzʾī* means that a *mujtahid* must be familiar with all types of knowledge and legal problems. Historically, this was not the case. There are many cases on record in which *mujtahid*s admit their lack of knowledge and send queries back unanswered. For instance, Mālik Ibn Anas (d. 796), eponym of the Mālikī *madhhab*, answered only four queries of the forty submitted to him, since he was not sure of the answers.[63]

Ijtihād madhhabī, on the other hand, serves as an internal tool for selecting the preponderant opinions of its jurists, bringing together both *takhrīj al-manāṭ* and *taḥqīq al-manāṭ*, while *ijtihād juzʾī* utilizes all these types of *manāṭ*. This may explain the relative flexibility of *ijtihād juzʾī* in comparison with *ijtihād madhhabī*. Nonetheless, jurists identify *taḥqīq al-manāṭ* as the most important type of *ijtihād*, because it implements the Sharīʿa's objectives (*maqāṣid al-Sharīʿa*), mainly with respect to unprecedented empirical situations.[64]

Notably, new types of *ijtihād* have been presented by other contemporary scholars. For example, Abū Zahra (d. 1974) classifies Muslim jurists according to seven hierarchical degrees. Jurists who belong to the first four degrees are called *mujtahid*s, while the other three types are called 'imitators' or *muqallid*s.[65] The four levels of *mujtahid*s are: (1) an independent *mujtahid* (*mustaqill*) who carries out *ijtihād* by employing his own methodology and arrives at his own conclusions; (2) an affiliated *mujtahid* (*muntasib*) who follows a certain imām's methodology, yet arrives at his own conclusions;[66] (3) a *mujtahid* of a certain *madhhab* (*fī al-madhhab*), is qualified to carry out *ijtihād* on issues that were not addressed by that school's eponym, although following the same methodology; and (4) the *murajjiḥ* resembles the third type of *mujtahid* and determines the preponderance of various

[62] Ibid., 254–256.
[63] Ibid.
[64] Raḥḥāl, *Maʿālim*, 89.
[65] More on *ijtihād* and *taqlīd* in Calder, "Nawawi," 64–137; Hallaq, "Ifta," 33–43; Jackson, "Taqlid," 92–165; Johansen, "Legal literature," 29–47; Meron, "Development," 73–118.
[66] Abū Zahra indicates that numerous disciples of Ibn Ḥanbal, Mālik and Shāfiʿī belonged to this category. Others, who were initially designated as Ḥanafī *mujtahid*s, were later deemed independent, since they departed from the methods applied by Abū Ḥanīfa. See Abū Zahra, *Uṣūl*, 358.

opinions on certain issues, but is not limited to his own *madhhab* (see *tarjīḥ* below).

By contrast, Wahba al-Zuḥaylī divides modern *ijtihād* into three categories: (1) *al-ijtihād al-bayānī* clarifies Sharīʿa rules as represented in the primary texts; (2) *al-ijtihād al-qiyāsī* extracts new rules in cases for which there are no Qurʾānic or Sunnaic texts; and (3) *al-ijtihād al-iṣlāḥī* renders new rules based on an opinion which, in turn, is based on the principles of *maṣlaḥa*, or *istiṣlāḥ*.[67] Al-Dirīnī also identifies three types of *ijtihād*: (1) in the texts (*fī al-nuṣūṣ*); (2) in realizing these texts; and (3) in issues having no obvious corresponding text.[68] Shaykh Yūsuf al-Qaraḍāwī distinguishes two types of modern *ijtihād*: eclectic *ijtihād* (*ijtihād intiqāʾī*), and creative *ijtihād* (*ijtihād inshāʾī*).[69] The former is equivalent to the *ijtihād madhhabī* mentioned above, in which a *mujtahid* determines the preponderant opinion (*al-raʾy al-rājiḥ*) from amongst all the *madhhab*s. The latter requires the deduction (*istinbāṭ*) of unprecedented rules in answer to questions. This type is equivalent to *ijtihād juzʾī*, in which a *mujtahid* conducts *ijtihād* using two major methods: (a) elaborating on a specific opinion taking new circumstances into consideration; and (b) creating new rules with regard to unprecedented cases, such as technological matters.

Shaykh al-Qaraḍāwī sees the possibility of combining these two types of *ijtihād: inshāʾī* and *intiqāʾī*. One must note, however, that both modern and classical jurists agree that *ijtihād* may be practiced in a hybrid manner. Ibn Taymiyya asserts, for instance, that a comprehensive *ijtihād* is made possible only by combining different types of *ijtihād*.[70] In such cases, a *mujtahid* weighs the rules regarding certain issues and then completes them with new *ijtihād*. A good example of this is found in a fatwā issued by the Fatwā Council in Kuwait. The Council selected some of the classical opinions relevant to the issue of abortion and added new elements based on modern technology, unavailable in the past. This fatwā, issued on September 29, 1984, states:

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[67] Al-Zuḥaylī, *Wasīṭ*, 2:1040–1041.

[68] Al-Dirīnī, "Ishkāliyyāt," 110–111. Other classifications of modern *ijtihād*, such as *ijtihād istiḥsānī* and *ijtihād maqāṣidī*, exist as well. See Raḥḥāl, *Maʿālim*, 89.

[69] Al-Qaraḍāwī, *Ijtihād*, 45.

[70] Ibn Taymiyya, *Fatāwā*, 22:329. See also al-Shāṭibī, *Muwāfaqāt*, 2:64–119.

> Doctors are forbidden to perform an abortion during the first 120 days of pregnancy, except in cases of significant risk to the woman's life. It is possible, however, to perform an abortion if the pregnancy has not surpassed 40 days. Within this time frame, abortion may be permitted under two conditions only: (1) if maintaining the pregnancy will cause harm to the woman; (2) if there is a certainty that the embryo will be born with a physical or mental defect or an incurable disease.

These two conditions are based upon empirical evidence gathered by obstetricians during the first stages of the embryo's development.[71]

Taqlīd and the School of Law

Contemporary Wahhābī muftīs of both BSU and CRLO sustain their predecessors' aspiration of championing *ijtihād* and rejecting blind *taqlīd*.[72] Moreover, for modern-day Wahhābīs, blind *taqlīd* may to lead to heresy (*kufr*), sinfulness (*fisq*) or polytheism (*shirk*). For instance, a claim was brought before CRLO that both imāms, at the two sanctuaries in Mecca and Medina, had accused all those who practice *taqlīd* of being 'heretics'. In a fascinating response, CRLO muftīs did not deny the claim that *taqlīd* may lead to heresy: "Not all *taqlīd* is *kufr, fisq* or *shirk*; it is much more complicated."[73]

Contemporary Wahhābī muftīs, who follow in the authoritative footsteps of Ibn Taymiyya, seem much more aware of the fact that blind *taqlīd* may result in heresy.[74] It must be noted that blind *taqlīd*

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[71] Al-Qaraḍāwī, *Ijtihād*, 45.

[72] *Taqlīd* literally means 'to confer a badge of authority [on someone]'. The Mālikī scholar, Abū al-Maʿālī al-Juwaynī (d. 1085), defined *taqlīd* as the imitation of certain knowledge which lacks solid evidence and reference. See Hallaq, *Authority*, 182–201.

[73] Al-Dawīsh, *Fatāwā al-lajna*, 5:31.

[74] The Ḥanbalī denial of blind *taqlīd* reached its zenith in Ibn Taymiyya's claim: "One who requires *taqlīd* of a particular imām must be asked to repent, and if he refuses, he is to be killed." See Ibn Taymiyya, *Fatāwā*, 4:625. The tendency to reject blind imitation and to favor *ijtihād* is well-known among other classical commentators and schools of thought. For example, Ibn Ḥazm (d. 1064) questioned the authenticity of blind imitation, when he challenged those who supported imitation to name a single commentator of the medieval era who accepted his predecessor's fatwās without criticism or evaluation. He replied that such a person cannot be found among the Prophet's Companions, the Companion's followers, and the follower's followers. He added that those imitators should know that they have incorporated a forbidden innovation (*bidʿa muḥditha*) into Islam. See Mūsa, *Tārīkh*, 78.

was condemned by Ibn Taymiyya and his student, Ibn Qayyim al-Jawziyya. Ibn Taymiyya states:

> Man is nurtured into the religion of his father, or of his master, or his race, as a child follows the religion of his father… Anyone who deviates from following the Qurʾān and the Sunna, from obedience to God and the Prophet, only to regress to the manner of his father and his race, belongs to the Age of Ignorance (*jāhiliyya*). Likewise, he who, in dealing with certain issues, comes to know the clear truth with which God sent His Prophet, and then departs from it for his own wont, is untrustworthy and shall receive punishment.[75]

According to CRLO, *taqlīd* is divided into four categories: (1) independent *taqlīd* by an individual capable of *ijtihād*, i.e., drawing rules from the sacred textual sources—forbidden because it contradicts the Muslim consensus as interpreted by CRLO (see legal theory above); (2) when a person skilled in *ijtihād* imitates other *mujtahid*s, instead of promulgating a rule derived by his own *ijtihād*, based on the Qurʾān, the Sunna, and the opinions of al-Shāfiʿī and Aḥmad Ibn Ḥanbal—also prohibited by CRLO; (3) *taqlīd* by a Muslim layman, who is not qualified to derive rules by his own efforts, in which case he is permitted to imitate a skilled *mujtahid*, based on the verse: "If ye realize this not, ask of those who possess the Message" (Q.16:43); and lastly, (4) the *taqlīd* of one's predecessor, leader and ruler—this is forbidden as well.[76]

The modern Wahhābī approach to *taqlīd* is similar to that of their predecessors in the sense that they do not forbid *taqlīd* altogether; however, they restrict it to the minimum. This is clear in their determination that only one category of *taqlīd* (see category #3 above) is permitted. This is true in cases in which a Muslim is unable (*ʿājiz*) to illicit the rules (*istinbāṭ al-aḥkām*) from the sources by his own efforts; otherwise, it is incumbent on him to seek a muftī known for his knowledge, merit, piety and righteousness.[77]

Wahhābīs do distinguish between *taqlīd* and 'following' (*ittibāʿ*): a *muqallid* (imitator) adheres to an imām or a *madhhab*, while a *muttabiʿ* (follower) conforms to the norms and behavior of the Prophet as manifested in the traditions. According to Shaykh Ibn Bāz, *ittibāʿ* is based

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[75] Ibn Taymiyya, *Fatāwā*, 11:240. More on *taqlīd* in classical doctrines in Ibn Qayyim al-Jawziyya, *Iʿlām*, 2:161–237.

[76] Fatwā No. 11296, issued by Shaykh Ibn Bāz (Chairman), ʿAbd al-Razzāq al-ʿAfīfī and ʿAbd Allāh b. Ghudayyān. See al-Dawīsh, *Fatāwā al-lajna*, 5:29–31.

[77] Al-Dawīsh, *Fatāwā al-lajna*, 5:29–33, 53.

on Q. 3:31: "Say, if ye do love Allah, follow me. Allah will love you and forgive you your sins, for Allah is oft-forgiving, most merciful." Thus, in his farewell sermon to the Muslims, he argues that obedience to the Prophet must be absolute and unassailable: "As long as you hold fast to two things which I have left among you, you will never go astray: Allah's Book and the Sunna of His Messenger."[78] In short, all contradictory beliefs, statements, deeds and ethics are to be rejected.[79]

This attempt to distinguish between text-based *ittibāʿ* and blind *taqlīd* is found in most major Wahhābī works.[80] In addition to the Qurʾān, appropriate ḥadīths are used extensively, derived from the instructions given by the Prophet and senior Companions. In such cases, Wahhābīs present their queries not as acts of *taqlīd*, but merely as searches for textual evidence. Thus, according to contemporary Wahhābīs, what distinguishes *ittibāʿ* qua *ijtihād* from *taqlīd* is that the former is always based on textual evidence, albeit in the form of a fatwā from a muftī, while the latter refers to an opinion or a fatwā not corroborated in the same way. The fact that a questionable or contested *taqlīd* may be the inevitable consequence of the very same literalism that the Wahhābīs so greatly prize seems to have been overlooked by them. After all, the search for textual evidence results in the unnecessary hindering of *taqlīd*, and the inquirer, no matter how faithful to the original sources, will then find himself constrained to accept a blind *taqlīd*, adopting, *prima facie*, the evidence of a jurist on a matter beyond the scope of his knowledge. In doing so, the inquirer becomes, *ipso facto*, a *muqallid*.

This leads to the attitude toward the four Sunni *madhhab*s, which is in line with the legal and jurisprudential norms laid out by King Ibn Saʿūd as early as the 1920s. In August 1927, when establishing the Saudi Sharīʿa court system, Ibn Saud declared the following:

> What school of law should it [the Court] follow? It is not restricted by any particular *madhhab*; rather, it decides according to what appears to be [applicable] from any of the *madhhab*s, and there is no difference between one and the other.[81]

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[78] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:187–188, 4:166. On *ittibāʿ* see further Ibn Qayyim al-Jawziyya, *Iʿlām*, 2:164–168.

[79] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:211–243.

[80] See Commins, *Islamic reform*, 49–70.

[81] *Umm al-Qurā*, August 5, 1927.

This line of thought was elaborated upon by King Ibn Saʿūd during a public address in 1934:

> We obey neither Ibn ʿAbd al-Wahhāb nor any other person, unless what they say is clearly endorsed by God's Book and the Prophet's Sunna. God made us—me, my fathers and my ancestors, preachers and teachers, according to the Qurʾān and the Sunna…Wherever we find strong evidence in any of the four *madhhab*s, we refer and hold to it. Otherwise, whenever strong evidence is lacking, we adopt the opinion of Imām Aḥmad [Ibn Ḥanbal].[82]

The superiority of the Qurʾān and the Sunna was confirmed in the Article 6 of the Constitution of Ḥijāz, which reads: "Legislation in the Kingdom of Ḥijāz shall conform to the Book of God, the Sunna of his Prophet and the conduct of the Prophet's Companions and pious followers."[83] All the same, Article 48 of 1992 Basic Regulations reads: "The courts will apply the rules of the Islamic Sharīʿa to the cases brought before them, as stipulated in the Book and the Sunna, and those statutes decreed by the Ruler which do not contradict the Book or the Sunna"; and Article 45 states: "The sources for issuing fatwās in the Kingdom of Saudi Arabia are God's Book and the Sunna of His Messenger."[84]

For better understanding of these sacred sources, a person should seek the best interpretation by studying the different methods of argumentation (*ṭuruq al-istidlāl*) in various *madhhab*s. A person may subscribe to a particular *madhhab* in order to benefit from its principles and guidelines, and yet turn to another *madhhab* and adopt certain of its views when they seem better suited to a specific legal problem.[85] However, adherence to a specific *madhhab*, while ignoring a correct opinion found in the doctrine of another *madhhab*, is unacceptable practice.[86] That is to say, the Saudi Dār al-Iftā supports inter-*madhhab*

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[82] al-ʿAjlānī, *Tārīkh*, 99.
[83] Anderson, *Islamic law*, 83.
[84] Royal Decree No. 90/A, March 1992.
[85] Al-ʿUthaymīn, *Uṣūl*, 97–104.
[86] This trend, known as non-madhhabism (*la madhhabiyya*), has been criticized by some contemporary scholars. Shaykh Saʿīd Ramaḍān al-Būṭī has articulated a response to this anti-*madhhab* trend in his book: *Non-madhhabism: the greatest bidʿa threatening the Islamic Sharīʿa*. He compares Islamic jurisprudence to medicine: "If one's child is seriously ill," he asks, "does [the parent] look in the medical textbooks for the proper diagnosis and cure, or does [he/she] go to a trained medical practitioner?" Reason dictates the latter option. The same holds in matters of religion, which are, in fact, no less important and also potentially hazardous. It would be foolish and irresponsible

interpretation and rejects the notion of fidelity to a specific *madhhab*, arguing that there is no reason for a Muslim to be constrained by a particular set of determinations.[87] According to CRLO, a creative interpreter is not bound by the specific opinion of his *madhhab* if he discovers the validity of an opinion found in another *madhhab*. With respect to a specific legal matter, it is not appropriate to prefer one's *madhhab* over another, if the other's position is more just. An interpreter should always strive to attain justice for its own sake. Therefore, the seeker of justice, though he identifies himself with a particular legal school, should not abide by it when the truth lies elsewhere.[88] This is most significant in contemporary Wahhābī methodology for establishing *tarjīḥ* (see below).

The Wahhābī inter-*madhhab* trend is also evident in frequent references to the four *madhhab*s in CRLO research and fatwās (see Chapter 6 below), in the juridical literature, in the mosques and universities, and in the constant republication of Wahhābī literature.[89] By recognizing the contribution of these four *madhhab*s, contemporary Wahhābīs have shown more than one sign of liberation from the Ḥanbalī shackles of the past. Wahhābīs stress, however, that they do not accept an imām's views axiomatically, since none of the Four Imāms limited their followers to their own *madhhab*. They all adhered to the classical texts, seeking to act in accordance with the Qurʾān and the Sunna, without viewing their own decisions as sacrosanct. According to the Wahhābīs, the one thing all the *madhhab*s have in common is their shared sense of inferiority with respect to the primary textual sources of Islamic law.

However, the Ḥanbalī *madhhab*, as interpreted by Ibn Taymiyya and his disciples, is still preferred by Dār al-Iftāʾ when strong evidence is lacking elsewhere. The Ḥanbalī *madhhab* is favored because it is less of a *madhhab*, so to speak, than the other three Sunni *madhhab*s, i.e., Aḥmad Ibn Ḥanbal is regarded more as a traditionalist (*muḥaddith*) than as the founder of a school of law.[90] Ibn Ḥanbal sought to return to the original sources (i.e., the Qurʾān, the Sunna, and the traditions

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for a layman to try to examine the sources himself, i.e., to act as a muftī. Instead, one should recognize that those who have spent their lives studying the Sunna and the principles of law are less likely to be mistaken. See al-Būṭī, *Lā madhhabiyya*, 26.

[87] Al-Dawīsh, *Fatāwā al-lajna*, 5:1, 28–9; al-Frīdān, *Muntaqā*, 2:213.

[88] Al-Dawīsh, *Fatāwā al-lajna*, 5:42.

[89] Ibid., 5:31–33.

[90] Hurvitz, *Formation*, 105.

agreed upon by the Companions of the Prophet).[91] Also, the Ḥanbalī sources are easily accessible and easy to cite for legal proof. For these reasons, Ḥanbalī commentaries, such as *al-Muntaqā* and *al-Iqnāʿ*, are recommended to judges by the Commission on Judicial Supervision. Should these two commentaries, for some reason, not be available, the court seeks help from the *al-Zād* and the *al-Dalīl* commentaries. Beyond that, judges should search other Ḥanbalī sources and select the prevalent opinion. Today, there are six recognized, authoritative Ḥanbalī sources used in contemporary Wahhābī jurisprudence:[92]

1. ʿAbd al-Raḥmān Ibn Qudāma, *al-Sharḥ al-kabīr*
2. al-Futūḥī, *Muntahā al-irādāt*
3. Ibn Qudāma, *al-Mughnī*
4. Manṣūr al-Bahūtī, *Kashshāf al-qināʿ ʿan matn al-iqnāʿ*
5. Manṣūr al-Bahūtī, *Sharḥ muntahā al-irādāt*
6. Mūsā al-Ḥujjāwī, *al-Iqnāʿ*.[93]

Initially, these sources were relevant to the Sharīʿa courts and are now valid for Dār al-Iftāʾ as well, since both *iftāʾ* and *qaḍāʾ* often play a complementary role.[94] Thus, Dār al-Iftāʾ more or less maintains the classical Wahhābī sources as authorities for the interpretation of the Sharīʿa's objectives (*maqāṣid al-sharīʿa*). Although these six sources are still basically valid, modern muftīs expanded the usage of other Ḥanbalī sources, mainly to include the works of Ibn Taymiyya and his student Ibn Qayyim al-Jawziyya. BSU member Shaykh Ṣāliḥ al-Guṣūn noted that Wahhābīs follow the *madhhab* of Ibn Taymiyya (identified by them as *Shaykh al-Islām*) and of Ibn Qayyim al-Jawziyya, using both their *uṣūl* and their elaborated *fiqh*.[95] According to Shaykh al-Guṣūn, the most important source for the understanding of modern Wahhābī *uṣūl al-fiqh* is *Iʿlām al-muwaqqiʿīn*, a book by Ibn al-Qayyim.[96]

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[91] On Ḥanbalī jurisprudence, see ibid., 103–112; Abū Zayd, *Madkhal*, 517–37; al-Turkī, *Uṣūl*.

[92] Solaim, "Constitutional," 95.

[93] Ibid. 97–98; Ḥamza, *Bilād*, 197; al-Farsy, *Aṣāla*, 59.

[94] See, for example, Vogel, "Complementarity," 262–269. On the Saudi judicial system, see, for example, Vogel, *Islamic law* and Abū Ṭālib, *Niẓām.*

[95] Al-Dawīsh, *Fatāwā al-lajna*, 3:344; Vogel, "Islamic law," 165–166.

[96] Ibid. A related fatwā of Shaykh Ṣāliḥ al-ʿUthaymīn recommends other *fiqh* books, such as *Ādāb al-mashī ilā al-Ṣalāh* by Muḥammad Ibn ʿAbd al-Wahhāb and *ʿUmdat al-fiqh* by Ibn Qudāma. See Ibn ʿUthaymīn, *Majmūʿ fatāwā*, section "*Bāb al-ʿilm*".

Other important sources for fatwās are those based on empirical evidence. Modern Saudi muftīs, like most other religious scholars, have no extensive knowledge of scientific or technological matters. Thus, as mentioned in Chapter 2, CRLO occasionally depends on external experts. Muftīs generally cite scientific evidence in its corroborative capacity, rather than as solitary evidence for a ruling. Medical evidence tends to be cited in very general terms and only on widely accepted matters, such as the dangers of alcoholism or the fact that a man's sperm possesses life-giving attributes.[97] In such cases, it may be deemed unnecessary to consult an expert. However, CRLO has, in past, cited certain scientific or medical sources to reinforce the underlying wisdom of certain Islamic practices, for which no expert evidence was provided.

Methodology: *Tarjīḥ* and the Evaluation of Evidence

The practice of determining the preponderant opinion (*tarjīḥ*) in conjunction with evaluated evidence (*dalīl*) constitutes the basis of contemporary Wahhābī legal methodology. *Tarjīḥ* is defined as 'the determining of preponderance' by which the *mujtahid* weighs conflicting evidence.[98] Ḥamad al-Farayān, the former Deputy Minister of Justice, states:

> …Every scholar must determine the preponderant opinion, i.e., practice *tarjīḥ*…using evaluated evidence. One may venture out from it to learn appropriate proofs and holdings from other *madhhab*s, but one still employs the methods of one's own *madhhab*. Now, in contrast, ʿulamāʾ assume there is an independent vantage point from which the views of all the *madhhab*s can be accessed and evaluated, and *tarjīḥ* conducted between them—and this, without declaring oneself an absolute *mujtahid*.[99]

Vogel claims that one of the major goals of Sharīʿa education in Saʿudī universities is producing *ʿulamāʾ* capable of different levels of *ijtihād*, as evidenced in the curricula of the three Sharīʿa colleges in the Kingdom (Ibn Saʿūd in Riyadh, Umm al-Qurā in Mecca, and the Islamic

[97] See the case studies in Ch. 6 below.

[98] Al-Dawīsh, *Fatāwā al-lajna*, 5:27–46; see also al-Frīdān, *Muntaqā*, 5:365–368; al-ʿUthaymīn, *Uṣūl*, 97–104.

[99] Quoted in Vogel, *Islamic law*, 78–79.

University of Medina) and in the High Institute of the Judiciary (*Majlis al-Qaḍāʾ al-Aʿlā*).[100] Colleges produce graduates equipped to be the future judges and muftīs by providing them with the 'tools of *ijtihād*" and enabling them to perform *tarjīḥ*. They teach the doctrines of all four *madhhab*s, *uṣūl al-fiqh* and the exercise of *tarjīḥ*.[101]

The practice of *tarjīḥ* is permitted, however, only when dealing with surmised (*ẓannī*) cases, i.e., cases lacking sufficient textual evidence or a reliable chain of transmission. The *murajjiḥ* (a person who performs *tarjīḥ*) usually acts in cases with multiple opinions, making it necessary to compare those opinions with respect to their transmission, those who espouse them and their evidence. This should be accomplished using three major parameters:

(1) the strength of the evidence, i.e., the validity of the relevant legal source. For instance, an opinion based on a primary textual source carries greater weight than one based on a jurist's independent opinion (*raʾy*);
(2) a primary text (*matn*; pl. *mutūn*). This parameter has dozens of distinctions and classifications in legal literature and the works of *uṣūl al-fiqh*;[102] and
(3) the compatibility of a specific opinion with new circumstances, a problem often faced by modern jurists.

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[100] Ibid.
[101] Ibid.
[102] Wael Hallaq lists a total of 173 forms of *tarjīḥ* based on al-Āmidī's observations. He enumerates some of the most important types, as follows: (1) a tradition whose text consists of fixed and steadily reported language outweighs another whose language is inconsistent and confused. A text whose language is not fixed leads to varying interpretations and reveals the imprecision of its transmitter(s); (2) a text in which the legal norm is explicitly and completely expressed is superior to another in which the norm is elliptically stated or merely suggested; (3) [related to the previous category] a tradition or text whose *raison d'être* is the stipulation of a legal norm is considered better than another in which the legal norm is incidentally stated; (4) a text whose general language (*ʿāmm*) has been particularized in a manner which the jurists have approved is superior to another in which particularization has proven to be controversial; (5) a text containing a real usage (*ḥaqīqa*) outweighs another containing a metaphor (*majāz*); (6) a text that is expressed in emphatic language outweighs another that is not; (7) a text that reflects the consensus of the entire community is superior to another which reflects the consensus only of the jurists. The same logic also dictates that the consensus of the Companions is deemed superior to that of the Followers, which also means that the consensus of deceased *mujtahid*s outweighs that of contemporary ones; (8) a text that includes additional information outweighs another that omits that information. See Hallaq, *Authority*, 127, 130–131. On *tarjīḥ* see further Abū Zahra, *Uṣūl*, 350–365; Weiss, *Search*, 729–739; al-Ashqar, *Futyā*, 58–60.

The fact that Wahhābī jurists do not restrict themselves to a particular *madhhab* enhances the use of *tarjīḥ*. Each jurist is responsible for evaluating the evidence and formulating his own opinions. However, if a jurist finds opinions of any *madhhab* that clearly oppose the given evidence, they should be rejected.

As for the evaluation of evidence (*dalīl*), also called 'proof evaluation', it is crucial, particularly for judges and muftīs, who must base their opinions on solid evidence. Shaykh Ibn Bāz writes that: "It is not important whether the fatwā is issued by one muftī or a group of muftīs. What is important is the *dalīl* and its degree of relevance to the fatwā."[103] In cases of scholarly disagreement (*ikhtilāf al-fuqahāʾ*), a muftī can act in the following manner:

> One should determine the preponderance, as indicated by the evidence, whether it conforms to the Ḥanbalī *madhhab* or not, since one must follow the truth, as understood in the Qurʾānic verse (4:59): 'O, ye who believe! Obey Allah, and obey the Messenger, and those charged with authority among you! If ye differ in anything among yourselves, refer it to Allah and His Messenger…that is best and most suitable for final determination.'[104]

Note that *tarjīḥ* is recognized by other contemporary scholars as a fundamental methodological tool of *ijtihād*. For instance, Shaykh Yūsuf al-Qaraḍāwī called for broadening its spectrum by practicing it not only within the four *madhhab*s but also outside them. According to al-Qaraḍāwī, *tarjīḥ* may be practiced along with the Companion's opinions, those of their followers (*tābiʿīn*) and even of the followers of the followers (*tābiʿī al-tābiʿīn*).[105] He considered it a mistake to think their opinions are inferior to the opinions of the Four Great Imāms: Abū Hanīfa, Mālik b. Anas, al-Shāfiʿī and Aḥmad Ibn Ḥanbal. Thus, al-Qaraḍāwī expands *ijtihād* practice by utilizing all the Islamic legal traditions in the broadest sense.

Al-Qaraḍāwī also stresses that once a *mujtahid* practices *tarjīḥ*, he must consider the extent to which such an opinion serves the aims of preventing harm to individuals and promoting public welfare, based

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[103] Cited in al-Shalhūb, *Niẓām*, 219.

[104] Al-Shuwayʿir, *Majmūʿ fatāwā*, 4:166.

[105] Al-Qaraḍāwī mentions: ʿUmar, ʿAlī, ʿĀʾisha, Ibn Masʿūd, Ibn ʿAbbās, Ibn ʿUmar, Zayd b. Thābit, Muʿādh, and their followers, and Ibn al-Musayyab, Ibn Jubayr, Ṭāwūs, ʿAṭāʾ, Ibn Sīrīn, al-Zuhrī, al-Nakhʿī, al-Layth Ibn Saʿd, al-Awzāʿī, al-Thawrī and al-Ṭabarī. See al-Qaraḍāwī, *Ijtihād*, 27–28.

on the principle of 'the prevention of damage is preferable to the promotion of benefit' (*darʾ al-mafāsid yataqaddam ʿalā jalb al-maṣāliḥ*).[106] He rejects the notion that 'the former leaves little for the latter'; rather, he maintains that one must ask the questions: How much does the former leave to the latter? or, To what extent is the latter aware of the means for achieving the former? According to al-Qaraḍāwī, modern *mujtahid*s should not limit themselves to new problems, rather they are obligated to reevaluate existing opinions, mainly those that were classified as 'assumed to be established' (*ẓanniyat al-thubūt*), e.g., solitary traditions (*ḥadīth āḥād*) or those based on surmised evidence (*ẓannī al-dalāla*), i.e., most Qurʾānic and Sunnaic texts.[107]

To conclude this chapter, it is clear that modern-day Wahhābīs have remained faithful to the tenets of their predecessors in terms of maintaining a vigorous adherence to the sacred text and to the transmitted tradition (*naql*), rather than to the prevailing argument (*ʿaql*). That is to say that contemporary Wahhābī jurisprudence places primary importance, mainly on the Qurʾān and the Sunna, and consults them on various matters at hand before any other authority. However, this discussion indicates certain transformations in the manner in which contemporary Wahhābīs approach these traditions, as evidenced in legal theories, affiliations to a school of thought and the methodologies of *ijtihād* and *taqlīd*.

In regard to legal theory, contemporary Wahhābī *uṣūl* seems to have gone beyond Ibn Ḥanbal's basic *uṣūl* and has adopted the pattern prevalent elsewhere in the Muslim world, namely accepting the four *uṣūl* of the three other schools: Qurʾān, Sunna, *ijmāʿ* and *qiyās*. It is significant that the Wahhābī approach to the *qiyās* is based not only on *ʿilla* as an effective cause, but also on necessity (*ḍarūra*) and public interest (*maṣlaḥa*) as legal sources. This approach enables extensive use of reasoning and accommodating legal norms when dealing with the challenges of modern life.

These stirrings in modern-day Wahhābī jurisprudence are also related to the schools of legal thought. Contemporary Wahhābīs show more than one sign of non-exclusive reliance on the Ḥanbalī school of jurisprudence. They not only support *ijtihād* and restrict *taqlīd*, but also apply preponderance (*tarjīḥ*) as a determining criterion based on

[106] Ibid., 16. See also al-Shāṭibī, *Muwāfaqāt*, 3:257; 4:196, 198.
[107] Al-Qaraḍāwī, *Ijtihād*, 16.

all the *madhhab*s. For contemporary Wahhābīs, abandoning the opinion of a certain school is allowed when a scholar finds a preponderant opinion in another *madhhab*. This means that a person with the ability to deduce the rule from its proof is not allowed to restrict himself to a certain *madhhab*, but rather is expected to take on this responsibility personally. Only those incapable of inferring rules from direct proofs can adopt one of the *madhhab*s. By not confining themselves to a certain tradition, namely Ḥanbalism, contemporary Wahhābīs strive to utilize Islamic legal traditions in the broadest sense, thus accommodating the legal system to the challenges of modern life. These legal stirrings are contributing to actual changes, which will be shown in the following two chapters.

CHAPTER FIVE

BIDʿA VIS-À-VIS SUNNA: THE LIMITS OF CHANGE

The religio-legal significance of *bidʿa* has always drawn the attention of scholars, who focus on the development of Islamic law and modern Muslim societies.[1] Muhammad Masud, in an article dealing with the definition of *bidʿa* in South Asian fatwās, notes the disputes in western scholarship on the significance of *bidʿa*. For example, some earlier scholars present the modern definition of *bidʿa* as being an obstacle blocking the approval of change and innovation in Islam, e.g., such as the use of silverware.[2] This attitude was not accepted by later scholars who claim that it does not reflect the real trend in modern Muslim society.[3] The latter emphasize the historical development of *bidʿa* and the tendency to adjust its meaning to suit current dynamics inherent in Muslim law, contrary to traditional claims of dogmatism and 'stagnation'.[4]

In this chapter, I investigate the fundamental Islamic concept of *bidʿa* as discussed extensively in modern Wahhābī legal deliberations. I study the legal definition of the term and the consequences of its application in modern Wahhābī jurisprudence. Emphasis is placed on the way in which Dār al-Iftāʾ delineates the traditional religio-legal boundaries of the forbidden versus the permissible in the context of modern society. I suggest that the modern Wahhābī definition of *bidʿa* is clear-cut, having a single purpose—to embody all that is prohibited in Islam—while Sunna represents all that is permissible, i.e., *bidʿa* versus Sunna. Before proceeding with these modern Wahhābī perceptions of *bidʿa*, it is worthwhile noting the legal context within which this discussion is being held. The following presents a variety of positions held by *madhhab*s on the definition of *bidʿa*.

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[1] See, for example, Fierro, "Treaties," 204–246; Masud, "Definition," 55–75; Rispler-Chaim, "Toward," 320–328.

[2] Masud, "Definition," 1.

[3] Ibid., 1–2.

[4] See Rispler-Chaim, "Toward," 328.

Bidʿa in Islamic Law

Linguistically speaking, *bidʿa* means 'an unprecedented innovation', derived from the root *b-d-ʿ*.[5] Though this root is not mentioned in the Qurʾān, it does appear in different forms: *badīʿ*, one of 'God's beautiful names' (*asmāʾ Allāh al-ḥusnā*), *bidʿan* and *ibtadaʿūhā*.[6] The concept of *bidʿa* first appears in its negative connotation in some of the Prophetic traditions, where it is defined as being 'a deviation from the straight path' (*muḥditha, ḍalāla or munkara*). For example, one ḥadīth states: "The best words are the Book of Allāh and the best path to follow is the path of Muḥammad, and the worst things are innovations and every innovation is a deviation from the straight path".[7]

Nonetheless, an additional, positive meaning was given to this term by the 2nd Caliph, ʿUmar Ibn al-Khaṭṭāb (d. 644), who said, in regard to the prayer of Ramaḍān (*Ṣalāt al-tarāwīḥ*), that "this *bidʿa* is blessed" (*Naʿimat al-bidʿa hādhih*).[8] The declaration by ʿUmar caused this term to take on a dual religio-legal meaning: on the one hand, the negative meaning as found in the above ḥadīths and others; on the other hand, a positive meaning, based especially on ʿUmar's statement.[9] This two-pronged significance caused legal controversy, especially between two groups of jurists: one group recognizing the duality of its legal meaning and the other accepting only one meaning—the negative connotation. The former group based its opinions, for the most part, on ʿUmar's declaration, but also on other sources, such as the ḥadīth: "He who enacts good laws in Islam will be recompensed for it and for those who practice them… But he who enacts bad laws will be punished for it and for those who follow them."[10]

One of the most outstanding jurists was al-Shafiʿī (founder of the Shāfiʿī school, d. 820), who accepted the dual meaning of *bidʿa*. He divided the meaning of *bidʿa* into two main parts: a) 'good' (*maḥmūda*) and b) 'reprehensible' (*madhmūma*).[11] This approach was also adopted and developed by later Shafiʿī scholars, such as Ibn ʿAbd al-Salām

[5] Ibn Manẓūr, *Lisān al-ʿArab*, 6.
[6] See Q. 2:117, 6:101, 46:9 and 57:27.
[7] Ibn Māja, *Sunan*, 1:74.
[8] Ibn al-Jawzī, *Manāqib*, 64.
[9] Al-Bāqirī, *Bidʿa*, 141–187; al-Subḥānī, *Bidʿa*, 67–85.
[10] Muslim, *Ṣaḥīḥ*, 61.
[11] Ibn Ḥajar, *Fatḥ*, 253; Ibn al-Athīr, *Nihāya*, 106.

(d. 1262), Abū Shāma (d. 1266), al-Nawawī (d. 1277) and al-Suyūṭī (d. 1505).[12]

Ibn ʿAbd al-Salām based his legal interpretation of *bidʿa* on the 5 known categories of human action (*al-aḥkām al-khamsa*):[13] 'forbidden' (*ḥarām*), such as the ideologies of various theological movements like al-Murjiʾa and al-Qadariyya; 'reprehensible' (*makrūh*), e.g., eating certain foods; 'permissible' (*mubāḥ*), such as shaking hands after prayers; 'recommended' (*mandūb* or *mustaḥab*), e.g., building schools; and finally, 'obligatory' (*wājib*), for instance, studying the sacred sources in depth.[14] Other jurists belonging to this group are: Ibn Ḥazm (d. 1064), who recognized the positive meaning of *bidʿa* (*bidʿa ḥasana*) and even claimed that there should be a reward for those applying it;[15] Abū Ḥāmid al-Ghazālī, who also sought innovations (*ibdāʿ*) in certain cases and under certain circumstances;[16] Ibn al-Athīr (d. 1232), who, like al-Shafiʿī, divided the *bidʿa* into two main parts: *maḥmūda* and *makrūha*;[17] al-Ṭarṭūshī (d. 1126 or 1131)[18] and others.

In essence, this group of jurists provided a certain amount of flexibility that might allow for the acceptance of innovations, whether in the sacred realm of God-man relationships (*ʿibādāt*) or in the mundane realm of human relationships (*muʿāmalāt*). In regard to *ʿibādāt*, the acknowledgment of the positive religio-legal significance of *bidʿa* paves the way for religious innovations. This approach is further expressed in regard to innovations in the area of custom, in accordance with the basic religio-legal principle: "A legal ground rule in customary law is the dispensation" (*al-aṣl fī al-ʿādāt al-ibaḥa*). Innovation within this framework is considered permissible, as long as it does not contradict the Sharīʿa.[19]

However, the other group of jurists, rejected the double religio-legal significance of *bidʿa*, recognizing only the negative meaning of this term—*muḥditha* or *ḍalāla*. Some members of the latter group are: the

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[12] See, Rispler-Chaim, "Toward," 234.

[13] According to Islamic law, the deeds and omissions of human beings fall into five ethico-legal categories called *al-aḥkām al-khamsa*: obligatory (*farḍ* or *wājib*); recommended (*mustaḥab* or *mandūb*); permitted (*mubāḥ*); reprehensible (*makhrūh*); and forbidden (*ḥarām*).

[14] Ibn ʿAbd al-Salām, *Qawāʿid*, 204–205.

[15] Al-Bāqrī, *Bidʿa*, 144.

[16] Al-Ghazālī, *Iḥyāʾ*, 4–5.

[17] Ibn al-Athīr, *Jamiʿ*, 280–281.

[18] Al-Ṭarṭūshī, *Kitāb*, 15.

[19] Al-Subḥānī, *Bidʿa*, 84–85; al-Ghāmidī, *Ḥaqīqat*, 303; al-Būṭī, *Salafiyya*, 145–151.

Malikī jurist, al-Shāṭibī (d. 1388),[20] Ibn Ḥajar al-ʿAsqalānī (a Shāfiʿī scholar, d. 1449)[21] and mainly Ḥanbalī jurists, such as Ibn al-Jawzī (d. 1201),[22] Ibn Taymiyya (d. 1328) and Ibn Rajab (d. 1393).[23] Therefore, any further categorization of *bidʿa* is superfluous. Ibn Taymiyya, for example, considered all such categorization attempts to be 'the negation of the broad legal purpose' (*salb al-ʿumūm*) in light of the negative, religio-legal determination that all *bidʿa* is *ḍalāla*, opposed to Prophetic tradition (*mushāqqat al-Rasūl*).[24] Ibn Taymiyya's view on the categorization of human action is different, based on the opposition of *bidʿa* to Sunna. Following his approach, 'permissible', 'recommended' or 'obligatory' innovations are, essentially, innovations within the framework of the Sunna**,** and are only called *bidʿa* for wont of another term, but they have no religio-legal validity.[25] According to his definition, all religious innovation, especially in the sacred realm of the God-man relationship, is problematic. This relationship, according to Ibn Taymiyya, was determined by the behavior of the *Salaf* and, as such, forms the crux of the religio-legal system, such that any practice adopted and maintained by the *Salaf* remains binding.[26] He also stated that any practices freely avoided by the *Salaf* should not be part of normative Islamic behavior. This can be ascertained from his conservative stance on certain local customs, such as the celebration of the birthday of the Prophet, which he considers to be a forbidden innovation (*bidʿa muḥditha*).[27]

In any case, there is a clear trend among jurists in both groups to divide *bidʿa* into two main areas: *bidʿa* in the sacred realm of *ʿibādāt* and *bidʿa* in the mundane realm of *muʿāmalāt*. Innovation in the realm of the sacred is mostly forbidden, because it is counter to the religious injunctions laid down by the textual sources (Qurʾān and Sunna) and ratified by the consensus. Mundane innovation is often permissible due to its non-religious nature, on condition that it does not con-

[20] Al-Shāṭibī, *Iʿtiṣām*, 141, 191–192.
[21] Ibn Ḥajar, *Fatḥ*, 252.
[22] Ibn al-Jawzī, *Talbīs*, 16.
[23] Ibn Rajab, *Jawāmiʿ*, 67–77.
[24] Ibn Taymiyya, *Iqtiḍāʾ*, 93.
[25] Ibid.
[26] Ibid., p. 123; al-Bāqirī, *Bidʿa*, 211.
[27] For example, Ibn Taymiyya rejected celebration of the Prophet's birthday, since it was neither mandated nor observed in the days of the *Salaf*, despite their zealous observance of the Prophet's legacy. More on such holidays and customs in: Ibn Taymiyya, *Iqtiḍāʾ*, 123, 149–155; al-Būṭī, *Salafiyya*, 146; al-Bāqirī, *Bidʿa*, 211.

tradict the Sharīʿa. However, the above division does not serve as a paradigm for innovation since each case must be judged on its own merits, thus, disagreements between jurists continue.[28]

The contemporary legal, theoretical discussion on the definition of *bidʿa* is the natural continuation of the classic debate, though the context and circumstances are different and ever-changing. As in the earlier debate, the tendency in this modern dialogue is to adapt the legal definition of the term to suit the changing needs of contemporary Muslim society. However, some past disagreements still stand and there is still no one accepted definition.[29] For example, Rashīd Riḍā (d. 1935) classified *bidʿa* either as being 'religious' (*dīniyya*) or 'non-religious' (*ghayr dīniyya*).[30] He rejects all religious *bidʿa* and further divides the non-religious *bidʿa* into: 'good' (*ḥasana*) and 'bad' (*sayyiʾa*). In this manner, Riḍā establishes a critical distinction between innovations that contradict the traditional text-based principles and those resulting from the traditional fifth category of human action—that which is 'permissible' (*mubāḥ*).[31] This trend is also seen in the thinking of others who follow Muḥammad ʿAbduh and later scholars.[32] For example, ʿAṭiyya ʿIzzat ʿAlī suggests addressing the concept of *bidʿa* at different degrees of legality. He divides *bidʿa* into categories with various legal standing: devotional (*taʿabbudiyya*); local customary (*ʿādiyya*); conceptual (*iʿtiqādiyya*); rhetorical (*qawliyya*); practical (*ʿamaliyya*); simple (*basīṭa*); complex (*murakkaba*); obligatory (*wājiba*); recommended (*mandūba*); permitted (*masmūḥa*); reprehensible (*makrūha*); and forbidden (*muḥarrama*).[33]

Bidʿa in Wahhābī Thought

Ibn Taymiyya's conservative approach to the definition of *bidʿa* was not accepted by many theologians in his day.[34] Nonetheless, his influence

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[28] Al-Ghāmidī, *Ḥaqīqat*, 97–103.
[29] Rispler-Chaim, "Toward," 320.
[30] The concept of 'non-religious' relates to innovation from the category of *mubāḥ*.
[31] Riḍā, *Manār*, 273–274.
[32] Layish, "Contribution," 257–274.
[33] ʿAlī, *Bidʿa*, 305–309, 347–351, 355–361.
[34] Criticism of Ibn Taymiyya's approach can be found in: al-Būṭī, *Salafiyya*, 159–189; al-Bāqirī, *Bidʿa*, 211–214.

is still felt 400 years after his death in the formation of the Wahhābī movement during the mid-eighteenth century.[35] Muḥammad Ibn ʿAbd al-Wahhāb had studied Ibn Taymiyya's theological works and defined *bidʿa* roughly in the same manner. He did not accept the divided legal meaning offered by earlier jurists, especially from the Shafiʿī and Mālikī schools.[36] His definition was significant and had far-reaching effects on the modern Wahhābī perception of *bidʿa*.[37] In this spirit, generations of Wahhābīs censored many innovations and considered a long line of common rituals and rites as *bidʿa*, claiming a lack of normative legal tradition from the days of the Prophet and the *Salaf* (e.g., praying at the tombs of saints, celebrating the Prophet's or anyone's birthday, or reading the *Sūrat al-fātiḥa* after each of the five daily prayer sessions in honor of the founders of Sufism; see below).

Contemporary Wahhābīs maintain the line of thought of their spiritual ancestors, especially Ibn Taymiyya and Ibn ʿAbd al-Wahhāb, when determining what is *bidʿa*. In their fatwās and other publications, Dār al-Iftā' and various Wahhābī jurists reject any duality in the meaning of *bidʿa* and accept only the single, dominant traditional meaning of *bidʿa muḥditha* or *ḍalāla*. For example, Shaykh Ibn Bāz does not recognize any classification of *bidʿa* as presented by jurists from other schools. In his words: "*Bidʿa* should not be divided into 'obligatory', 'permitted', etc., since this contradicts the religio-legal tradition as brought by the Prophet."[38]

Ibn Bāz's position on this matter is further clarified in his response to an inquirer from Sudan seeking to resolve a supposed contradiction between a ḥadīth defining *bidʿa* as *muḥditha* and the words of al-Nawawī, who divided *bidʿa* into five categories, parallel to the five categories of human action.[39]

> Query
>
> Al-Nawawī divided the *bidʿa* into five parts…How do these words of al-Nawawī coincide with the ḥadīth reads: "All *bidʿa* is *ḍalāla*?"[40]

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[35] Raḥmān, *Islam*, 197.
[36] Ibn ʿAbd al-Wahhāb, "Faḍl," 225–227.
[37] Bin Qāsim, *Durar*, 48; Ibn Bāz, *Rasāʾil*, 361–362.
[38] Al-Shuwayʿir, *Majmūʿ fatāwā*, 5:180.
[39] Ibid., 5:178–182.
[40] Ibid., 178.

Response[41]

> The statements by al-Nawawī about the division of *bidʿa* into five parts were accepted by some of the religio-legal scholars. They claim that *bidʿa* is divided into five parts… Unlike them, others have claimed that *bidʿa* has only one meaning—that of 'deviation from the straight path' (*ḍalāla*), as stated by the Prophet: "All *bidʿa* is *ḍalāla*," so there is no dividing of *bidʿa* in different parts. This claim is based on authentic ḥadīths (*aḥadīth ṣaḥīḥa*)… This is the true way, so it is forbidden to divide *bidʿa* into different parts in the manner of al-Nawawī and others, since *bidʿa* has only one single religio-legal meaning—*ḍalāla*. All religious innovations are against God's will and called *bidʿa*, a deviation from the straight path.[42]

Clearly Ibn Bāz's answer indicates his obvious identification with the conservative neo-Ḥanbalī viewpoint, adhering to the original, negative legal definition of the term *bidʿa—bidʿa ḍalāla*. He rejects all religious innovation (*bidʿa dīniyya*), for at least two complementary reasons: (1) it conflicts with the tenets of Qurʾān; and (2) it negates the spirit of traditional observance, the 'following' (*al-ittibāʿ*), and yields a new, unwanted innovation (*al-ibtidāʿ*).[43]

As for the first reason, Ibn Bāz bases his claims primarily on a verse from the Qurʾān stressing Islam as a way of life: "…Today I completed your religion for you and My favors to you, and I set your total devotion to Allah as the primary basis of your faith" (Q. 5:3). For Ibn Bāz, this verse, like many others, teaches that Islam is a perfect way of life, thus all innovations must stem from its sacred sources. Moreover, Ibn Bāz determines that the Prophet did not stop his mission until he had confirmed that his work was complete, that he had provided the basis for all the actions, deeds and behavior of the Muslims. Therefore, all innovations must be based on the Sunna, lest they contest the integrity of the Prophet's work and mission, contrary to God's will.[44]

Ibn Bāz found support in the following ḥadīth: "He who innovates in a matter [already having a known religio-legal opinion] in a manner not consistent with that matter [i.e., not taking into account the precedent], is rejected."[45] Also note the Qurʾānic verses: "Take what the Prophet offers you and what he forbids you—avoid, and fear Allah,

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[41] Due to the length of the reply, only a selected portion is presented here; the full text appears in ibid., 5:178–182.
[42] Ibid., 178–179.
[43] Ibn Bāz, "Wujūb luzūm," 222–230.
[44] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:179–180.
[45] Muslim, *Ṣaḥīḥ*, 13.

because His punishment is severe (59:7)." Likewise, he cites the verse below in his argument on innovations:

> Do not consider the Messenger's appeal to you private, as when one of you turns to a friend. Allah knows those amongst you who secretly try to avoid his appeal and all those who do not respond to his appeals are warned that they will be punished painfully and suffer greatly (Q. 24:63).

According to Ibn Bāz, mortal man must follow God's divine and unassailable laws as expressed in the Qurʾān and Sunna. It is the duty of religious scholars, however, to clarify God's will and the revelation of divine law.[46]

Contemporary Wahhābīs do distinguish between two meanings of the term *bidʿa*: one being religio-legal and the other merely linguistic and, thus, having no legal validity. To quote Ibn Bāz:

> …*Bidʿa* is valid only in religious matters and not in permissible ones. For example, varieties of foods not known before are not considered *bidʿa* from the religio-legal standpoint, only linguistically. From a linguistic perspective, any unprecedented innovation is called *bidʿa*, as it says in the Qurʾān (2:117): "Creator of Heaven and Earth",[68] indicating unprecedented creation (*ibtidāʿ*). Thus, not every innovation should be called *bidʿa* from the religio-legal standpoint, unless it lacks a legitimate precedent in the Qurʾān or Sunna…[47]

Thus, Ibn Bāz, like his predecessors, differentiates between the religio-legal meaning and the linguistic use of this term. Accordingly, the term *bidʿa* does not necessarily indicate a forbidden innovation and may merely serve as a convenient description of innovation within a permissible framework, which he later defined as 'non-religious', bearing no religio-legal validity. Innovations within the realm of the permissible, however, should be identified as Sunna, rather than *bidʿa*, because they usually belong to one of the three categories of human action—obligatory, recommended and permissible. In other words, according to the modern Wahhābī definition, 'good' *bidʿa* is Sunna. An apt example of this distinction is the case of the Ramaḍān prayer (which falls under the category of Sunna), explaining ʿUmar's statement "*naʿimat al-bidʿa hādhih*," which is a purely linguistic convention used in regard to the change that occurred in the manner of this

[46] Ibn Bāz, "Wujūb luzūm," 222–230.
[47] Al-Shuwayʿir, *Majmūʿ fatāwā*, 5:179.

prayer.[48] Another instance is the building of public institutions, such as schools, orphanages, etc., and the performance of deeds for the public good, that do not conflict with the Sharīʿa. These fall within the parameters of the Sunna.

This stance was also taken by other prominent Wahhābī scholars. For example, Shaykh al-Fawzān (a BSU member) writes about the division of *bidʿa*: "Anyone who divides *bidʿa* into 'good' and 'bad' is deviating from, even contradicting, the words of the Prophet, who essentially calls *bidʿa* any deviation from the straight path."[49] As far as he is concerned, the negative legal meaning of *bidʿa* in the ḥadīth tradition is unquestionable, since it is based on the principle of *jawāmiʿ al-kalim* (the art of concise writing), one of the most important methodological principles of drafting ḥadīths and religio-legal norms.[50] In response to the stance taken by ʿUmar Ibn al-Khaṭṭāb, al-Fawzān claims that the meaning is literal and legally invalid (*laghawiyya lā sharʿiyya*).[51] In fact, he makes the same classic claims presented by Ibn Taymiyya and Ibn ʿAbd al-Wahhāb.

Thus, al-Fawzān distinguishes two categories of *bidʿa* (1) religious (*dīniyya*) and (2) mundane (*dunyawiyya*). He further divides religious *bidʿa* into two types: (1) those about faith (*qawliyya iʿtiqādiyya*), e.g., the ideologies of theological movements, such as the Muʿtazila, al-Rāfiḍa and al-Jahmiyya; and (2) those about ritual, e.g., the addition of new rituals and ceremonies, such as new prayers or fasts, or changes in existing rituals, like changing the number of genuflections during a prayer session.[52] For Shaykh al-Fawzān, innovations within this category are prohibited and deviate from the right path. In regard to mundane innovations, al-Fawzān claims that they may be permitted, for example, technological innovations that benefit the public (see Chapter 6 below). He stresses the fundamental Islamic religio-legal premise of the 'prohibition' (*al-tawaqquf*) when dealing with religious innovation, while 'permissible' (*ibāḥa*) applies only to mundane innovations, as long as they do not contradict Wahhābī interpretations of the Sharīʿa.[53]

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[48] Ibid. See also CRLO's Fatwā No. 2577 in al-Dawīsh, *Fatāwā al-lajna*, 325–326.
[49] Al-Fawzān, "Taʿrīf," 350.
[50] More on this methodological principle in Ibn Rajab, *Jawāmiʿ*, 67–77.
[51] Al-Fawzān, "Taʿrīf," 352.
[52] Ibid., 350–351.
[53] Ibid., 350.

In light of the above, contemporary Wahhābīs see the Sunna as being the antithesis of *bidʿa*.[54]All innovations within the framework of the Sunna are legitimate, while all innovations outside it are forbidden. The definition of the term 'Sunna', like *bidʿa*, has evolved over time. In early Islam and during the Prophet's lifetime, the main functions of the Sunna were to verify the Qurʾān (*muʾakkida*) and to elaborate its contents (*mubayyina*), in addition to providing an independent legal source for laws not mentioned in the Qurʾān (*munshiʾa*).[55] After the death of the Prophet, the Sunna mainly came to mean the Prophet's legacy: his deeds (*ʿamal*), his sayings (*qawl*), and his silences (*sukūt* or *iqrār*), and later on also included the practices of the Companions.[56] In this way, the meaning of Sunna expanded to include normative action, based primarily on the known religio-legal sources: the Qurʾān, the Sunnaic literature and the Islamic consensus.[57]

Contemporary Wahhābīs, following Ibn Taymiyya and Ibn ʿAbd al-Wahhāb, adopt this broad definition and extend it to include the customs and practices of the *Salaf* as part of the classical Wahhābī religio-legal corpus.[58] Contemporary Wahhābī jurists differ from other Islamic jurists in their high regard for *Salafī* practice as a role model, which influences their interpretation of *bidʿa*.[59] Accordingly, innovations and social practices not in line with the *Salafī* spirit are also considered *bidʿa muḥditha*. All the above provides Dār al-Iftāʾ with the distinct methodological basis for the determination of legitimate innovations and change in all spheres of life.

Below, I provide a variety of practical cases that illustrate the methods applied by Dār al-Iftāʾ to determine what is prohibited and what is permissible in the face of changing reality in late twentieth-century Saudi society. The following pages are dedicated to examples of cases with ethico-social and religious implications, some of which were also rendered into Saudi law.

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[54] Ibn Bāz, "Wujūb luzūm," 211–221.
[55] Ibn Taymiyya, *Iqtiḍāʾ*, 97; Abū Zahra, *Uṣūl*, 106–107; Brown, *Rethinking,* 108–132.
[56] Al-Barbahārī, *Sharḥ*, 37; al-Qaraḍāwī, *Madkhal*, 117–124.
[57] Ibn Taymiyya, *Iqtiḍāʾ*, 93.
[58] Ibn Bāz, "Wujūb al-iʿtiṣām," 231–242.
[59] Al-Fawzān, "Taʿrīf," 350; Ibn Bāz, "Wujūb luzūm," 222–230.

The Limits of Change: the Prohibited

1. *Exalting Islamic Historical Sites*

The first type of cases focuses on the restoration of Muslim historical and archeological sites. In two articles published in *al-Nadwa* magazine, Muṣṭafā Amīn and Ṣāliḥ Jamāl called for the restoration of Muslim archeological sites and their transformation into tourist attractions.[60] Amīn and Jamāl defended the priority of this restoration, fearing that these sites would eventually be destroyed or disappear. From their point of view, it would be mutually advantageous to both Islamic heritage and the tourist industry to preserve such sites, as was done in Paris and London. Jamāl suggested, for example, that a multilingual history of each important site, such as the House of the Prophet, Ghār Thawr and Bayʿat al-Raḍwān, be prepared and posted on a sign at the entrances. Sites previously destroyed should be restored and opened to both local and international visitors. Accessibility, transportation and guidance should be conveniently provided (e.g., roads should be paved, particularly in mountainous areas).[61]

Ibn Bāz rejected these proposals, essentially arguing that such things were unknown in the days of the Prophet and his Companions, who avoided visiting such places, though they could do so. Ibn Bāz added that the Companions prohibited attributing holiness to such historic places or sites mentioned in connection with the Messengers (*tatabbuʿ āthār al-anbiyāʾ*), in order to avoid any potential similarity to the Kaʿba and other Islamic holy sites mentioned in the sacred sources. For example, the second Caliph, ʿUmar Ibn al-Khaṭṭāb, ordered the cutting down of the tree where the Prophet pledged his allegiance of Ḥudaybiya, when he realized that people were visiting that tree and similar places to obtain blessings.[62]

Ibn Bāz found support in the teachings of three classical jurists: al-Ṭarṭūshī, Ibn Waḍḍāḥ (d. 900) and Ibn Taymiyya. Ibn Waḍḍāḥ noted, for example, that Mālik Ibn Anas and other ʿulamāʾ from Medina avoided praying in neglected mosques and archeological sites in Medina. Ibn Taymiyya went further and claimed that the Sunna

[60] *Al-Nadwa*, December 12, 1960 and August 30, 1967.
[61] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:401–402.
[62] Ibid., 1:404.

does not recognize the ritual pilgrimage to Mount ʿArafa, the so-called *Jabal al-Raḥma*. Likewise, the procession around the dome known as Adam's Dome (*Qubbat Ādam*) is forbidden.[63]

2. *Celebration and Remembrance*

Dār al-Iftāʾs stance against the exalting of Islamic sites is similarly demonstrated in regard to festive celebrations and remembrance ceremonies. Muftīs have criticized a long list of social practices of celebration and remembrance, such as: birthdays, wedding anniversaries, Mothers' Day, St. Valentine's Day, Labor Day, Martyrs' Day, Unknown Soldiers' Day, national mourning upon a leader's death and the remembrance ceremonies honoring their death, etc. Most, if not all, of these events were banned by Dār al-Iftāʾ, as being at odds with Wahhābī Islam.

Methodologically, CRLO again relies on the principle of 'imitation of the infidels' (*al-tashabbuh bil-kuffār*), when rejecting the above 'innovations'. This principle is central in the writings and fatwās by Dār al-Iftāʾ. Muslims should avoid practices and social norms of non-Muslim societies, as expressed in the ḥadīth: "…Whoever shall imitate a particular nation/people will be considered as part of them" (…*man tashabbaha bi-qawm fahwa minhum*).[64] Dār al-Iftāʾ was particularly sensitive to the exposure to foreign cultures. On more than one occasion, Ibn Bāz stressed: "It is quite strange to see certain Muslims advocating the imitation of the enemies of God."[65] Accordingly, many fatwās have been issued by CRLO warning against travelling to western countries, whether for study, tourism, student exchange, etc.[66] For instance, a fatwā entitled: "Warning against travelling to infidel countries and jeopardizing [Islamic] morals and creed" was issued by Ibn Bāz in response to some Saudi travel agencies' offers of English Summer schools in Europe and the USA.[67] For him, such a Summer school, during which a student stays with a native English-speaking family, is problematic because of the student's exposure to and potential acceptance of western cultural and social norms. In Ibn Bāz's

[63] Ibid., 1:404–405.
[64] Abī Dāwūd, *Sunan*, 4:204.
[65] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:391; 4:192–199.
[66] See al-Dawīsh, *Fatāwā al-lajna*, 12:137–142.
[67] Al-Shuwayʿir, *Majmūʿ fatāwā*, 4:193.

words: "In imitation of bad western norms and morals…[in lieu of their Islamic ones]".[68] Thus, CRLO placed a recommendation before the Government to restrict the number of Saudi students permitted to study abroad. Indeed, the Saudi Government in the 1980s limited the number of students permitted to travel abroad, especially to the West. A royal decree, based on a relevant fatwā, limits study abroad to disciplines that cannot be studied in Saudi Arabia.[69] This prohibition is mainly aimed at high-school graduates, impressionable young people, ostensibly to prevent them from being exposed to/and corrupted by permissive societies and cultures that differ widely from those of Saudi Arabia.[70]

As to holiday celebrations, CRLO stressed that Muslims have only two legitimate official celebrations—*ʿĪd al-Fitr*, celebrated at the end of the month of Ramaḍān and *ʿĪd al-Adḥā*, celebrated at the end of the pilgrimage ritual, between the eight and tenth days of the Muslim month *Dhū al-Hijja*.[71] Accordingly, any other holidays are rejected as *bidʿa muḥditha*. For example, the celebration the Prophet's Birthday (*al-Mawlid al-Nabawī*), the Middle of Shaʿbān or the Night of *Miʿrāj* are prohibited.[72] Many fatwās have been issued in this regard by Dār al-Iftāʾ and by individual Saudi muftīs, all of which rule out such celebrations.[73] The following is Ibn Bāz's most important and comprehensive fatwā, perhaps best representing the stance of Saudi clergy on the Prophet's Birthday, often cited by CRLO. Below, some important portions of this fatwā, by which we may deepen our understanding of the legal methodology explaining why Muslims should not celebrate the birthday of their Prophet:

> Celebration of the Prophet's Birthday is prohibited as *bidʿa muḥditha*. It was never celebrated, neither by the Prophet himself, nor by his Companions or the followers (*tabiʿīn*)…despite the fact that they were most proficient in Sunna and mostly admired the Prophet and adhered to his tradition…Indeed, some latter scholars allowed these celebrations as a good innovation (*bidʿa ḥasana*), as long as it does not contradict

[68] *MBI* 16:9–10; al-Shuwayʿir, *Majmūʿ fatāwā*, 4:193. For a further account of Ibn Baz's attitude toward travelling outside the country, see ibid., 4:192–199.

[69] Royal Decree No. 19851, July 1, 1981, revised by Decree No. 438/8, December 11, 1984. See relevant fatwā in *MBI* No. 6 (1983): 466–467.

[70] Al-Shuwayʿir, *Majmūʿ fatāwā*, 193.

[71] Al-Dawīsh, *Fatāwā al-lajna*, 3:56.

[72] Al-Shuwayʿir, *Majmūʿ fatāwā*, 1:178–192.

[73] See, for example, al-Dawīsh, *Fatāwā al-lajna*, 3:1–63.

> other Sharīʿa instructions, such as the intermingling of men and women (*ikhtilāṭ*) or the use of musical instruments…It is not only *bidʿa muḥditha*, but also a kind of imitation of the practices of the people of the book (*ahl al-kitāb*), of Jewish and Christian holidays…This is in addition to other transgressions of the Sharīʿa, such as…drinking wine, taking drugs and other illegal practices…[74]

Clearly, for CRLO, celebrations of the Prophet's Birthday are prohibited for at least two reasons: they contradict the Wahhābī-*Salafī* perception of *ittibāʿ* (see Chapter 4 above) and the adherence to the teachings and practice of the Prophet and the *Salaf* in this regard. For Ibn Bāz, the fact that the celebration of the Prophet's Birthday was never practiced by the Prophet or his Companions, although they could do so, indicates that such celebrations are foreign to Islam. Also, the fact that birthday celebrations are practiced by Jews and Christians, provides another reason for Muslims to avoid them, so as not to break the Sharīʿa rules regarding the prohibition against imitating foreign cultures. In addition, such celebrations often involve other violations of the Sharīʿa, such as the intermingling of men and women and the playing of music. Consequently, attendance of such events should be prohibited, as indicated in yet another related fatwā by CRLO:

> Query
>
> Is it permitted to attend *bidʿa* celebrations, like celebrating the Night of the Prophet's Birth, the Night of *Miʿrāj* [the Prophet's ascension], and the Mid-Shaʿbān Night?
>
> Response
>
> …The celebration of these nights is forbidden, since they belong to *bidʿa munkara.*[75]

For CRLO, attending such celebrations resembles pagan or polytheistic practices from the pre-Islamic (*Jāhiliyya*) period, especially when these celebrations are conducted at gravesites or tombs.[76]

In fact, Dār al-Iftāʾ bans most celebrations, whether of birthdays or the coming-of-age. For example, in response to a query presented to CRLO regarding the celebration of children's birthdays, the muftīs,

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[74] Fatwā No. 2747 in al-Dawīsh, *Fatāwā al-lajna*, 3:9–13; See also, al-Shuwayʿir, *Majmūʿ fatāwā*, 1:178–182.

[75] Fatwā No. 6524 in al-Dawīsh, *Fatāwā al-lajna*, 3:26. Further fatwās on *bidʿa* may be seen in ibid., 1–84. See also, al-Shuwayʿir, *Majmūʿ fatāwā*, 1:178–182. For more on celebration of the Middle of Shaʿbān see Rispler-Chaim, "Toward," 320–328.

[76] See Fatwā No. 9126 in al-Dawīsh, *Fatāwā al-lajna*, 3:28–30.

time and again, explained that such celebrations are: "a kind of forbidden innovation in religion," rather than being considered a mundane practice.[77] One must recall that the Saudi Dār al-Iftāʾ tends to forbid all religious innovations, while able to approve many innovations in the realm of the mundane, as seen above.

Coming of age celebrations are also forbidden for the same reasons. A South African Muslim asked the following question: "…In South Africa, we celebrate the coming of age at 21 for males and females; we recite verses of the Qurʾān, cook various foods and give the young men and women a key. What is the Islamic ruling on this matter?" The CRLO's response was as follows:

> The celebration practices mentioned in your query, when a young male or female reaches 21 years old, is legally baseless in Sharīʿa, thus, it is *bidʿa* and in imitation of Christian practice in your country…This contradicts the Prophetic tradition that reads: "He who imitates other nations will be considered [in Islam] as an integral part of them".[78]

In the same vein, the celebration of Mother's Day is prohibited. For CRLO, it is a Christian practice unrecognized by Islamic tradition, one never practiced by the Prophet or the *Salaf*.[79]

These Saudi strictures have been criticized both within and outside Saudi Arabia. For example, a worshiper questioned a Saudi preacher in Jeddah regarding the aforementioned strictures, asking why these forbidden celebrations differ from others that Dār al-Iftāʾ does allow, such as: Mosque Week (*Usbūʿ al-masājid*), Tree Week (*Usbūʿ al-shajara*), Transportation Week (*Usbūʿ al-murūr*), etc. This inquirer further claimed that he does not trust Saudi preachers, who act in accordance with the wishes of the Saudi Government; he insisted that no answer will be sufficient unless ratified by CRLO. Indeed, his preacher presented this query to CRLO, to which they responded as follows:

> …All celebrations for the sake of worshipping God (*taqarrub*), receiving blessings…which resemble pre-Islamic practices are extremely prohibited as *bidʿa muḥditha*…Amongst these forbidden practices are celebrations of the Prophet's Birthday…, Mother's Day and National Day (*al-Yawm al-waṭanī*), due to the fact that they are like Christian practices,

[77] See Fatwā No. 2008 in ibid., 3:56–57; see also Fatwā No. 5289 in ibid., 3:57–58.
[78] Fatwā No. 11104 in ibid., 3:58.
[79] Fatwā No. 7912 in ibid., 3:58–59.

> and contradict the prohibition against the 'imitation of infidels'. This [prohibition] is not applicable, however, in the case of [mundane] annual events for the good of the community, such as Transportation Week… employee conferences…[80]

Dār al-Iftāʾ also demonstrates intolerance towards practices related to remembrance and mourning. For example, the national mourning of leaders, previously commemorated by lowering the flag to half-mast and closing official institutions is prohibited.[81] According to Ibn Bāz, such mourning practices are legally baseless, since there are no traditional signs of mourning on record, not even to commemorate the Prophet himself, his Companions or their followers:[82]

> During the lifetime of the Prophet, his son Ibrāhīm, three of his daughters and many of his close Companions, such as Zayd Ibn Ḥāritha, Jaʿfar Ibn Abī Ṭālib and ʿAbd Allāh Ibn Rawāḥa, died. However, he never mourned them. Moreover, when the Prophet himself died, his Companions, including the four Caliphs: Abū Bakr, ʿUmar Ibn al-Khaṭṭāb, ʿUthmān Ibn ʿAffān and ʿAlī Ibn Abī Ṭālib, did not mourn him.[83]

Ibn Bāz distinguishes, however, between national and private mourning, adding that spouses, for example, may mourn their deceased partners.

Similarly, Dār al-Iftāʾ ruled out other remembrance ceremonies. For instance, placing a wreath of flowers at the Unknown Soldier's Memorial is forbidden. According to CRLO: "Such a practice resembles the behavior of those who praise their dead, build tombs at gravesites and seek blessings from the deceased."[84] Likewise, placing a wreath of flowers at a martyr's grave is similarly prohibited, though often practiced by Muslims, particularly "those living in [Muslim] countries exposed to significant influence of 'infidel countries' in terms of remembering and honoring their dead."[85] In this same fatwa, CRLO banned remembrance ceremonies honoring martyrs, including standing silently at attention. Such ceremonies are considered legally baseless, since neither the Prophet, nor the Caliphs, nor the early Companions ever practiced them.[86]

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[80] Fatwā No. 9403 in ibid., 3:59–60.
[81] *MBI*, 4:344–345; al-Shuwayʿir, *Majmūʿ fatāwā*, 1:411–412. See also *al-Daʿwa*, January 18, 2001.
[82] Ibn Bāz, "Ḥukm," 411–412.
[83] Ibid.; al-Shawādifī, *Fatāwā*, 67–68.
[84] Fatwā No. 6166 in al-Dawīsh, *Fatāwā al-lajna*, 9:80.
[85] Fatwā No. 4023 in ibid., 9:89.
[86] Ibid.

Finally, CRLO ruled out a long list of funereal practices related to the burial and the mourning of the dead, all considered to be forbidden innovations, e.g., the commemoration ceremony for the deceased forty days after death—an Egyptian custom;[87] calling to prayer (*āẓān*) at the graveside immediately after burial—a custom in Bangladesh;[88] placing balls of clay under the corpse—a local custom in some villages;[89] placing a book in the grave;[90] pitching a tent at the graveside for the first three days after the burial;[91] carrying the wife of the deceased around his grave seven times in each direction;[92] or placing henna in the grave.[93]

Clearly, for CRLO, 'imitation of infidels' is a central principle when it comes to unprecedented or foreign social practices. This is a typically Wahhābī stance, manifested in their suspicion of other cultural norms. Thus, Muslims should have their own celebrations and ceremonies, distinct from those of any other non-Islamic societies. However, Saudi Dār al-Iftāʾ has not yet defined what is Islamic vis-à-vis non-Islamic in regard to a wide range of common socio-cultural practices, mainly in the realm of daily-life. The attitude of the Saudi Dār al-Iftāʾ is criticized by many Arab intellectuals, who argue that it is an extremely dogmatic and conservative stance, unsuitable for modern times and requiring reevaluation.[94]

3. *Women in Saudi Society*

For the Saudi Dār al-Iftāʾ, the natural place of the woman is at home, in the 'marital nest', where she is expected to devote her efforts to raising and educating the next generation. Accordingly, muftīs encourage marriage and parenthood, not only as the legitimate way of having children, but also to safeguard social ethics and to discourage immoral behavior, such as fornication (one of the grievous sins (*kabāʾir*) in Islam).[95] Thus, muftīs often criticize social norms and customs that hinder marriage, such as excessive dowries and the illegitimate rejection

[87] Fatwā No. 6167 in ibid., 9:72–74.
[88] Fatwā No. 3549 in ibid., 9:72.
[89] Fatwā No. 5728 in ibid., 9:74.
[90] Fatwā No. 3596 in ibid., 9:75.
[91] Fatwā No. 5848 in ibid., 9:76.
[92] Fatwā No. 12256 in ibid., 9:78.
[93] Fatwā No. 6433 in ibid., 9:79.
[94] See, for example, al-Wardānī, *Ibn Bāz*, 124–127.
[95] For the Saudi Dār al-Iftāʾs attitude on birth control, see Ch. 6.

of marriage proposals (*ʿaḍl al-banāt*) by a woman's guardian (*walī*).[96] In Islamic law, a dowry is one of the prerequisites to marriage listed in the marriage contract (*ʿaqd nikāḥ*). However, exact sums of money, not having been stipulated by Islamic law, are determined by the parties involved in drawing up the marriage contract in accordance with local custom (*ʿurf*). BSU limits the size of dowries, claiming that the prerequisites in a marriage contract should not be so daunting that they hinder marriage. This BSU decision, rendered into law by the Saudi Minister of Justice, establishes a whole line of mitigating conditions for young couples requesting permission to marry.[97] Similarly, the illegitimate rejection of marriage is forbidden.[98] Shaykh Ibn Bāz claimed that such practice is at odds with the Sharīʿa, which encourages marriage. The unjust prevention of a woman's marriage is considered "exploitation, because her guardian deprives her of one of the sources of happiness [marriage] that Allah permits her."[99]

Government funds to encourage marriage were instigated with the full support of Dār al-Iftāʾ in 1999. For example, a support fund was initiated by Crown Prince Salmān Ibn ʿAbd al-ʿAzīz with the intention of aiding potential marriage partners.[100] This fund, named after Shaykh Ibn Bāz, Ibn Bāz's Benevolent Project for Supporting Marriage for Youth, was set up with the Shaykh's full support and cooperation. According to the Saudi official newspaper, al-Riyadh, this fund has provided over 153 million riyals to more than 12,000 applicants since its foundation.[101]

Although Dār al-Iftāʾ prefers to see women at home, it acknowledges their role in society, albeit in a very restricted manner. CRLO allows women to work outside the home only when three interrelated pre-

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[96] According to most Islamic schools of law, a woman's guardian (*walī*) is a necessary party for forging a marriage contract. For further accounts, see al-Jazīrī, *Fiqh*, 4: 30–56.

[97] Decision No. 52/M, March 25, 1977 became law under regulation 12/133, issued by the Minister of Justice, June 4, 1981. This fatwā appears in *MBI* No. 1 (1979), 95–100; also in, al-Shammāʿī, *Fatāwa Islāmiyya*, 2:395–409; Ibn Ẓafīr, *Ijrāʾāt*, 1:85–86.

[98] In Saudi Arabia, *ʿaḍl al-banāt* is often a subject of public debate. See, for example, *al-Waṭan* at: http://www.alwatan.com.sa/news/newsdetail.asp?issueno=3137&id=100213&groupID=0 and in the *al-Riyadh* newspaper at http://www.alriyadh.com/2008/07/18/article360264.html and http://www.alriyadh.com/2006/04/21/article148024.html.

[99] *MBI* No. 9 (1983), 8–9.

[100] See this Fund's website: http://www.alzwaj.org/?goto=1&id=41 (last access July 14, 2009).

[101] *Al-Riyadh*, January 18, 2009.

conditions are fulfilled. First, that her occupation be appropriate to her nature, i.e., defined as similar to her role at home; second, that there be no contact between a woman and an unrelated male; and, finally, that her apparel be 'modest' in accordance with the Wahhābī definition.

The first precondition is both central and crucial to women working outside the home, yet highly restrictive of woman's freedom to select a profession compatible with her qualifications. A detailed CRLO fatwā, later rendered into law, was issued in 1981 to clarify the relevant Sharīʿa stance:

> Query
>
> What is the verdict regarding women's work outside the home and in what areas are they allowed to work?
>
> Response
>
> There is no controversy around the right of women to work. The controversy, however, exists around the area and nature of her occupation. A woman's occupation is supposed to center around the homemaker's role, such as: cooking, baking bread, laundry, and other household chores. Women are allowed to work in areas similar to those found in the home, such as: teaching, sewing, weaving, knitting, etc., whether as an occupation or buying and selling, on condition that this does not lead to a contradiction with the Sharīʿa, such as being alone in the company of a male stranger (*khalwa*), since this may cause corruption (*fitna*), and on condition that her occupation does not prevent her from fulfilling her familial duties.[102]

In regard to the second precondition, CRLO makes it clear in various fatwās that "women are not allowed to work with men who are not primary relatives".[103] For example, a female manager of a children's day-care facility is forbidden to meet with fathers to discuss their children, even though she is completely veiled in the workplace.[104] Similarly, all public service positions requiring interaction with men are prohibited by Dār al-Iftāʾ, e.g., work in offices, hotels, restaurants, public transportations, etc.[105] Some have been rendered into law, such as the prohibition against women's employment in hotels.[106] Women nurses and

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[102] Fatwā No. 4127 in al-Shawādifī, *Fatāwā*, 119–120; see also Fatwā No. 19359 in al-Dawīsh, *Fatāwā al-lajna*, 17:236.
[103] Fatwā No. 2768 in ibid., 17:232
[104] Fatwā No. 19591 in ibid., 17:62.
[105] Fatwā No. 8259 in ibid., 17:238; see also Fatwā No. 20583 in ibid., 17:75–76.
[106] Rendered into law as Royal Decree No. 3/27746, Oct. 12, 1980.

doctors may see only women patients, as indicated in the following CRLO fatwā. A Saudi woman physician approached CRLO claiming: "I realize the fundamental responsibility of being a doctor, but I am afraid that I often sin as a result of my work environment [surrounded by male doctors]…I try to avoid sinning, but my dilemma is that once I abandon my profession to stay at home, I will be asked by God—What have you done with your medical training, wasting all that was invested in you?…" CRLO's response was obvious: "A woman doctor may only treat women and must avoid interaction with men."[107]

Clearly, the prohibition forbidding women's contact with any males except her primary blood relatives (unmarriageable kin, *maḥram*), severely limits their mobility and involvement in public affairs. For Saudi muftīs, *ikhtilāṭ* is the major cause of both temptation and seduction (*fitna*), exacerbated when a woman remains alone with a non-*maḥram* man, a situation known in Islamic traditions as *khalwa*. According to Islamic law, legal *khalwa* (*khalwa sharʿiyya* or *ṣaḥīḥa*) is allowed for couples following their marriage contract (*ʿaqd nikāḥ*) and between unmarriageable kin, such as fathers, grandfathers, brothers, uncles, etc., and their female relatives. Any other contact between the sexes is illicit *khalwa*. A ḥadīth on this matter reads: "When a man and a woman remain alone in private, the third party is always the Devil".[108]

There is no consensus amongst modern Muslim jurists on the legal meaning of and implications of *khalwa* in the modern context.[109] Nevertheless, most scholars consider illicit *khalwa* to be the intentional, clandestine meeting between a woman and a non-*maḥram* man. For example, a group of muftīs (a fatwā team) on the famous Islamic website, Islamweb, has defined illicit *khalwa* as follows: "…when a non-*maḥram* man sits in private with a woman where they are not visible to the public…However, talking to or meeting with one or more women in public should not be considered as illicit *khalwa*".[110] In the same vein, Shaykh al-Qaraḍāwī asserts that nothing is wrong with men and women meeting in public places, as long as they behave in accordance with the relevant Islamic ethics and norms. According

[107] Fatwā No. 6908 in al-Dawīsh, *Fatāwā al-lajna*, 15:70–71.
[108] Al-Tirmidhī, *al-Jāmiʿ*, 2:462.
[109] See al-Jazīrī, *Fiqh*, 4:109–120.
[110] http://www.islamweb.net/ver2/Fatwa/ShowFatwa.php?lang=A&Option=FatwaId&Id=14566 (last access July 14, 2009).

to him, contacts between men and women are not totally forbidden and may be commended when their purpose is noble and lawful. For instance, good goals might be: acquiring beneficial knowledge, engaging in charitable projects, performing obligatory jihād or any other good deed that requires the efforts and cooperation of both sexes.[111]

Saudi-Wahhābī muftīs have their own, more conservative, definition of *khalwa*, as compared to their counterparts mentioned above. The following is one of the most important fatwās issued by CRLO in this regard:

> Query
>
> Does *khalwa* mean a man sitting in private with a woman in a certain house, thus, unseen by others, or is it any meeting between a man and a woman, even when they are visible to the public?
>
> Response
>
> *Khalwa*, according to the Sharīʿa, does not mean only the meeting of a man and a 'foreign' [non-*maḥram*] woman in a house out of the public eye, but it can be manifested as chatting between the sexes with no one hearing their conversation, even when they are seen in public, whether it is in an open space, in a car… *Khalwa* is forbidden because it constitutes a means to fornication, thus, any such contact is liable to lead to this forbidden end.[112]

Clearly, for CRLO, illicit *khalwa* is manifested in almost any contact between a woman and a non-*maḥram* man, regardless of whether they are visible to the public or not. Thus, a woman must always be accompanied by a *maḥram* when talking or meeting any non-*maḥram* man. The high degree of sensitivity of the Saudi Dār al-Iftā towards *ikhtilāṭ* is felt even within the family realm. Many CRLO fatwās have been issued in this regard. For example, one inquirer was wondering whether a woman may remove her face covering (*niqāb*) in front of her husband's brothers and cousins. CRLO's response was negative, since her husband's brothers and cousins do not fall in the category of *maḥram* for her. Muftīs found support in the Qurʾānic verse (24:31) that listed those before whom women are allowed to reveal her beauty: "…to their husbands, their fathers, their husband's fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their

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[111] http://www.islamonline.net/servlet/Satellite?pagename=IslamOnline-Arabic-Ask_Scholar/FatwaA/FatwaA&cid=1122528600856 (last access July 14, 2009).

[112] Fatwā No. 7584 in al-Dawīsh, *Fatāwā al-lajna*, 17:57.

sisters' sons…or male servants…or small children."[113] Accordingly, any physical contact, such as the shaking of hands (*muṣāfaḥa*), between a wife and her husband's brothers or cousins is also forbidden.[114]

In light of the above Wahhābī definitions of *ikhtilāṭ* and *khalwa*, a long list of restrictions have been placed on women's mobility in the realms of social activity, employment, etc. The intermingling of men and women is restricted in many places, including restaurants, educational institutions and public transportation, where separate seating is provided.[115] For example, in Saudi universities, female students may not attend frontal lectures given by male professors; they must view closed-circuit videos of their courses: "It is forbidden for a man to directly instruct young women."[116]

Another example is forbidding women to drive in Saudi Arabia. CRLO issued a famous fatwā, later rendered into law, that states the following: "Women are forbidden to drive, because this may lead to intermingling with male drivers…and the need to uncover the face or part of an arm."[117] This fatwā is based on quotations from the Qurʾān and the Sunna that justify protecting women from dangerous situations that they may encounter when alone, such as when driving. The issuing muftīs claimed that driving alone might lead to moral transgression, resulting from a woman's exposure to temptation or due to her being exposed to the public eye, since she cannot drive with her face covered.[118]

Women may visit clothing stores and tailors, only when accompanied by a *maḥram*, but these establishments are forbidden to have changing-rooms. Beauty-parlors and hairdressers for women may not be opened: "…since doing so leads to extravagance and waste, in addition to the ominous immoral consequences that may result…imitates

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[113] Fatwā No. 1600 in ibid., 17:407–408.

[114] Fatwā No. 3848 in ibid., 17:25–26. See other relevant fatwās in ibid., 17:27–48.

[115] Rendered into law as Royal Decree No. 80/1631, July 30, 1980. More on the Saudi muftīs' positions on meetings between the sexes see al-Shuwayʿir, *Majmūʿ fatāwā*, 5:236–240.

[116] Fatwā No. 13947 in al-Dawīsh, *Fatāwā al-lajna*, 12:146–149.

[117] This fatwā from Nov. 9, 1990 appears in *MBI* No. 30 (1990), 297–300 and was rendered into law by the Saudi Arabian Ministry of the Interior on Nov. 15, 1990. See *al-Riyadh*, No. 8178 of Nov. 15, 1990; *ʿUkāẓ*, No. 8884 of Nov. 15, 1990.

[118] Al-Shuwayʿir, *Majmūʿ fatāwā*, 3:351–353; al-Dawīsh, *Fatāwā al-lajna*, 17:239–244; Ibn Ẓafīr, *Ijrāʾāt*, 1:100.

infidels and causes women to expose themselves to 'foreigners'."[119] The Saudi authorities actually banned such places in the late seventies and shut down hairdressers' shops.[120]

As for the third precondition regarding apparel, Saudi women are required to appear in appropriate attire in public, as well as when mingling with non-*maḥram* family members. Hundreds of fatwās have been devoted to 'proper' women's attire.[121] There is a consensus in these fatwās that Saudi women: "…must cover their entire bodies, including face and hands," when outside the home or when mingling with non-*maḥram* family members.[122] One of the most detailed fatwās issued by CRLO is No. 667, in which the muftīs introduced their legal philosophy on women's appearance and presented their sources. This fatwā is based on three relevant Qurʾānic verses, four Prophetic traditions and on Ibn Taymiyya's fatwās and writings. The following Qurʾānic verse is crucial:

> …And say to the believing women that they should lower their gaze and guard; their modesty; that they should not display their beauty and ornaments except what (must ordinarily) appear thereof; that they should draw their veils over their bosoms and not display their beauty (Q. 24:31).

For CRLO, the Qurʾānic instruction to women that they should "draw their veils over their bosoms" obviously means that the veil must come down from the top of the head to below the chest, thus covering the entire area, i.e., the face and the neck. These instructions comply with yet another verse:

> O Prophet! Tell thy wives and daughters, and the believing women, that they should cast their outer garments [*jilbāb*] over their persons (when abroad): that is most convenient, that they should be known (as such) and not molested. And Allah is oft-forgiving, most merciful (Q. 33:59).

CRLO was influenced by certain classical commentators, such as Ibn Jarīr, Ibn Ḥātim and Ibn Mirdawayh, who interpreted this verse to

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[119] Fatwā No. 16965 in *Fatāwā al-lajna*, 24:26 at http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=8641&PageNo=1&BookID=7#P26 (last access, July 31, 2009).

[120] Royal Decree No.16/4582, Jan. 18, 1979.

[121] See al-Dawīsh, *Fatāwā al-lajna*, vol. 17. More in al-Shammāʿī, *Fatāwā*, 256–266 and al-Shuwayʿir, *Majmūʿ fatāwā*, 3:354–356.

[122] Fatwā No. 667 in al-Dawīsh, *Fatāwā al-lajna*, 17:141–150 and Fatwā No. 11253 in ibid., 17:96.

mean that a woman must cover all her face, except for one eye, when outside her home or when meeting non-*maḥram* family members. Thus, the above verse was interpreted by CRLO as requiring that women cover their faces (except for their eyes) and hands, unlike their counterparts in other Islamic countries, who allow women to reveal them. Saudi-Wahhābī muftīs might allow this only in cases of necessity, such as for medical treatment.[123]

CRLO drew on four different ḥadīths to support its position. The first refers to the Prophet's instruction to women to cover their bodies even before being visited by a blind man. The second ḥadīth refers to ʿUmar Ibn al-Khaṭṭāb's advice to the Prophet's wives, that they should wear *ḥijāb* before strangers often coming to consult the Prophet on various matters. The third ḥadīth source was ʿĀ'isha's narration describing that, when the Prophet's wives travelled with him, they used to cover their faces whenever other men passed by and uncovered them afterwards. Lastly, there was the Prophet's instruction to ʿUqba b. ʿAmir's sister to go on pilgrimage fully veiled, in contradiction of her vow of making pilgrimage while barefoot and unveiled.[124]

In regard to the actual appearance of women, CRLO stressed the *jilbāb* mentioned in the above Qurʾānic verse (33:59; known as 'the *jilbāb* verse', *ʿāyat al-jilbāb*), as being the appropriate public attire for the Saudi woman. For CRLO, the *jilbāb* is a cloak (*ʿabāya* or *ʿabāʾa*) that must meet the following specifications: it must be thick, not transparent; it must cover the entire body, being loose, not tight and not outlining the body; it must open only from the front and have closed sleeves; it should be plain, not decorated; it should not resemble the dress of infidel women or any form of men's dress.[125] Furthermore, CRLO banned other forms of attire for women, such as pants: "Women are prohibited to wear pants, because pants resemble the dress of female infidels…and mark the shape of the body, thus, making her attractive to men and putting her in jeopardy."[126] A rare exception to these dress codes may be found in regard to the appearance of elderly women, based on the following verse:

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[123] Fatwā No. 667 in ibid., 17:150.
[124] Ibid., 17:148.
[125] Fatwā No. 21352 in ibid., 17:139–140.
[126] Fatwā No. 19479 in ibid., 17:116.

> Such elderly women as are past the prospect of marriage—there is no blame on them if they lay aside their (outer) garments, provided they make not a wanton display of their beauty, but it is best for them to be modest and Allah is one who sees and knows all things (Q. 24:60).

Only in such cases, aged women enjoy some leeway in their choice of apparel and ornaments (*zīna*). Muftīs, all the same, recommend that they continue to dress modestly.

Even foreign women in Saudi Arabia are required to appear in appropriate attire and to conform to local customs and tradition. Many fatwās have been issued in this regard, some even incorporated into royal decrees.[127] Such decrees instruct foreign embassies and explain the essence of this legislation, permitting inspections by the *Muṭawwiʿa* of the market-places and the public domain to insure behavior compliant with the spirit of the Sharīʿa.[128]

4. *Leisure Time and Entertainment*

The Saudi Dār al-Iftā' acknowledges the need for leisure time, in accordance with traditions such as: "Rest every now and then, because if your souls grow tired, they will become undiscerning".[129] However, such recreation should be conducted within the boundaries established by the Sharīʿa. CRLO muftīs demonstrated a very conservative attitude towards most types of entertainment, such as music, parties, theater, movies and sports, e.g., football, boxing, horse races, as well as other local forms of Saudi entertainment (e.g., *al-ʿArḍa*, *al-Mizmār*).[130] Most, if not all, of the above was considered to be outside acceptable Sharīʿa boundaries and was, therefore, banned by CRLO.

In theory, Saudis may not listen to either instrumental music or singing, whether in public or in private. CRLO considers songs to be simply 'idle tales' (*lahw*) and 'vain amusement', banned by the Qurʾān (31:6): "…There are, among men, those who purchase idle tales, without knowledge (or meaning), to mislead (men) from the path of Allah and throw ridicule (on the path): for such there will be a humiliating penalty." Thus, those who engage in music and song are worthy of

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[127] Rendered into law as Royal Decree No. 8/1858, Oct. 23, 1979.
[128] An early decree in this matter is Royal Decree No. 4/30820, December 21, 1976.
[129] Fatwā No. 4470 in al-Dawīsh, *Fatāwā al-lajna*, 26:214; see also *MBI* 60:222–224.
[130] A description follows below.

punishment. Moreover, parties and musical events provide an arena for seduction and temptation that are liable to lead to immoral practices, such as fornication.[131]

As to music, the Sharīʿa explicitly opposes the use of musical instruments (*maʿāzif*). For example, a ḥadīth reads: "There will come a day when some of my people will consider adultery, silk (for men), female singers and musical instruments as lawful".[132] CRLO emphasizes the Prophet's criticism of those who would permit the commission of such capital sins, which include the playing of musical instruments or listening to music.

CRLO banned the airing of instrumental music and singing, even in the official Saudi media. The following CRLO fatwā states:

> Query
>
> Are the songs that we are hearing on the [official] radio and television forbidden?" What about listening to instrumental music? Is this permissible? How do you explain the fact that some Muslim scholars excelled in musicology used music in the treatment of their patients?

Muftīs, headed by Ibn Bāz, divided their response into two parts. First, they referred to the question whether songs broadcast by the official Saudi media are prohibited, arguing the following:

> Response
>
> Yes, songs broadcast by radio and television are prohibited, because they are considered *lahw*, most of which [the contents] may arouse one's libido, love and passion; [songs] resemble a pickaxe designed to demolish morals…spreading immorality amongst Muslim societies.[133]

Time and again, CRLO refers to songs as *lahw*, with negative connotations; thus, a good Muslim should avoid them.

In regard to the second part of the query, muftīs do agree with the fact that some classical scholars, such as al-Fārābī, were musicologists; however, they note that these scholars were not proficient in religious

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[131] Fatwā No. 2151 in al-Dawīsh, *Fatāwā al-lajna*, 26:233–234 athttp://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9580&PageNo=1&BookID=7#P233 (last access, July 31, 2009); More in al-Shuwayʿir, *Majmūʿ fatāwā*, 3:391–437.

[132] Al-Bukhārī, *Ṣaḥīḥ*, 1021–1022.

[133] Fatwā No. 3258 in al-Dawīsh, *Fatāwā al-lajna*, 26:217 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9566&PageNo=1&BookID=7#P217 (last access, July 31, 2009).

matters, nor were they to be considered role-models for religious practice. Only eminent Muslim scholars, the Four Caliphs and the *Salaf*, such as Saʿīd Ibn Jubayr, al-Ḥasan al-Baṣrī, al-Shafiʿī, Aḥmad Ibn Ḥanbal, al-Awzāʿī and others are to be emulated.[134] In regard to the therapeutic use of music, this is forbidden as well; though muftīs suggest the alternative use of Islamic chanting (*anāshīd*) and Qurʾānic recitation.[135]

The Wahhābī restrictions regarding music are clearly visible in various areas of Saudi daily life. For example, annual regional festivals are prohibited, as evidenced in a CRLO response to a Saudi inquirer, who claimed that such festivals include both Saudi and foreign male and female singers:

> It is prohibited for Muslims to held celebrations and festivals which include abominable acts (*munkarāt*), such as songs and music, free intermingling between men and women, sorcerers and charmers… There is abundant legal evidence against these matters… Accordingly, attendance, funding or advertising of such celebrations is prohibited.[136]

CRLO does allow women to sing for all-female audiences at wedding celebrations, provided that they choose their words in such a way: "…that they do not contain lewd lyrics."[137]

CRLO's conservative attitude towards music is evident in the prohibition of music instruction, the singing profession, the performance of music and the buying or selling of musical instruments. It is not only prohibited to listen to music, but also to engage in it. For example, an inquirer from Kuwait submitted a query to CRLO asking whether the mandatory teaching of music in the official primarily schools in his country fits Sharīʿa practice. In this case, CRLO found it to be inconsistent with Sharīʿa practice, stating that: "It is not permissible to teach music, nor to study it…due to the danger embodied in it and due to the fact that such action is at odds with Islamic sources."[138]

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[134] Ibid.

[135] Ibid.

[136] Fatwā No. 20856 in ibid., 26:225 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9575&PageNo=1&BookID=7#P225 (last access, July 31, 2009).

[137] Fatwā No. 4683 in ibid., 26:219 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9568&PageNo=1&BookID=7 (last access, July 31, 2009).

[138] Fatwā No. 7802 in al-Dawīsh, *Fatāwā al-lajna*, 12:183–184.

Likewise, a CRLO's fatwā recommended that a singer abandon his profession and find a new, legitimate job, one not shunned by the Sharīʿa.[139] Yet, working in radio and television is permissible as long as one avoids music broadcasting: "Singing and the playing of music are entirely prohibited, and it is forbidden to produce or broadcast music or to help another to do so…and any profits from such actions are ill-gained."[140] The buying or selling of musical instruments is prohibited as evidenced by another CRLO response. Another inquirer asked whether he might sell his piano, after realizing that piano playing is forbidden according to the Sharīʿa. CRLO replied: "It is not permissible to sell musical instruments, since they have no value according to the Sharīʿa and their money's worth is ill-gained, because it is received for a prohibited object."[141]

As to theater and cinema, both are prohibited by CRLO. One may not engage in anything related to them, such as establishing, managing or working in them, or even attending performances or showings. A CRLO fatwā states: "It is not permissible for a Muslim to establish a cinema, nor to manage it, whether for himself or for another, since cinema today, across the globe, shows obscene images and scenes that promote lewdness and immorality."[142] Similarly, the viewing of foreign films, in which the content is deemed as being contradictory to Sharīʿa, is prohibited. CRLO allows official inspectors to screen suspect movies, in order to evaluate them for approval.[143] Nevertheless, Saudis may enjoy watching movies in private or in public, though only documen-

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[139] Fatwā No. 1620 in *Fatāwā al-lajna*, 26:218 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9567&PageNo=1&BookID=7 (last access, July 31, 2009).

[140] Fatwā No. 17108 in ibid., 26:247 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9597&PageNo=1&BookID=7#P247 (last access, July 31, 2009).

[141] Fatwā No. 18145 in ibid., 26:251 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9602&PageNo=1&BookID=7#P251 (last access, July 31, 2009).

[142] Fatwā No. 3501 in ibid., 26:277 athttp://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9624&PageNo=1&BookID=7#P277 (last access, July 31, 2009); see also Fatwā No. 4120 in ibid., 26:278 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=10316&PageNo=1&BookID=3#P278 (last access, July 31, 2009). Also Fatwā No. 6279 in ibid., 26:278 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9625&PageNo=1&BookID=7#P278 (last access, July 31, 2009).

[143] Fatwā No. 13714 in al-Dawīsh, *Fatāwā al-lajna*, 12:351–352.

tary or educational films are officially sanctioned. This is also true with regard to television; Saudis are allowed to watch it, however, the programming should be in accordance with Sharīʿa tenets, i.e., Qurʾānic recitations, religious talks, business reports and news broadcasts.[144]

Regarding sports and entertainment in Saudi Arabia, CRLO generally provides cautious guidelines. In principle, CRLO approves of contests that are conducted to strengthen the fighting skills of Muslims (should they have to fight disbelievers), e.g., camel and horse races, archery and modern military training, whether they offer prizes or not. However, modern games like football, boxing and wrestling, not conducted for this end, are permitted only under four conditions: (1) if they have no prizes; (2) if they do not distract players from their religious obligations; (3) if they do not lead to indulgence in prohibited deeds; and finally (4) as long as they cause no harm (to the player or others).[145]

As to national celebrations, such as the Saudi Heritage Festival (*Janādriyya*), CRLO offers its tacit consent. Thus, the famous, traditional Saudi dance, *al-ʿArḍa*, is usually performed by Saudi leaders.[146] Recently, after being seen in a video on YouTube, Shaykh ʿAbd al-Muḥsin al-ʿAbīkān (a famous Saudi scholar) found himself under fire for participating in *al-ʿArḍa* at his nephew's wedding. This provoked a heated debate within Saudi Arabia—Does this contradict Sharīʿa?[147] Al-ʿAbīkān rejected the criticism lodged against him, arguing that: "CRLO never issued a fatwā in this regard." Indeed, CRLO seems not to have dealt with the Janādriyya Festival and there are very few fatwās addressing *al-ʿArḍa* in other contexts. For example, CRLO was queried regarding *al-ʿArḍa* in the Saudi villages of Ghāmid and Zahrān, where it is practiced in a manner contradicting the Sharīʿa, by the playing of musical instruments, the squandering of money and

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[144] Fatwā No. 2133 in *Fatāwā al-lajna*, 26:272 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9619&PageNo=1&BookID=7#P272 (last access, July 31, 2009).

[145] Fatwā No. 3323 in al-Dawīsh, *Fatāwā al-lajna*, 15:194.

[146] See the Festival's website at: http://www.janadria.org.sa/Janadria24/Arabic/Right/Janadria/tread.htm (last access, July 21, 2009).

[147] See http://www.islamonline.net/servlet/Satellite?c=ArticleA_C&cid=1203757971392&pagename=Zone-Arabic-News%2FNWALayout (last access, July 21, 2009).

so on. CRLO specifically prohibits this local dance, because of these accompanying transgressions.[148]

As to the annual local game, called *al-Mizmār*, performed throughout Medina, CRLO disapproves. This game consists of building a bonfire, scattering salt and dust around it and then walking round and round the fire playing instruments, clapping hands, singing bawdy songs and dancing. An inquirer from Medina approached CRLO asking about the religious legality of al-Mizmār. CRLO prohibited this game for the following reasons: the kindling of a bonfire imitates fire worshippers; circumambulation around a fire is forbidden, because such action is reserved for the Kaʿba alone; the use of musical instruments, such as drums and tambourines, are forbidden; wanton dancing and clapping are forbidden; and finally, obscene songs that encourage forbidden passions are banned.[149]

It goes without saying that the above prohibitions are usually implemented by the *Muṭawwiʿa*, though sometimes social entertainment, even of a musical nature, is practiced under the nose of Dār al-Iftāʾ. This discrepancy in implementing the Sharīʿa was voiced by a Saudi citizen who asked CRLO the following: "Granted that all music and songs are forbidden [according to Wahhābī religious thought]. If so, why does the Government permit music shops to be opened and music to be broadcast on radio and television…?" CRLO admitted that: "…even when Government ministries, other bodies and individuals accommodate the forbidden, this does not mean that it is permissible. People are not immune [to mistakes]. It is obligatory, however, to advise and enlighten them with God's rules, so they will have no excuse".[150]

Defining the boundaries between the permissible and the forbidden in regard to innovation and change is central to the work of the modern Saudi Dār al-Iftāʾ. In this chapter, I have shown that contemporary Wahhābīs endorse a single, conservative meaning of *bidʿa*—that of *bidʿa muḥditha*, prohibited innovation. All innovations not consistent with the Sharīʿa and the practice of the *Salaf* as interpreted by Dār al-Iftāʾ are rejected, whether they are religious or mundane

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[148] Fatwā No. 4118 in al-Dawīsh, *Fatāwā al-lajna*, 19:126–129.

[149] Fatwā No. 14644 in al-Dawīsh, *Fatāwā al-lajna*, 26:257 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=9606&PageNo=1&BookID=7#P257 (last access, July 21, 2009).

[150] Fatwā No. 4826 (queries 2&3) in al-Dawīsh, *Fatāwā al-lajna*, 26:274 at: http://www.alifta.net/Fatawa/FatawaDetails.aspx?View=Page&PageID=10312&PageNo=1&BookID=3#P274 (last access, July 21, 2009).

in nature. All of the above cases in this chapter fall within *bidʿa* and are, thus, considered alien to Wahhābī Islam. In practice, *bidʿa* is blatantly applied, especially to the ethico-social sphere, as indicated by the highly conservative positions taken on matters such as the place of women in society and permissible forms of entertainment. The next chapter proceeds with those cases considered to be 'legitimate' innovations, those primarily within the purview of Sunna.

CHAPTER SIX

WAHHĀBISM APPLIED: FLEXIBILITY TOWARDS CHANGE

Chapter 5 dealt with the applications of Islamic jurisprudence to natural developments within the framework of traditional Islamic norms, often identified as *bidʿa*. This chapter investigates the applications of contemporary Wahhābī jurisprudence to problems within the purview of Sunna, inevitably resulting from the interface between Islam and modern innovations. Some of the areas discussed below are: visual media, financial matters and medical issues. The cases below illustrate a certain flexibility of interpretation when dealing with modern advances, in contrast to the conservative stance applied to the cases discussed in the previous chapter.

Flexibility towards Change: the Permissible

1. *Visual Media*

One of the most highly debated issues in the area of modern visual media is that of images of humans and fauna, i.e., God's creatures. Therefore, in Islam, photographing (*taṣwīr*), sculpting or in any way creating a likeness of people or animals (henceforth: creating likenesses) is prohibited according to a number of ḥadīths as an affront to God's exclusivity of Creation.[1] One ḥadīth states, for example: "There is no greater sinner than one who tries to create something like My Creation. Let them create a particle, or a seed, or a grain of barley."[2] Another ḥadīth reads: "Those who suffer the most on the Day of Resurrection are those who created a likeness."[3] Based on such ḥadīths

[1] Al-Dawīsh, *Fatāwā al-lajna*, 1:456; ʿIzzat, *Wasāʾil*, 466–470; Wāṣil, *Aḥkām*, 147–161.
[2] Muslim, *Ṣaḥīḥ*, 2:1016.
[3] Ibid., 2:1013; Ibn Ḥanbal, *Musnad*, 1:375; al-Nasāʾī, *Sunan*, 8:216.

and other related traditions, modern jurists, including the Wahhābīs, prohibit the creation of likenesses, though this issue remains controversial. Technological innovations have made it much more complicated, since jurists must apply the intentions formulated in the Sharīʿa to new forms of visual media, such as video-taping, the scanning of likenesses and the digital illustration of textual material. This is in addition to the fact that official identification cards, printed media and advertising all include likenesses that have become an integral part of daily life in modern societies.

In principle, Dār al-Iftāʾ prohibits the creation of likenesses, as evidenced in many fatwās. Nonetheless, jurists realize that the creation of likenesses is inevitable in certain spheres of life, even in the official media. I have selected two cases in which the creation of likenesses is inevitable: television and printed media. In both these cases, it is quite fascinating how the jurists allow the creation of likenesses.

In 1965, King Fayṣal established the first television station in Riyadh.[4] This brought about resistance by the ʿulamāʾ and even violent demonstrations by fundamentalists. These demonstrations led to the death of King Fayṣal's nephew, Khālid Ibn Musāʿid Ibn ʿAbd al-ʿAzīz, who was killed by the police during a violent confrontation.[5] The controversy over television broadcasting between the ʿulamāʾ and the King, who strove for modernization, was brought to an end when the sides compromised. The crux of this compromise was that television broadcasts would be restricted to religious programming and news, and would be monitored by the ʿulamāʾ.[6]

However, television programs continued to provoke controversy among Saudi religious groups. Expanding television broadcasts to include music and other programming evoked several queries from certain religious groups, even official ones, such as the Islamic missionaries (*duʿāt*), as we will see below. The ʿulamāʾ, who had experienced the events of 1965, were driven to clarify the relevant tenets of the Sharīʿa in regard to such controversies. Several fatwās were issued, since this related to the issue of graven images. Here, I have selected a fatwā by Ibn Bāz, in which he advocated the beneficial use of the visual media.[7] Ibn Bāz was asked by a Saʿūdi citizen:

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[4] ʿIzzat, *Wasāʾil*, 439.
[5] Abir, *Saudi Arabia*, 23.
[6] Lacey, *Kingdom*, 512.
[7] Al-Shuwayʿir, *Majmūʿ fatāwā*, 5:269–275.

Query

You've asked the public to make the best use of the media, including those that accommodate photographs. However, some of the propagators (*duʿāt*) recommend abstaining from such use, chiefly from media with photos. What do you have to say in this regard?

Response

There is no doubt that the use of mass media to expose the truth disseminated by Sharīʿa laws, to expose heresy and to warn against it–is one of our loftiest aims, if not a prescribed duty of the highest order. While some of the ʿulamāʾ have reservations about the use of television, based upon reliable ḥadīths which forbid the creation of likenesses, others approve, on condition that it serves religious purposes and is based on the principle, which says: 'Choose the lesser evil in order to avoid carrying out complete evil for lack of any other choice, and realize the highest benefit of the two choices'.[8]

According to this principle, Ibn Bāz saw television as a necessary evil (*mafsada*). One must, however, accept 'the lesser evil' if no other choice exists—this he interpreted as making the 'right use' of television by selecting instructive programming. Regarding the determination of the 'right use' of television, Ibn Bāz pointed out that this was the duty of the ʿulamāʾ and the ruler, and the duty of the subjects is to follow the instructions of those representing divine will on Earth:

> …It is the duty of the authority-holders (*wulāt al-amr*) and the ʿulamāʾ, if avoiding corruption is not possible, to put great effort into the avoidance of those dangers and the transgressions deriving from them. So it is regarding interests–the loftiest must be achieved, if total achievement of all interests is not possible.[9]

Clearly, Ibn Bāz neutralized the 'legal obstacle' presented by the creation of likenesses by focusing on the advantages of television and arguing the necessity (*ḍarūra*) of the proper use of television:[10] "He who appears on television to propagandize for Allah and disseminate the divine truth—has not sinned and will be rewarded on the Day of Judgment."[11] In other words, the use of television is allowed for the advancement of lofty religious aims, such as: "the dissemination of truth and conveying Allah's message" (*nashr al-ḥaq wa-tablīgh risālat Allāh*).

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[8] Ibid., 5:292–295.
[9] Ibid.
[10] Ibid., 5:294.
[11] Ibid.

The legal methodology adopted by Ibn Bāz is a synthesis of quotations from the Qurʾān and the Sunna. For example, he used a ḥadīth in order to legitimize innovations and changes dictated by practical reality: "Were it not for the recent heresy of your tribe, I would tear down the Kaʿba and build it anew on the foundations of Abraham."[12] An interpretation of this ḥadīth shows initiative for change exemplified by the Prophet regarding the establishment of the Kaʿba on the 'foundations of Abraham', in order to confirm the monotheistic roots of Islam. By means of such quotations, Ibn Bāz tried to rationalize the motivation for change based on the principle of public interest.

As for likenesses in the printed media, CRLO issued the following fatwā:

> …The purchase and use of newspapers or magazines that include important data, such as news and scientific matters, is permitted despite the pictures of human beings or animals included in them. This is due to the fact that their intended use is for their written contents, while the likenesses are merely supplemental…complying in principle with the tenets of the Sharīʿa.[13]

In general, CRLO still prohibits likenesses in the visual media. However, for the muftīs, the issue of likenesses, in such cases, should not be seen as a primary legal problem (*aṣl*), but rather as a subsidiary (*farʿ*) one—merely as an illustrative byproduct of written material. This is crucial to the determination of the Sharīʿa's opinion towards likenesses in the media, since, according to Islamic law: "Rules relate to the principal object, not to its subsidiaries" (*al-ḥukm yatbaʿ al-aṣl al-maqṣūd dūna al-tābiʿ*).[14] Applying this formula to the present case, one must not regard the act of buying a newspaper as the purchase of likenesses, which is indeed forbidden. Buying a newspaper is permitted, even recommended, since Muslims must be well informed and be involved in society. Therefore, the use of printed media is permitted despite the likenesses included in them.[15]

Another problem within the field of visual media is that of the Internet.[16] The Internet was initially treated with suspicion by contemporary

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[12] Ibid.

[13] Fatwā 3374 in al-Dawīsh, *Fatāwā al-lajna*, 1:459–460; also al-Shammāʿī, *Fatāwā*, 1:316–317.

[14] Ibid., 316.

[15] Ibid.

[16] On the history of the Internet in Saudi Arabia, see al-Hājirī, *Tārīkh*.

Wahhābī jurists. Later on, it came to be endorsed and even utilized by the jurists themselves.[17] CRLO soon realized that the Internet can serve as a powerful tool to disseminate information for social, religious and educational purposes.[18] However, jurists express their fear of the unknown, unrestrained and often immoral content of the Web, such as pornography. Therefore, the Internet presents modern Islam with a legal challenge, in terms of a 'harm versus benefit' dilemma.

In order to cope with this dilemma, official muftīs require certain mundane assistance from the official authorities to set up a rather ambitious system capable of filtering 'undesirable' online sites, thus neutralizing the problematic nature of the Internet. Once the risk of contact with such undesirable material is diminished, Muslim jurists can more readily accept Internet use. Nevertheless, a 'women-and-the-Internet' debate continues, mainly in some traditional sectors of society that denounce the Internet as leading to immoral behavior. Thus, a response issued by Grand Muftī Shaykh ʿAbd al-ʿAzīz Āl al-Shaykh states:

> In my opinion, the Internet is both a blessing and a curse at one and the same time. It is a blessing as long as it used for doing God's will, commanding good and forbidding wrong. However, it is liable to be evil when it aggravates God…I call upon the believers among women who use the Internet to use it to follow the rules of God and to spread them…We have to disseminate the message of God, as promised by the Prophet in the ḥadīth by Bukhārī: 'God will spread this Islam until it reaches every house and under every tree.' I call our leaders, starting with King Fahd, Crown Prince ʿAbd Allāh and the Chief Chairman of the Islamic Dissemination Council (*Majlis al-Daʿwa al-Aʿlā*), to impose Internet studies primarily in schools and among society.[19]

Based on the principle of public interest, this fatwā endorses the use of the Internet, choosing its benefits over its potentially harmful effects. The Grand Muftī stresses the positive aspects of the Web as an extremely powerful instrument to be used for social, cultural and educational purposes, finding support in a unique interpretation in the ḥadīth above. According to him, the Internet fulfills the Prophet's

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[17] Al-Zahrānī, *Imām al-ʿaṣr*, 50–51. See Dār al-Iftā's website at: http://www.alifta.net/default.aspx (last access, Sept. 2009). Also some private ʿulamāʾs websites at: www.ibnbaz.com; www.ibnothaimeen.com and www.ibn-jebreen.com (last access, Sept. 2009).

[18] Al-Zahrānī, *Imām al-ʿaṣr*, 50–51; Teitelbaum, "Dueling," 222–239.

[19] *Al-Daʿwa*, October 27, 2000.

promise, since it comes to ease the missionary's task. There is no doubt that this is an attempt to 'Islamize' the Internet, while treating some of its controversial aspects and indicates a high motivation on the part of the Saudi Grand Muftī to accept some technological innovations. In fact, the Grand Muftī follows his predecessor, Shaykh Ibn Bāz, who endorsed certain technological innovations based on nearly the same principles and arguments.[20]

In practice, the Internet has been available in Saudi Arabia since 1994, although access was restricted only to official, academic, medical and research facilities. King Fahd approved public access in 1997, although actual access for ordinary citizens was not available until 1999. This delay came as a result of the authorities' determination to implement a filtering system of questionable efficacy, meant to deny access to so-called 'undesirable sites'. In February 1998, Ṣāliḥ ʿAbd al-Raḥmān, who was President of the Riyadh-based King Abdul ʿAzīz Center for Science and Technology (KACST), announced the formation of a Standing Committee with the purpose of:

> …protecting society from material on the Internet that violates Islam or encroaches on our traditions and culture. This Committee will determine which sites are immoral, such as pornographic sites and others, and will bar subscribers from entering such sites. There are many bad things on the Internet. That is why we have created a mechanism to prevent such things from reaching our society, so that a home subscriber to this service can be reassured. We have programs, software and hardware that prevent the entry of material that corrupts or that harms our Muslim values, tradition and culture.[21]

ʿAbd al-Raḥmān adds that this is why they had not rushed to provide Internet service before being certain that all the negative aspects had been eliminated.[22] In any event, these actions represent the deference of the official agencies to the muftīs' decisions, mainly in issues that relate to the ethico-social sphere.

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[20] See Ibn Bāz's fatwā on television above.
[21] See *ʿUkāẓ*, February 24, 1998.
[22] Ibid.

2. *Financial Matters*

The problem of bank usury (*ribā*) is the most complex within the field of economics, as it blatantly contradicts the Sharīʿa and incontestable Qurʾānic stipulations:[23]

> Those who devour usury will not stand except as stands one whom the evil one by his touch hath driven to madness. That is because they say: 'Trade is like usury,' but Allah hath permitted trade and forbidden usury. Those who, after receiving direction from their Lord, desist, shall be pardoned for the past; their case is for Allah [to judge]; but those who repeat [the offence] are companions of Hellfire; they will abide therein [forever]. Allah will deprive usury of all blessing, but will give increase for deeds of charity; for he loveth not creatures ungrateful and wicked. O ye who believe! Fear Allah, and give up what remains for your demand for usury, if ye are indeed believers (2:275, 276, 278).

These verses represent advanced Islamic concepts, revealed to the Prophet in his last days; they form the fourth and final stage in the Qurʾān's gradual prohibition of usury.[24]

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[23] *Ribā* is traditionally translated as 'usury'. However, jurists use a much broader definition in Islamic jurisprudence, addressing not only the prevention of exploitation of those in a weak bargaining position, but also "the illegality of all forms of undeserved gain or profit, resulting from speculative or risky transactions that could not be precisely calculated in advance by the contracting parties." See Coulson, *Commercial law*, 11; Vogel & Hayes, *Islamic law and finance*, 71–95; Saleh, *Unlawful gain*, 11–43; and Comair-Obeid, *Law*, 43–57.

[24] Sultan, "Islamic banking," 6. *Ribā* was prohibited on four different levels, based on several Qurʾānic verses taken from four separate chapters. The first level is based on (Q. 30:39): "That which ye lay out for increase [profit] through the property of [other] people will have no increase with Allah; but that which ye lay out for charity, seeking the countenance of Allah [will increase]; it is these who will get a recompense multiplied". There is no blatant prohibition of interest in this verse. It merely contrasts people who give alms with those who lend money to earn interest, stating that people who give alms are better than those who lend money for the interest. This verse motivated the early Muslims to ban loans carrying interest from their businesses in favor of charity. The second level is based on two later verses (Q. 4:160–161): "For the iniquity of the Jews, we made unlawful for them certain [foods], good and wholesome, which had been lawful for them, in that they hindered many from Allah's way…That they took usury, though they were forbidden and that they devoured men's substance wrongfully, we have prepared for those among them who reject faith a grievous punishment." These two verses demonstrate that interest was also prohibited in pre-Islamic Judaism. When some Jews continued to collect interest, despite the prohibition, they were punished. The third level is based on three verses from *Āl ʿImrān* (Q. 3:130–133): "O ye who believe! Devour not usury doubled and multiplied, but fear Allah that ye may prosper…Fear the Fire, which is prepared for those who reject faith…Obey Allah and the Messenger, that ye obtain mercy." While these verses contain explicit

This stance was indeed maintained throughout the ḥadīth literature, in which the Prophet condemned all *ribā*. One such ḥadīth reads: "Jābir said that God's Messenger cursed the one who accepted usury, the one who paid it, the one who recorded it and the two witnesses to it, saying they were all alike."[25] Abū Hurayra reported another ḥadīth in which the Prophet said: "Avoid the seven noxious things: 1. associating anything with God; 2. magic; 3. killing one whom God declared inviolate without a just cause; 4. devouring usury; 5. consuming the property of an orphan; 6. retreating from the battlefield; and 7. slandering chaste women who are believers, but indiscreet."[26] Some other traditions report that the Prophet classified *ribā* in seventy segments, all condemnable: "*Ribā* has seventy segments, the least serious being equivalent to a man committing adultery with his own mother."[27]

However, neither the Qurʾān nor the Sunna provides a precise definition of the term *ribā*, and therefore its meaning remains unclear. The second Caliph, ʿUmar Ibn al-Khaṭṭāb noted in this respect: "The Prophet…was taken without elaborating it [*ribā*] to us."[28] Nevertheless, classical jurists classified *ribā* in various categories as follows:

1. *Ribā al-nasīʾa* or *ribā al-Jāhiliyya*—the extension of the period of a loan requiring that a percentage be paid without diminishing the principal (predominant during the pre-Islamic era). When the date of maturity arrives, the lender allows the borrower to either pay back the full amount or to extend the obligation with an increase in the amount due.[29] This type of transaction is unequivocally prohibited both by classical and modern jurists.[30]
2. *Ribā al-faḍl*—excessive usury or the unequal exchange of the same product. This is prohibited based on the ḥadīth:

> It is related by ʿUbāda Ibn al-Ṣāmit that the Messenger of Allah said: 'Gold for gold, silver for silver, wheat for wheat, barley for barley, dates for dates, salt for salt, like for like, equal for equal and hand-to-hand.' If

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prohibitions on usury and excessive interest, commentators note that they do not relate to simple interest, when compared with verses about the fourth level.

[25] Ghazi, *Sayings*, 28.

[26] Muslim, *Ṣaḥīḥ*, 1:54.

[27] Ḥassān, "Ribā," 965.

[28] Mallat, *Islamic law*, 61.

[29] Al-Rāzī, *Mafātīḥ*, 2:129.

[30] Ibn Qayyim al-Jawziyya, *Iʿlām*, 2:132; al-Dawīsh, *Fatāwā al-lajna*, 13:330–333; al-Fawzān, "Farq," 86–141.

> there is a difference in kinds, then sell as you please, if by handful, then by hand-to-hand.[31]

According to Ibn Qayyim al-Jawziyya, the effective cause for prohibiting *ribā al-faḍl* does not lay within its own qualities, but in that it might lead to *ribā al-nasīʾa*. He referred to *ribā al-faḍl* as hidden *ribā*: "As to *ribā al-faḍl*, it represents the prohibition of evasive legal devices (*sadd al-dharāʾiʿ*), based on the ḥadīth reported by Abī Saʿīd al-Khudarī: "Do not sell one dirham [a unit of Arab currency] for two dirhams, it is liable to lead you to *ribā al-nasīʾa*."[32]

Contemporary Wahhābīs adhere to the prohibition against the accruing of interest, as stipulated in the last Qurʾānic stage mentioned above, and they condemn both types of *ribā* as contradicting Islamic law.[33] Moreover, they show intolerance for modern attempts to revise the concept of *ribā*.[34] For instance, they reject contemporary observations concerning the legal differences between *ribā* and profit (*fāʾida*). For example, in an article entitled: "The Sharīʿa's position toward banks", Ibrāhīm b. ʿAbd Allāh al-Nāṣir suggests that the only prohibited *ribā* is that of *ribā al-Jāhiliyya*, mentioned in classical sources, by which the lender presents two choices to the debtor: either to pay back the debt at maturity or to pay *ribā* for further credit. According to Nāṣir, this is the only type of *ribā* forbidden by Islamic law. Now, since most modern bank transactions (*muʿāmalāt maṣrifiyya*) follow different, predetermined parameters, unrelated to the above situation, they do not fall into the prohibited category of *ribā al-Jāhiliyya*. He added: "It is possible to say that there will not be Islamic strength without economic strength, and there will not be economic strength without banks, and there will not be banks without interest."[35]

In a written response in December 1986, Ibn Bāz tried to refute these arguments, claiming that interest should have never been the mechanism for establishing banks or a modern economy.[36] He noted that Muslims maintained a solid, interest-free economy throughout thirteen centuries. During this entire period, Muslims avoided practices

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[31] Al-Tirmidhī, *Sunan*, 2:520.
[32] Ibn Qayyim al-Jawziyya, *Iʿlām*, 2:133.
[33] Al-Dawīsh, *Fatāwā al-lajna*, 13:262–341; al-Fawzān, "Farq," 86–141; Ibn Bāz, "Radd," 121–135.
[34] See CRLO research on this below.
[35] Cited in *MBI*, 18:121–132, 136–139.
[36] Ibn Bāz, "Radd," 121–135.

that contradicted the Sharīʿa, so as not to cause unfair situations among people, which might threaten the entire socio-economic structure of the State.[37] One must note that Ibn Bāz's position on the issue of interest largely represents the official positions of both CRLO and BSU, as manifested in their initial approach to banking in the 1970s. Amidst the earliest research on this matter, fatwās were issued to define *ribā* and some related 'banking transactions' (*al-muʿāmalāt al-maṣrifiyya*).[38]

In its Biannual Session of February 1975, BSU authorized CRLO to do an exhaustive investigation of the issue of banking transactions and ordered CRLO to prepare a discussion to be held at the next BSU session.[39] In this research, CRLO addressed two major problems: 1. deposits, divided into three subcategories: (a) monetary deposits, (b) documentation, and (c) the rental of safe-deposit boxes; and 2. credit transactions (*ʿamaliyyāt al-iʾtimān*), including various loans (*iqrāḍ*) and guaranties (*ḍamān*).[40] I have selected a few relevant cases that represent contemporary Wahhābī legal thought on this matter.

As to monetary deposits, Wahhābī jurists initiated their research by making certain literal and idiomatic propositions. They also considered various secondary investigations being conducted in the field in regard to the legal implications of disputes over monetary deposits and other related issues, such as bank accounts.[41] Thereafter, the jurists proceeded to discuss how the tenets of the Sharīʿa apply (*al-takyīf al-sharʿī*), basing themselves mainly on Manṣūr al-Bahūtīʾs, *al-Rawḍ al-murbiʿ* and *Kashshāf al-qināʿ ʿan matn al-iqnāʿ*. Al-Bahūtī states that monetary deposits are considered to be loans given by the client to his bank. In other words, to deposit money in a bank account is seen as a transaction having the same conditions as a loan, in which the bank utilizes the loaned funds for a certain period of time and then reimburses them upon maturity.

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[37] Ibid., 126.

[38] *MBI*, 1:185; 8:18–147; 31:373–383.

[39] *MBI*, 8:18.

[40] This research was signed by four CRLO members: Ibrāhīm Āl-al-Shaykh (Chairman), ʿAbd al-Razzāq al-ʿAfīfī (Deputy), ʿAbd Allāh b. Ghudayyān and ʿAbd Allāh b. Manīʿ. An examination of all these types of bank transactions is outside the scope of this book.

[41] Among these works was the book by Edward ʿĪd, *al-ʿUqūd al-tijāriyya wa-ʿamaliyyāt al-Maṣārif* (Commercial contracts and banking transactions), as well as those of Muḥammad ʿAwaḍ and ʿAlī al-Bārūdī, who were central to these investigations.

Bank profit (*fawāʾid*) from deposits is outlawed as well, since it contains both types of *ribā: al-nasīʾa* and *al-faḍl*. CRLO jurists rejected certain authors' considerations, when they differentiated between *fāʾida* and *ribā* by arguing that monetary deposits are meant to be invested by the bank in productive projects (*lil-tanmiyya wal-intāj*), in which case they are clearly different from the forbidden loans meant only for consumption. For CRLO, this semantic distinction misconstrues *ribā*. In order to solidify its argument, CRLO points out that in pre-Islamic economic transactions loans were granted for purposes of both production (*intāj*) and consumption (*istihlāk*); this argument shows that many Qurʾānic stipulations reject the accruing of interest in either case.[42] In conclusion, CRLO recommends that monetary deposits be rejected as acts that entail interest, but guaranties and the rental of safe-deposit boxes may be endorsed as acceptable contracts under Islamic law.[43]

Similarly, CRLO conducted research on credit transactions, extensively examining bank loans and then discussing the applications of the Sharīʿa on these matters. Initially, CRLO suggested distinguishing between the granting of loans (*qarḍ*) and sales (*bayʿ*). The former is defined by the jurists as an interest-free loan made for the sake of aid (*irfāq maḥḍ*), while *bayʿ* entails a contract in which the borrower pays *ribā* plus certain added increments on the capital. For CRLO, a bank loan belongs to the latter category—*bayʿ*—because the bank utilizes the funds to meet its own economic interests, even though it provides financial aid to the client. Thus, a bank loan should be forbidden, because it includes both types of *ribā: ribā al-nasīʾa* stemming from the delay (*taʾkhīr*) in payment and *ribā al-faḍl*, resulting from the supplemental amounts added to the principal.[44] CRLO disapproves of such bank loans, even under the category of *qarḍ*, since they yield 'conditional benefits' (*nafʿan mashrūṭan*) and fit the classical legal definition of *ribā*.

These Wahhābī jurists found support in the Qurʾān, in the Sunna and in the opinions of other Islamic jurists. For instance, they quote the ḥadīth: "Every loan that leads to profit is *ribā*" (*Kull qarḍ jarra manfiʿa fahuwa ribā*). According to CRLO, this ḥadīth is *ḥasan* (good),

[42] *MBI*, 8:41–50.
[43] Ibid., 8:64–70.
[44] Ibid., 8:76–77.

since it was used by prominent jurists, such as: al-Suyūṭī (d. 1505), al-Minnāwī (d. 1621), Ibn Taymiyya, Ibn al-Qayyim, al-Juwaynī (d. 1085) and al-Ghazālī (d. 1111).[45] Some other traditions (*āthār*) are based on anecdotal reports by Mālik b. Anas in his *al-Muwaṭṭaʾ*, while others appear in the *Mudawwana* and are attributed to the second Caliph, ʿUmar Ibn al-Khaṭṭāb.[46] Further support is found in the teachings of Ibn Taymiyya and scholars belonging to other schools, such as al-Kāsānī (d. 1191), al-Dardīr (d. 1786) and al-Shīrāzī (d. 1311).[47] These scholars argued that the prohibition of *ribā* in the Qurʾān relates to both *ribā al-nasīʾa* and *ribā al-faḍl*.

CRLO recommendations and conclusions, subsequently adopted by BSU, reflect the contemporary Wahhābī attitude toward banks, which can be summarized by the following three major points: (1) all forms of interest on loans are prohibited without exception and without any distinction between loans for consumption and loans for production, since both overtly contradict the tenets of the Qurʾān and Sunna; (2) all bank operations charging interest (e.g., deposit accounts, savings accounts) are prohibited regardless of their interest rates; (3) all interest-free or commission-free banking operations (e.g., monetary accounts, payment by check) are allowed.[48]

Then, what alternative economic system do contemporary Wahhābī jurists and Muslim economists suggest for Saudi Arabia? The answer is an Islamic banking system that relies mainly on the principles of partnership and profit/loss sharing. In other words, Muslim banks are not to be founded on the mechanisms of profit and usury, but rather on voluntary Islamic resources and on officially sanctioned assistance. Such Islamic banks aim to render economic assistance and grant loans only to the needy. These loans should be repaid without any interest and their repayment must be based on the individual recipient's ability to repay them. Islamic banks are not expected to advance or receive a predetermined sum upon maturity. Monies should be invested in viable projects and entrusted to reliable borrowers. Should a project succeed, the bank shares the profits; otherwise the bank absorbs the

[45] Ibid., 8:78–79.
[46] Ibid., 8:79.
[47] Ibid., 8:77–78. The source mentioned by CRLO is *al-Fatāwā al-maṣriyya al-kubrā*, 1:412.
[48] More fatwās on this may be seen in al-Dawīsh, *Fatāwā al-lajna*, 13:341–432. See also al-Kafrāwī, *Nuqūd*.

loss. In other words, a Sharīʿa-compatible bank should invest accumulated capital in agricultural, commercial or industrial projects, with the purpose of retaining the real value of the invested capital and not of gleaning profits.

Some such Islamic banks operating in Saudi Arabia are: al-Rājiḥī Banking and Investment Corporation (in short: the Rājiḥī Bank),[49] the Dalla al-Baraka Group (in short: the Baraka Bank) and others.[50] They seek to foster economic development and social welfare in Muslim countries and communities based on Sharīʿa guidelines. For instance, the Baraka Bank describes its goals and transactions as follows:

> The functions of the Bank are to participate in equity capital and grant loans for productive projects and enterprises besides providing financial assistance to member countries in other forms for economic and social development. The Bank is also required to establish and operate special funds for specific purposes, including a fund for assistance to Muslim communities in non-member countries, in addition to setting up trust funds. The Bank is authorized to accept deposits and to mobilize financial resources through Sharīʿa-compatible modes. It is also charged with the responsibility of assisting in the promotion of foreign trade, especially in capital goods, among member countries; providing technical assistance to member countries; and extending training facilities to personnel engaged in development activities in Muslim countries which conform to the Sharīʿa.[51]

To ensure that monetary operations adhere to the Sharīʿa, the most important Islamic financial institutions operating in Saudi Arabia have

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[49] See, for example, the Bank's website: www.alrajhibank.com.sa (last access, Sept. 2009).

[50] Al-Baraka Bank was formally opened in October 20, 1975. Other Islamic financial institutions can be further divided into two categories. The first includes the Islamic commercial banks working in various parts of the world, including: Al-Rājhī Banking & Investment Corporation (Saudi Arabia); Kuwait Finance House (Kuwait); Bahrain Islamic Bank; Shāmil Bank (Bahrain—formerly Faysal Islamic Bank); Faysal Islamic Bank (Egypt); Dubai Islamic Bank (UAE); Jordan Islamic Bank; Qatar Islamic Bank; Islami Bank Bangladesh; and Bank Islam Malaysia Berhad (Malaysia). The second category includes Islamic investment institutions and international holding companies, including institutions, such as: Dār al-Māl al-Islāmī (Geneva), the Islamic Investment Company of the Gulf, the Islamic Investment Company (Bahamas), the Investment Company (Sudan), the Bahrain Islamic Investment Bank (Manama), Islamic Investment House (Amman), Al-Mīzān Bank (Pakistan), National Investment (Unit) Trust (Pakistan), Al-Baraka Islamic Investment Bank (Pakistan), and a number of finance houses in other parts of the world. For more on Islamic banks see al-Hītī, *Maṣārif*, 169–235; Vogel & Hayes, *Islamic law and finance*, 181–289.

[51] http://www.isdb.org/irj/portal/anonymous (last access, Sept. 2009).

Sharīʿa Supervisory Boards, which include advisors and one or more Islamic scholars with expertise in economic and financial transactions. The role of these Sharīʿa Boards was determined by the Baraka Bank as follows:

> …To guide all the institutions in the financial services sector and to study Sharīʿa-related issues as they arise, together with any individual Sharīʿa Boards of the various institutions of the sector and the Jeddah Fiqh Academy [currently one of the most authoritative body of Sharīʿa scholars in the Islamic world]. The Unified Board issues fatwās for various institutions and is involved in organizing the Annual Fiqh Symposium of DGB, which draws scholars from all over the world, and also publishes various Islamic banking and Sharīʿa educational publications and software of the Group.[52]

These Sharīʿa Boards often examine, in detail, both the structure of a proposed transaction and the relevant documentation. This is significant for Islamic investors, such as financial institutions or individual investors, who rely heavily on the Sharīʿa Board's decisions and may require that a fatwā be issued approving such an investment before the transaction is finalized and funds are actually invested.

In practice, the first Islamic bank in Saudi Arabia was inaugurated in 1937, after Ibn Maḥfūẓ, a leading Saudi banker, was granted permission. As a result, the National Commercial Bank was created, which became both the leading Saudi bank and world's largest private bank. It should be pointed out, however, that although some regulations are still unclear, this bank, together with some other prominent ones such as the Rājiḥī Bank, plays a major role in the Saudi financial system. In 1950, the United States Government was called upon by King Ibn Saʿūd to offer consultation regarding the organization of an authority that would be in charge of the currency and official documents related to Saudi Government expenditures. Arthur Young became the Head of the American Financial Mission and was sensitive to the Saudi religious requirements regarding banking activities without *ribā*. Young, being fully acquainted with Islamic regulations on interest and usury, discussed the details of forming an institution that could handle administrative challenges in such a manner that would not result in having to pay or receive interest.[53]

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[52] Ibid.

[53] See Wilson R., *Gulf*, 95; Wilson P., *Question*, 22, 24; Young, *Saudi Arabia*, 55, 64, 66; Binladin, "Western banking," 31.

In 1952, the Saudi Government established an agency called the Saudi Arabian Monetary Authority (SAMA), designated to function as the Saudi Central Bank, responsible for issuing currency, supervising and encouraging the Country's banking system, etc.[54] A royal decree was issued on April 20, 1952 determining that SAMA is bound to act according to Islamic teachings, namely to avoid accruing interest: "The Saudi Arabian Monetary Agency shall not pay or receive interest; it may only levy fees for the services rendered to the public or the Government in order to cover the Agency's expenses." Article 6 adds that SAMA shall not carry out any acts violating Islamic principles, such as paying or accruing interest from commercial activity.[55]

Today, many conventional banks in Saudi Arabia operate on the basis of profits accrued from interest. These banks are mostly partnerships between Saudi financial companies and foreign investors, such as the Saudi-American Bank, the Saudi-Dutch Bank, the Saudi-French Bank, Cairo-Saudi Bank and the Saudi British-Bank. They constitute a totally separate system, disengaged from Islamic control, and have been identified by muftīs as 'usurious banks' (*al-bunūk al-ribawiyya*), often condemned both by official and independent ʿulamāʾ. For instance, in February, 1987, the Imām of the Grand Mosque at Mecca and three other judges from the Western Province Court of Appeals asked Ibn Bāz to relay to the King their anger and disappointment in view of the general tendency to charge interest. At that time, Ibn Bāz wrote a letter to the King, once again requesting the establishment of Islamic banking institutions.[56] Ibn Bāz also pointed out to the King that he had promised in the past to establish a financial agency that would administer Shariʿa stipulations. Although the King's official response remains unpublished, the events that unfolded thereafter proved that he did indeed keep his promise; he closed Saudi Arabia's recently created stock exchange in light of accusations that non-Muslim banks were running it.[57]

Despite their initial opposition to conventional banks, official Saudi muftīs allow for their limited use, e.g. for safeguarding money when Islamic banks are unavailable. For instance, Ibn Bāz issued a fatwā

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[54] http://www.saudinf.com/main/e2.htm (last access, Sept. 2009); Binladin, "Western banking," 76.
[55] Binladin, "Western banking," 76.
[56] Wilson P., *Question*, 187–188.
[57] Ibid.

sanctioning the highly restricted use of conventional banks only under specific circumstances and with very serious reservations.

> Query
>
> Is it permitted to deposit sums of money into a bank in order to prevent their being lost, while at the same time adhering to the prescription of extracting *zakāt* on those same sums at regular intervals according to Sharīʿa?
>
> Response
>
> No money should be put into banks operating on the basis of usury, even if they refrain from charging interest on those sums that they are safekeeping, for this constitutes the abetting of an act counter to the Sharīʿa. If, however, there is no other choice, and no interest is charged, there is no reason not to, as said in the verse: "…He hath explained to you in detail what is forbidden to you, except under compulsion of necessity?" (Q. 6:119). One must, however, transfer one's money to an Islamic bank whenever possible, for one is forbidden to deal with banks operating on the basis of usury.[58]

Here, Ibn Bāz made use of the *qiyās* method, using an incomplete quotation of a verse that mainly relates to unsanctioned slaughtering (not *ḥalāl*). This verse depicts the customary practices of slaughtering and eating, and condones deviation from the *ḥalāl* laws only under extreme circumstances, when no other choices remain. From this source, Ibn Bāz deduces general regulations applicable to contemporary issues, including lifting the ban on interest-free deposits in non-Islamic banks.

Another significant financial matter is that of 'commercial insurance' (*taʾmīn tijārī*). In principle, this type of insurance was outlawed by BSU at its Tenth Session in Riyadh, as being at odds with Islamic tenets.[59] For instance, there is a form of risk-taking (*gharar*) inherent in the deal between a client and an insurance company, in that the amount of money in question cannot be predetermined. Situations may occur in which a company pays full compensation to the client, as in cases of damages, where the company gets nothing; or, more often, the client pays a small fraction of the total claim in order to receive full compensation. Insurance, therefore, involves a hazardous contract, which contradicts the ḥadīth prohibition against the sort

[58] Abū Shuhba, *Ḥulūl*, 153–154.
[59] Decision No. 55, March 2, 1976.

of selling known as *bayʿ al-gharar*.[60] Moreover, insurance entails an aspect of gambling (*qimār*) and *ribā*, which contradict the Sharīʿa.

Based on research conducted by CRLO, BSU proposed an alternative form of insurance called 'cooperative insurance' (*al-taʾmīn al taʿāwunī*).[61] CRLO presented the following:

1. Cooperative insurance is a donation contract aimed at cooperation, risk reduction and shared responsibility in the event of disasters, achieved by means of financial contributions made by individuals to compensate others who sustain damages. The aim is not to realize profits, but rather to 'distribute' risks and cooperate in bearing damages.
2. Cooperative insurance is free of usury, surplus and credit, so [financial] contributions are not exploited in usurious transactions.
3. Members in a cooperative insurance plan, whether they are aware of all the benefits or not, are never at risk, because neither fraud nor gambling are involved.
4. A group of members in a cooperative insurance company may invest the collected funds for the realization of company objectives.[62]

For BSU, cooperative insurance must be based on the voluntary participation of the members for non-profit purposes, supporting members only in time of need. Such insurance is allowed by BSU, because membership is voluntary and the insurance is devoid of profit-making mechanisms and free of accrued interest on working capital. Likewise, since the insurance payments are freely donated, no compensations are expected, safeguarding the transactions against being classified as betting games (*muqāmara*).[63] In other words, BSU wishes to eliminate the contradiction between this type of insurance and the Sharīʿa prohibitions against: *bayʿ al-gharar, ribā* and *muqāmara*.

Some Saudi insurance companies have implemented this form of 'Islamic insurance'. A good example is the Mīthāq Company for Cooperative Insurance, founded on the tenets of the Sharīʿa: "Its management team is drawn from the best minds in the insurance market,

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[60] For more on '*bayʿ al-gharar*' see Vogel & Hayes, *Islamic law and finance*, 71–97; Attar, "Ruling," 41–47.

[61] Decision No. 51 of March 2, 1976.

[62] *MBI* 19, 20:17–133, 13–144 respectively. See also al-Shawādifī, *Fatāwā*, 160–162.

[63] Ibid.

with long experience in the application of insurance according to the Sharīʿa."[64] In another statement: "The Company is deeply concerned and keen that Saudi society should receive the best and most comprehensive services in accordance with Islamic teachings by establishing cooperative insurance companies."[65] To assure operation according to the Sharīʿa, Mīthāq Co. has a Sharīʿa Board, similar to those in Islamic banks, consisting of four prominent religious scholars who hold high religious positions in Saudi Arabia: Shaykh ʿAbd Allāh b. Sulaymān, member of the Supreme Religious Council and Acting Chairman; ʿAbd al-ʿAzīz b. Ḥamūd al-Mishʿal, consultant to the Minister of Higher Education; Judge Muḥammad al-Sayf; and Shaykh Aḥmad b. ʿAbd al-ʿAzīz b. Bāz at Imām Muḥammad b. Saʿūd Islamic University.

One of the Board's responsibilities is to dictate guidelines for Company policy, based on relevant BSU fatwās and decisions. These guidelines are formulated as follows:

1. Insurance is a named, contractual collective composed of natural or legal persons, functioning together as one strong group in the face of dangers or contingencies which may befall them individually. Individuals cannot thwart such dangers by themselves. Allah says (Q. 5:2): "…Help ye one another in righteousness and piety, but help ye not one another in sin and rancor."
2. Individuals, who wish to cooperate in the face of specific dangers, should contribute the predetermined membership fee, proportional to the nature of the danger and the required level of coverage. These fees are collected in the same Fund from which members are compensated, should they suffer damages for which they are insured.
3. If organizational management is required to run the Fund on behalf of the members, to vouchsafe their interests and guarantee the designated, predetermined remunerations, the Insurance Company shall undertake this role.

The management activities to be carried out by the Insurance Company include:

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[64] See the Company's website: www.saudinsure.com/English/aboutus.htm (last access, Sept. 2009).

[65] Ibid.

i. To receive insurance subscriptions and prepare and issue policies to members;
ii. To run and invest funds in the interest of members, as per Sharīʿa provisions;
iii. To receive damages and compensation claims, to determine the appropriate sums and to execute payment, after verifying entitlement;
iv. To provide necessary technical, financial and administrative personnel to engage in this insurance work;

4. The relationship between the Company and each member is contractual, as set forth in the insurance contract.
5. The Company shall establish and run specialized, financially-autonomous, Insurance Funds.
6. These Funds shall have specific lifespans (3–5 years) and be liquidated at the end of this period. Surplus funds are calculated after all compensations have been paid out and the administrative fees have been deducted. The remaining surplus shall be returned to the members proportionally, based on their subscription rates and duration in the Fund. Any revenues normally accrued by the Fund are treated similarly.
7. Payment of just compensation to any member does not deprive him/her of his/her share in the surplus remaining when the Fund matures.
8. The Company shall abide by the tenets of the Sharīʿa when making contracts, avoiding futile defects, such as usury and fraud.
9. The Company shall prepare sufficient qualified insurance personnel, who act in accordance with the tenets of the Sharīʿa.[66]

For all practical purposes, the concept of 'commercial insurance' is supported by Sharīʿa, albeit with slight modifications and a different nomenclature. The Sharīʿa version of insurance, as defined by BSU, still contains the same components as commercial insurance, but the difference is actually included in the members' declarations of voluntary, non-profit participation in the agreement. By means of this declaration, BSU hoped to weaken the contractual aspect of the insurance agreement, thereby evading the Sharīʿa prohibition of *bayʿ al-gharar*,

[66] http://www.methaq.com/english/Islamic%20viewpoint.htm (last access, Sept. 2009).

which was precisely the main obstacle standing in the way of validation of commercial insurance.

Moreover, given that members participate voluntarily and do not expect financial gain or compensation of any sort, *ribā* and *muqāmara* are eliminated. In practical terms, however, those insured are compensated as needed and even reap benefits from the capital investment, as long as these funds have been invested in Sharīʿa-compatible resources, mostly in agriculture or industry. In a similar fashion, 'cooperative insurance' is validated, based on the principle of mutual responsibility (*takāful*) as recognized by Islamic law. Although Muslim law does not force an employer to compensate an injured worker, the employer is obligated to make monthly payments to the State which, together with the worker's payments, provides financial security for both sides.[67]

3. *Medical Issues*

One of the foremost issues studied by contemporary Wahhābī jurists is that of family planning. In its Seventh Biannual Session, held in August, 1975 in Ṭāʾif, BSU authorized CRLO to conduct research on family planning in preparation for discussions to be held at its upcoming session of March, 1976. This CRLO research dealt with: contraception (*manʿ al-ḥaml*), birth control (*taḥdīd al-nasl*) and family planning (*tanẓīm al-ḥaml*).[68] In light of this research, certain landmark decisions have been implemented.

In principle, all birth control is forbidden in Wahhābī Islam. CRLO sees birth control (abstinence (*rahbana*), *coitus interruptus* (*al-ʿazl*), abortion and various prophylactics) as legally problematic. Contraception is thought to harm the social, economic, cultural and ethical spheres by promoting adultery and the spread of sexually transmitted diseases—all of which threaten the supreme value of the family unit, a cornerstone of the Islamic social structure. Birth control contradicts the teachings of the Sharīʿa, which encourages letting Nature run its course (*takāthur*). Based on many Qurʾānic stipulations, jurists assert that it is God's will to prefer humans over other creatures; He sent humans to Earth as His representatives:

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[67] Ibid.
[68] *MBI*, 5:110.

> Behold, the Lord said to the angels: 'I will create a viceregent on Earth.' They said: 'Wilt Thou place therein one who will make mischief and shed blood, whilst we celebrate Thy praise and glorify Thy holiness?' He said: 'I know what ye know not.' And He taught Adam the names of all things; then He placed him before the angels and said: 'Tell Me the names of these, if ye are right.' They said: 'Glory to Thee; of knowledge we have none, save what Thou hast taught us. In truth, it is Thou who art perfect in knowledge and wisdom.' He said: 'O Adam! Tell them their names.' When he had told them, Allah said: 'Did I not tell you that I know the secrets of Heaven and Earth, and I know what ye reveal and what ye conceal? (Q. 2:30–33).

Thus, it is humankind's duty to create families and contribute to natural growth. CRLO found support in the Sunna, mainly in the ḥadīth: "O young people! Whoever among you can marry should marry, because it helps him lower his gaze and guard his modesty…Whoever is not able to marry should fast, as fasting diminishes his sexual appetite."[69]

CRLO also based its arguments on the teachings of al-Ghazālī, who argued that marriage has three major objectives: obtaining God's favor by perpetuating Humankind in accordance with His instructions; obtaining the Prophet's favor, making Him proud of His Community on the Last Day; and finally, obtaining divine blessings, when sons call for divine forgiveness for their parents at the time of their death.[70] Jurists even found support for rejecting birth control in studies done by some western experts that stress the risk involved in using certain contraceptives. Among these are Claire Folsom who states: "So far we have neither simple nor innocuous contraceptives."[71]

Jurists reject the arguments made by some western economists, sociologists and ecologists, such as Thomas Malthous, Francis Place and Charles Norton, who claim that family planning is essential for maintaining the balance of life and resources on Earth. Jurists also reject the notion that proliferation has a negative effect on human resources and, if unchecked, leads to famine and global disaster. They base themselves on both empirical and theological evidence to refute these western scholars. Their theological argument maintains that there is wisdom behind the creation of the Universe, a divine (natural) balance between life and resources, and that one never comes at the expense of the other. These arguments are supported by a long

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[69] Muslim, *Ṣaḥīḥ*, 1:630.
[70] *MBI*, 5:112–113.
[71] Ibid., 5:127.

list of Qurʾānic verses, such as: "Verily, all things have We created in proportion and measure," (54:49) and "…Every single thing is before His sight, in [due] proportion" (13:8); and finally, "There is no moving creature on Earth but its sustenance dependeth on Allah; He knoweth the time and place of its definite abode and its temporary deposit; all is in a clear record" (11:6).[72]

Economic reasons or the fear of want (*imlāq*) cannot justify the use of birth control, because it contradicts early Qurʾānic injunctions; in pre-Islamic times, pagans committed infanticide when they were unable to provide for their offspring. This is explicitly outlawed in the Qurʾān:

> Say: Come, I will rehearse what Allah hath [really] prohibited you from: join not anything as equal with Him; be good to your parents; kill not your children on a plea of want—We provide sustenance for you and for them—come not nigh to shameful deeds, whether open or secret; take not life, which Allah hath made sacred, except by way of justice and law: thus doth He command you, that ye may learn wisdom (6:151).[73]

Jurists offer empirical evidence pointing to the fact that the Universe has existed for billions of years, while life and resources have maintained their balance independently of human reproduction.[74]

There are, however, exceptional cases in the realm of family planning. When there is potential harm to the woman due to pregnancy, it may either be avoided or abortion sanctioned. In such cases, the argument for birth control is grounded in the principles of necessity and the woman's well-being—'preventing harm takes priority over gaining benefits' (*darʾ al-mafāsid yataqaddam ʿalā jalb al-maṣāliḥ*).[75] Modern jurists found support in classical sources, in which early jurists allowed *coitus interruptus* or abortion during the first forty days of pregnancy. Indeed, they stress that any method used should not negatively affect a woman's capacity to give birth in the future.[76]

The CRLO conclusions and recommendations were adopted by BSU at its Eighth Biannual Session in March, 1976 stressing that:

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[72] Ibid., 5:117.
[73] Ibid., 5:116–125.
[74] Ibid.
[75] Ibid; on this legal principle in classical Islamic literature see al-Shāṭibī, *Muwāfaqāt*, 3:257 and 4:196, 198.
[76] Ibid., 5:121.

> … Birth control and contraception, due to fear of want (*khishyat al-imlāq*) are prohibited, since God guaranties the sustenance of His creatures. However, if birth control comes to avoid harm to the woman … or in cases in which both spouses agree that it is in their best welfare to prevent or postpone a pregnancy, then birth control is permitted.[77]

For BSU, contraception and birth control are categorically prohibited, and are considered 'feticide', indicating insufficient faith in Allah, the Provider. However, BSU allows family planning only in cases of necessity, i.e., either when potential parents become aware of imminent medical risks resulting from the pregnancy or to preserve the well-being of the family in accordance with the Wahhābī muftīs' interpretation of the Sharīʿa.[78]

Another early medical issue presented during the BSU Eighth Biannual Session held in April, 1976 dealt with autopsies. In this Session, BSU authorized CRLO to prepare a study on: "the [Sharīʿa] rules regarding autopsy for medical purposes", for discussion at the Ninth Biannual Session, to be held in August, 1976. In its research, CRLO focused on four major, related themes: (1) the dignity (*ḥurma*) and inviolability (*ʿiṣma*) of the Muslim individual, whether dead or alive; (2) the different types of autopsy (*aqsām al-tashrīḥ*) done for maximal medical benefit; (3) an examination of the choices made by classical jurists in exceptional cases in which autopsy or the removal of an organ from a Muslim cadaver was allowed; and (4) the benefits offered by forensic autopsy to modern society by facilitating criminal investigations and prosecution.[79]

For CRLO, the inviolability of the Muslim body is a major legal issue, since Islamic law recognizes the absolute right to human dignity (*ḥurma* or *karāma*).[80] That is, any violation of the body is prohibited, unless otherwise specified as one of the three categories of punishment: *ḥudūd, qiṣāṣ* and *taʿzīr*, applied to murderers, adulterers, apostates and robbers. Jurists base their arguments on a long list of Qurʾānic verses such as: "Never should a believer kill a believer." and "…If a man kills a believer intentionally, his recompense is Hell, to abide therein

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[77] Decision No. 42 from April 13, 1976. This decision was accepted nearly unanimously, except for Shaykh ʿAbd Allāh b. Ghudayyān, who abstained from voting (*tawaqqafa*).

[78] Decision No. 42, April 12, 1976; see *MBI*, 5:128.

[79] *MBI*, 4:37.

[80] See Rahman, *Health*, 100–105.

[forever] and the wrath and the curse of Allah are upon him, and a dreadful penalty is prepared for him" (4:92–93). These jurists also find support in Prophetic traditions: "Breaking the bone of a dead person is the same as breaking his bone when he is alive." Based on these sources, CRLO made it clear that inviolability forbids the removal of an organ or causing any harm to a Muslim's body, whether dead or alive. Moreover, CRLO stresses that such inviolability applies not only to Muslims but also to allies (*muʿāhadūn*). Again, the jurists base their arguments mainly on the Qurʾān and the Sunna, with verses such as these from Sūrat al-Naḥl:

> Fulfill the Covenant of Allah, when ye have entered into it and break not your oaths after ye have confirmed them. Indeed, ye have made Allah your surety; for Allah knoweth all that ye do… And be not like a woman who breaks into untwisted strands the yarn she has spun after it has become strong. Nor take your oaths to practice deception between yourselves, lest one party should be more numerous than another; for Allah will test you by this and, on the Day of Judgment, He will certainly make clear to you [the truth of] that wherein ye disagree (16:91–92).[81]

For CRLO, autopsy is prohibited in principle. However, from the outset, the stated goal of this juridical research was to identify those certain, exceptional cases in which autopsy or other bodily mutilation is permissible. Three such cases were identified by CRLO jurists:

1. Forensic autopsy (*al-ṭib al-sharʿī*) done in order to provide substantial information on the cause of death in criminal cases;
2. Pathological autopsy (*al-tashrīḥ al-maraḍī*) performed in order to provide medical knowledge about the cause of death, especially in cases of rare diseases;
3. Autopsy for the purposes of research (*al-baḥth al-ʿilmī*), done to attain practical medical and scientific knowledge.

Basically, CRLO adopted *qiyās* as a method of examining these cases. The jurists found support in five legal cases having similar effective causes. These cases are: burning or flinging enemies who had hidden amongst Muslim prisoners of war; cutting the wombs of dead women to save the lives of their fetuses; cannibalizing a dead person in order

[81] For further accounts on other evidence that has been used by the jurists see *MBI*, 4:40.

not to starve to death; throwing a fellow passenger (chosen by lottery) overboard in order to save a sinking ship; and finally, firing missiles (*al-rami bil-manjanīq*) at the enemy, even when women and children are among them and may be harmed.

Wahhābī jurists approached all of these cases in roughly the same way, discussing opinions provided by classical jurists who had already contemplated these problems. Some of these classical jurists were Ḥanbalīs, such as Ibn Taymiyya, Ibn Qudāma (d. 1283), al-Mardāwī (d. 1058), and others belonging to various schools, such as: al-Ghazālī, al-Sarakhsī (d. 1090), Ibn Rushd (d. 1198), al-Shāfiʿī (d. 820), Muḥammad al-Shirbīnī al-Khaṭīb (d. 977).[82]

We will now focus on the last case above in which physical violation is allowed. CRLO favors firing on enemies, even though Muslim prisoners may be killed. Wahhābī jurists stress that such cases must be governed by the legal principles of *maṣlaḥa* and *ḍarūra*, as well as other principles derived from them, mainly: 'necessities overrule prohibition' (*al-ḍarūrāt tubīḥ al-maḥẓūrāt*) and 'choosing the lesser of two evils…' (*irtikāb adnā al-mafsadatayn*…).[83] The explanation is that shooting at the enemy will ensure victory for all Muslims and, by doing so, the five necessities found in the Sharīʿa will be promoted: religion, land, body, property and honor. In this case, public interest overrides the interest of individuals; thus, some individual Muslims may lose their lives for the sake of protecting the greater good and to stop the enemy from invading Islamic lands.

In addition, jihād is an obligation (*farḍ*) according to which Muslims must protect themselves, and since there may always be some Muslims in enemy territory, withholding attack to spare their lives would result in neglect of this Sharīʿa duty. In this regard, the jurists reviewed two major stances taken by classical jurists. The first, expressed by Ibn Rushd and several other jurists, permits the firing of missiles, even if they endanger the lives of Muslim women and children. The second prohibits the firing of missiles or firing at enemies in cases where Muslim prisoners are among them, based on the Qurʾānic verse:

> They are the ones who denied revelation and hindered you from the Sacred Mosque and the sacrificial animals, detained from reaching their place of sacrifice. Had there not been believing men and believing

[82] *MBI*, 4:48–52, 53–71.
[83] *MBI*, 4:37, 48–49.

> women, whom ye did not know that ye were trampling down and on whose account a crime would have accrued to you without [your] knowledge, [Allah would have allowed you to force your way, but He held back your hands] that He may admit to His mercy whom He will. If they had been apart, we would certainly have punished the unbelievers among them with a grievous punishment (48:25).

For CRLO, the latter opinion is problematic and, thus, the former opinion, in which jurists support attacks upon enemies holding Muslim prisoners, has prevailed.

Regarding autopsy, CRLO pointed out that it might be permitted under certain conditions, in light of the legal principles of *maṣlaḥa* and *ḍarūra*, but mainly when applying the principle (mentioned above): "Choose the lesser evil, in order to avoid carrying out complete evil, for lack of any other choice, and realize the highest benefit of both." So, in the case of autopsy, when having to decide between life and death, one must choose the former. In other words, while autopsy does indeed violate the dignity of the deceased (*ḥurmat al-mayyit*), in the choice between dignity and life, the latter must prevail.

After much debate, CRLO endorsed the first two types of autopsy: forensic autopsy (for the sake of justice) and pathological autopsy (to explore the causes of death in cases of rare diseases). The jurists based themselves mainly on the fact that most jurists had already approved the violation of Muslim cadavers, arguing both necessity and public interest. The five cases above, which endorse defiling Muslims, whether dead or alive, further corroborate this legal opinion. Since the first two types of autopsy apply the same *ʿilla*, they are allowed by the Wahhābī jurists.

However, CRLO abstained from approving autopsy on deceased Muslims for purposes of research, since it does not meet the necessary criteria. Nevertheless, these jurists realized that public welfare could indeed benefit from this type of autopsy as well, so they suggested the equivalent scientific value of conducting autopsies on non-Muslim cadavers.[84] They found support for this in contemporary fatwās written by jurists such as: Rashīd Riḍā (d. 1935), Ḥasanayn Muḥammad Makhlūf (d. 1990), Yūsuf al-Qaraḍāwī and ʿAbd al-Raḥmān al-Nāṣir al-Saʿdī.[85]

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[84] Ibid.
[85] Ibid., 4:70–79.

Once again, CRLO's recommendations and conclusions were adopted by BSU, with practically no alterations, at the Ninth Biannual Session, held in Ṭā'if on August 15, 1976.[86] At that time, BSU also endorsed CRLO's legal rationale for forensic and pathological autopsies under certain conditions. They stressed the public benefits obtained by doing such autopsies, especially their contributions to the greater good of the public (*taḥqīq maṣāliḥ kathīra*) and towards the prevention of epidemics. The benefits of autopsy were found to outweigh their evil (*mafsada*) or negative consequences. Therefore, BSU unanimously approved autopsies of both Muslims and allies.[87]

As for autopsy for purely scientific purposes—BSU limited its use to non-Muslim cadavers, based on the absence of necessity. Such autopsies can be performed on available, non-Muslim cadavers, thereby avoiding the violation of Muslims, while still gaining scientific knowledge (meeting both criteria simultaneously).

The next medical issue discussed by BSU was that of organ transplants. These talks were held at the BSU Tenth Session in Riyadh on March, 1977. BSU authorized CRLO to especially investigate the problem of corneal transplants, along with the problem of transplants in general, and to prepare for discussions to be held at the following Biannual Session.[88] These two complementary research projects focused on three crucial legal problems concerning the human body, all essential for the determination of the legal status of organ transplants in Islamic law: (1) altruism (*al-īthār*); (2) mutilation (*al-muthlā*); and (3) the extent to which a person controls his/her own body.[89]

Regarding altruism, CRLO observed that there are two types. The first type is 'commended altruism' (*īthār maḥmūd*)—when one considers the welfare and happiness of others over one's own, based on the relevant Sharī'a. For instance, a Qur'ānic verse states:

> But those who, before them, had homes [in Medina] and had adopted the Faith, show their affection to such as came to them for refuge, and entertain no desire in their hearts for things given to them [the latter], but give them preference over themselves, even though poverty was theirs [their own lot]. And those saved from the covetousness of their own souls; they are the ones that achieve prosperity (59:9).

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[86] For Decision No. 47 see *MBI*, 4:81.
[87] *MBI*, 4:81.
[88] *MBI*, 14:39; 22:17.
[89] Ibid.

For CRLO, in this verse, God praised the 'Supporters' (*anṣār*) of Medina, who not only provided the 'Emigrants' (*muhājirūn*) with aid and full solidarity, but even gave them preference over themselves. Jurists also found support in some traditions in which the Prophet praised altruism, either on the battlefield or in the social realm. For instance, the Prophet praised 'the man from *anṣār*' who provided food for own guest at the expense of his family.[90] The second type of altruism is 'reprehensible altruism' (*īthār makrūh*), wherein one brings irreversible damage upon oneself by donating all one's possessions, thus turning oneself into a charity case. Also 'reprehensible' are cases of altruism contrary to the Sharīʿa, such as giving others preference but consequently neglecting certain religious duties.[91]

As to 'mutilation', it is prohibited by the Sharīʿa.[92] Again, CRLO provides a long list of traditions in which the Prophet instructed his followers to avoid the mutilation of both humans and animals: "Do not exaggerate, commit treason, mutilate, or kill child" and "Do not mutilate animals."[93] Thus, all mutilation is prohibited, except in specific cases such as legal retaliation (*qiṣāṣ*). The jurists based themselves on Ibn Taymiyya's observations in this regard and on certain Qurʾānic verses such as: "And if ye do catch them out, catch them out no worse than they catch you out: but if ye show patience, that is indeed the best [course] for those who are patient" (16:126). Based on this verse, jurists recommend avoiding mutilation, even in cases of *qiṣāṣ*.[94]

All in all, Wahhābī jurists summarize their opinions on mutilation in four major points: (1) mutilation of a living body is only permitted when it is in the best interest of that person; (2) mutilation is also permitted in cases of *qiṣāṣ*. However, avoidance is recommended (as above) also by verse (Q. 42:40): "The recompense for an injury is an injury equal thereto; but if a person forgives and makes reconciliation, his reward is due from Allah; for [Allah] loveth not those who do wrong"; (3) mutilation of either a living body or of a cadaver for the purpose of providing necessary medical aid to others is a matter

[90] *MBI*, 14:42. More in ibid., 14:40–46.
[91] *MBI*, 14:47.
[92] See Ibn Taymiyya, *Majmūʿ*, 28:314–315.
[93] *MBI*, 14:59.
[94] Ibid., 14:60.

for juristic discretion (*maḥall naẓar wa-ijtihād*) and (4) mutilation for revenge or amusement is totally forbidden.[95]

CRLO provided an explicit answer to the question of whether or not a person controls his/her body. The jurists argue that God controls everything, including human life and the bodies of all His creatures. They stress that there is no evidence in legal sources granting humans control over their own bodies. Again, these jurists base their opinions mainly on the Qurʾān and the Sunna. They cite, for example: "Allah is the Creator of all things, and He is the Guardian and Disposer of all affairs" (Q. 39:62), and:

> Say, O Allah! Lord of power, Thou givest power to whom Thou pleasest, and Thou strippest off power from whom Thou pleasest; Thou enduest with honour whom Thou pleasest, and Thou bringest low whom Thou pleasest; in Thy hand is all good. Verily, over all things Thou hast power (Q. 3:26).[96]

Jurists also found support in other traditions and ḥadīths that indicate God's—not Man's—control of the physical body. Therefore, in general, a Muslim is forbidden to donate an organ, since it is not his/hers to give—it belongs to God alone.

CRLO realized, however, that transplants are inevitable in our times, and so jurists suggested that transplantation ought to be considered on a case-by-case basis. The jurists noted that transplants might be performed either in accordance with the principle of 'dominant public interest' (*al-maṣāliḥ al-rājiḥa*) or the abovementioned principle of 'choosing the lesser evil…'[97] Based on these two principles, jurists permit transplants from any viable deceased person, whether the donor is Muslim, monotheist (*dhimmī*) or anyone compatible. They adopt the position that saving a life overrides the dignity of the deceased.[98] On the other hand, organ transplants from a living person to another living person are prohibited, since the former's welfare prevails over the latter's and since there is no guarantee of the success of the transplant surgery, which puts both the donor and the recipient at risk.

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[95] Ibid., 14:61.

[96] Other verses cited by CRLO were 6:12–13; 23: 84–85, 88–89; 114:1–2; 13:15; and 53:24–25.

[97] See footnote 8 above.

[98] *MBI*, 22:49–51.

At the Thirteenth Biannual Session, held in Ṭāʾif in September, 1978, BSU published its decision concerning corneal transplants.[99] Upon implementation, BSU noted that this decision was based on CRLO research and on the opinions of external experts in ophthalmology. Their decision was as follows: (1) Transplanting a cornea from a deceased person to a living Muslim is permitted only with the consent of the deceased's family and assuming that the operation will be successful; (2) Permission to transplant a cornea is based on expert testimony that the success rate for corneal transplants is between 50%–90%, depending on the case. Methodologically speaking, the jurists based themselves on the principle of *al-maṣlaḥa al-rājiḥa*, according to which life prevails over death and weighing the benefits and loss to both the donor and the recipient.

What remained vague was the issue of corneal donation from one healthy, living person to another. This situation was still problematic for CRLO,[100] but an answer was provided four years later, in August 1982, when BSU elaborated on its prior decision.[101] At this time, jurists added that (1) transplantation from a deceased to a living person is permissible, since necessity supersedes the risk involved in the operation; and (2) transplanting an organ from one living person to another living person is permissible only in cases of dire necessity (*ḍarūra muliḥḥa*).[102]

Meanwhile, the official contemporary Wahhābī position toward transplantation was elaborated upon by a later decision of the Islamic Fiqh Council (*Majmaʿ al-Fiqh al-Islāmī*; henceforth: IFC), under the chairmanship of Shaykh Ibn Bāz. During its Fourth Session in Jeddah in February, 1988, the IFC expanded on this transplant debate, dealing with three major types of transplantation: (1) transplanting an organ from a living person; (2) transplanting an organ from a deceased person; (3) and transplanting an organ from an embryo. The decision largely accepted today in Saudi Arabia is based on eight points:[103]

1. It is permitted to transplant or graft an organ from one part of a person's body to another, as long as care is taken to ensure that the benefits of this operation outweigh any harm that may result

[99] Decision No. 62, September 27, 1978.
[100] *MBI*, 22:57.
[101] Decision No. 99, August 25, 1982.
[102] Al-Bār, *Mawqif*, 286.
[103] Majmaʿ al-Fiqh al-Islāmī, *Qarārāt*, Decision No. 26, 57–60.

from it, and on condition that it is done to replace something that has been lost, or to restore its appearance or regular function, or to correct some fault or disfigurement which is causing physical or psychological distress.
2. It is permitted to transplant an organ from one person's body [the donor] to another [the recipient], if it is an organ that can regenerate itself, such as skin or blood, on the condition that the donor is mature and cognizant what he/she is doing, and that all other pertinent Sharīʿa tenets are met.
3. It is permitted to use part of an organ that has been removed, for any reason, from one person [the donor], to benefit another person [the recipient], such as using a cornea.
4. It is forbidden to remove any organ from a living person, when doing is critical to the life of that person, e.g. one may not remove the heart.
5. It is forbidden to remove any organ from a living person when doing so will impair an essentially vital, though not life-threatening, function, such as the removal of both corneas [which would leave the donor blind]. However, removing organs whose removal will lead to only partial impairment is still a controversial matter under scholarly discussion.
6. It is permitted to transplant an organ from a deceased person [the donor] to a living person [the recipient] whose life depends on receiving that organ, or whose vital functions are otherwise impaired, on condition that permission for this is either granted by the donor before his/her death or by his/her heirs, or by the Muslim ruler, in cases where the identity of the deceased is unknown or he/she has no heirs.
7. Care should be taken to ensure that organs to be transplanted in the above cases are being freely given and received and that no buying or selling of the organs is involved. Trade in human organs is not permitted under any circumstance. The question of whether the recipient may spend his/her money to obtain a needed organ or to show his/her appreciation still remains under scholarly debate.
8. Any cases other than the scenarios described above are still subject to scholarly debate and require further detailed religio-legal research in light of modern medical research and ongoing Sharʿī rulings.

Today, surgical transplants are performed at many transplantation centers in Saudi Arabia. Eleven renal, three heart, one liver and ten corneal transplant centers operate under the auspices of the Saudi

Center for Organ Transplantation (SCOT) established in 1985. The center, which divides the country into six sectors for the purpose of transplantation-related activities, administers all public and medical education, establishes rules and regulations and monitors the entire system. According to the SCOT Annual Report, the number of transplantations performed by these centers using harvested organs from deceased persons up to the year 2,000 is: 1,121 kidney transplants, 196 liver transplants, 87 heart transplants, 220 heart-valve transplants, 367 corneal transplants, 8 lung transplants and 4 pancreas transplants.[104]

In this chapter, I have systematically discussed contemporary Wahhābī jurisprudence and its flexible interpretation of visual media, financial matters and medical issues. In regard to the visual media, jurists have allowed the broad use of mass media, albeit under State supervision. In the area of financial matters, jurists have approved all Sharīʿa-compatible banking services and insurance. However, the problematic use of commercial banks and insurance, though not entirely banned, is restricted to unavoidable cases. As to medical issues, Wahhābīs display impressive openness to the positive applications of medical technology for the betterment of the welfare of Muslim individuals, family and society. It goes without saying that each case is determined on its own merits in accordance with the tenets of the Sharīʿa as interpreted by the Saudi Dār al-Iftāʾ.

[104] Saudi Center for Organ Transplantation, *Annual Report*, 2000. See the Center's website: http://www.scot.org.sa/arabic/arabic-ver.html (last access, Sept. 2009).

CONCLUSIONS

In this book, I have investigated the history and work of the Saudi Dār al-Iftāʾ, one of the most central modern Islamic official religious institutions. This study was undertaken from two perspectives: (1) its creation, power structure, functions and the sociopolitical environment in which it operates; and (2) its actual work, mainly the mechanisms by which modern Saudi State muftīs cope with clashes between Wahhābī idealism and the reality of an evolving society.

It is evident that in modern-day Saudi Arabia, the muftīs have undergone a long process of centralization that reached its zenith in 1971, when an unprecedented number of senior muftīs were co-opted by the new State *iftāʾ* agencies: BSU and CRLO. The restructuring of Dār al-Iftāʾ was part of the official reaction to changing social and technological circumstances spurred by the discovery of petroleum resources in the country. This new economic situation provided the Saudi people with innovations of all sorts that pervaded many aspects of daily life. However, these changes often seemed to conflict with Islam. Saudi rulers realized this tension and sought to promote Islamic ideals that would take into account the practical needs of contemporary state and society. As the guardians of the Sharīʿa, the muftīs were the natural candidates for such a task. Their incorporation into the national administration made them significant partners, sharing responsibility for social policies and political decisions.

Consequently, a unique new power structure emerged, built on a mutually-beneficial partnership. On the one hand, these official, senior muftīs are subordinate to the direct authority of the King, who is entitled to appoint as well as to dismiss them according to his will. They serve as his advisors and the King's inquires receive preferential treatment. On the other hand, Dār al-Iftā continues to exercise influence in several spheres simultaneously, primarily in legal, ethico-social and religious affairs by issuing relevant fatwās. These official muftīs play crucial roles in the Saudi judicial system, as well as other governmental ministries and agencies. The opinions of Dār al-Iftā have a considerable effect on life in Saudi Arabia. Decisions and fatwās by Dār al-Iftā are often further empowered when rendered into law as royal decrees. In fact, the *Muṭawwiʿa* usually acts in accordance with Dār al-Iftā.

Modern-day Saudi-Wahhābī muftīs remain, to a large extent, faithful to transmitted tradition. They rely mainly on the Qurʾān and the Sunna, consulting them before any other source. However, there are some signs of change in their legal theories, *madhhab* affiliations, *ijtihād* and *taqlīd* methodologies, taking them farther from Ibn Ḥanbal's traditional, text-based *uṣūl* and closer to exegetical methods prevalent elsewhere in the Muslim world. Saudi muftīs now accept the four Sunnī *uṣūl* practiced by the other *madhhab*s: Qurʾān, Sunna, *ijmāʿ* and *qiyās*.[1] By not limiting themselves to Ḥanbalī teachings, Saudi muftīs strive to use Islamic legal traditions in the broadest sense, facilitating the accommodation of legal norms to the challenges of modern life.

As part of the attempt to address contemporary issues, modern Saudi muftīs have adopted a *bidʿa*/Sunna dichotomy to delineate the boundaries of the forbidden and the permissible in regard to innovation and change. They are particularly sensitive to innovations in ritual practice and in the socio-religious sphere, often considering them as forbidden practices (*bidʿa muḥditha*). Therefore, their reactions to such innovations is generally uncompromising, e.g., prohibitions against the restoration of Muslim historical sites, against certain celebrations and memorials, strictures regarding the role of women in society and, finally, their negative attitude towards entertainment. The application of the principle of *bidʿa* in the modern context is a crucial means by which Dār al-Iftāʾ attempts to safeguard Wahhābī socio-cultural and religious norms in Saudi society from non-Muslim influences. However, Saudi muftīs have not yet completely determined what should be regarded as 'Islamic' as opposed to 'foreign' in modern ritual and daily practice. The question that remains unanswered is: What are the boundaries, if any, between contemporary Islamic culture and other cultures? Legal controversy will continue unresolved, unless these issues are clarified by Muslim jurists.

As for matters within the purview of Sunna, the realm of the permissible has acquired more flexible boundaries. This open-minded approach to modern innovations is evident in fatwās on visual media, financial matters and medical issues. Saudi muftīs address mundane issues (those within the purview of Sunna), acknowledging the needs and welfare of Saudi society, e.g., by permitting certain organ trans-

[1] Note that King ʿAbd Allāh appointed representative muftīs from all four Sunni *madhhab*s to the BSU in February 2009.

plantation and Internet use. As for their involvement in political affairs, fatwās that validate controversial Government policy demonstrate the mutually-beneficial partnership between the muftīs and the Government, e.g., the fatwā that affirmed the landing of U.S. troops in Saudi Arabia during the Gulf War.

The differential approach of Dār al-Iftāʾ to contemporary issues is a manifestation of the seemingly paradoxical coexistence of progress and preservation, and reflects the social and cultural tensions within both the liberal and the traditional segments of Saudi society. The official muftīs serve to simultaneously promote wellbeing in a modern Saudi Arabia and to preserve the religious nature of the State and its society, both necessary for stability. In light of the complexities of reality, this is a very difficult task and the official Saudi muftīs are not always entirely successful. While Dār al-Iftāʾ plays an important role in the formation of the Saudi social and cultural façade, its decisions are not always implemented on the ground. This is also manifested in some discrepancies between theory and practice, in which the Government's policies do not always follow Sharīʿa as interpreted by Dār al-Iftā. In fact, there are still commercial banks based on usury, official television and radio broadcasts that include music and show serials and other contents rejected by Dār al-Iftāʾ, and there are even women's hairdressers, music shops, etc. While Wahhābī Islam has successfully handled many twenty-first century challenges, particularly in the mundane realms of science and technology, it falls short when dealing with global social dynamics, e.g., democracy, pluralism, human rights, etc. These discrepancies and their ramifications require further research.

APPENDIX A: TRANSLATED DECISIONS OF BSU

Below is a selection of translated BSU decisions, followed by CRLO fatwās in appendix B. These translations are as close to the originals as possible, though some extraneous portions have been deleted. Where the originals were unclear, I have attempted to clarify them.

(1) *Wife's Disobedience* (nushūz)*: Decision No. 26, dated 21.8.1394 A.H. [September 9, 1974]*

…In its Fourth Session, the BSU presented the problem of a wife's disobedience to her husband for investigation by CRLO as one of the topics to be addressed in the forthcoming fifth session of the Board, to be held in Ṭā'if from 5.8.1394 A.H. [August 24, 1974] to 22.8.1394 A.H. [September 10, 1974]. After reviewing and discussing what had been said by scholars in this regard, the Board unanimously decided the following:

A judge may advise a wife to obey her husband, clarifying the severity and consequences if she persists in disobeying her husband, e.g., by committing sins, she relinquishes her rights to maintenance, clothing and housing…and [the judge] may take further measures to encourage the wife to return to her husband. However, if she persists in refusing [to obey her husband], reconciliation should be offered to the couple; if they refuse to be reconciled, the husband is advised to divorce his wife, explaining to him that she become estranged and he may find a more appropriate spouse…If the husband refuses this offer and the couple remains conflicted, the judge shall nominate two arbitrators from amongst the both families of the spouses, particularly those who are familiar with the couple's case; if such are not available, non-family arbitrators may be nominated. If the judge can facilitate reconciliation between the spouses, so be it, but if not, the judge must urge the husband to divorce his wife and she must refund her dowry to him [known as *mukhāla*ʿ*a* or *khul*ʿ in Islamic law]; if he refuses, the judge should adopt the arbitrators' decision regarding the couple's separation, whether with or without compensation. If the arbitrators disagree or there are none and the couple cannot maintain a peaceful marriage, the judge may revoke their marriage contract, with or without compensation.

The above is evidenced in the Qurʾān and the Sunna, as well as in other traditions. For example, the Qurʾān (4:114) reads: "In most of their secret talks there is no good: But if one exhorts to a deed of charity or justice or conciliation between men…" This [verse] corresponds to spousal disobedience and to the act of reconciliation by a judge. Also, Allah's says in the Qurʾān (4:34): "…as to those women on whose part ye fear disloyalty and ill-conduct, admonish them…" 'Admonishing' [of a wife] may be undertaken both by a husband and by a judge for the sake of the wife's welfare. In addition, Allah says in the Qurʾān (4:128): "If a wife fears cruelty or desertion on her husband's part, there is no blame on them if they arrange an amicable settlement between themselves; and such settlement is best…" This verse indicates that reconciliation is licit in the case of a husband's disobedience. This is also true in the case of a wife's disobedience or when both spouses are disloyal to each other. Also, in the Qurʾān (4:35): "If ye fear a breach between them twain, appoint [two] arbiters, one from his family, and the other from hers; if they wish for peace, Allah will cause their reconciliation…" This verse proves that rulings should be made [by a judge or by arbitrators], whether for reconciliation or for divorce, with or without compensation. Also when Allah says in the Qurʾān (2:229): "…It is not lawful for you [men], to take back any of your gifts [from your wives], except when both parties fear that they will be unable to keep the limits ordained by Allah. If ye (judges) do indeed fear that they would be unable to keep the limits ordained by Allah, there is no blame on either of them if she gives something for her freedom…"

As to the Sunna, al-Bukhārī narrated [in his Ṣaḥīḥ]…The wife of Thābit b. Qays b. Shammās came to the Prophet…and said: "O Messenger of Allah, indeed, I have nothing against Thābit's religiosity and morality, but I fear deviation from the right path". The Prophet…replied: "Will you give him back his garden [the dowry]? She said: Yes. Then he [the Prophet] ordered him [the husband] to divorce his wife…" The Prophet also said…: "Let there be no harm or reciprocating harm"…This ḥadīth indicates that *khulʿ* is licit when harmony between the spouses is lacking and for the sake of preventing harm.

As for other traditions…Ibn ʿAbbās has said: "Both I and Muʿāwiyah have been nominated as arbitrators." Muʿammar said that he was informed that ʿUthmān had nominated them and directed them to observe if they [the spouses] wish to maintain their marriage, then

bring them together, but if they want to divorce, then act accordingly [divorce them]…

Al-Dāraquṭnī described…: A man and a woman came to ʿAlī, each accompanied by a group of people. Then he [ʿAlī] nominated an arbitrator from each side and notified them of their duties, asserting they should consider the well-being of both sides when making their decisions, whether they [the couple] want to live together or not. The woman said: "I accept the instructions in Allah's book, whether they are in my favor or not." The husband said: "I reject separation", then ʿAlī said [to the husband]: "This is unacceptable; you may not leave until you accept what she accepted"… Also, al-Ṭabarī (in his tafsīr) quotes Ibn ʿAbbās… regarding marital arbitration: "Their consent [the spouses'], whether to stay together or divorce, is licit".

In any event, the duration of a wife's disobedience should not be long, because this interferes with harmony and brotherhood, and contradicts Allah's will that relationships between spouses be based on the principle of: "…either take them back on equitable terms or set them free on equitable terms" [Qurʾān 2:231], since the consequences of maintaining a conflicted marriage are harmful, unjust, sinful, estranged, hostile and cause hatred between the families…

—Board of Senior ʿUlamāʾ:
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd Allāh b. Ḥamīd; ʿAbd Allāh Khayyāṭ; ʿAbd al-Razzāq al-ʿAfīfī; Muḥammad al-Ḥarkān; ʿAbd al-Muḥsin Ḥasan; ʿAbd al-ʿAzīz b. Ṣāliḥ; Ṣāliḥ b. Ghuṣūn; Ibrāhīm b. Muḥammad Āl al-Shaykh; Sulaymān b. ʿAbīd; Muḥammad b. Jubayr; ʿAbd Allāh b. Ghudayyan; Rāshid b. Khanīn.

(2) *Population Control: Decision No. 42, dated 13.4.1396 A.H. [April 12, 1976]*

…In the Eighth Session… the Board reviewed the issues of contraception, birth control and family planning, as determined at its seventh session, held in the first half of Shaʿbān 1395 A.H. [August, 1975] The Board reviewed the research that had been prepared by CRLO. These issues were thoroughly discussed by the members of the Board and the following decision was reached:

Islamic law supports increasing the birth rate of the Islamic Community, which is considered to be a great blessing that Allah provided for Humanity. This is indicated by several legal texts in the Qurʾān and

Prophetic tradition and is supported by CRLO… Due to the fact that birth control and contraception contradict human nature, they also contradict Islamic law, which Allah deemed appropriate for Humanity. Those who support birth control or contraception are restricting Muslims in general and the Arab community in particular, in order to control them…

This is a means of weakening the Islamic Community, a community based mainly on strong ties. For all of these reasons, the Board decided that birth control and contraception are totally forbidden, since Allah guarantees human maintenance on Earth. Nevertheless, contraception and birth control are permitted in cases of necessity, such as when a mother cannot give birth naturally and an operation is required, as well as in cases in which the parents have postponed pregnancy for beneficial reasons. These exceptions are based on Prophetic tradition as related by some of the Companions who sanctioned *coitus interruptus* (*ʿazl*) and to some jurists who permitted the taking of medication to terminate a pregnancy during the first forty days. Moreover, contraception is obligatory in cases in which it prevents harm. Note here that Shaykh ʿAbd Allāh b. Ghudayyan abstained from this decision…

—Board of Senior ʿUlamāʾ:
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd Allāh b. Ḥamīd; ʿAbd Allāh Khayyāṭ; ʿAbd al-Razzāq al-ʿAfīfī; Muḥammad al-Ḥarkān; ʿAbd al-Majīd Ḥasan; ʿAbd al-ʿAzīz b. Ṣāliḥ; Ṣāliḥ b. Ghuṣūn; Ibrāhīm b. Muḥammad Āl al-Shaykh; Sulaymān b. ʿAbīd; Muḥammad b. Jubayr; ʿAbd Allāh b. Ghudayyan; Rāshid b. Khanīn; Ṣāliḥ b. Laḥaydān; ʿAbd Allāh b. Manīʿ.

(3) *Autopsy: Decision No. 47, dated 20.8.1396 A.H. [August 15, 1976]*

…In its Ninth Session, held in Ṭāʾif… BSU reviews Letter No. 3231/2/Kh of the Minister of Justice, based in turn on the Foreign Ministry's Letter No. 34/1/2/13446/3 from 6.8.1395 A.H. [August, 1975], regarding the Malaysian Embassy's query on autopsy for medical and scientific purposes and the opinion of the Kingdom of Saudi Arabia on this issue. The Board reviewed the research conducted by CRLO. Three major types of autopsy were indicated:

1. [Forensic] Autopsy done in order to provide a substantial quantity of information on the cause of death in criminal cases. This kind of autopsy was classified by jurists as *al-ṭib al-sharʿī*.

2. [Pathological] Autopsy performed to provide further medical information concerning diseases and epidemics.
3. [Research] Autopsy to glean scientific information.

…Following a comprehensive discussion…the Board decided: As to the first two types, the Board finds great benefits stemming from autopsy, mainly in the realms of security, justice, and preventive medicine. These benefits include the protection of society from epidemic diseases, with minimal damage to the cadaver. Thus, the Board decided unanimously to permit autopsy for these ends, whether the cadaver is ordinarily considered inviolable or not. As for the third type, i.e., autopsy for scientific research, based on the principles of the greater good and causing the least possible harm, is permitted in principle. Autopsies on animals do not provide the same results as human autopsy…

—Board of Senior ʿUlamāʾ:
Muḥammad al-Ḥarkān (Chairman); ʿAbd al-Majīd Ḥasan; Ṣāliḥ b. Ghuṣūn; Muḥammad b. Jubayr; ʿAbd Allāh Khayyāṭ; ʿAbd al-ʿAzīz b. Ṣāliḥ; Ibrāhīm b. Muḥammad Āl al-Shaykh; ʿAbd Allāh b. Ghudayyan; ʿAbd al-Razzāq al-ʿAfīfī; ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz; Sulaymān b. ʿAbīd; Rāshid b. Khanīn; ʿAbd Allāh b. Manīʿ; ʿAbd Allāh b. Ḥamīd; Ṣāliḥ b. Laḥaydān.

(4) *Limiting Dowries: Decision No. 52, dated 4.4.1397 A.H. [March 25, 1977]*

…In its Tenth Session, held in Riyadh…, BSU reviewed the research conducted by CRLO regarding the limiting of women's dowries, based on the request submitted by…the Deputy Prime Minister to discuss this issue…and to inform him of the [BSU] decisions. The Board also reviewed the complaints submitted to the relevant [governmental] agencies regarding people who flaunted extravagant dowries and waste at weddings and banquets, such as strong outdoor lighting, singing, idle talk, the use of forbidden musical instruments throughout the night, which sometimes exceeds the call of the muezzin to the Fajr prayer…Traditions easing dowries and encouraging moderation in expenditure, avoiding extravagance and waste, were also reviewed [by BSU]. For example, Allah's saying: "…but squander not (your wealth) in the manner of a spendthrift; verily spendthrifts are brothers of the evil ones; and the evil one is to his Lord (himself) ungrateful

(Q. 17:26–27)" … Abī Salamah b. ʿAbd al-Raḥmān said: "I asked ʿĀ'isha …, the Prophet's spouse, how much dowry did the Prophet … pay?" She replied: "He paid … twelve ounces and a *nashā*." She added: "Do you know what *nashā* is?" I said: "No." She replied: "It is equal to a half of one ounce, i.e., five hundred dirham." Also, ʿUmar … said: "I never heard that the Prophet … paid or received more than twelve ounces when He or his daughters got married". According to al-Tirmidhī, this is an authentic ḥadīth.

It was reported in the *Ṣaḥīḥayn* [two authentic collection of ḥadīths by al-Bukhārī and Muslim] and by others that according to Abī Hurayra … the Prophet … gave a woman in marriage to a man merely for the Qurʾānic manuscripts he held at that moment. An authentic ḥadīth by Al-Tirmithī reported that ʿUmar … said: "Don't exaggerate women's dowries, because if it was favorable in this world or pious, then the Prophet would have done so first. The Prophet never paid his wives or received a dowry for his daughters of more than twelve ounces…" Traditions and reports that encourage moderation in expenditure are various and well-known.

… People persistently give excessive dowries, boast, show extravagance, are wasteful before and during celebrations … engage in other forbidden conducts that are liable to lead to immoral acts, such as the intermingling between men and women, services provided by men to women … at hotels … Many people are unable to bear the brunt of such heavy costs and may, therefore, even seek marriage partners from foreign societies, whose morals and traditions are not compatible with ours …

BSU, in light of all the above, stresses the urgent need for serious, assertive treatment of this situation and suggests the following:

1. Singing at wedding celebrations, by male or female singers, as well as the use of musical instruments and loud-speakers, are abominable acts to be prevented and all who do so should be punished.
2. Intermingling between men and women is prohibited at wedding celebrations, as well as on other occasions; the husband [the groom] must avoid entering places where his wife [the bride] is staying with other women. The husband and his wife's guardians are liable for preventing this situation, otherwise they will be punished.
3. Extravagance and waste in the preparation of wedding banquets are forbidden, and people should be warned against such behavior via marriage registers, in the media and especially at consciousness-

raising programs, in the mosques and at study forums, that should also encourage the limiting of dowries.

4. The Board, by majority, finds that he who shows blatant extravagance and waste at weddings and banquets must be prosecuted before the tribunals . . . and punished when found guilty, in a manner that deters others from engaging in such actions. It seems that some people do not avoid such evils unless threatened by punishment . . .
5. The Board encourages the limitation of dowries and urges those who address the public in the mosques and the media to clarify this issue by providing examples of how to make marriage easier, i.e., refunding some dowries and conducting modest wedding celebrations.
6. The Board considers the best method for ending waste and extravagance to be when leaders, such as the umarāʾ, the ʿulamāʾ and other social leaders, personally exemplify the right path . . . and instruct their relatives to do so . . . Authority-holders . . . should investigate the reasons that prevent young adults from marrying . . .

—Board of Senior ʿUlamāʾ:
ʿAbd al-Razzāq al-ʿAfīfī (Chairman); ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz; Muḥammad al-Ḥarkān; ʿAbd Allāh b. Ḥamīd; Ṣāliḥ b. Ghuṣūn; Muḥammad b. Jubayr; ʿAbd Allāh b. Quʿūd; ʿAbd Allāh Khayyāṭ; ʿAbd al-ʿAzīz b. Ṣāliḥ; Sulaymān b. ʿAbīd; Rāshid b. Khanīn; ʿAbd Allāh b. Manīʿ; ʿAbd al-Muḥsin Ḥasan; Ibrāhīm b. Muḥammad Āl al-Shaykh; ʿAbd Allāh b. Ghudayyan; Ṣāliḥ b. Laḥaydān.

(5) *Cornea Transplants: Decision No. 62, dated 25.10.1398 A.H. [September 27, 1978]*

. . . In its Thirteenth Session, held in Ṭāʾif . . ., BSU reviewed the research conducted by CRLO concerning corneal transplants. Based on Letter No. 4527/2/1/D by CRLO's Chairman, who consulted experts on eye diseases who claimed that the success rate of such transplants is 50%–90%, depending on the case, and after comprehensive discussion, the Board decided the following:

First, corneal transplantation is permitted from a deceased donor, after confirming his/her death, to a living Muslim who needs it. This may only be performed, however, under conditions that ensure the success of such an operation and with well the consent of the donor's guardians. This is based on legal principles, such as the obligation to

obtain the highest benefits and cause the least harm. Also, one must give preference to the interests of a living person over those of a dead person, since there is a chance that a living person might regain his/her eyesight, while no harm would come to the deceased, since eventually his/her cornea would disintegrate.

Second, it is permitted to transplant a cornea from one Muslim to another Muslim who needs it…[only in certain cases of dire necessity] and when it meets Islamic law and humanitarian values. However, such an operation must not cause further harm to the donor…

—Board of Senior ʿUlamāʾ:
Muḥammad al-Ḥarkān (Chairman); ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz; ʿAbd al-Majīd Ḥasan; Muḥammad b. Jubayr; ʿAbd al-Razzāq al-ʿAfīfī; ʿAbd Allāh b. Ḥamīd; ʿAbd Allāh Khayyāṭ; Ibrāhīm b. Muḥammad Āl al-Shaykh; ʿAbd Allāh b. Ghudayyan; Sulaymān b. ʿAbīd; ʿAbd Allāh b. Manīʿ; Ṣāliḥ b. Ghuṣūn; Rāshid b. Khanīn; Ṣāliḥ b. Laḥaydān; ʿAbd al-ʿAzīz b. Ṣāliḥ (absent); ʿAbd Allāh b. Quʿūd.

(6) *Sighting the Crescent Moon [of Ramaḍān] at Observatories: Decision No. 108, dated 2.11.1403 A.H. [August 11, 1983]*

…In its Twenty-Second Session, held in Ṭāʾif…, BSU discussed the issue of establishing observatories for sighting the crescent Moon [of Ramaḍān], based on the High Decree No. 4\Ṣ\19524) dated 18.8.1403 A.H. [May 31, 1983], initially directed to CRLO's Chairman, who transmitted it, in turn, to the General Secretariat of BSU in 1.9.1403 A.H. [June 12, 1983] under No. 2652\1\D. The Board also reviewed the decision of the Committee established by High Decree No. 2\6, dated 2.1.1403 A.H. [October 20, 1982] and consisting of Shaykh ʿAbd al-Razzāq al-ʿAfīfī, BSU member, and Shaykh Muḥammad ʿAbd al-Raḥīm al-Khālid, a permanent member of the Supreme Judicial Council and the representative of King Saud University, Dr. Faḍl Aḥmad Nūr Muḥammad. This Committee examined the use of observatories for observing the crescent Moon and issued its decision in 16.5.1403 A.H. [March 1, 1983] containing the following six points of consensus:

1. Establishing observatories to promote sightings of the crescent Moon is permissible.
2. Naked eye sightings of the crescent Moon are considered binding, though it could not be seen by an observatory.

3. Observatory sightings are binding, even when the crescent Moon could not be seen by the naked eye. This is based on Allah's saying in the Qurʾān (2:185): "…so every one of you who is present (at his home) during that month should spend it in fasting", and on the Prophet's…ḥadīth: "You should not begin fasting unless sighting it [the Ramaḍān crescent Moon] and not break your fast without seeing it; and if you do not know, you have to complete thirty days of Shaʿbān…", indicating that sighting the crescent Moon is always binding under all circumstances.
4. Observers must be ready to observe the crescent Moon at when expected and not on the basis of astronomical calculations.
5. The establishment of new observatories with integrated monitoring devices for use at four different coordinates in the Kingdom is recommended, while precise locations and costs should be determined by specialists in this field.
6. Mobile observatories may be established to observe the crescent Moon from various locations, with the assistance of known Moon spotters…

The Board examined and discussed this matter in light of Resolution No. 2 issued at its Second Session, held in Shaʿbān in 1394 A.H. [October, 1974] regarding the same issue and decided unanimously as follows: to approve the six points presented by the abovementioned Commission, provided that each sighting…be approved by the judiciary system and does not rely on astronomical calculations.

—Board of Senior ʿUlamāʾ:
ʿAbd al-ʿAzīz b. Ṣāliḥ (Chairman); ʿAbd Allāh Khayyāṭ; ʿAbd al-ʿAbd al-Razzāq al-ʿAfīfī; Ibrāhīm b. Muḥammad Āl al-Shaykh; ʿAbd al-Majīd Ḥasan; Azīz b. ʿAbd Allāh b. Bāz; Rāshid b. Khanīn; Ṣāliḥ b. Ghuṣūn; Sulaymān b. ʿAbīd; ʿAbd Allāh b. Ghudayyan; Ṣāliḥ b. Laḥaydān; ʿAbd Allāh b. Manīʿ; Muḥammad b. Jubayr; ʿAbd Allāh b. Quʿūd.

(7) *Drug Smuggling and Trafficking: Decision No. 138, dated 20.6.1407 A.H. [February 2, 1987]*

…In its Twenty-Ninth Session, held in Riyadh…, BSU reviewed Telegram No. S/8033, dated 11.6.1407 A.H. [February 11, 1987], sent by the Custodian of the Two Holy Mosques, King Fahd Ibn ʿAbd al-ʿAzīz…This telegram reads: "Because of the negative effects of drugs, that has widely spread recently, a deterrent penalty should

be determined for those who engage in the sale or spread of drugs, whether via smuggling or trafficking… We want you to bring this urgent matter before BSU and to provide us with the decisions."

The Board studied the subject, discussed all its aspects at more than one meeting and reviewed the ramifications of the spread of this dangerous 'malignant disease'—drug smuggling, trafficking and abuse. Drugs have horrific effects on public health and are liable to lead addicts to mental imbalance and even to madness… Addicts suffer a lack of restraint… possibly becoming law breakers and even violent criminals… In light of the above, the Board unanimously decided the following:

First: As for drug traffickers, their sentence should be execution, since they harm not only themselves, but also the entire community. This sentence also applies to those who assist or cooperate with drug smugglers, i.e., providing help or funding.

Second: With regard to the drug traffickers, we found that Resolution No. 85 dated 11.11. 1401A.H. [September 10, 1981] is sufficient. It reads: "… He who promotes drugs, whether by manufacturing, imports, sales or procurement, must be punished by imprisonment, whipping, financial penalty, or all the aforementioned, as per judicial discretion. However, repeat offenders must be punished most harshly, even by execution, in order to protect society from them. Past scholars decided that execution is a penalty suited to the penal category of *taʿzīr* [punishments awarded at the discretion of the ruler or judge]. For example, Shaykh Ibn Taymiyya… said: "When execution is the only option for stopping those committing corruption, it will be a legitimate punishment, like that awarded to those who cause discord amongst Muslims or call for forbidden innovations in religion". He even went further arguing that the Prophet… ordered the execution of a man who lied to him intentionally. He [Ibn Taymiyya] even sanctioned the execution of a person who refused to stop drinking alcohol, as indicated from his answer to Ibn al-Daylamī's query in this respect. On another occasion, he [Ibn Taymiyya] further explained execution within the category of *taʿzīr*, adding that corruption resembles an invader (*ṣaiʾl*), who must be killed if this is the only option at hand to prevent invasion.

Third: The Board considers it essential that the relevant judicial agencies, such as the courts, jurisdictional bodies and the Supreme Judicial Council, provide proof of the aforementioned criminal guilt prior to any implementation of punishment, to be on the safe side.

Fourth: It is essential that the aforementioned penalties be promulgated in the media prior to their implementation, as educational, preventative measures…

—Board of Senior ʿUlamāʾ:
Ibrāhīm b. Muḥammad Āl al-Shaykh (Chairman); ʿAbd al-ʿAzīz b. Ṣāliḥ; Azīz b. ʿAbd Allāh b. Bāz; Sulaymān b. ʿAbīd; Ṣāliḥ b. Ghuṣūn; Rāshid b. Khanīn; Ṣāliḥ b. Laḥaydān; ʿAbd al-ʿʿAbd al-Razzāq al-ʿAfīfī; Muḥammad b. Jubayr; ʿAbd Allāh Khayyāṭ; ʿAbd al-Majīd Ḥasan; ʿAbd Allāh b. Manīʿ; ʿAbd Allāh b. Ghudayyan.

(8) *Terrorism: Decision No. 148, dated 12.1.1409 A.H. [August 25, 1988]*

…BSU at its Thirty-Second Session, held in Ṭāif…, due to the recent terrorist acts in which many innocent civilians were killed and there was damage to public and private property in many Islamic and non-Islamic countries, caused by persons having 'diseased hearts' and 'hate-filled souls', lacking faith. Such violent acts are: demolishing houses; setting fires…; blowing up bridges and tunnels, and finally hijacking or bombing airplanes. Due to the fact that Saudi Arabia was amongst those countries subjected to terrorist attacks, BSU felt the need to consider an appropriate punishment that might deter those prone to commit terrorism… The Board stresses the major objectives of the Sharīʿa, as identified by scholars, principally aimed at protecting the five necessities, namely: religion, soul, progeny, sanity and property. The Board realizes the great danger resulting from terrorist acts and its impact on national security, as well as on the public's sense of safety. This is despite Allah's instructions regarding people's rights…as indicated in the Qurʾān (5:32–33): "On that account: We ordained for the Children of Israel that if anyone slew a person—unless it be for murder or for spreading mischief in the land—it would be as if he slew the whole people… The punishment of those who wage war against Allah and His Messenger, and strive with might and main for mischief through the land is: execution, or crucifixion, or the cutting off of hands and feet from opposite sides, or exile from the land: that is their disgrace in this world, and a heavy punishment is theirs in the Hereafter".

Application of the above promotes security and deters potential criminals from attacking Muslims and their property. A majority of

scholars claim that the ruling on brigandage (*muḥāraba*) must be equal regardless the location, based on the Qurʾānic verse (5:33): "…spreading mischief in the land…," as well as on the Qurʾān (2:204–205). This was mentioned by Ibn Kathīr in his commentary; he also argued: "Brigandage means 'unlawful or antisocial action' (*mukhālafa* and *muḍāda*), as in heresy, robbery and terrorism…Allah almightily says in the Qurʾān (5:204–205): "There is the type of man whose speech about this world's life may dazzle thee, and he calls Allah to witness about what is in his heart; yet is he the most contentious of enemies…When he turns his back, his aim everywhere is to spread mischief through the earth and destroy crops and cattle. But Allah loveth not mischief" and (Q. 7:56): "Do no mischief on the earth, after it hath been set in order…" In this verse, according to Ibn Kathīr, Allah stresses the severity of corrupting the order of things. Al-Qurṭubī said, on the other hand, that Allah prohibited any kind of corruption.

The aforementioned [terrorism], being much more severe than common brigandage…, aims at destabilizing and undermining the security of the nation and uprooting the faith…The Board unanimously decided the following:

First: If a person is found guilty of committing terrorism…, such as demolishing houses, mosques, schools, hospitals, factories, bridges, arm's arsenals, water resources, oil pipelines, or of blowing up or hijacking aircrafts and so on, he/she must be executed. This is evidenced in the abovementioned verses…

Second: The Board considers it essential that the relevant judicial agencies, such as the courts, jurisdictional bodies and the Supreme Judicial Council, provide proof of the aforementioned criminal guilt prior to any implementation of punishment, to be on the safe side, while stressing compliance of this country's [Saudi Arabia] rules with the Sharīʿa.

Third: It is essential that the aforementioned penalties be promulgated in the media…

—Board of Senior ʿUlamāʾ:
ʿAbd al-ʿAzīz b. Ṣāliḥ (Chairman); ʿAbd Allāh Khayyāṭ; ʿAbd al-ʿʿAbd al-Razzāq al-ʿAfīfī; Azīz b. ʿAbd Allāh b. Bāz; Sulaymān b. ʿAbīd; Muḥammad b. Jubayr; Ibrāhīm b. Muḥammad Āl al-Shaykh; Ṣāliḥ b. Ghuṣūn; ʿAbd al-Majīd Ḥasan; Rāshid b. Khanīn; ʿAbd Allāh b. Manīʿ; Ṣāliḥ b. Laḥaydān; ʿAbd Allāh b. Ghudayyan; Ḥasan b. Jaʿfat al-ʿAtmī; ʿAbd Allāh al-Bassām; Muḥammad b. Ṣāliḥ al-ʿUthaymīn; ʿAbd al-ʿAzīz b. ʿAbd Allāh Āl al-Shaykh; Ṣāliḥ al-Fawzān.

APPENDIX B: TRANSLATED FATWĀS OF CRLO

(1) Islamic Mystic Sects and Movements:

Fatwā No. 6250 (Query 9): Praying in a Sūfī mosque

Query
In the area where I live, there are a mosque and a prayer room (*zāwiya*) of a Ṣūfī order. Is it permissible to pray in this [Ṣufi] prayer room?

Response
…You should not pray with Ṣūfīs in their prayer room and you must beware their companionship and intermingling, lest you are 'afflicted' by their 'affliction'. So perform your prayers in another mosque, where they uphold the Sunna steadfastly…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 1615 (Query 3): Aḥmadiyya

Query
What is the ruling concerning the new religion called Aḥmadiyya, whose followers discourage people from memorizing any of the Qurʾānic verses, Allah's names and prayers for praising the Prophet? When and where did this religion originate…?

Response
…The Pakistani Government has excluded these people from Islam; also, a similar ruling was promulgated by the Muslim World League in Mecca and at the Islamic organizations' conference held in 1394 A.H. [1974]. A written statement was drafted to explain the truth behind this sect, such as its principles, and when and how it was established.

In short, this sect declared that Mirzā Ghulām Aḥmad, an Indian, is a prophet inspired by Allah. They claim that one cannot be a true Muslim unless one believes in him [Mirzā Ghulām Aḥmad], who was

born in the 13th century. But Allah has told us in His Book [Qurʾān] that our Prophet Muḥammad was the last of prophets. All Muslim scholars have ruled unanimously that anyone who claims that a new prophet can appear after Him [Muḥammad] is a *kāfir* [non-Muslim], because he/she is denying Allah's Book and the ḥadīth on the Prophet, which states that he [Muḥammad] is the very last of the prophets. In addition, this would be contrary to the consensus of the Muslim Community…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

(2) Celebrations and Remembrance:

Fatwā No. 3257 (Query 1): The Birthday of the Prophet

Query
What is the ruling on celebrating the Prophet's Birthday in Rabīʿ al-Awwal, which is held for the sake of praising him?

Response
…Proper praise and respect for the Prophet should be manifested by obeying all Allah's instructions as delivered by His Messenger in regard to creed, sayings, deeds and character, and the avoidance of innovations in religion. Amongst the forbidden innovations in the sphere of religion is the celebration of the Prophet's Birthday, which was treated by Shaykh ʿAbd al-ʿAzīz Ibn Bāz in detail…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 7912 (Query 5): Mother's Day

Query
On which day do Muslims celebrate Mother's Day? What is the truth about the claim that it was a special day for Fāṭimah al-Zahrāʾ, the Prophet's daughter?

Response
It is prohibited to celebrate the so-called 'Mother's Day' or any other similar 'innovative' celebrations, because the Prophet… said: "He who innovates in a matter [already having a known religio-legal opinion] in a manner not consistent with that matter [i.e., not taking into account the precedent], is rejected." The Prophet… did not celebrate Mother's Day, nor did any of his Companions… nor did the Salaf of the Muslim Community. It is a forbidden innovation (*bidʿa*) and an imitation of infidels…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 11104: Coming of age celebrations

Query
In South Africa, we celebrate the coming of age at 21 for males and females; we recite verses of the Qurʾān, cook various foods and give the young men and women a key. What is the Islamic ruling on this matter?…

Response
What you have described regarding this celebration and the recitation of the Qurʾān upon the coming of age at 21 has no basis in Sharīʿa, rather, it is a forbidden innovation and an imitation of the Christians in your country… The Prophet… said: "He who innovates in a matter [already having a known religio-legal opinion] in a manner not consistent with that matter [i.e., not taking into account the precedent], is rejected." The Prophet also said…: "Whoever shall imitate a particular nation/people will be considered as part of them…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member).

Fatwā No. 1674 (Query 4): Standing in honor of martyrs

Query
Is it permissible to stand for a minute of silence in memory of martyrs? People stand for a minute of silence to mourn or honor martyrs at the beginnings of certain social events.

Response
What some people do, standing in silence to honor or mourn dignitaries or martyrs, as well as the lowering of the flag to half-mast, is forbidden innovation, neither practiced by the Prophet…nor by his Companions, nor by the *Salaf*. These acts do not conform to the [Islamic] monotheistic creed of faith and to the sincere glorification of Allah. Some Muslims, who lack knowledge of their religion, have followed the bad practices of infidels and exaggerate the honor of their dignitaries and leaders, whether alive or dead, despite the fact that the Prophet prohibited such imitation. Yet, Islam has sanctioned its own etiquette for the remembrance of the dead. This is manifested in prayers for the Muslim dead, the giving of charity on their behalf, the praising of their virtues, avoiding their sins, rather than standing in silence to mourn and honor martyrs or dignitaries…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 6166 (Query 4): Placing flowers on the grave of the Unknown Soldier

Query
Is placing of a wreath of flowers on the grave of the Unknown Soldier like the actions of people who glorify their saints (*awliyāʾ*) to the extent that they worship them?

Response
This act is a forbidden innovation and excessive glorification of the dead, resembling the actions of those who over-glorify their saints. It is liable to lead to the building of domes over these [martyrs'] graves, followed by seeking their blessings and help, instead of Allah's. Therefore, this must be prohibited in order to prevent polytheism…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

(3) Modern Science and Technological Innovations:

Fatwā No. 2036: Creating likenesses

Query
What is the ruling regarding the creation of likenesses in Islam?

Response
…Basically, the depiction of any being or creature that possesses a soul [human or animal] is prohibited, whether it is sculpted, drawn on paper, cloth, a wall, etc. This is based on authentic Prophetic traditions, promising punishment of those who violate these instructions, since this may lead to polytheism, in which animal or human likenesses are praised in the manner reserved for Allah. Such an act competes with Allah, the Creator. Additionally, such likenesses are liable to seductive, including pictures of: actresses, naked women, so-called beauty queens and others.

Among the traditions that considered the above [the creation of likenesses] to be a capital crime was the ḥadīth of Ibn ʿUmar…in which the Prophet said: "Those who make these likenesses will be punished on the Day of Resurrection and they will be told: ʿBring to life what you have created'."…And the ḥadīth of ʿAbd Allāh b. Masʿūd…who claimed that he heard the Prophet state: "The people who will be most severely punished by Allah will be those who created likenesses."…And another ḥadīth by Abī Hurayra…who claimed that he heard the Prophet stating that Allah said: "Who would be more unjust than the one who tries to create the like of My creatures? Let them create a grain, let them create a gnat"…Also, the ḥadīth by ʿĀʾishah, who stated: "Allah's Apostle returned from a journey when I had placed a curtain of mine with a picture over (the door of) a chamber. When He saw it, his expression changed and He said: "Oh, ʿĀʾisha, the people who will be most severely punished by Allah on the Day of Resurrection will be those who competed with Allah's Creation. Then we cut it [the curtain] up and made one or two cushions."…Ibn ʿAbbās…recites another ḥadīth claiming that he heard the Prophet

say: "Whoever creates a likeness in this world will be asked to bring it to life on the Day of Resurrection and will not be able to do so…"

All of these ḥadīths indicate the prohibition of creating likenesses. However, likenesses of inanimate creations, having no soul, such as trees, seas or mountains, may be made, based on Ibn ʿAbbās' statement that the Companions never negated such action…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 3303 (Query 5): Watching television and listening to radio

Query
What is the ruling on watching television and listening to radio? What is the ruling regarding praying while lead by a person [*imām*] who watches and listens to them?

Response
The ruling on watching television or listening to radio depends on what is being broadcast. These broadcasts may be good or evil, just as televised images may be permissible or forbidden. Indeed, radio is less harmful than television, since there are no images… As for prayers led by a person [*imām*] who does [watch and listen to television and radio], again, it depends on what they listen to and watch, whether it is lawful or not. However, prayer is valid in any case.

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 4827: Repairing radios, tape-recorders and televisions

Query
Is the repairing of radios, tape-recorders and televisions permitted or forbidden? Should a technician who repairs these machines be liable before Allah for programs these machines broadcast? Bear in mind, that while many of these programs are prohibited, others may be very beneficial.

Response
These machines may broadcast contents that are permissible or forbidden. In fact, most of the contents that is broadcast is prohibited. Therefore, a Muslim should avoid repairing or manufacturing these machines, since their harmful effect is greater than their beneficial one…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 8923: Videotape recorders

Query
In Ḥuraymilāʾ [a Saudi city], we have a small lecture hall in the school for teaching the Qurʾān, thus, there is insufficient space to host all the attendees, not to mention the students. We hold lectures, scientific seminars and parties in this hall, and like to record these lectures on videotape, so they may be watched elsewhere. We would be grateful if you would advise us on this matter and consider the following questions:

1. Is it permissible to broadcast these lectures and seminars via live video feed? These lectures are not being recorded.
2. Is it permissible to record these lectures and seminars on videotapes, so we may benefit from them more than once?

Response
First—Lectures and scientific seminars may be broadcast via live video feed for the purpose of spreading beneficial knowledge, as long as they [their contents] do not transgress against the rules of Islam. Second—Recording lectures and seminars on videotape for future benefit is permissible. The above rulings do not apply to these machines *per se*, since they may be used for good or bad ends. Thus, it is permissible to use them for a positive purpose, but it is forbidden to use them for negative ends.

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman).

Fatwā No. 9544 (Query 4): Sphericity of the Earth

Query
Is the Earth spherical or flat?

Response
The Earth is spherical in shape, with a flat surface…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 1615 (Query 12): Landing on the Moon

Query
What is your opinion regarding those who claim to have landed on the Moon, which we Muslims consider one of Allah's greatest signs [of His Creation]?

Response
Knowledge of this matter is impractical. We should neither believe nor deny what they say. Muslims, however, should avoid talking about this and should occupy their time with beneficial Islamic knowledge, such that of creed and law…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

(4) Financial Matters:

Fatwā No. 18521: Credit cards

Query
I hope your Excellencies can advise us regarding the use of the Saudi Payments Network (SPAN) when buying items from stores. It works as follows: When the total sale price is agreed upon, for example SR150 [riyals], the card is presented to the salesman, who swipes it through a

machine he has in the store. The [total] value of the transaction is then paid instantly by transferring the amount from the buyer's account to the vendor's account, i.e., before the buyer leaves the store.

Response
If the matter is as you describe, then there is no harm in using the aforementioned card, so long as the buyer has sufficient funds in his account to cover the required amount [of the purchase]…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-ʿAzīz b. ʿAbd Allāh Āl al-Shaykh (Deputy Chairman); Ṣāliḥ al-Fawzān (Member); Bakr Abū Zayd (Member).

Fatwā No. 18453: Copyrights on computer products

Query
I have worked in the computer field for some time. Ever since entering this field, I have copied software for use without buying the original copies. Note that said software contains a warning against its being copied: 'copyright reserved', similar to the copyright mark in printed books; the software owner could be either a Muslim or not. My question is: Am I allowed to make copies as I have described above?

Response
Software may not be copied unless the owners' permission has been obtained. This conclusion is based on the Prophet's following ḥadīths: "Muslims [must] transact business in accordance with their preconditions"…"A Muslim's property does not become legally accessible [to others] without his consent"…Copyrights are reserved for the first person who claims them justly, whether the owner of that software is a Muslim or a non-Muslim, not at war with Muslims…in this case, the rights are respected equally…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-ʿAzīz b. ʿAbd Allāh Muḥammad Āl al-Shaykh (Deputy Chairman); Bakr Abū Zayd (Member); Ṣāliḥ b. Fawzān al-Fawzān (Member).

Fatwa No. 6364 (Query 10): Selling music cassettes

Query
Is it permissible to sell music cassettes, such as those of Umm Kulthūm and Farīd al-Aṭrash and similar?

Response
Selling these cassettes is forbidden, because they contain music and songs which are forbidden in themselves… The Prophet said: "When Allah prohibits something, its sale for profit is prohibited as well"…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 2805: Paying by installment

Query
A person from the US is asking about those who sell cars with installment payments, each deferred sum having a fixed interest when paid on time, which increases if payment is overdue. Is this a permissible deal or not?

Response
If the person sells a car for a fixed price, by means of a fixed installment plan over a predetermined period, in which there is no increase in price, then it is permissible. This is based on… Qurʾān (2:282): "O ye who believe! When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing…" It was reported that the Messenger of Allah… bought [something] with a delayed payment. However, if such a deferred sum… were to increase when overdue, then it is forbidden by the consensus of Muslims and is considered to be pre-Islamic usury…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

(5) Women's Issues:

Fatwā No. 11090: Women and men

Query
Some people say that women lack reason and are less [than men] in faith, inheritance and testimony. Others say that Allah rewards and punishes both men and women equally. What is your opinion in this regard? Are women in a lower status than men according to the Sharīʿa?

Response
Sharīʿa honors women and raises them to a lofty status, with the aim of protecting them and preserving their dignity. Thus, both a woman's guardian and her husband are obliged to support her financially, providing all her needs and treating her in a pleasant manner. Allah states in Qurʾān (4:19) "…Live with them on a footing of kindness and equity…" This is evidenced also in the Prophetic…ḥadīth: "…The best of you is the best to his family and I am the best to my family". Moreover, Islam grants a woman all the appropriate rights and legal responsibilities. Allah states in the Qurʾān (2:228): "…And women shall have rights similar to the rights against them, according to what is equitable; but men have a degree (of advantage) over them…" This includes various types of transactions such as selling, buying, peacemaking, *wakāla* [appointment of a power-of-attorney], *ʿāriya* [permission to benefit from a borrowed item], depositing…, etc. In addition, a woman is obliged to carry out the same acts of worship and commandments as are men, such as ceremonial purification (*ṭahāra*), prayer, alms tax, fasting, pilgrimage and many other forms of worship. However, Sharīʿa grants a woman half the share of man's inheritance, since she is not expected to maintain herself, her household or her children, while these are considered amongst the man's obligations. Also, a man's wealth is liable to be reduced due to expenses incurred for guest hospitality, paying blood money, reconciliation [payment] and the like. In some cases, the testimonies of two women are equal to the testimony of one man, since women are more prone to forget than men, due to their special nature. They have menses, pregnancy, give birth and raise children. All of these may negatively affect the accuracy of a woman's memory of things, hence, the testimonies of two females are much reliable, because each may remind the other in case of lapse

of memory. However, there are some cases in which the testimony of one woman is sufficient, e.g., particularly in women's matters, such as nursing, marital relations and the like. Furthermore, women and men are rewarded equally for their worship and righteous deeds, whether in this world or in the Hereafter. Allah states in the Qurʾān: (16:97): "Whoever works righteousness, man or woman, and has faith, verily, to him will We give a new life, a life that is good and pure and We will bestow on such their reward according to the best of their actions". This verse indicates that women have rights and duties just as men do; nevertheless, men and women may be differentiated with regard to some matters that Allah specified according to their nature…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 11780 (Queries 7&8): Women leading men in prayer

Queries
Is it permissible for a group of Muslim women, who are more educated than men, to lead men? Besides the prohibition of leadership of women in prayer, what are the other cases in which women are prohibited to assume leadership and office, and why?

Response
Women should not assume leadership (*imāra*) or the judiciary, as indicated by the Sunna, the objectives of the Sharīʿa, the consensus of scholars and reality. This is based on the ḥadīth narrated by Abī Bakrah that when the Prophet…heard that the Persians had assigned a woman to rule them, he said: "…No people will ever succeed if they place a woman in charge of their affairs"…This ruling on women is attributed to their deficient reasoning and rationality, in addition to their passion that prevails over their thinking. Moreover, one of the concerns of leadership is to monitor the subjects and handle matters of public affairs. This requires traveling throughout the countryside, meeting people, commanding the Army in times of Jihād, confronting enemies to make treaties and agreements, to make pledges of allegiance with different groups of the [Muslim] Community…in addition to other acts that neither coincide with a woman's status nor

with the rulings that were prescribed to protect her honor and keep her away from immorality. This stance [towards women] is evident in the time of the Rightly-Guided Caliphs and the scholars of the first three centuries [favored by Islam], who unanimously agreed upon not assigning leadership or judicial authority to women, despite the fact that they had well-educated women in various disciplines of religion… We also have examples from the past… one of which is the story of Bilqīs who reigned over Yemen. She was weak and helpless after receiving a letter from the Prophet Sulaymān [King Solomon]…, even though her people had shown power and strength, and were willing to fight against whomever showed them enmity or considered invading their country… However, this did not ward off her fears of losing her reign, glory and power. Rather than striving to protect her crown and to ward off any invasion, she sent a gift to Sulaymān, hoping that he might refrain from attacking her country and, thus, she might maintain peace during her reign. However, Sulaymān…, a pious and powerful man, was not deceived by this gift; rather, he is quoted in the Qurʾān (27:36) as saying: "… Nay, it is ye who rejoice in your gift!" Then He [Sulaymān]… ordered her throne to be brought to him. When she [Bilqīs] arrived, He asked her (Q. 27:42, 44): "… Is this thy throne? She said: It was just like this… She was asked to enter the lofty Palace: but when she saw it, she thought it was a lake of water, and she (tucked up her skirts), uncovering her legs. He said: 'This is but a palace paved smooth with slabs of glass.' She said: 'O my Lord! I have indeed wronged my soul: I do (now) submit (in Islam), with Solomon, to the Lord of the Worlds." Now, you can conclude from this story how frightened Bilqīs was upon receiving Sulaymān's letter that had included threats, warnings and orders to surrender. You can also see how she failed to confront him in battle, even though her people had prepared to show great strength and power. Given that kings and queens are often characterized by pride, exaltedness and a tendency to protect and keep their reign, she resorted to trickery by means of money, out of weakness, hoping to protect herself and her reign in this way. In addition, she was confused about her throne and was full of admiration for the reign of Sulaymān…, that had captured her heart, just as other women tend to be influenced by external appearances, due to their strong passions. This caused her to surrender to Sulaymān…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 11253: Woman's appearance

Query
I have received your letter which was registered on the 24th of Rabīʿ al-Ākhir 1408 A.H. [December 12, 1987] and I appreciate it greatly. However, my question was about wearing the short, loose garment, which is only one hand span above the foot, along with very thick socks, so that the legs and their color cannot be seen. I do not think that this part of the leg is *ʿawra* [private parts of the body that must be covered in public] because it is covered. To be more specific, according to Imām al-Shafiʿī, exposing this part of the leg is permissible. This evidence is mentioned amongst rulings on loose garments in the part of jurisprudence of worship in the book of Fiqh according to the four schools of jurisprudence. Your answer was related to women's *ḥijāb* (veil) as a whole…I would like to have a definite, one word answer (permissible or forbidden)? It may be worth mentioning that a large percentage of Muslim wet nurses were the abovementioned loose garment with a *niqāb* [face veil] that covers the face as well…They also do very well regarding memorization of the Qurʾān…Nevertheless, we are confused in regard to the *ḥijāb*, though these are nominal matters, while conduct is of more importance…

Response
First: Women should wear long, loose garments that hide their feet. This is evidenced in the ḥadīth: "…Allah will not look on the Day of Judgment at him who drags his robe (behind him) out of pride". Whereupon Umm Salamah said: "What should women do with the trains of their gowns?" The Prophet said: "They should loosen their garments one hand span". Umm Salamah then said: "What should they do in case their feet are exposed?" He said: "They should loosen their garments an arm's-length and no more"…Second: What is right is to cover the face and the hands before foreigners [non-*maḥram* males].

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 1742: Women and men shaking hands

Query
Is it permissible for a man to shake hands with a woman who covers her hand with her clothes?

Response
It is not permissible for a Muslim man to shake hands with a woman who is non-*maḥram*, even if she covers her hands with her clothes. This is based on the ḥadīth narrated by Al-Bukhārī (in his Saḥīḥ)…when ʿĀishah…told the story of the *bayʿa* (pledge of allegiance) of the Prophet…with women. She said: "…No, by Allah, never did His hand [the Prophet's] touch the hand of a woman during the *bayʿa*. He would only accept a verbal vow from her, saying: 'I have accepted your *bayʿa*'." Also, Aḥmad [Ibn Ḥanbal] narrated…that Umaymah b. Raqīqa said: "I came to the Messenger of Allah…with a group of women to give him a pledge of allegiance…We said: 'Oh, Messenger of Allah! Let us give our hands to you.' He…replied: 'I do not shake hands with women. My word to one woman is like my word to one hundred women'." The Prophet's…practice, in this regard, constitutes the best model to be emulated, as described in Qurʾān (33:21)…: "Ye have indeed in the Messenger of Allah a beautiful pattern (of conduct) for any one whose hope is in Allah and the Final Day, and who engages much in the Praise of Allah"…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

Fatwā No. 13667: Swimming pools for women

Query
I am one of the engineers who work in the Municipality of the Sacred Capital City [Mecca], in the Construction Licensing Department. A

citizen applied for a license for a project to build a health center for physical therapy. It will be divided into two sections, one for males and the other for females. After examining the project plans, we noticed that there will be a large swimming pool in the women's section. When we informed the project coordinator that it is forbidden to construct this swimming pool, because swimming requires women to wear tight clothes, liable to display their *ʿawra* or may make them noticeable. As we know, there are certain parts of women's bodies that should be properly covered, even in front of other women. We told the project coordinator that he should not build this swimming pool, in order prevent potential harm. It is quite possible—especially in our time—that a person who does not fear Allah—even a woman—may film women stealthily, taking stills or videos… making this health center a place of temptation and evil…

After we explained this to the project coordinator, he asked for a fatwā from your Excellency that confirms the prohibition against building this swimming pool for women. I hope your Excellency will explain the ruling of the Sharīʿa on this matter. It should be noted that the project is still in the design phase and has not yet been completed…

Response
It is not permissible to build a swimming pool for women in this center, because the prevention of evil has priority over gaining benefits…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

*Fatwā No. 6430 (Query 3): Intermingling with non-*maḥram *women in planes*

Query
What is the ruling on a Muslim man who boards a crowded plane and is forced into one of the following situations?

1. Women surround him; two on each side, one in front of him and a fourth one behind him.
2. He sits face to face with a non-*maḥram* woman, Arab or other.

3. He sits beside a non-*maḥram* woman, who may be very old.
4. His seat faces the flight hostess, who sits in her seat briefly after takeoff and before landing. Sometimes, there are no empty seats left on the plane, or the passengers refuse to exchange seats, so that the crew cannot do anything to help him switch to an appropriate location.

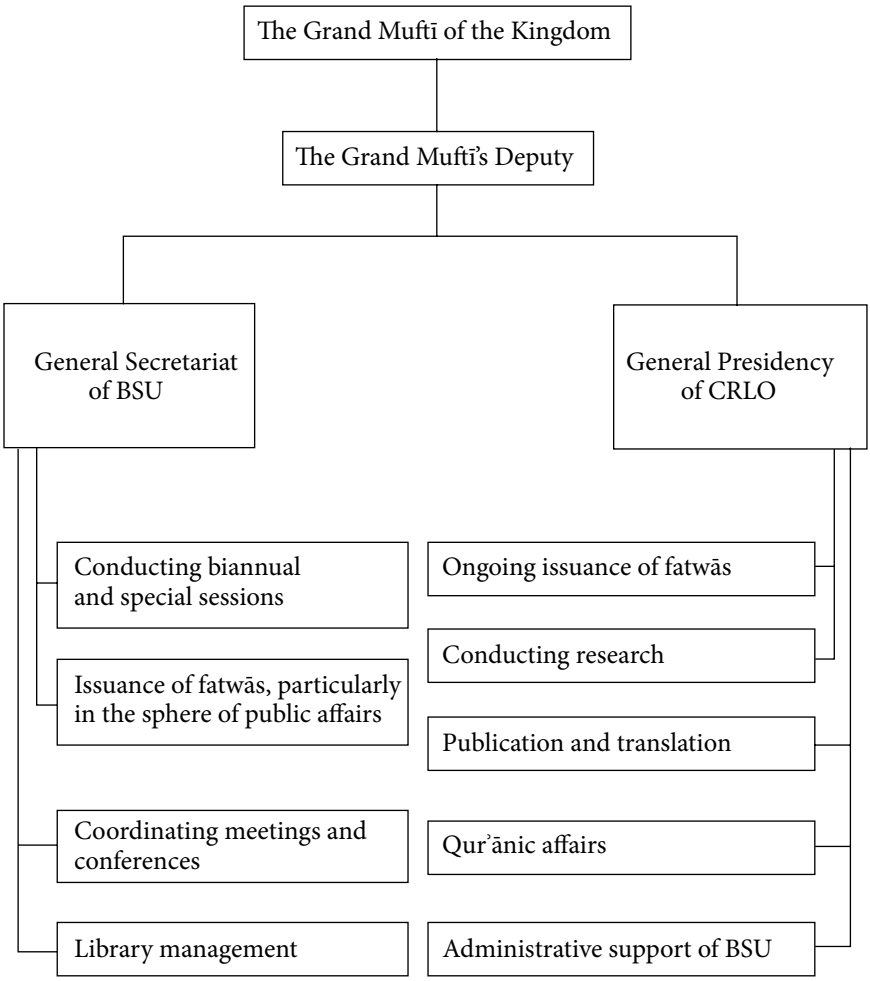
Response
If traveling by plane is necessary, and the cases you mentioned are inevitable, you should choose the case which involves the least temptation, based on the rule of applying the lesser of two evils. Additionally, you should lower your gaze as much as possible. However, if traveling by plane is not necessary, and you have other alternatives, you should avoid it to guard your faith…

—The Permanent Committee for Scientific Research and Iftāʾ
ʿAbd al-ʿAzīz b. ʿAbd Allāh b. Bāz (Chairman); ʿAbd al-Razzāq al-ʿAfīfī (Deputy Chairman); ʿAbd Allāh b. Ghudayyan (Member); ʿAbd Allāh b. Quʿūd (Member).

APPENDIX C: ĀL AL-SHAYKH—GENEALOGY OF PROMINENT MUFTĪS

Muḥammad Ibn ʿAbd al-Wahhāb	(1703–1792)
ʿAbd Allāh Ibn Muḥammad Ibn ʿAbd al-Wahhāb	(1758–1826)
ʿAbd al-Raḥmān Ibn Ḥasan Ibn Muḥammad Ibn ʿAbd al-Wahhāb	(1780–1868)
ʿAbd al-Laṭīf Ibn ʿAbd al-Raḥmān Ibn Ḥasan Ibn Muḥammad Ibn ʿAbd al-Wahhāb	(1810–1876)
ʿAbd Allāh Ibn Ḥasan Ibn Ḥusayn Ibn ʿAlī Ibn Ḥusayn Ibn Muḥammad Ibn ʿAbd al-Wahhāb	(1848–1920)
Muḥammad Ibn Ibrāhīm Ibn ʿAbd al-Laṭīf Ibn ʿAbd al-Raḥmān Ibn Ḥasan Ibn Muḥammad Ibn ʿAbd al-Wahhāb	(1893–1969)
ʿAbd al-ʿAzīz Ibn ʿAbd Allāh Ibn Muḥammad Ibn ʿAbd ʿAbd al-Laṭīf Ibn ʿAbd al-Raḥmān Ibn Ḥasan Ibn Muḥammad Ibn ʿAbd al-Wahhāb	(1941…)

APPENDIX D: MODERN SAʿŪDĪ INSTITUTION OF IFTĀʾ



GLOSSARY OF ARABIC TERMS

ʿabāya (or *ʿabāʾa*)	a cloak worn by some Muslim women.
adilla	(sing. *dalīl*). See *dalīl.*
āḥād	solitary; ḥadīth reported by a singular transmitter.
aḥkām	(sing. *ḥukm*). See *ḥukm.*
ahl al-kitāb	People of the Book, i.e. Christians and Jews.
amīr	(pl. *umarāʾ*). See *umarāʾ.*
anāshīd	(sing. *nashīd*). See *nashīd.*
Āl	family, clan.
ʿālim	(pl. *ʿulamāʾ*). See *ʿulamāʾ.*
ʿaqd nikāḥ	marriage contract.
ʿaqīda	creed, faith, dogma.
ʿaql	reason, mind, intellect, rationality.
aṣl	(pl. *uṣūl*). See *uṣūl.*
ʿawra	private parts of the body that must be covered in public.
bayʿa	oath of allegiance.
bidʿa	(pl. *bidaʿ*) lit. innovation, often referring to illegal innovation in religion.
dalīl	legal proof, evidence, indicator.
Dār al-Iftāʾ	religious establishment for issuing fatwās. See, *iftāʾ, fatwā, muftī.*
ḍarūra	necessity.
fatāwā	(sing. *fatwā*). See *fatwā.*
fatwā	an advisory opinion by a qualified scholar on a religious or legal matter.
fiqh	lit. understanding, the science of Sharīʿa, Islamic jurisprudence.
fitna	temptation, discord.
ḥadd	(pl. *ḥudūd*) crime defined in the Qurʾān or the Sunna and assigned a fixed punishment.
ḥadīth	report of a saying, action or acquiescence of the Prophet.
ḥakam	arbitrator.
ḥalāl	licit, lawful, permissible.
ḥarām	illicit, unlawful, prohibited.

hayʾa	board, council.
ḥijāb	veil with which a Muslim woman covers her head, except her face.
ḥirāba	*ḥadd* crime of brigandage.
ḥudūd	(sing. *ḥadd*) class of crimes defined in the Qurʾān or the Sunna and assigned a fixed punishment.
ḥukm	Allah's ruling, rule, judgment, moral value.
ʿibāda	service to God, the foremost religious and civic duty of a Muslim.
iftāʾ	issuing of fatwās. See Dār al-Iftāʾ.
ijmāʿ	consensus, one of the *uṣūl al-fiqh*.
ijtihād	independent legal reasoning to resolve new legal problems.
ʿilla	efficient cause, used as the basis for analogy (*qiyās*).
ʿilm	knowledge, science.
imām	lit. leader, leader of prayer, caliph; commonly used to refer to a religious leader.
isnād	chain of transmission of a Prophetic report or tradition.
istidlāl	inference, a distinct legal method for deriving rules.
istiḥsān	juristic 'approval', a discretionary opinion.
istiṣḥāb	presumption of continuity.
istiṣlāḥ	consideration of the public interest.
ittibāʿ	lit. following, adopting an opinion, because it is thought to be best supported by the canonical texts.
kalām	word or speech [of Allah], Islamic scholastic theology.
khalwa	lit. privacy; often referring to the sequestering of potential marriage partners according to Islamic law.
khalwa sharʿiyya	licit *khalwa,* permissible for married couples or unmarriageable kin.
khamr	wine, grape-wine, alcoholic beverage, intoxicant.
khimār	lit. scarf, partition, turban. Commonly used to refer to a circular type of head covering with a hole cut out for the face, which usually comes down to the waist. See *ḥijāb*.

khulʿ divorce in return for monetary compensation paid by the wife to her husband.
kufr unbelief, infidelity.
jāhilyya era of ignorance, term usually used for pre-Islamic Arab society.
jihād lit. exertion, striving; struggling for the sake of Allah, whether in self-purification, against oppression and injustice or in a just war.
jilbāb long and loose-fitting coat or garment worn by Muslim women.
lajna committee, board.
madhhab (pl. *madhāhib*) Islamic legal school.
mahr dowry.
maḥram husband or close male relative of a woman to whom marriage is prohibited by Islamic law (e.g., father, grandfather, brother, son, uncle, nephew).
majmaʿ council.
maṣlaḥa interest, well-being, welfare.
munkar (pl. *munkarāt*) abominable act, evil.
muqallid one who practices *taqlīd*. See *taqlīd*.
muftī a specialist in Islamic law who issues fatwās.
mujtahid a scholar qualified to exercise independent reasoning. See *ijtihād*.
mutawātir a ḥadīth reported by a large number of transmitters, not suspect in collusion. See *tawātur*.
muṭawwiʿa popular name for the Committee for Commanding Good and Forbidding Wrong.
naṣṣ text, revealed text, definitive text of the Qurʾān, the Sunna or ijmāʿ.
naṣīḥa advice.
nashīd (pl. *anashīd*) Islamic chanting.
niẓām lit. system, order, legal regulation, royal decree.
qaḍāʾ function or institution of adjudication.
qāḍī judge.
qiṣāṣ retribution, retaliation, appropriate to cases of murder or physical injury.
qiyās analogical reasoning.
raʾy opinion.
ribā usury, interest.
risāla letter.

ṣaḥāba	Companions of the Prophet.
ṣaḥīḥ	authentic, correct, sound.
Salaf	forbears, ancestors.
al-Salaf al-Ṣāliḥ	Righteous Forebears.
Sharīʿa	lit. a path, a way; Allah's law, Islamic theology and law.
shaykh	lit. old man, a term of respect often used for religious scholars.
shirk	polytheism.
shufʿa	right of first refusal in sale of property.
siyāsa	policy, governance, administration.
siyāsa sharʿiyya	*siyāsa* within the limits assigned to it by Sharʿīa.
ṣulḥ	reconciliation, agreed settlement of a legal dispute.
Sunna	(pl. *sunan*) normative custom, legally binding precedents set by the Prophet as represented in ḥadīth tradition.
taʾwīl	allegorical interpretation, particularly as it relates to the Qurʾān. See *tafsīr*.
tafsīr	commentary or exegesis, particularly as it relates to the Qurʾān. See *taʾwīl*.
ṭalāq	divorce initiated by a husband.
talfīq	adopting opinions from various schools of jurisprudence in order to reach the most prudent and effective results.
taqlīd	relying upon the opinion of another *mujtahid*. See *muqallid*.
taqnīn	codification.
tarjīḥ	choosing the preponderant opinion.
tawātur	continuous recurrence, unbroken line of testimony. See *mutawātir*.
tawḥīd	unification, belief in the unity or oneness of Allah.
taʿzīr	discretionary penalty or punishment, a class of criminal penalties for sins.
ʿulamāʾ	(sing. *ʿālim*) scholars who possess *ʿilm,* religious scholars.
ʿurf	custom or customary.
umarāʾ	(sing. *amīr*) commanders, rulers, princes.
uṣūl	(sing. *aṣl*) roots, sources, origins.

uṣūl al-fiqh	roots or sources of *fiqh*, science of legal reasoning and derivation.
wulāt al-amr	(sing. *walī al-amr)* authority-holders.
zakat	alms tax.
zinā	adultery, fornication, illicit intercourse.

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INDEX