



Juristic Retrievalism in Contemporary Sunni Fatwa: Toward Maqāṣid-Based Validation

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Abstract

This article develops juristic retrievalism as a concept for analysing a recurring weakness in contemporary Sunni fatwa production: the treatment of inherited juristic opinions as ready-made answers whose authority rests primarily on historical authenticity, school affiliation, or intra-madhab preference. Method: The study is a qualitative conceptual investigation combining normative legal theory with a purposive, triangulated reading of classical uṣūl al-fiqh and fatwa sources, contemporary scholarship on religious authority and maqāṣid al-sharīʿah, and official data on the digital environment in which fatwas circulate. It distinguishes conceptual claims from empirical generalisation and tests the proposed model through illustrative applications and counter-objections. Findings: Juristic retrievalism is not equivalent to legitimate taqlīd, madhhab continuity, or disciplined tarjīh. It is a methodological reduction that weakens contextual diagnosis, consequence assessment, purposive evaluation, and institutional review. The article proposes a five-dimensional validation framework comprising textual fidelity, juristic coherence, contextual adequacy, maqāṣid realisation, and institutional accountability. Contribution: The framework converts maqāṣid from general reformist language into a transparent institutional procedure for classifying questions, consulting expertise, qualifying public guidance, and revising fatwas when relevant facts change. Contemporary renewal therefore requires neither rupture with Sunni legal tradition nor mechanical repetition, but a disciplined reconstruction of ijtihād that preserves textual loyalty while restoring the moral and civilisational purposes of sharīʿah.

Keywords: *Juristic Retrievalism, Fatwa Methodology, Maqāṣid Al-Sharīʿah, Sunni Legal Theory, Contextual Ijtihād, Institutional Accountability*

INTRODUCTION

This article takes as its point of departure Jasser Auda's critique of legal reasoning that privileges inherited formulations without adequately testing their contemporary purposes and systemic consequences. The issue is not whether a juristic opinion exists, but under what conditions that opinion remains valid as guidance in a transformed social, institutional, and technological environment (Auda, 2008a, 2021).

The fatwa has always occupied a delicate position in Islamic legal and moral life. It is neither merely a private opinion nor simply a judicial ruling. It is a learned response to a question about how revelation, juristic reasoning, inherited knowledge, and lived reality should meet in a concrete circumstance.

Because the fatwa speaks in the space between text and life, its authority depends on more than the citation of a previous ruling. It depends on the moral competence of the mufti, the quality of the question, the accuracy with which the situation is understood, the evidential strength of the reasoning, and the extent to which the answer preserves the purposes of Allah subḥānahu wa taʿālā's guidance in human affairs (Masud et al., 1996; Caeiro, 2006).

Contemporary Sunni fatwa institutions, councils, online platforms, mosque authorities, and independent scholars face a legal environment that differs sharply from the social world in which much of the inherited fiqh corpus was formed. Muslim communities today live under nation-state



legal systems, global markets, biomedical institutions, algorithmic media, migration regimes, minority-citizenship arrangements, and transnational conflicts. In such conditions, it is no longer sufficient to ask whether a premodern opinion exists, whether it belongs to a recognised school, or whether it can be authenticated historically. Those questions remain important, but they are incomplete because a legal opinion may be historically traceable and yet inadequate for a contemporary case if the relevant facts, institutional structures, or social consequences have changed ([Hallaq, 2001](#); [Vikor, 2005](#); [Dupret, 2018](#)).

This article names this weakness juristic retrievalism. By this expression I mean a mode of fatwa production in which inherited juristic opinions are retrieved and selected as primary outputs. At the same time, the processes of contextual diagnosis, maqāṣid-based evaluation, consequence assessment, and institutional accountability remain secondary or underdeveloped.

Retrievalism is not identical with taqlīd. Taqlīd can be legitimate for non-specialists and within recognised school practice where the effective cause, context, and consequences remain substantially stable. Retrievalism, by contrast, is a methodological reduction: it treats the legal past as a database of answers more than as a disciplined archive of reasoning ([Hallaq, 1994](#); [Kamali, 2003](#)).

The problem has become more urgent because digital mediation has changed how religious authority circulates. The International Telecommunication Union (ITU) estimates that approximately 6 billion people, around 74 per cent of the world population, were using the Internet in 2025, while 2.2 billion people remained offline. Digital access does not merely increase the availability of Islamic knowledge; it also fragments authority, accelerates decontextualised quotation, and rewards simple answers to complex moral questions ([International Telecommunication Union, 2025](#)).

The central argument of this study is therefore twofold. First, contemporary fatwa methodology requires a clearer distinction between historical authenticity and contemporary validity. Historical authenticity asks whether a view was genuinely held, transmitted, or recognised within the juristic tradition.

Contemporary validity asks whether that view, when applied today, remains faithful to revelation, coherent within legal method, adequate to the facts, consistent with maqāṣid, and institutionally responsible. Second, the renewal of fatwa methodology should not be framed as rebellion against inherited Sunni law. The Sunni tradition itself contains resources for resisting mechanical legalism: maqāṣid, maṣlaḥah, ‘urf, changing fatwa with changing circumstances, and the distinction between fatwa and judicial judgement ([Al-Qarafi, 1995](#); [Ibn al-Qayyim, 2002](#); [Al-Shatibi, 1997](#)).

The article aims to provide a methodological vocabulary and validation procedure for distinguishing disciplined legal continuity from the uncritical reproduction of earlier answers. It addresses two research questions: RQ1: How can juristic retrievalism be distinguished from legitimate taqlīd, madhhab continuity, and disciplined tarjīḥ? RQ2: What validation framework can integrate textual fidelity, juristic coherence, contextual adequacy, maqāṣid realisation, and institutional accountability in contemporary Sunni fatwa production?

The contribution is both conceptual and institutional. Conceptually, the article names juristic retrievalism as a distinct methodological reduction rather than treating it as a synonym for traditionalism. Institutionally, it translates maqāṣid-based reasoning into a reviewable procedure for classifying questions, identifying required expertise, evaluating consequences, stating the scope of public guidance, and revising fatwas when relevant facts change. The argument therefore avoids a false opposition between tradition and reform: inherited opinions remain indispensable legal memory, but their contemporary application requires the full methodological capacity of the Sunni tradition.

LITERATURE REVIEW

The literature on Islamic legal authority shows that fatwa is historically situated rather than purely textual. [Masud et al. \(1996\)](#) demonstrated that fatwas operate as interpretive acts embedded in social relationships, institutions, and epistemic practices.

[Hallaq \(1994\)](#) further showed that fatwas were not marginal opinions but mechanisms through which substantive law developed and adapted. This scholarship challenges any view of fatwa as mere repetition of settled conclusions; it highlights the dynamic relationship between question, context, authority, and legal formulation.

Studies of *iftā'* also reveal the moral and institutional character of the mufti's task. [Caeiro's \(2006\)](#) analysis of *adab al-fatwā* manuals shows that fatwa literature was concerned not only with legal deduction but also with scholarly ethics, public responsibility, and the changing conditions in which fatwas were issued.

In the European context, [Caeiro \(2010\)](#) shows that minority *fiqh* is shaped by counterpublic formation, audience recognition, and institutional authority. These studies are especially relevant because they demonstrate that fatwa authority is produced through both juristic competence and social credibility.

A second body of literature concerns continuity and change within Sunni legal theory. [Hallaq \(1984, 2001\)](#) criticised simplified claims about the closure of *ijtihād* and analysed how legal authority was mediated through school structures, juristic hierarchies, and methodological discipline.

[El Shamsy \(2013\)](#) traced the canonisation of Islamic law and the formation of textual authority, while [Vikor \(2005\)](#) and [Kamali \(2003\)](#) explained how *uṣūl al-fiqh*, legal maxims, and school reasoning provide methodological constraints. These works clarify that renewal is not the abandonment of tradition, but disciplined reasoning within and through it.

The *maqāṣid* literature provides the most direct theoretical resource for overcoming juristic retrievalism. Al-Shāṭibī's *al-Muwāfaqāt* remains foundational for understanding the law as purposive, welfare-oriented, and internally coherent. Ibn 'Āshūr extended *maqāṣid* into a modern legal-theoretical discourse, while al-Raysūnī and Kamali emphasised the relevance of objectives for contemporary reform ([Al-Raysuni, 2005](#); [Al-Shatibi, 1997](#); [Ibn 'Ashur, 2006](#); [Kamali, 2008](#)). Auda's systems approach further argues that Islamic legal thought must become more multidimensional, open, and purpose-oriented without losing fidelity to revelation ([Auda, 2008a, 2008b, 2021](#)).

Classical Sunni sources also resist mechanical legalism. Al-Shāfi'ī's *al-Risālah* disciplined legal inference by connecting juristic reasoning to recognised evidence and interpretive rules. Al-Ghazālī's *al-Mustaṣfā* treated *maṣlaḥah* within revealed limits, thereby avoiding both arbitrary utility and rigid formalism.

Al-Qarāfī's distinction between fatwa, judicial judgement, and governance-related acts is especially important because it shows that legal authority differs according to institutional role. Ibn Taymiyyah and Ibn al-Qayyim likewise criticised legal formalism when it detached law from justice, wisdom, and changing circumstances ([Al-Ghazali, 1993](#); [Al-Qarafi, 1995](#); [Al-Shafi'i, 1940](#); [Ibn al-Qayyim, 2002](#); [Ibn Taymiyyah, 1995](#)).

Contemporary studies of religious authority confirm the urgency of the issue. [Zaman \(2002, 2012\)](#) shows that the 'ulamā' have remained important actors in modern Muslim societies while facing new pressures from states, publics, reform movements, and media. [Brown \(2014\)](#) examines the difficulty of interpreting prophetic authority across changing contexts.

[Abou El Fadl \(2001\)](#) criticises authoritarian uses of Islamic legal discourse, while [Rahman \(1982\)](#) and [al-Alwani \(2005\)](#) call for methodological renewal in modern Islamic thought. The present article builds on these conversations by naming juristic retrievalism as a specific methodological pattern and proposing an operational validation framework.

The literature also shows that Islamic legal change has often occurred through disciplined mechanisms rather than explicit rupture. The relationship between fatwā and furūʿ, the circulation of responsa, the recording of preferred opinions, and the gradual refinement of school doctrines all demonstrate that historical Sunni law was not a static archive.

Yet this dynamism was not arbitrary. It depended on recognised hierarchies of evidence, institutional credibility, and the capacity of jurists to distinguish stable principles from changeable applications. This helps explain why juristic retrievalism a conservative tendency is not merely; it is a narrowing of a tradition that was historically more methodologically complex than the retrievalist posture suggests (Hallaq, 1994, 2001).

A further strand of scholarship concerns the modern transformation of authority. Modern Muslim publics encounter religious knowledge through states, universities, publishing houses, media personalities, transnational networks, and digital platforms.

The authority of the mufti is therefore no longer mediated only by local reputation, scholarly circles, or school affiliation. Institutional branding, search engines, online circulation, and audience recognition also mediate it. This does not eliminate scholarly authority, but it changes the conditions under which authority is received and contested (Brown, 2014; Skovgaard-Petersen, 1997; Zaman, 2012).

METHODOLOGY

This study is a qualitative conceptual article in contemporary Islamic legal theory. Its purpose is concept clarification and framework development rather than statistical measurement, institutional ranking, or causal explanation.

Following established guidance for conceptual framework construction, the analysis identifies an under-theorised pattern, defines its boundaries, synthesises relevant bodies of knowledge, and develops an internally coherent model with practical propositions (Jaakkola, 2020; Jabareen, 2009). The study is therefore neither a systematic literature review nor an empirical case study.

The evidentiary corpus was purposively constructed from four source domains: classical works of uṣūl al-fiqh and fatwa ethics; modern scholarship on Islamic legal authority and institutional iftāʾ; contemporary maqāṣid and reform literature; and official connectivity data describing the digital circulation environment.

Sources were selected for direct relevance, recognised scholarly authority, and their capacity to illuminate at least one element of fatwa validation. The corpus is analytical rather than statistically representative; it supports theoretical reconstruction, not claims about the frequency of retrievalist practice across all institutions.

The analysis proceeded in five stages. First, recurring descriptions of opinion-centred fatwa reasoning were identified across the literature. Second, the construct was delimited against *taqlīd*, madhhab commitment, legal formalism, and legitimate *tarjīḥ*. Third, classical Sunni resources concerning evidence, maṣlaḥah, ʿurf, changing fatwa, and differentiated legal roles were mapped against contemporary institutional problems.

Fourth, the principal limitations of retrievalism were synthesised into conceptual categories. Fifth, those categories were converted into a five-dimensional validation framework and examined through illustrative applications in finance, minority life, digital ethics, and public harm.

Analytical trustworthiness was strengthened through source triangulation and negative-case testing. Claims were compared across classical legal theory, socio-institutional studies of fatwa, and contemporary maqāṣid scholarship rather than being inferred from a single reformist or traditionalist strand.

Potential counter-arguments—especially the risks of weakening madhhab authority,

introducing subjective *maṣlaḥah*, or imposing unrealistic institutional burdens—were incorporated into the discussion. Because the study is conceptual, reliability is understood as transparency of derivation: each dimension is linked to an explicit question, evidentiary requirement, and institutional practice.

The term contemporary Sunni fatwa institutions are used broadly to include state-affiliated bodies, transnational fiqh councils, scholarly boards, mosque-based offices, online question-and-answer platforms, and independent scholars whose answers circulate publicly. The article does not claim that all such actors are equally retrievalist. Juristic retrievalism is used as a heuristic diagnosis of a pattern that appears when opinion retrieval becomes dominant while contextual inquiry, consequence assessment, maqāṣid evaluation, and institutional review remain underdeveloped.

The two statistical figures are contextual, not outcome measures. They use official ITU estimates to demonstrate the scale and unequal distribution of the digital environment in which fatwas now circulate. The figures do not measure fatwa quality or establish a causal relationship between connectivity and retrievalism; they justify attention to audience expansion, decontextualised circulation, and the need for revised metadata in digital fatwa archives ([International Telecommunication Union, 2025](#)).

The study makes normative and analytical claims, not allegations about named institutions. Conceptual critique cannot establish how frequently retrievalism occurs, and the proposed framework cannot by itself guarantee organisational reform. Institutions operate under political, financial, educational, and communicative constraints, and some already apply several dimensions of the framework under different terminology. These limits are carried into the conclusion and future research agenda.

FINDINGS AND DISCUSSION

Conceptualising juristic retrievalism

Juristic retrievalism may be defined as a mode of legal reasoning in which the retrieval, authentication, and selection of inherited juristic opinions become the dominant act of fatwa production, while the assessment of present reality, consequences, public interest, and maqāṣid remains insufficiently developed.

It is an opinion-centred rather than method-centred approach. It does not necessarily deny maqāṣid, maṣlaḥah, or ijtihād in theory; rather, it tends to confine them to introductory rhetoric or after-the-fact justification while the operative reasoning is conducted through inherited opinions alone.

Several features distinguish retrievalism. First, it privileges the existence of a precedent over the analysis of its ratio legis. Second, it treats school affiliation as a proxy for adequacy. Third, it narrows *tarjīḥ* to internal criteria of transmission, reputation, and textual proximity, while giving insufficient weight to current harm, institutional complexity, and maqāṣid realisation.

Fourth, it may produce contradictory public guidance because different muftis retrieve different inherited opinions without a shared framework for contemporary validation. Fifth, it risks turning the juristic heritage into a fragmented archive of answers rather than a living discipline of reasoning.

This concept should not be confused with respect for the *madhāhib*. The Sunni legal schools emerged through centuries of disciplined reasoning, debate, teaching, adjudication, and ethical formation. Their internal diversity is one of the strengths of Islamic legal civilisation. To critique retrievalism is therefore not to critique the *madhāhib*; it is to critique a flattened use of them. A contemporary method that retrieves the conclusion of a classical jurist while neglecting his reasoning betrays the very tradition it claims to preserve.

The distinction between retrieval and reasoning can be illustrated through digital finance,

biomedical ethics, and minority contexts. In each area, inherited rules are relevant, but the contemporary legal object must first be accurately identified. A smart contract, electronic wallet, medical procedure, or constitutional citizenship arrangement cannot be adequately judged by searching for exact classical analogues. Classical principles remain indispensable, but they must be connected to present facts through disciplined analysis.

Retrievalism also differs from conservative caution. Caution is a virtue when it prevents legal irresponsibility, protects ordinary believers from arbitrary innovation, and preserves continuity with the revealed sources. Retrievalism, however, may appear cautious while being careless: careless about facts, consequences, institutional realities, and the people affected by the fatwa.

A ruling that reproduces a past answer without sufficient inquiry into the present may be formally conservative but substantively harmful. True caution requires more knowledge, not less. It requires knowledge of the text, the juristic heritage, the questioner's situation, the public effects, and the maqāṣid that give law its ethical direction.

The crisis of retrievalism is also produced by the pressure of demand. Modern Muslims ask questions in large numbers and expect quick answers. Institutions often operate under limited resources. Online platforms encourage concise rulings, searchable databases, and standardised responses. Under such conditions, inherited opinions are attractive because they offer speed, legitimacy, and recognisable authority.

Yet the very speed that makes retrieval efficient can weaken the quality of fatwa when the issue is novel, complex, or socially consequential. A methodology suited to simple repetition may be insufficient for questions that require diagnosis, consultation, and collective *ijtihād*.

The Qur'anic ethics of knowledge also challenge retrievalism. The command to ask the people of knowledge when one does not know (Qur'an 16:43) does not authorise anyone to provide answers without sufficient understanding. Likewise, the Qur'anic command to judge with justice and fulfil trusts (Qur'an 4:58) frames legal reasoning as moral responsibility. In this sense, the mufti is entrusted not only with texts but also with people's lives, property, families, consciences, and public relations. Juristic retrieval that bypasses contextual understanding weakens this trust.

Table 1. Operational Features of Juristic Retrievalism

Feature	Description	Methodological risk	Corrective question
Precedent dominance	The existence of an inherited opinion becomes the main basis of the fatwa.	Treats legal memory as final application.	What was the reason, context, and scope of the opinion?
Narrow authentication	Priority is given to whether the opinion is historically traceable or school-recognised.	Confuses historical authenticity with contemporary validity.	Is the opinion still adequate under current facts?
Reduced tarjīh	Preference is based mainly on intra-school authority or citation strength.	Neglects consequences, public interest, and maqāṣid.	Which view best realises justice, mercy, wisdom, and benefit today?
Weak wāqi' analysis	The contemporary case is described briefly or assumed.	Misdiagnosis of the legal object.	What expert knowledge is needed before issuing a fatwa?

Fragmented output	Fatwas circulate as isolated answers detached from institutional learning.	Produces inconsistency and loss of public trust.	How should the institution record, review, and revise its reasoning?
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Source: Author's conceptual framework.

Classical Sunni resources against mechanical fatwa

The classical Sunni tradition contains powerful resources for resisting mechanical fatwa production. One of the most important is the distinction between revelation and juristic understanding. Fiqh is not revelation itself; it is human understanding of revelation. This distinction protects both revelation and juristic humility. The Qur'an and authentic Sunnah possess binding authority, while the jurist's interpretation is disciplined, revisable, and accountable (Al-Shafi'i, 1940; Kamali, 2003).

Al-Ghazālī's treatment of *maṣlaḥah* illustrates the need for disciplined purposive reasoning. He did not authorise unrestricted utility; he linked *maṣlaḥah* to the preservation of the essential interests recognised by revelation. Al-Shāṭibī later developed this insight into a broader theory of maqāṣid and legal coherence. The relevance for contemporary fatwa is clear: benefit and harm cannot be ignored, but neither can they be detached from textual and methodological limits (Al-Ghazali, 1993; Al-Shatibi, 1997; Opwis, 2010).

Al-Qarāfī's work is especially important for fatwa methodology. His distinction between fatwa, judicial judgement, and governance-related action reminds contemporary scholars that legal answers have different levels of authority and public consequence. The same legal text may function differently when issued as private advice, judicial ruling, institutional policy, or public digital guidance. Retrievalism becomes dangerous when it ignores these institutional distinctions (Al-Qarafi, 1995).

Ibn Taymiyyah and Ibn al-Qayyim also provide resources for a non-mechanical approach. Both criticised legal formalism when it detached law from truth, justice, and the purposes of sharī'ah.

Ibn al-Qayyim's famous discussion of changing fatwa according to time, place, circumstances, intention, and custom is often cited, but its methodological implications remain underdeveloped in many contemporary settings. It requires procedures for knowing when circumstances have changed and how that change should affect legal judgement (Ibn al-Qayyim, 2002; Ibn Taymiyyah, 1995).

The recognition of 'urf is a further classical resource against mechanical fatwa. Custom is not an autonomous source that overrides revelation, but it is legally relevant where language, contractual practice, social meaning, or harm depends on common usage. A word, commercial practice, family arrangement, or public institution may carry different meanings across contexts.

If a ruling was originally tied to a particular custom, applying it today requires knowing whether the relevant custom persists. Retrievalism often neglects this step by treating the inherited formulation as if it were detached from the social world that gave it operative meaning.

The ethical literature on fatwa also matters. Classical scholars repeatedly warned against hastiness, vanity, and speaking about Allah subḥānahu wa ta'ālā without knowledge. Such warnings are sometimes interpreted as a call for restraint in issuing new opinions, and that is partly correct.

Yet they also require restraint from careless repetition. If the mufti lacks adequate knowledge of the case, the danger is not only innovation; it is misapplication. Responsible fatwa therefore requires humility before both the revealed sources and the complexity of reality.

Table 2. Classical Resources for a Non-Reductionist Fatwa Methodology

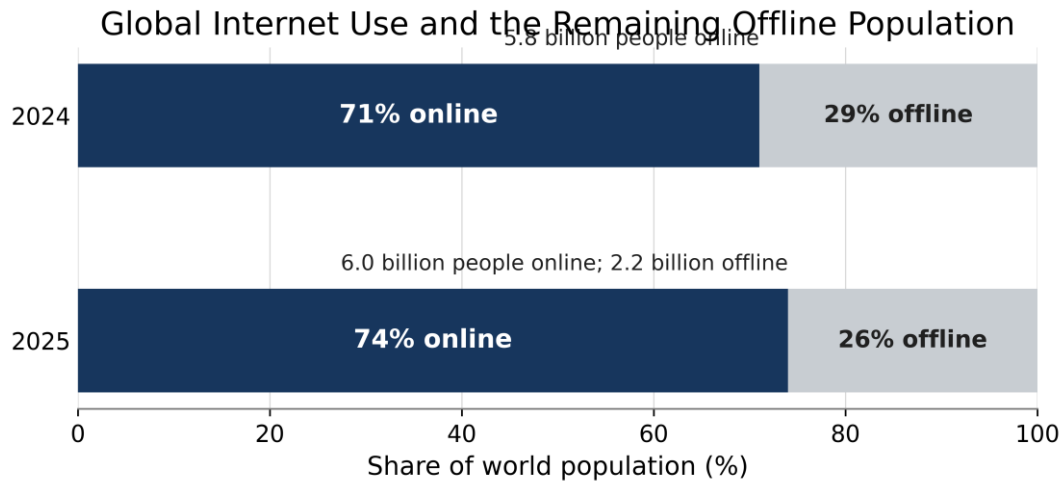
Resource	Core contribution	Relevance for contemporary fatwa
Uṣūl al-fiqh	Disciplines inference from the Qur'an and Sunnah through recognised methods.	Prevents arbitrary modernism and arbitrary traditionalism alike.
Maqāṣid al-sharī'ah	Identifies the purposes, values, and welfare-orientation of the law.	Tests whether inherited opinions realise the law's objectives today.
Maṣlaḥah and mafsadah	Evaluates benefit and harm within revealed limits.	Requires consequence assessment for public and institutional fatwas.
'Urf	Recognises legally relevant custom where valid.	Prevents misapplication of rulings tied to earlier social meanings.
Taghayyur al-fatwā	Acknowledges that fatwa may change with time, place, circumstances, intentions, and custom.	Requires contextual analysis, expert consultation, and revision.
Differentiation of legal roles	Distinguishes mufti, judge, ruler, teacher, and private believer.	Clarifies the authority level and institutional scope of public fatwas.

Source: Author's conceptual framework.

Digital transformation and the public circulation of fatwa

Modern fatwa institutions operate in a world shaped by state bureaucracy, global communication, and public contestation. In premodern settings, fatwa often functioned through personal relationships between questioner and mufti, even when fatwas later entered legal manuals. In modern settings, fatwas are mediated through ministries, councils, websites, television programmes, apps, and social media clips. This transformation changes both audience and consequence (Skovgaard-Petersen, 1997; Zaman, 2002).

Digital connectivity intensifies the problem. ITU estimates that Internet use rose from 71 per cent of the world population, or 5.8 billion people, in 2024 to 74 per cent, or 6 billion people, in 2025; 2.2 billion people nevertheless remained offline. This expansion means that a public fatwa may travel instantly beyond its original language, location, legal school, and intended audience. The challenge is therefore epistemological as well as technological: institutions must state whether an online answer is general, local, conditional, temporary, school-specific, or advisory (International Telecommunication Union, 2025).



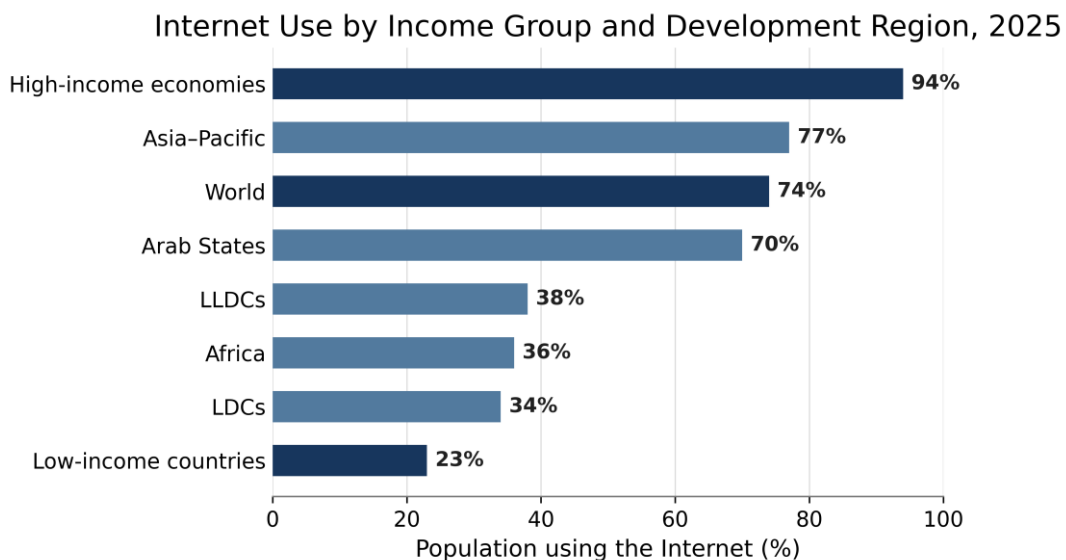
Source: International Telecommunication Union, Facts and Figures 2025.

Figure 1. Global Internet Use and The Remaining Offline Population, 2024–2025

Source: [International Telecommunication Union \(2025\)](#)

The digital divide also matters. In 2025, Internet use stood at 94 per cent in high-income economies but only 23 per cent in low-income countries. Regional and development-group estimates likewise varied markedly: 77 per cent in Asia-Pacific, 70 per cent in the Arab States, 36 per cent in Africa, 34 per cent in least developed countries, and 38 per cent in landlocked developing countries.

Unequal connectivity shapes which questions become visible, which fatwas circulate globally, and which forms of authority appear dominant online. Digital fatwa is therefore part of a changing moral and epistemic ecology, not merely a channel for information delivery ([International Telecommunication Union, 2025](#)).



Notes: LDCs = least developed countries; LLDCs = landlocked developing countries. Source: ITU (2025).

Figure 2. Internet Use by Income Group and Development Region, 2025

Source: [International Telecommunication Union \(2025\)](#)

Historical authentication and contemporary validity

The core methodological distinction proposed here is between historical authentication and contemporary validity. Historical authentication establishes that an opinion exists, belongs to a recognised scholar or school, and has been transmitted in a reliable form.

This work remains essential. Without it, fatwa may become arbitrary, disconnected from legal memory, or vulnerable to fabricated attribution. However, historical authentication alone does not complete the task of fatwa because it does not determine whether the opinion should guide a contemporary case.

Contemporary validity includes another set of questions. What is the present reality? What facts require expert knowledge? What harms and benefits are involved? What public consequences might follow? Is the ruling private, institutional, or political? Does the opinion realise the objectives of shari'ah under current conditions? These questions do not cancel inherited opinions. They complete the process of application. In this sense, contemporary validity is not a modern addition to tradition but a recovery of the mufti's responsibility to know both text and reality.

This distinction also explains why some fatwas appear formally correct yet socially unpersuasive. The public may sense that a ruling does not address the actual problem, even if the ruling cites authorities. Such unease should not be dismissed as ignorance.

Sometimes it reflects a genuine gap between transmitted opinion and present reality. The task of the scholar is neither to follow public emotion nor to ignore public concern, but to clarify the facts, evaluate the legal object, and show how the ruling realises justice, mercy, wisdom, and public welfare within revealed limits.

Opinion-centred fatwa methodology has several limitations. The first is misclassification of the legal object. A ruling depends on the nature of the act, contract, relationship, harm, or benefit being addressed. If the object is wrongly classified, the legal answer may be wrong even if the cited opinion is authentic. The second limitation is loss of effective cause. Classical opinions often depend on *'illah*, *hikmah*, or social assumptions. When these are not identified, the mufti may extend a ruling beyond its proper scope or restrict it where extension is justified.

The third limitation is fragmentation of maqāṣid. Retrievalism may cite maqāṣid but treat them as decorative support rather than as governing criteria. Maqāṣid-based reasoning is not a slogan; it requires structured evaluation of benefit, harm, justice, dignity, public order, and the preservation of religion, life, intellect, lineage, and property.

The fourth limitation is institutional inconsistency. When fatwas are issued by retrieving different opinions without a shared validation process, institutions may produce contradictory answers to similar cases, weakening public trust.

The fifth limitation is ethical minimalism. Some opinion-centred fatwas answer only whether an act is technically permitted or prohibited. Yet many contemporary questions require ethical guidance beyond minimal legality.

The sixth limitation is public harm through decontextualised circulation. A fatwa issued for an individual may be copied as a universal rule. A strict view intended for a cautious questioner may be imposed on a vulnerable public. A permissive answer issued under necessity may be transformed into a general licence. These risks show why contemporary validity must include audience, medium, and consequences.

Validated pathway for contemporary fatwa reasoning

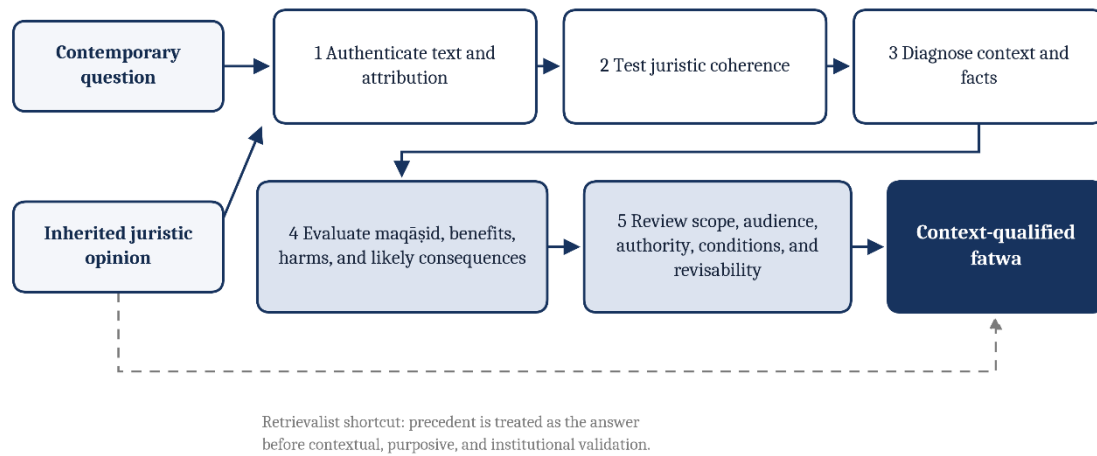


Figure 3. From Opinion Retrieval to Context-Qualified Fatwa Validation

Source: Author's conceptual framework.

A five-dimensional framework for fatwa validation

This article proposes a five-dimensional framework for contemporary Sunni fatwa validation. The framework is not intended to replace the *madhāhib* or classical *uṣūl*. It is a procedural model that helps scholars avoid reducing legal reasoning to opinion retrieval. The five dimensions are textual fidelity, juristic coherence, contextual adequacy, maqāsid realisation, and institutional accountability.

Textual fidelity asks whether the ruling is anchored in the Qur'an, authentic Sunnah, and recognised methods of interpretation. Juristic coherence asks whether the reasoning is consistent with *uṣūl*, legal maxims, school principles where a school is followed, and the accumulated juristic discourse.

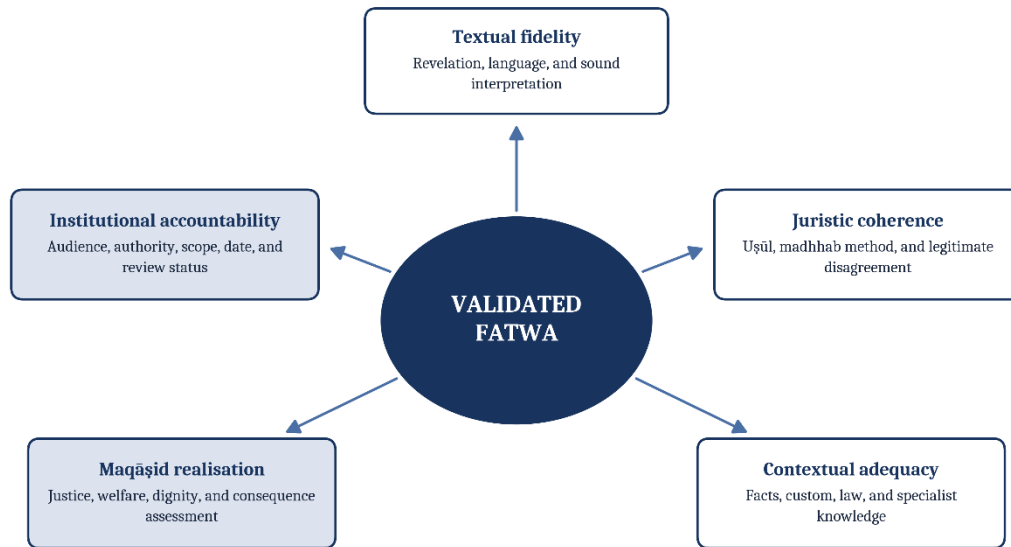
Contextual adequacy asks whether the mufti has properly understood the present case. Maqāsid realisation asks whether the ruling preserves the higher objectives of the law and prevents avoidable harm. Institutional accountability asks whether the fatwa is issued through responsible procedures that identify its audience, conditions, limits, date, and review status.

The framework can be operationalised through a staged process. First, the question is clarified: who is asking, what is the actual case, and what level of ruling is being requested? Second, relevant texts and inherited opinions are collected. Third, the legal object is classified through factual and specialist analysis.

Fourth, the juristic options are evaluated according to textual fidelity and legal coherence. Fifth, the likely consequences are assessed through *maṣlaḥah*, *mafsadah*, necessity, hardship, and public welfare. Sixth, the final answer is issued with conditions, qualifications, and limits. Seventh, public fatwas are archived in a way that allows revision when facts change.

This procedure does not eliminate disagreement. Sunni law will continue to contain multiple legitimate views. The aim is not uniformity but disciplined plurality. When institutions disagree after applying transparent criteria, the public can understand the nature of disagreement. When institutions simply retrieve different opinions without explaining the underlying reasoning, disagreement appears arbitrary. A validation framework therefore improves not only the quality of fatwa but also the quality of public trust in legitimate juristic diversity.

Five dimensions of contemporary fatwa validation



The dimensions are cumulative and mutually constraining; none substitutes for the others.

Figure 4. Five-dimensional model of contemporary fatwa validation

Source: Author's conceptual framework.

Table 3. Proposed five-dimensional fatwa validation framework

Dimension	Main question	Evidence required	Institutional practice
Textual fidelity	Is the ruling anchored in revelation and sound interpretation?	Qur'an, authentic Sunnah, linguistic analysis, recognised uṣūl principles.	Require explicit evidential basis and avoid isolated proof-texting.
Juristic coherence	Does the ruling fit disciplined Sunni legal reasoning?	Madhhab positions, legal maxims, analogy, consensus claims, prior fatwa literature.	Identify school orientation, strength of opinion, and scope of disagreement.
Contextual adequacy	Is the present case accurately understood?	Facts of the case, custom, law, and specialist expertise where needed.	Use expert consultation and fact-checking before issuing complex fatwas.
Maqāṣid realisation	Does the ruling preserve the objectives of sharī'ah and prevent harm?	<i>Maṣlaḥah/mafsadah</i> analysis, necessity, hardship, dignity, justice, and public interest.	Include an objectives assessment in institutional fatwa records.
Institutional accountability	Is the fatwa responsible as public religious guidance?	Intended audience, date, jurisdiction, conditions, and review status.	Publish qualifications, revision mechanisms, and limits of applicability.

Source: Author's conceptual framework.

Applications and institutional reform

The framework can be illustrated through Islamic finance, Muslim minority life, digital ethics, and public harm. In Islamic finance, many contemporary products are designed to satisfy formal legal requirements while replicating the economic function of conventional debt.

A retrievalist method may ask only whether a contract resembles a recognised form. A validation method asks whether the arrangement also realises fairness, transparency, risk-sharing, and avoidance of exploitation. The inherited fiqh of exchange is indispensable, but it must be applied to the actual economic structure rather than to nominal contractual language alone.

In Muslim minority contexts, classical fiqh contains important discussions of residence, governance, treaties, public participation, and relations with non-Muslim polities. Yet the modern constitutional state differs from premodern empires and frontier categories.

A retrievalist fatwa may import inherited categories without analysing citizenship, rights, legal pluralism, or public responsibilities. A maqāṣid-based validation model asks how Muslims can preserve religious identity while fulfilling covenants, protecting public welfare, and contributing ethically to shared civic life (Caeiro, 2010; Duderija, 2014).

In digital ethics, questions concerning artificial intelligence, data privacy, online reputation, deepfakes, algorithmic discrimination, and digital surveillance cannot be answered by searching for exact classical analogues.

Classical principles concerning testimony, privacy, backbiting, harm, deception, trust, and public interest must be translated into a new technological environment. This translation requires both textual discipline and expert consultation. Without such consultation, fatwa risks moral simplification.

The same applies to public harm and political violence. Fatwas concerning conflict, obedience, rebellion, *takfīr*, public order, and international relations are among the most dangerous when decontextualised. A single inherited opinion, detached from conditions and constraints, may be used to legitimise harm.

Institutional fatwa in such areas must therefore meet a high threshold of expertise, public accountability, and maqāṣid assessment. The prophetic warning against speaking without knowledge and the juristic tradition's caution regarding fatwa both point toward restraint and responsibility (Al-Bukhari, n.d.; Muslim, n.d.).

If the critique of retrievalism is accepted, several institutional implications follow. Fatwa bodies should distinguish between levels of complexity. Simple worship questions may often be answered through established school positions.

Complex public questions should require collective deliberation and specialist input. Institutions should develop internal protocols for contextual inquiry, record their reasoning, publish qualifications, and create revision mechanisms for fatwas affected by changing medical, financial, technological, or legal facts.

Training programmes for muftis should include not only classical texts but also legal theory, ethics, social sciences, economics, technology, communication, and institutional governance. The mufti need not become an expert in every field, but he must know when expert knowledge is necessary. Digital fatwa platforms should also be redesigned.

Searchable archives should include filters for school, country, date, topic, level of generality, and revision status. Short answers may serve public needs, but they should not replace deeper methodological explanation.

These applications show that retrievalism is not merely an academic issue. It affects markets, families, minorities, technology, public trust, and even life and death. The renewal of fatwa methodology is therefore part of the renewal of Islamic civilisational responsibility.

It is not enough for institutions to be historically informed; they must also be epistemically

transparent, ethically credible, and capable of learning from changing realities. This is especially important in an age where poorly contextualised religious answers can circulate globally within minutes.

Institutional humility is a final implication. The public often expects absolute answers, but honest scholarship sometimes requires saying that the matter is disputed, that the answer depends on facts not yet known, that the case requires local consultation, or that an earlier fatwa is under review. Such humility does not weaken authority. It strengthens it because it shows that the institution understands the limits of its knowledge and the seriousness of speaking in the name of religion.

Several objections may be raised. The first is that critique of retrievalism may weaken respect for the classical juristic heritage. This objection is serious but misplaced. The article does not criticise the heritage; it criticises a shallow use of it. A second objection is that maqāṣid-based validation may open the door to subjectivity.

This risk is real, but the answer is not to abandon maqāṣid; it is to discipline them through text, uṣūl, juristic coherence, and institutional accountability. A third objection is that institutions may lack resources. The framework can be scaled: simple cases may be handled locally, while complex issues can be referred to specialised councils.

CONCLUSION

In response to the first research question, juristic retrievalism is best understood as a methodological reduction, not as a synonym for taqlīd, madhhab continuity, or conservatism. Legitimate continuity preserves the reasoning structures of the Sunni tradition—evidence, effective cause, custom, juristic disagreement, and differentiated legal roles.

In contrast, retrievalism selects inherited conclusions as outputs before adequately re-examining their context, consequences, and scope. The crisis is therefore one of method, not of the Sunni legal tradition itself.

In response to the second research question, contemporary validity requires five mutually constraining dimensions: textual fidelity, juristic coherence, contextual adequacy, maqāṣid realisation, and institutional accountability. Their value lies in cumulative application.

Text without context risks misclassification; context without juristic discipline risks arbitrariness; maqāṣid without evidentiary controls risks subjectivity; and scholarly reasoning without institutional qualification risks harmful public circulation. The framework therefore protects tradition from reduction to citation while restoring the mufti's responsibility as a scholar of both text and reality.

The theoretical contribution is the concept of juristic retrievalism and the distinction between historical authentication and contemporary adequacy. The practical contribution is a scalable procedure through which local muftis, national councils, training programmes, and digital platforms can classify questions, trigger expert referral, record reasoning, publish qualifications, and review earlier guidance. The framework does not eliminate legitimate disagreement; it makes disagreement more intelligible, accountable, and faithful to the intellectual seriousness of the Sunni juristic tradition.

LIMITATION AND FURTHER RESEARCH

This study is limited by its conceptual design. It does not measure the frequency of retrievalist reasoning across named fatwa institutions, nor does it conduct interviews with muftis, institutional leaders, or fatwa users. Its statistical figures are contextual indicators of digital transformation rather than direct evidence of fatwa quality. The concept of juristic retrievalism therefore requires further empirical testing through institutional case studies, discourse analysis

of fatwa archives, and interviews with scholars involved in public *iftā'*.

Future research should develop comparative studies of how different Sunni fatwa institutions classify questions, consult experts, record reasoning, and revise earlier opinions. Further work is also needed on digital fatwa governance, especially the design of searchable archives, warning labels, revision dates, and audience-specific qualifications. Finally, maqāṣid studies would benefit from more operational models that translate objectives into transparent institutional procedures without reducing them to slogans or post-hoc justification.

Another limitation concerns the balance between normative and descriptive analysis. The article argues for what fatwa methodology ought to include, but it does not claim that current institutions uniformly fail to meet these standards. Some councils and scholars already practise collective *ijtihād*, consult specialists, and issue carefully qualified responses. Future research should therefore avoid broad generalisation and examine institutional variation with methodological fairness.

The proposed framework should also be tested across different types of fatwas. Worship-related questions, personal morality, family law, finance, public policy, technology, minority life, and political violence do not require identical procedures. A mature institutional model would classify fatwas by complexity and public consequence. Such classification could help institutions allocate resources appropriately: simple recurrent questions may be answered through established positions, while complex public issues require collective deliberation, expert consultation, and explicit maqāṣid assessment.

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