Application of the *Fiqh* of Contemporary Issues in the Areas of Socio-economic Activities and Modern Financial Products

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Introduction [a]

- The need to understand and apply the *Fiqh* of contemporary issues in the areas of socio-economic activities and modern financial products cannot be over-emphasised.
- The need is further underscored by the proliferation of a variety of financial products and emergence of new businesses which Muslims are embracing by the day.

Introduction [b]

- What is *Fiqh* of contemporary issues (*Fiqh al-Wāqi'*) and why is it important for scholars and students of knowledge to deeply understand and apply it in deriving Islamic rulings for contemporary financial transactions and socio-economic activities? What are the processes involved in applying *Fiqh* of contemporary issues?

- This presentation attempts to address the above issues.

Concept of *Fiqh* of Contemporary Issues (*Fiqh al-Wāqi'*) [a]

- *Fiqh* of contemporary issues (*Fiqh al-Wāqi'*) is the understanding of the reality of an issue in order to reach the correct *Sharī'ah* ruling about it.

- Having a great understanding of the contexts and realities of an issue before hand is amongst the many considerations needed to formulate a *fatwā*.

- *Fiqh al-Wāqi'* is therefore a key instrument which scholars use in developing religious guidance for the community.

Concept of *Fiqh* of Contemporary Issues (*Fiqh al-Wāqi'*) [b]

Fiqh al-Wāqi' is also called *Fiqh al-Nāzilah*, *Fiqh al-Hādithah*, *Fiqh al-Wāqi'ah al-Mustajiddah* and *Fahm al-Wāqi'* or what some scholars of *Usūl al-Fiqh* refer to as *Tahqīq al-Manāt*.

Basis of *Fiqh* of Contemporary Issues (*Fiqh al-Wāqi’*) [a]

- The Prophet (pbuh) was asked about the “best of deed” (أَيُّ الأَعْمَالِ أَفْضَلُ); at one time he said, “To believe in Allah and his Messenger” and at another time he said, “To perform the daily prayers at their stated time.”

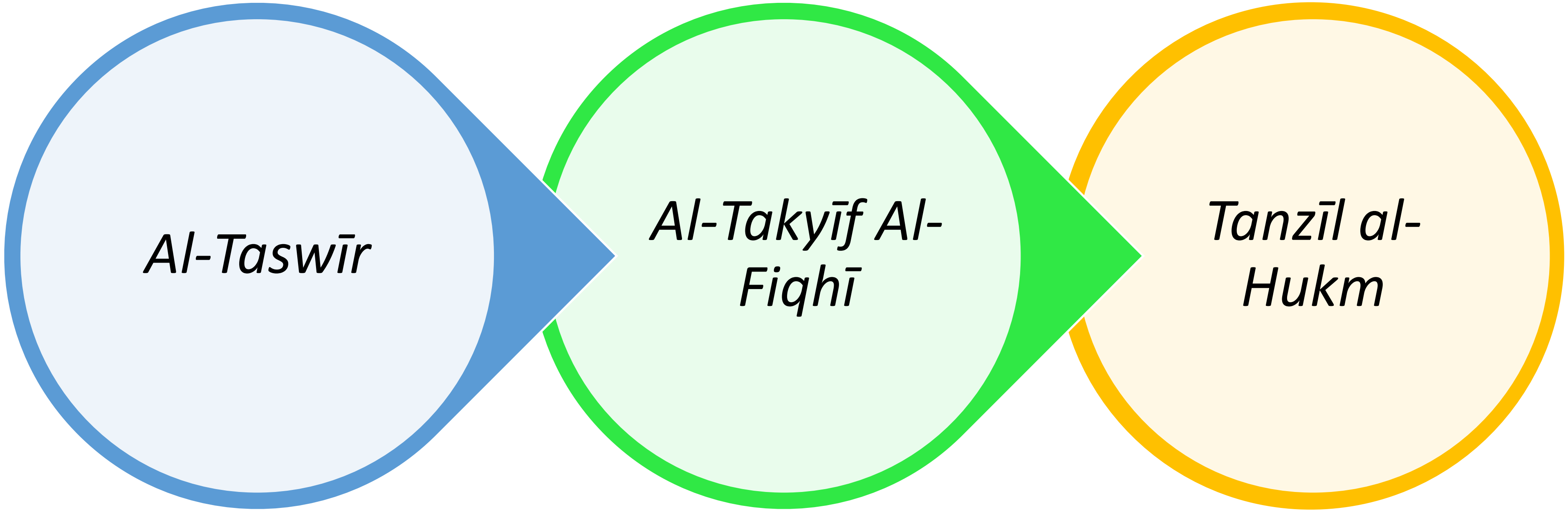
- According to many scholars, the different responses clearly shows that the Prophet (pbuh) took into consideration of the different situations and conditions of the Companions (application of *Fiqh al-Wāqi’*) when giving the reply.

Basis of Fiqh of Contemporary Issues (*Fiqh al-Wāqi’*) [b]

The failure to understand contexts and realities will result in the emergence of *fatwā* and religious guidance which are deviated from the truth.

Process of Determining Islamic Ruling for Contemporary Issues [a]

Three stages of arriving at a correct Islamic ruling on any contemprary issue have been identified as:



Process of Determining Islamic Ruling for Contemporary Issues [b]

I'lām al-Muwaqqi'īn, 1/69:

Ibnu al-Qayyim said: "The *Muftī* or Judge is not able to issue a fatwā or verdict without understanding two things: (i) Having a good grasp of reality and understanding of what is happening, on the basis of circumstantial evidence and other signs, so that he has a full understanding of it; (ii) Understanding what is required in the light of these circumstances, which means understanding the ruling of Allah that He issued in His Book or on the lips of His Messenger concerning this reality; then he should apply the ruling of the one to the other."

إعلام الموقعين 1/69:

قال ابن القيم: "وَلَا يَتَمَكَّنُ الْمُفْتِي وَلَا الْحَاكِمُ مِنْ الْفَتْوَى وَالْحُكْمِ بِالْحَقِّ إلَّا بِنَوْعَيْنِ مِنْ الْفَهْمِ: أَحَدُهُمَا: فَهْمُ الْوَاقِعِ وَالْفِقْهِ فِيهِ وَاسْتِنْبَاطُ عِلْمِ حَقِيقَةِ مَا وَقَعَ بِالْقَرَائِنِ وَالْأَمَارَاتِ وَالْعَلَامَاتِ حَتَّى يُحِيطَ بِهِ عِلْمًا. وَالنَّوْعُ الثَّانِي: فَهْمُ الْوَاجِبِ فِي الْوَاقِعِ، وَهُوَ فَهْمُ حُكْمِ اللَّهِ الَّذِي حَكَمَ بِهِ فِي كِتَابِهِ أَوْ عَلَى لِسَانِ رَسُولِهِ فِي هَذَا الْوَاقِعِ، ثُمَّ يُطَبِّقُ أَحَدَهُمَا عَلَى الْآخَرِ".

Process of Determining Islamic Ruling for Contemporary Issues [c]

Sunan al-Baihaqī (20538):

‘Umar bn al-Khattāb wrote the following to Abu Mūsā al-Ash’arī: “Then understand and comprehend the matter that has been brought to you, which is not in the *Qur’ān* or the *Sunnah*, then analogise between the matters, and know the similarities, then settle on what is beloved to Allah as you see, and the closest to the truth.”

سنن الكبري للبيهقي (20538):

قال عمر بن الخطاب فى كتابه إلى أبى موسى الأشعري: "ثُمَّ الْفَهْمَ الْفَهْمَ فِيمَا أُدْلِيَ إِلَيْكَ، مِمَّا لَيْسَ فِي قُرْآنٍ وَلَا سُنَّةٍ، ثُمَّ قَايِسِ الْأُمُورَ عِنْدَ ذَلِكَ، وَاعْرِفِ الْأَمْثَالَ وَالْأَشْبَاهَ، ثُمَّ اعْمِدْ إِلَى أَحَبِّهَا إِلَى اللهِ فِيمَا تَرَى، وَأَشْبَهِهَا بِالْحَقِّ"

Process of Determining Islamic Ruling for Contemporary Issues [d]

الحكم على الشيء فرع عن تصوره

Al-Taswīr (التصوير) is the proper conceptualisation and comprehension of the particular issue at hand.

قال ابن أمير الحاج فى "التقرير والتحبير" 2/82:
"الْحُكْمَ عَلَى الشَّيْءِ بِدُونِ تَصَوُّرِهِ مُحَالٌ".

- Obtaining detailed information about its nature and reality.
- Asking experts about the what, why and how of the issue.
- Seeking clarification regarding ambiguities.
- Contextualisation of the issue with regard to time, place, people and atmosphere.

Process of Determining Islamic Ruling for Contemporary Issues [e]

Example 1:

A deep and comprehensive knowledge regarding the different types and categories of insurance schemes which are made available to people is necessary in order to enable correct juristic characterisation and adaptation.

Example 2:

Scholars based their rulings on Covid-19 on multiple considerations of the reality and context of the pandemic; such as its complexity, the restrictions set by the authorities and experts during the pandemic, and the religious needs of their communities.

Process of Determining Islamic Ruling for Contemporary Issues [f]

Al-Takyīf Al-Fiqhī (التكييف الفقهى) also called *Al-Takrīj Al-Fiqhī*, *Al-Ashbāh Al-Fiqhiyyah*, *Haqīqah al-Shay* and *Māhīyyah al-Shay*, is the process of juristic characterisation and adaptation to a contemporary issue for which there was no precedent or consensus in order to determine whether it is permissible or not based on *Sharī'ah* rules and principles.

- Should be based on the established sources of *Sharī'ah* using the tool of *Manāt al-Hukm* (effective cause) and *Mutābaqah* (coherent connection) of the ruling given to a similar issue.
- If jurists have disagreement about it, consideration should be given to the tools of *maqāsid* and *maslaha*.
- If there is no precedence, the relevant tools of *ijtihād* are used including *maqāsid al-'amal*, *'umūm al-balwa*, *sadd az-zarā'i'* and *istishāb*.

Process of Determining Islamic Ruling for Contemporary Issues [g]

Example 1:

The legal ruling on *Takāful* business and *Sukūk* issuance was arrived by likening them to traditional forms of transactions.

Example 2:

The prohibition of selling weapons to unauthorised persons or financing its purchase during sedition (*fitnah*) is based on the prohibition of cooperating in sin and transgression, which Allah (the Most High) forbade in *Qur’ān*, 5:2 and the direct statements of Imrān bin Husayn, Al-Hasan Al-Basari and Ibn Sīrīn to that effect.

Process of Determining Islamic Ruling for Contemporary Issues [h]

Why *At-Takyīf Al-Fiqhī* for contemporary issues?

Allah (the Most High) says, “And do not delve into that which you do not have knowledge of” [*Qur’ān*, 17:36]

The Prophet (pbuh) said, “Whoever is given a *fatwā* that is not based on knowledge, his sin is borne by the one who gave the *fatwā*.” [Abu Dāwud (3657) and Ibn Mājah (53)]

قال تعالى: "وَلَا تَقْفُ مَا لَيْسَ لَكَ بِهِ عِلْمٌ" [الإسراء: 36]

قال رسول الله صلى الله عليه وسلم: "مَنْ أُفْتِيَ بِفُتْيَا غَيْرَ ثَبَتٍ، فَإِنَّمَا إِثْمُهُ عَلَى مَنْ أَفْتَاهُ" [أبو داود (3657)، وابن ماجه (53)]

Process of Determining Islamic Ruling for Contemporary Issues [i]

- *Al-Takyīf Al-Fiqhī* is the main cause of difference of opinions among scholars most often due to difference in conceptualisation.

- For instance, the different ways through which contemporary jurists did *Al-Takyīf Al-Fiqhī* on *nikāh al-misyār* (marriage with little or no responsibilities) has led to the existence of two opinions regarding its permissibility: those who viewed it from the angle of the elements and conditions of a valid marriage considered it permissible whereas the scholars who focused on the objectives of the *Sharī'ah* regarding marriage declared it impermissible.

Process of Determining Islamic Ruling for Contemporary Issues [j]

Al-Tanzīl or *Tanzīl al-Hukm* (تنزيل الحكم) also called *Fiqh al-Tatbīq* is the stage in which the Islamic ruling regarding a contemporary issue is determined.

Determination of the ruling using *Al-Asl Al-Fiqhī* (the original rule) and the knowledge of *Ahkām al-Asl al-Fiqhī* with consideration for both *Ahkām al-Taklifiyyah* and *Ahkām al-Wad'iyyah*.

The ruling could be arrived through *Jamā'ī* (group-based) or *Fardī* (individual-based) process; where it is individual-based, the ruling could be determined by a *Mujtahid* (if qualified) or *Muntasib* (reliance on the opinion of others).

Process of Determining Islamic Ruling for Contemporary Issues [k]

As a rule, the verdict passed on the contemporary issue shall not contradict or violate the *Maqāsid al-Sharī’ah* (higher objectives of the *Sharī’ah*), any explicit and definitive text of the *Qur’ān* or *Sunnah*, the ascertained consensus of scholars, or a well-known and established Islamic legal maxim.

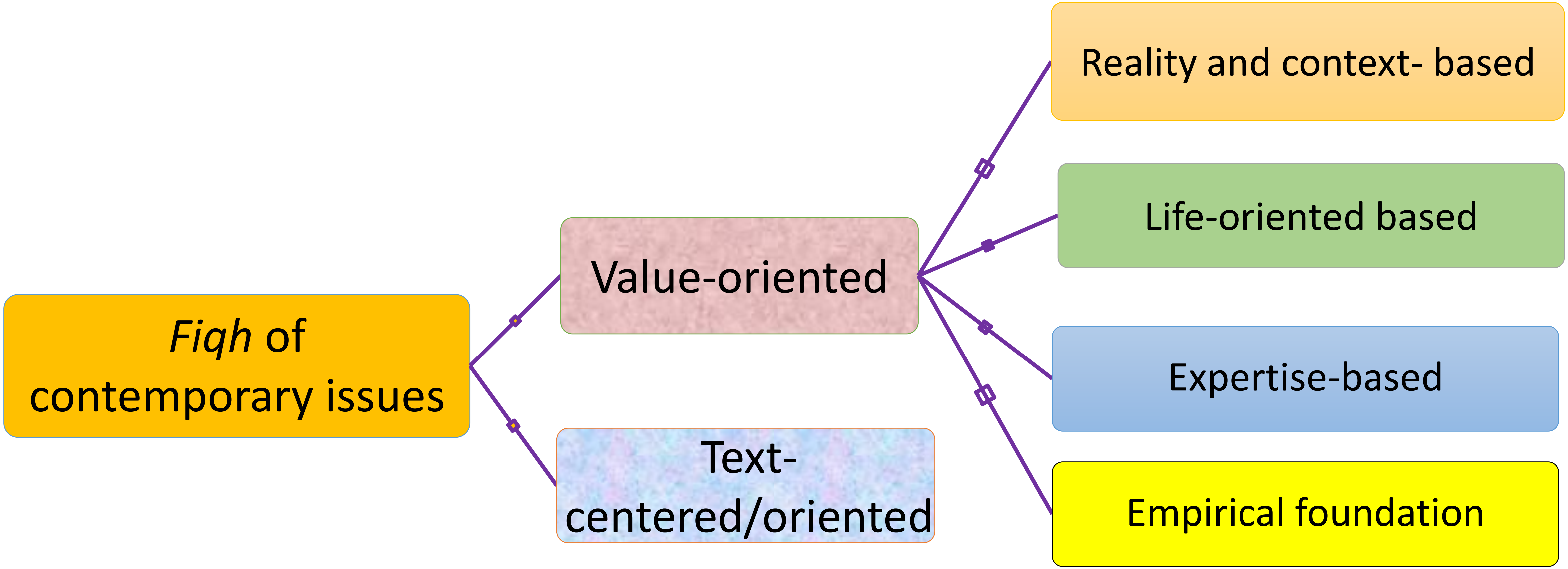
Process of Determining Islamic Ruling for Contemporary Issues [I]

Ibnu Rajab's *Jāmi' al'Ulūm wa al-Hikam* (2/155)

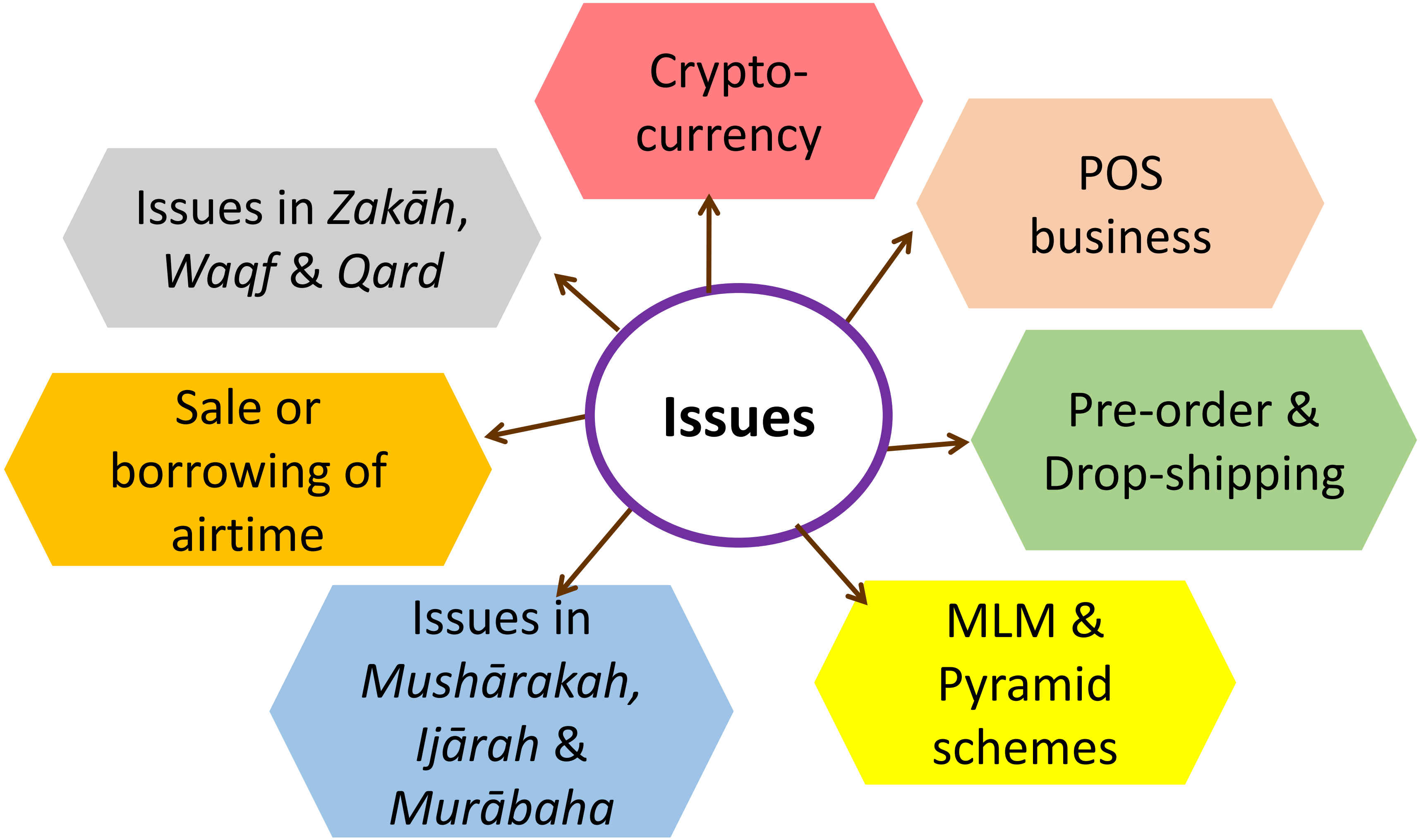
Al-Rabī' bin Khathīm said: "One of you should be careful in saying 'Allah permits this and forbids that, and Allah will say, "You lied; I neither permitted this nor forbade that."

قال الربيع بن خَثِيم: "ليتق أحدُكم أن يقولَ: أحلَّ الله كذا، وحرَّم كذا، فيقولُ الله: كذبتَ، لم أُحِلَّ كذا ولم أحرَّم كذا." [جامع العلوم والحكم لابن رجب الحنبلي (2/155)]

Process of Determining Islamic Ruling for Contemporary Issues [m]



Some Contemporary Issues in Financial and Socio-economic Activities



Applying Fiqh of Contemporary Issues in Financial Transactions [a]

Issue	Conceptualisation	Characterisation	Determination of ruling
Murābaha to the purchase orderer – MPO (المرابحة للآمر بالشراء)	A type of sale that comprises (i) deferred-payment sale; (ii) unilateral promise; and (iii) cost-plus-profit sale	1) Permissibility of sale based on *Qur'ān*, 2:275 2) Legality of unilateral promise 3) Binding nature of unilateral promise based on Resolutions 40–41 of the OIC IIFA 4) Permissibility of cost-plus-profit sale as a form of *bay' al-amānah*.	• The conditions of sale with regard to the parties, subject matter and formular are to be considered. • Unilateral promise is binding based on OIC IIFA. • *Murābaha* is a form of *bay' al-amānah* which is known in custom and permitted by majority of *Fuqahā*. • The relationship begins with a request by the customer for MPO; then the bank's purchase and ownership of the commodity based on the promise, taking all the associated risks; then selling it to the customer on deferred payment basis with full disclosure. • Imām al-Shāfi'ī permits it in *Al-Umm* (3/39), some Hanafī scholars and Ibnul Qayyim.

Applying Fiqh of Contemporary Issues in Financial Transactions [b]

Issue	Conceptualisation	Characterisation	Determination of ruling
Mushārakah mutanāqisah (diminishing partnership)	A type of partnership arrangement whereby; (i) a bank and a customer contribute capital to jointly own an asset; (ii) the bank promise to sell its portion to the customer; and (iii) the bank gradually sell its portion for the customer to finally owns everything.	1) Partnership to jointly own a property (*Sharikah al-'Inān*) is permissible by the *Ijmā'.* 2) Unilateral promise is binding as per OIC IIFA 3) Gradual sale of the bank's portion falls under normal sale which is confirmed in the *Qur'ān* and *Sunnah*.	• Partnership of joint ownership requires that the partners possess *ahliyyah* to enter into or execute the contract; equality is not conditional either in contributed funds, efforts or share to profit; and the subject matter must be lawful. • Unilateral promise by the bank to sell its portion to the customer is binding based on the decision of OIC IIFA. • The bank's agreement to sell its portion, but it has the right to retain the un-purchased portion until the customer buys it is in line with the nature of normal sale.

Applying Fiqh of Contemporary Issues in Financial Transactions [c]

Issue	Conceptualisation	Characterisation	Determination of ruling
Ijārah muntahiyah bi al-tamlik (lease that ends with ownership)	(i) A type of lease arrangement whereby a bank leases an asset to a customer for a specified period and specified periodic rental payments on the condition that it will hand over the asset to the customer at the end of the lease period through a new contract. (ii) It comprises a lease contract, a sale contract and promise.	1) The arrangement consists of *Ijārah* which is permitted by the *Qur'ān* and *Sunnah*. 2) Unilateral promise is binding as per OIC IIFA's decision. 3) Gradual sale of the bank's portion falls under normal sale which is confirmed in the *Qur'ān* and *Sunnah*.	• *Ijārah* involves the lease of the usufruct of an asset that is fully owned by the lessor to a lessee for a specified period and instalment rental payment that cannot be increased as a result of delay in payment. • The binding nature of the unilateral promise by the bank to transfer the asset to the customer through a separate contact is as per the decision of OIC IIFA. • The transfer of ownership of the asset to the lessee is effected by means of a separate contract by means of sale or gift.

Applying Fiqh of Contemporary Issues in Financial Transactions [d]

Issue	Conceptualisation	Characterisation	Determination of ruling
Ijārah al-khadamāt / manāfi' (lease of service/ benefits)	(i) A type of lease-based contract that involves leasing of specified usufruct or services from their owners such as educational programmes, medical treatment and trips of travel and tourism agencies and leasing them out to those who need them. (ii) The bank will own the services or benefits of services before leasing them out at a known increase or defined mark-up/profit margin.	*1) Ijārah* service falls under the subject matter of lease of benefits and services to the lease orderer that is permissible by means of a lease contract just like financing goods by selling through MPO.	• *Ijārah* service is permissible on the basis of the legality of both sale as in MPO and lease as in *Ijārah*. • The permissibility of *Ijārah* to the lease orderer is in line with the decisions and resolutions of *Sharī'ah* and Supervisory Committee of many IFIs.

Applying Fiqh of Contemporary Issues in Financial Transactions [e]

Issue	Conceptualisation	Characterisation	Determination of ruling
Crypto-currency	(i) A digital currency exchange and digital payments platform that uses blockchain technology with Bitcoin as the most known form of it in the blockchain market. (ii) There is no central authority such as a Government that authorises it or records it.	Scholars have two characterisations: 1) Its source is still unknown; in most countries, central authorities neither accord it legal tender status nor authorise it; it is surrounded by a great deal of mystery, problems, fears and high volatility. Therefore it falls under *gharar al-fāhish*, speculative activities and *idā'atul māl* (wasting of wealth) 2) It conforms with the *Sharī'ah* money rules; it is like other fiat money; trading in it is more transparent as no central control is needed; it confers ownership to holders; and it is recognised in some countries.	• Based on the first characterisation, dealing with crypto-currency is not allowed on the basis of *sadd az-zarā'i'* and prohibition of *gharar* and *idā'atul māl*. • Based on the second characterisation, in the absence of any explicit text, dealing with crypto-currency is permissible based on the original principle and legal maxim of permissibility.

Applying Fiqh of Contemporary Issues in Financial Transactions [f]

Issue	Conceptualisation	Characterisation	Determination of ruling
POS business	(i) An agent banking model that uses third-party agents to provide financial services on behalf of banks, mobile money operators (MMOs) or other accredited financial institutions. (ii) The agents use point-of-sale (POS) devices to enable local debit cardholders to, among other things, deposit and withdraw cash, transfer fund, pay bills and recharge airtime. (iii) Agents earn money from fees/ commissions from transactions. (iv) POS business is well accepted as alternative that serves cash and other banking needs in Nigeria.	Scholars have two characterisations: 1) It is a form of service (*khidmah*) that falls under *al-Hawālah al-Suftajiyyah* that was discussed by the *Fuqahā*; therefore the rules of *Wakālah* apply to it. 2) It is a form of exchange or loan; therefore the rules of *Sarf* or *Qard* will apply. The second characterisation seems to be the result of wrong conceptualisation of the reality of POS.	• POS agent banking model allows its users to deposit and withdraw cash, transfer fund, pay bills and recharge airtime. Some POS business operators facilitate the opening of bank account for people. These services clearly fall under *Wakālah*, (with or without fee) which is permitted by the *Sharī'ah*. • There is also a dire need for these POS services among people; thus the legal maxim of *al-Hājah tunazzal manzilah al-Darūrah* applies here. • OIC IIFA permits it.

Applying Fiqh of Contemporary Issues in Financial Transactions [g]

Issue	Conceptualisation	Characterisation	Determination of ruling
Drop shipping	A method of selling goods online where (i) the seller does not own the goods but advertises and sells them on their website or App, or using a social media platform. (ii) Once a customer pays for the goods, the seller buys the product from the manufacturer /producer and asks them to ship it directly to the customer.	1) Drop shipping in the form it is conceptualised falls under the selling of things that one does not posses which the Prophet (pbuh) forbade. 2) The seller does not take any risk in the sale cycle, therefore gains made from it are included in consuming the wealth of others unjustly, which is also forbidden.	• Drop shipping violates the authentic Hadith in which the Prophet (pbuh) said, "And do not sell what is not in your possession." • It also violates the prohibition of consuming one another's wealth unjustly as contained in *Qur'ān*, 2:188 and the legal maxim *"al-Ghunm bi al-Ghurm*. • It can be corrected Drop shopping would be permissible if the seller use the *Salam* mode of transaction; or become an agent to either the buyer or producer /manufacturer; or buy in bulk and keep with the supplier for shipping to ultimate buyers on *Murābaha*.

Applying Fiqh of Contemporary Issues in Financial Transactions [h]

Issue	Conceptualisation	Characterisation	Determination of ruling
Sale of airtime	(i) Lease/rental contract with communication network providers (ii) Cell phone towers as the object of lease which the customer uses for communication and other purposes and pay the lease or rent either in advance by means of prepaid phone cards or later on receipt of the invoice.	1) The credit purchased by the customer represents the right to usage and makes him the owner of usage or benefit. This falls under *Ijārah al-Manāfi'*. 2) Selling a service that one owns for a price higher than the purchase price falls under *Murābaha fi al-Manāfi'*. 3) Both *Ijārah* and *Murābaha* are permissible forms of transactions based on the *Qur'ān* and *Sunnah*. 4) If the transfer of the airtime is based on loan (*Qard*), the rules of *Qard* will apply.	• The *Qur'ān* and *Sunnah* are clear about the permissibility of sale and lease. • If the rules of *Ijārah* and *Murābaha* are observed, the sale of airtime is permissible in line with the *fatwā* of Al-Lajnah Al-Dā'imah, even if the payment is in cash NOT airtime. • If the transfer of airtime is on the basis of *Qard* not sale, it is not permissible to ask the borrower to pay anything extra as a condition.

Applying Fiqh of Contemporary Issues in Financial Transactions [i]

Issue	Conceptualisation	Characterisation	Determination of ruling
Borrowing of airtime from network providers	(i) Some telephone network operators offer airtime loan services to their subscribers. (ii) When a network user request for airtime loan, the operator automatically credit the borrower's telephone with the airtime value he requested after deducting a specific amount from the value of the borrowed airtime. (iii) The operator recovers the full value of the airtime on the borrower's next recharge.	Two different characterisations exist: 1) Airtime in a phone represents a subscriber's money that he can use to purchase a service from the operator or any other thing (where it is accepted). It becomes that of the mobile operator when he use the airtime in exchange for any of the services that the operator offers. Since it is money NOT a service, the rules of borrowing and lending money also apply to airtime. 2) Airtime is a service that operators sell to subscribers. Even though the operators called it a loan, the intention and its nature suggest that it is a sale.	• Based on the first characterisation, the transaction is not permissible because it involves *ribā al-qard*. • Based on the second characterisation, it is permissible because it is a sale which is permitted based on *murābaha/ijārah al-manāfi'* and the legal maxim, *"al-'ibrah fī al-'uqūd li al-maqāsid wa al-ma'ānī.*

Applying Fiqh of Contemporary Issues in Financial Transactions [j]

Issue	Conceptualisation	Characterisation	Determination of ruling
Paying back *Qard* with voluntary extra amount			

Use the above template to do the conceptualisation and characterisation of the issue

Applying Fiqh of Contemporary Issues in Financial Transactions [k]

Issue	Conceptualisation	Characterisation	Determination of ruling
Charging administrative fee by Islamic banks for processing *Qard al-Hasan*			

Use the above template to do the conceptualisation and characterisation of the issue

Applying Fiqh of Contemporary Issues in Financial Transactions [I]

Issue	Conceptualisation	Characterisation	Determination of ruling
Charging of penalty by Islamic banks for customers' payment default			

Use the above template to do the conceptualisation and characterisation of the issue

Applying Fiqh of Contemporary Issues in Financial Transactions [m]

Issue	Conceptualisation	Characterisation	Determination of ruling
Multi-level marketing (MLM)			

Use the above template to do the conceptualisation and characterisation of the issue

Applying Fiqh of Contemporary Issues in Financial Transactions [n]

Issue	Conceptualisation	Characterisation	Determination of ruling
pyramid schemes			

Use the above template to do the conceptualisation and characterisation of the issue

Applying Fiqh of Contemporary Issues in Financial Transactions [o]

Issue	**Conceptualisation**	**Characterisation**	**Determination of ruling**
Pre-order business			

Use the above template to do the conceptualisation and characterisation of the issue

Applying Fiqh of Contemporary Issues in Socio-economic Activities [a]

Issue	Conceptualisation	Characterisation	Determination of ruling
Zakāh on a newly acquired house	A house is an asset and a form of wealth that is subject to the rules of *Zakāh*.	1) Payment of *Zakāh* in this case depends on the intention of acquiring the house: is it for personal/non-profit use, a trading good, for leasing, or expectation of future rise in the selling price? 2) Each category has its own ruling. 3) The basis of characterisation is the legal maxim "*al-umūr bi maqāsidiha*."	• There is no *Zakāh* if the intention of purchasing the house is for personal/non-profit use on the basis of *ijmā'*. • *Zakāh* is due every year on the market value of the house if it reaches the *nisāb* itself or when combined with other wealth, if it is intended to be a trading good, on the basis of *'urūd al-tijārah*. • If the intention is to lease it out, only the proceed/rent is zakatabale if it reaches the *nisāb* itself or when combined with other wealth. • If the intention is to keep and sell it in future, it is subject to *Zakāh* for *māl al-qinyah*.

Applying Fiqh of Contemporary Issues in Socio-economic Activities [b]

Issue	Conceptualisation	Characterisation	Determination of ruling
Zakāh on shares	(i) It involves subscribing to the shares of a company based on the rules of the *Sharī'ah*. (ii) The subscriber becomes a shareholder/ part-owner in the company.	1) Payment of *Zakāh* on shares depends on whether the shares are kept as a trading good that can be sold anytime its value increases (or a willing buyer is identified) or they are kept as a source of income through the periodic payment of dividend. 2) The basis of characterisation is the legal maxim "*al-umūr bi maqāsidiha*" and each category has its own ruling.	• *Zakāh* is due every year on the market value of the shares if it reaches the *nisāb*, itself or when combined with other wealth, if it kept as a trading good on the basis of *Zakāh* on *'urūd al-tijārah*. • If the intention is to receive periodic dividend, only the proceed is zakatable if it reaches the *nisāb*, itself or when combined with other wealth, on the basis of *Zakāh* rules on *mustaghallāt*.

Applying Fiqh of Contemporary Issues in Socio-economic Activities [c]

Issue	Conceptualisation	Characterisation	Determination of ruling
Selling of *Waqf* property	(i) It involves the disposal of a *Waqf* property through the process of sale. (ii) The decision to sell the property may be taken for a number of reasons. (iii) In the *Hadīth*, The assets of *Waqf* are not to be sold, gifted or inherited.	1) Selling *Waqf* property may be a reason of changing or replacing it due to its dilapidation or other reasons which change in time or circumstance dictates. 2) Where the sale is for a valid reason and the intention is to replace it with something better or more relevant, it falls under *istibdāl*; but if the intention is to discontinue the *Waqf* or destroy its property, it is treated as *istihlāk*. 3) The basis of characterisation is based on the legal maxim "*al-umūr bi maqāsidiha*" and each category has its own ruling.	• Selling of *Waqf* property is permissible if the intention is *istibdāl* because it does not violate the *Hadīth*. Rather the *Waqf* trustee/administrator or owner is considered as a *kafīl* to the *Waqf* property; it is required of him to act in the best interest of the *Waqf*.

Applying Fiqh of Contemporary Issues in Socio-economic Activities [d]

Issue	Conceptualisation	Characterisation	Determination of ruling
Investment of *Waqf* property			

Use the above template to do the conceptualisation and characterisation of the issue

Applying Fiqh of Contemporary Issues in Socio-economic Activities [e]

Issue	Conceptualisation	Characterisation	Determination of ruling
Cash *Waqf*			

Use the above template to do the conceptualisation and characterisation of the issue

Conclusion

- Knowledge of *Fiqh* of contemporary issues is an indispensable tool that help *muftīs* and students of knowledge to navigate the process of determining Islamic ruling for emerging issues in the areas of business and financial dealings, socio-economic activities and other spheres of life.

- There is no gainsaying the fact that in the absence of proper conceptualisation and understanding of the reality and context of an issue as well as its proper characterisation, any attempt to derive a ruling for it would lead to deviation from the purpose of the *Sharī'ah*.

Thank you for listening

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