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## Contemporary Legal Istimbat: Study on the Theory of Changes in Fatwa According to Yusuf Qardhawi<sup>1</sup>

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### Abstract

This research departs from the problems faced by modern society and Muslims against the reality and actions that arise in response to the development and progress of the times in various aspects of life that require legal status (legal *istinbat*) as a guide in their lives, so the study aims to examine changes and the development of contemporary fatwas based on theory and changes according to Yusuf Qardhawi. The research uses qualitative research with a library research approach, while the data sources are *al-Fatwa Baina al-Indibad aw al-Tasayyub*, *Mushkilat al-Faqr wa Kayfa 'Alajaha al-Islam*, *Fawa'id al-Bunuk Hiya al-Riba al-Haram*, *Daur al-Qiyam al-Akhlaq fi Iqtisad al-Islamy* and other books as for data analysis using qualitative. The results of the study are that Yusuf al-Qardhawi is a contemporary scholar who is an expert in Islamic law. In giving the fatwa, Yusuf al-Qardhawi pays attention to changes that occur, both changes that occur in classical times and changes that occur at this time that require legal terms or fatwas. As a legal product that is a response to the reality and problems that occur, Yusuf al-Qardhawi offers ten instruments with a fatwa that can change due to: First, Change of Place. Second, the changing times. Third, change in circumstances. Fourth, the change of 'urf. Fifth, Changes in Information/Knowledge. Sixth, Changes in Human Needs. Seventh, changes in human abilities. Eighth, changes in social, economic, and political situations. Ninth, change of opinion and thought, and tenth, general disaster.

**Keywords:** Yusuf Qardhawi; Fatwa; Contemporary

### Abstrak

Penelitian ini berangkat dari permasalahan yang dihadapi masyarakat modern dan umat Islam terhadap realitas dan tindakan yang muncul dalam menanggapi perkembangan dan kemajuan zaman dalam berbagai aspek kehidupan yang memerlukan status hukum (*istinbat hukum*) sebagai pedoman dalam kehidupannya, sehingga penelitian ini bertujuan untuk mengkaji perubahan dan perkembangan fatwa kontemporer berdasarkan teori dan perubahan menurut Yusuf Qardhawi. Penelitian ini menggunakan penelitian kualitatif dengan pendekatan penelitian kepustakaan, sedangkan sumber datanya adalah *al-Fatwa Baina al-Indibad aw al-Tasayyub*, *Mushkilat al-Faqr wa Kayfa 'Alajaha al-Islam*, *Fawa'id al-Bunuk Hiya al-Riba al-Haram*, *Daur al-Qiyam al-Akhlaq fi Iqtisad al-Islamy* dan kitab-kitab lainnya

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adapun analisis data menggunakan kualitatif. Hasil penelitian adalah Yusuf al-Qardhawi adalah ulama kontemporer yang ahli dalam hukum Islam. Dalam memberikan fatwa, Yusuf al-Qardhawi memperhatikan perubahan-perubahan yang terjadi, baik perubahan yang terjadi pada zaman klasik maupun perubahan yang terjadi pada masa ini yang memerlukan ketentuan hukum atau fatwa. Sebagai produk hukum yang merupakan jawaban atas realitas dan permasalahan yang terjadi, Yusuf al-Qardhawi menawarkan sepuluh instrumen fatwa yang dapat berubah karena: Pertama, Perubahan Tempat. Kedua, perubahan zaman. Ketiga, perubahan keadaan. Keempat, perubahan 'urf. Kelima, Perubahan Informasi/Pengetahuan. Keenam, Perubahan Kebutuhan Manusia. Ketujuh, perubahan kemampuan manusia. Kedelapan, perubahan situasi sosial, ekonomi, dan politik. Kesembilan, perubahan pendapat dan pemikiran, dan kesepuluh, bencana umum.

**Keywords:** Yusuf Qardhawi; Fatwa; Kontemporer

## A. INTRODUCTION

In the contemporary era gave birth to many thinkers and scholars who are very pious and genius, especially in giving fatwas. One of them is Yusuf Qardhawi. He is a figure and scholar who put the ideas and ideas of reform into Islamic law. as the basis for his study, he produced many books and writings, one of which was his book on *Min Hadyi al-Islam al-Mu'asirah*, and another book that discussed the provisions of Islamic law.<sup>3</sup>

Yusuf Qardhawi reveals various kinds of actions and actual realities faced by modern society. This actual reality appears and occurs as a response to the development and progress of human life. The reality of human life is moving so fast along with the flow of knowledge (science), technology, industry and the global order of the world in various aspects of life. On one occasion, he was required to make major changes to the treasures of Islamic thought, so as to display and describe Islam as a worthy and perfect religious figure and symbol in the history of the period of human life.<sup>4</sup>

According to Yusuf Qardhawi that Islam is a revealed religion that has a treasure trove of classical thought and scholarship.<sup>5</sup> so that it can provide a very open opportunity for contemporary Islamic thinkers and scientists to conduct a comprehensive and intensive basic study of the problems and problems of the people who demand the need for legal *istinbat* accompanied by a bright pattern of thinking in accordance with the proper fatwa or fatwa.<sup>6</sup>

In determining a decision or fatwa, one must pay attention to the fatwas of previous scholars which need to be studied as an instrument in reforming Islamic law. In an effort to review as a basis for establishing an Islamic law. Changes in the fatwa

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<sup>3</sup> Busyro Busyro, "Bom Bunuh Diri Dalam Fatwa Kontemporer Yusuf Al-Qaradawi Dan Relevansinya Dengan Maqasid Al-Shari'ah," *IJTIHAD Jurnal Wacana Hukum Islam Dan Kemanusiaan* 16, no. 1 (2016): 86, <https://doi.org/10.18326/ijtihad.v16i1.85-103>.

<sup>4</sup> Mahfudin Agus, "Ijtihad Kontemporer Yusuf Al-Qaradawi Dalam Pengembangan Hukum Islam," *Religi: Jurnal Studi Islam* 5, no. 1 (2014): 22.

<sup>5</sup> Agus, 34.

<sup>6</sup> Adik Hermawan, "T'jaz Al-Qur an Dalam Pemikiran Yusuf Al-Qardhawi," *Jurnal Madaniyah* 2, no. XI (2016): 205–25.

provide orientation in maintaining and realizing the benefits of the people so as to achieve the word *maqasid sharia*.

The concept of changing the fatwa provides enlightenment as clear evidence that Islamic teachings are teachings that are in accordance with the times and developments. Thus, it is necessary to study and examine the changes and developments of fatwas according to the theory of changes in the fatwa of Yusuf Qardhawi. This paper describes and explores how the changes and developments of contemporary fatwas based on the theory of change as a form and implementation of modern and contemporary problems that have not had previous legal status.

## B. METHODS

This research method uses qualitative research<sup>7</sup> with a library research approach, which describes the data obtained. The sources of data used in this study are primary data such as *al-Fatwa Baina al-Indibad aw al-Tasayyub*, *Mushkilat al-Faqr wa Kayfa 'Alajaha al-Islam*, *Fawaid al-Bunuk Hiya al-Riba al-Haram*, *Daur al-Qiyam al-Akhlaq fi Iqtisad al-Islamy* and other books as for secondary sources in the form of journals or articles related to this discussion and research.

As for Data analysis using descriptive qualitative<sup>8</sup> namely describing and analyzing the changes and developments of contemporary fatwas according to the theory of change in Yusuf Qardhawi's perspective.

## C. RESULT AND DISCUSSIONS

### 1. Definition of Fatwa

Etymologically the fatwa, as referred to in *al-Mausu'az Fiqhiyyah* Fatwa is *Isi#n Masdar* meaning "ifta" or issuing a fatwa, with the plural "al fatwa" or "alfatawi". As for "al istifta" is a legal answer regarding an event or problem that occurs. Meanwhile, the definition of a fatwa according to *syara'* is to explain the *syara'* law in a problem as a response and an answer to the question posed, both the questioner and the questioner. identity is clear or not, both individual and group.<sup>9</sup>

Muhammad Rowas Qal'aji, defines that Fatwa is a *syar'i* law that is explained by a faqih to people who ask him.<sup>10</sup> Wahbah al-Zuhaili, defines that a fatwa is an answer to a question regarding sharia law which is not binding.<sup>11</sup> Yusuf Qardawi in

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<sup>7</sup> Shobron; Amrin; and Imron; Muthoifin Rosyadi, "Islamic Education Values in the Tradition of Peta Kapanca of Mbojo Community Tribe in West Nusa Tenggara Department of Islamic Law Universitas Muhammadiyah Surakarta Indonesia Mut122@ums.Ac.Id," *International Journal of Advanced Science and Technology* 29, no. 5 (2020): 6803.

<sup>8</sup> Amrin dan Miftahul Huda, "Metode Pemahaman Hadis (Kajian Perdebatan Hadis Tentang Mayit Disiksa Karena Tangisan Keluarga)," *Ushuluna: Jurnal Ilmu Ushuluddin* 7, no. 1 (2021): 50, <https://doi.org/10.15408/ushuluna.v7i1.20548>.

<sup>9</sup> Yusuf Qardhawi, *Fatwa Antara Ketelitian Dan Kerobohan* (Jakarta: Gema Insani Press, 1997), 5.

<sup>10</sup> Muhammad Rowas Qal'aji, *Mu'jam Lughah Al-Fuqaha* (Beirut: Dar al-Nafais, 1988), 339.

<sup>11</sup> Wahbah al-Zuhaili, *Al-Fikihu Al-Islami Wa Adillatuhu* (Beirut: Dar al-Fikr, 2004), 339.

his book "*al-Fatwa Baina al-Indibad aw al-Tasayyub*" that a fatwa is a statement or provision of *syara'* law of a problem as an answer to a question, whether the person who asks is clear or not, either individually or in groups.<sup>12</sup>

According to Prof. Amir Syarifuddin defines that fatwa or *ifta'* comes from the word *afta*, which means to give an explanation. By definition, a fatwa is an attempt to provide an explanation of *syara'* law by experts to people who do not know it.<sup>13</sup> Some of the opinions above concluded that the notion of a fatwa is the result of a fatwa and the answer of a mufti to events and legal issues that are submitted to him.

## 2. Fatwa in the position of Islamic law

Thought in Islam according to Atho' Mudzor has at least four complementary types of thought, namely *fiqh*, *Qanun* (laws), court decisions and fatwas. The result of this thought has its own characteristics.<sup>14</sup> Along with what Atho' Mudzor said, Yusuf Qardhawi has the same thought, that the fatwa room has a practical form. According to Yusuf al-Qardhawi, there are various practical examples including judicial decisions, *qanuns*, studies and fatwas.<sup>15</sup>

Yusuf al-Qardhawi and Atho' Mudzor agree that fatwas are part of the dynamics of Islamic law, namely as one of the courses in legal thought in Islam and is part of the practical results of the fatwa process. Fatwas have an important role in Islamic law as a way and a bridge between God's law and the reality that is being faced by Muslims. This link between reality and law will form a harmonious legal nuance and is very open to variations and has dynamics that tend to be higher than other Islamic legal thought.

## 3. Method Fatwa's Yusuf Qardhawi

In an effort to meet the need for the excavation of Islamic law, the classical scholars continue to try and succeed in making a fatwa methodology or fatwa as a very sophisticated fatwa blend.<sup>16</sup> This fatwa methodology can be found in *ushul al-fiqh* and *fiqh* books such as *ijma'*, *qiyas*, *istihbad*, *istihsan*, *sadd al-zari'ah*, and *'uruf*.<sup>17</sup> The emergence of problems in this contemporary era, of course, we need a method as a method of fatwa that is in accordance with these conditions and conditions without ignoring the texts of the Qur'an and Hadith as steps and ways to be able to solve and

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<sup>12</sup> Yusuf Qardhawi, *Al-Fatwa Baina Al-Indibad Aw Al-Tasayyub*, (Mesir: Maktabah Wahbah, 1997), 5.

<sup>13</sup> Mardani, *Ushul Fiqh* (Jakarta: Raja Wali, 2003), 374.

<sup>14</sup> M. Atho Mudzar, *Fiqh Dan Reaktualisasi Ajaran Islam*, Dalam *Buddhy Munawar Rachman* (Ed), *Kontesktualisasi Hukum Islam Dalam Sejarah* (Jakarta: Yayasan Wakaf Paramadina, 1994), 269.

<sup>15</sup> Yusuf Qardhawi, *Mujibat Taghayyur Al-Fatwa Fi 'Asrina, Cet.II* (Mesir: Dar al-Shuruq, 2011), 11.

<sup>16</sup> Imam Syaukani, *Konstruksi Epistemologi Hukum Islam Indonesia* (Jakarta: PT. Raja GrafindoPersada, 2006), 42.

<sup>17</sup> Imam Syaukani, 53.

resolve problems that require legal advice, because fatwas in the era of This contemporary era is a necessity that is a necessity for Islamic society in their lives.

According to Yusuf Qardhawi that Islam in this modern era, makes fatwas an obligation in religious groups (*fardlu kifayah*), That in passing fatwas on problems and things that require clarity of status and legal istinbat, it takes a person or group who is capable and has the scientific capacity in carrying out fatwas and fatwas. Of course for those who have reached the standard and quality in the ability to carry out fatwas, fatwas are an individual obligation (*fardhu 'ain*). In this case, Yusuf al-Qardhawi, put forward three forms of fatwas, namely: <sup>18</sup> First, *Intiqa'i* fatwa or *tarjih*, is to take and choose one of the strongest opinions from several opinions among schools or scholars. *Intiqa'i* fatwa includes a comparative study or comparison of the opinions of the scholars to be researched and reviewed against the arguments or texts that serve as guidelines to be adapted to the *maqasid* sharia or the benefit of the people, and correlated with the needs and guidance of the times. In carrying out a fatwa using the *tarjih* method, there are several rules that are used as guidelines for legal resting, namely: First, in making an argument, it must have a relationship with current conditions and circumstances.

Second, when explaining, one must pay attention to the forms of tenderness and compassion for others. Third, should pay attention to the aspects of convenience and lightness in arguing and establishing the law. Fourth, in carrying out legal *istinbat*, one must prioritize the aims and objectives of the law, in order to realize the benefit of humans (*ummah*). Second, Fatwa *Insha'i* is an attempt to make a decision on a new law from a problem that has never been raised by previous *fiqh* experts, whether old or new problems. Most of these fatwas *insha'i* occurred on new issues that were not known by previous scholars and had never happened in their time. if he knows, only a small part and the problem is not significant and urgent to be discussed and researched how to solve it so that it creates a necessity with a new law known as fatwa. Third, *Ijithad* integration, namely the combination of the fatwa *Intiqa'i* and the fatwa *Insha'i*, namely the effort to research and filter various opinions of previous scholars or schools that are more relevant, accurate and strong with the problems that occur in the contemporary era requiring law. <sup>19</sup>

#### 4. Concept Changes in Fatwa According to Yusuf al-Qardhawi's Theory of Change

##### a. Biography of Yusuf al-Qardhawi

The Islamic law thinker whose full name is Yusuf Abdullah al-Qardhawi was born on September 9, 1926 in a village called Shaftu Turab, Mahallah al-Kubra area, al-Gharbiyah Province, Arab Republic of Egypt. <sup>20</sup> When he was two years old, Yusuf al-

<sup>18</sup> Imam Syaukani, 42.

<sup>19</sup> Abdul Aziz Dahlan Dkk, "*Yusuf Al-Qardawi*", *Ensiklopedi Hukum Islam, Jilid V* (Jakarta: Ichtiar Baru Van Hoeve, 1997), 1448.

<sup>20</sup> Abdurrahman Qadir, *Studi Pembaharuan Hukum Islam, Studi Pemikiran Yusuf Qardawi Tentang Zakat Profesi* (Jakarta: IAIN Syarif Hidayatullah, 1990), 16.

Qaradawy had become an orphan which caused him to be raised by his uncle. It was in this uncle's family environment that Yusuf al-Qaradawi started his new life.<sup>21,22</sup>

Yusuf al-Qardhawi studied at the Faculty of Usuluddin al-Azhar University, Cairo. After that, he took nearly two years of study at the Arabic Language Department. In this department, Yusuf al-Qardhawi completed his studies. He achieved various achievements while in college and also received a teaching certificate. In addition, he also took diploma courses in Arabic Language and Literature at *Ma'had al-Buhuth wa Dirasat al-'Arabiyyah al-'Aliyah* (Higher Institute for Research and Arabic Studies) and successfully completed his lectures in 1957. Furthermore, Yusuf al-Qardhawi continued his education at the postgraduate level until he successfully completed his doctoral education in 1972 with the title of a dissertation on *Fiqh al-Zakah*.<sup>23</sup>

Yusuf al-Qardawi's academic career continued to climb when he was entrusted with being the Chair of the Islamic Studies Study Program at the Faculty of Sharia, University of Qatar, and with good and brilliant achievements he was later appointed as Dean of the Faculty of Sharia at the University.<sup>24</sup>

In conveying his religious views, Yusuf al-Qardhawi has several characters that are used as principles of religious life, namely 1) Freeing from fanaticism (*ta'asub*) mazhab. This character allows Yusuf al-Qardhawi to surf the interconnection network between schools. 2) have a passion in facilitating all affairs and activities. 3) Use contemporary and easy-to-understand language. 4) Stay away from all things that do not provide benefits. 5) Choose a middle way between the right and the left.<sup>25</sup>

Yusuf al-Qardawi is one of several Islamic studies experts whose productivity with his writings is quite high. In fact, the distribution of Yusuf al-Qardawi's works has very diverse Islamic themes, including:<sup>26</sup>

- a) In the field of fiqh, including: *Al-Halal wa al-Haram fi al-Islam, Fiqh al-Zakah; Dirasah Muqaranah li Ahkamiha wa Falsafatiha fi Dau'al-Quran wa al-Sunnah, Al-Fatwa fi al-Shari'ah al-Islamiyyah ma'a Nazarat Tahliliyyah fi Fatwa al-Mu'asir, Zawaj al-Misyar; Haqiqatuhu wa Hukmuhu, Mujibat Taghayyur al-Fatwa fi 'Asrina, Atwamil al-Sa'ah wa al-Murunah fi al-Shari'ah al-Islamiyyah, Fi Fiqh al-Aulawiyyat; Dirasah al-Jadidah fi Dhau' al-Qur'an wa al-Sunnah, Al-Fatwa baina al-Indhibath wa al-Tasayyub, Fatawa li al-Mar'ah al-Muslimah, Al-Fiqh al-Islam baina al-Ashalah wa al-Tajdid, Al-ibadah fi al-Islam, Al-Halal wa al-Haram, Shari'ah al-Islam Shalihah li al-Tathbiq fi Kull*

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<sup>21</sup> Dkk, "Yusuf Al-Qardawi", *Ensiklopedi Hukum Islam, Jilid V*, 1448.

<sup>22</sup> Nukman Abdurrazaq Assamara, *Pasang Surut Gerakan Islam* (Jakarta: Media Dakwah, 1987), 153.

<sup>23</sup> Ishom Talimah, *Manhaj Fikih Yusuf Al-Qardhawi* (Jakarta: Pustaka Al-Kautsar, 2001), 4.

<sup>24</sup> M. Suryadi, *Metode Kontemporer Memahami Hadis Nabi Perspektif Muhammad Al-Ghazali Dan Yusuf Al-Qardawi* (Yogyakarta: Teras, 2008), 45.

<sup>25</sup> Nasiri, *Praktik Prostitusi Gigolo Ala Yusuf Al-Qardawi; Tinjauan Hukum Islam Terhadap Fatwa Kawin Misyar* (Surabaya: Khalista, 2010), 95–97.

<sup>26</sup> Nasiri, 95–97.

*Zaman wa Makan, Taisir al-Fiqh fi Dhau' al-Qur'an wa al-Sunnah. Fiqh al-Siyam, dam Dirasah fi Fiqh Maqasid al-Shari'ah*

- b) In the field of theology, these include: First, the form of Allah, secondly, *Haqiqat al-Tawhid*, and thirdly, *Al-Iman wa al-Hayat*.
- c) In the field of interpretation, including: 1) *Al-Sabr fi al-Qur'an* 2) *Tafsir Surah al-Ra'd* 3) *Kaifa Nata'amal ma'a al-Qur'an al-Karim* 4) *Kayfa Nata' charity ma'a al-Sunnah* 5) *Al-Madkhal li Dirasat al-Sunnah al-Nabawiyah*.
- d) In the socio-political field, including: 1). *Min Fiqh Dawlah fi al-Islam* 2). *Dars al-Nukhbah al-Thaniyah; Limadha la Hajamna Kayfa Nantahir* 3). *Ghayr al-Muslimin al-Mujtama' al-Islamy*.
- e) In the field of economy, including: 1). *Mushkilat al-Faqr wa Kayfa 'Alajaha al-Islam* 2). *Fawaid al-Bunuk Hiya al-Riba al-Haram* 3). *Daur al-Qiyam al-Akhlaq fi Iqtisad al-Islamy*.
- f) In the field of Islamic movements 1). *Al-Sahwah al-Islamiyyah Bayna al-Juhud wa al-Tatarruf* 2). *Min Ajli Sahwah al-Rashidin Tujaddid al-Din Tanhaj bi al-Dunya* 3). *Al-Sahwah al-Islamiyyah Bayna al-Ikhti'af al-Mashru' wa al-Tatarruf al-Madhmum* 4). *Al-Sahwah al-Islamiyyah wa Humum al-Watan al-'Araby al-Islamy*.
- g) In the field of Islamic thought, including: 1). *Shumul al-Islam* 2). *Al-Islam al-Ilmaniyyah wa wajhan li Wajhin* 3). *Al-Thaqafah al-Arabiyyah al-Islamiyyah Bayn al-Asalah wa al-Mu'asirah* 4). *Al-Isla, Hadarat al-Ghadd* 5). *Al-Islam wa al-Fann*
- h) In the field of Arabic-literature, including: 1). *Al-Muslimun Qadimun* 2). *Yusuf al-Siddiq* 3). *'Alim wa al-Taghiyyah* 4). *Nafahat wa Lafahat*.<sup>27</sup>

## b. The Concept of Changes in Fatwa According to Yusuf al-Qardawi

According to Yusuf al-Qardawi there are 10 (ten) changes that make the fatwa possible to change including the following:<sup>28</sup>

### 1. Change of Fatwa due to Change of Place

Change of place becomes one of the 10 (ten) instruments that can change the fatwa. This change is none other than due to several things that are found in one place, not found elsewhere or the condition of the people in a certain area has differences with the people in other areas. Yusuf al-Qaradawy revealed several legal cases that allow changes due to changes or differences in places, including:

- a) Differences in the hamlet/village population (*al-Badwi, al-a'rab*) and the urban population (*al-Hadar*)

The affirmation of one's origins also influences the law attached to it which is an authentic basis as in QS at-Taubah verse 97: "The Badwi Arabs are more

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<sup>27</sup> Ishom Talimah, *Manhaj Fikih Yusuf Al-Qaradhawi*, 6–20.

<sup>28</sup> Yusuf Qardhawi, *Mujibat Taghayyur Al-Fatwa Fi 'Asrina, Cet.II*, 39.

*disbelieving and hypocritical, and it is more natural to not know the laws that Allah revealed to His Messenger. and Allah is All-Knowing, All-Wise."*<sup>29</sup>

Imam Jalaluddin al-Mahally provides a brief description of this that the Bedouin/rural people are stronger in disbelief and hypocrisy than the urban/urban population (*ahl al-mudun*). This is due to their isolation and antipathy towards others (*al-jufa*), stubborn character (*ghalazu Tiba'ihim*) and far from the Koran (*bu'dihim 'an sima' al-Quran*).<sup>30</sup>

In line with al-Mahally's expression, Abu Ja'far argues that in fact the character of the Bedouin who strongly denies the teachings of monotheism and hypocrisy is stronger than the urban population (*ahl al-hadr*) due to their isolation (*jafa'*) from civilization, harsh heart (*qaswat al-qalb*), their lack of association with good people (*qillat al-mushahadatihim li ahl al-khayr*).<sup>31</sup>

Both opinions can be concluded that the difference in place can affect the character and attitude of a person and community group. So that it can be an instrument in influencing changes and developments in the response of Islamic law in the form of fatwas.

b) The difference in place is based on the status of Dar al-Islam and Dar Ghayr al-Islam.

Differences in domicile in the classification of countries have implications for the right to not have the right to ask for help (*haqq al-nusrah*), such as abortion hadd or punishment for Muslim murderers who live in non-Muslim countries during a war as in the Hadith of the Prophet "Indeed I am free (irresponsible, or ignore) to a Muslim who lives among the polytheists."

In the same classification, everything related to definite knowledge in Islam (*ma'lum minal-din bi al-darurat*) such as the obligations of prayer, zakat, fasting, prohibition of adultery, drinking wine and eating usury, can cause the person who denies it to be punished as an infidel or apostate, if he stays in *dar al-Islam*. Meanwhile, if the renegade lives in the area of *dar al-kufr*, ignorance of this knowledge can be categorized as an excuse.<sup>32</sup>

c) The difference between hot and cold

Differences in places on the earth's surface also make climate differences. These climatic differences, which are attached to differences in places, will in many

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<sup>29</sup> Departemen Agama RI, *AL-JUMANATUL 'ALI Al-Qur'an Dan Terjemahannya* (Bandung: CV. Penerbit J-ART, 2014), 203.

<sup>30</sup> Imam Jalaluddin Muhammad bin Ahmad bin Muhammad al-Mahally dan Jalaluddin Abd. Al-Rahman bin Abi Bakr al-Suyuty, *Tafsir Al-Jalalayn, Cet.I* (Beirut: Dar Ibn 'Assasah, 1993), 202.

<sup>31</sup> Muhammad bin Jarir bin Yazid bin Kathir bin Ghalib al-Amaly Abu Ja'far al-Tabary, *Jami' Al-Bayan Fi Ta'wil Al-Quran, Juz 14* (t.t: Muassasat al-Risalah, 2000), 429.

<sup>32</sup> Yusuf Qardhawi, *Mujibat Taghayyur Al-Fatwa Fi 'Asrina, Cet.II*, 47.



ways contribute to influencing several fatwas such as being allowed to use snow as *tayammum*, keeping dogs such as for self-defense or means of transportation, as well as the permissibility of Eskimos to choose prayer times based on the time of Mecca-Medina. or the nearest country with a normal climate.<sup>33</sup>

## 2. Changes in Fatwa due to Changes in time difference

The difference in time, or period, in relation to the discourse on this fatwa, of course, is not simply due to changes in days, months or years. However, the change in time referred to in this study is a change in the nature of humans who live today, for example, with people who lived in the past. This time difference is closely related to the changing human character, moreover this change has a character graphic that tends to decrease.<sup>34</sup>

According to Mustafa al-Zarqa that the changing times which have an effect on changing Islamic law, basically arise from moral decay (*fasad al-akhlaq*), lack of *wara'* attitude (*fuqdan al-wara'*), weak sanctions (*du'f al-wazi*). ), the emergence of different situations (*huduth auda'tanzimiyyah*), as well as new service facilities (*wasail mirfaqiyyah Jadidah*) and so on.<sup>35</sup> An example of Islamic law that has changed in time and time is the *hadd* law regarding *khamr*.

At the time the Prophet was still alive, the punishment for people who drank *khamr* was indeed applied by the Prophet, but with no clear boundaries. A hadith narrated by Imam al-Bukhary records a legitimacy of punishment for people who drink *khamr*. From Uqbah bin Haris, that Nuaiman or Nu'aiman's son was handed over to the Prophet in a drunken state. Then the Prophet ordered everyone who was in the house to beat him with their bare hands and sandals, while I myself was among those who beat him."<sup>36</sup>

In this hadith, the Messenger of Allah imposed a punishment for those who drank *khamr* with a blow, by ordering his companions to beat him. The Prophet did not give a definite limit on the number of strokes.

In another narration as narrated by Abdul al-Razzaq, namely: "From Ma'mar bin Jurayh, Ibn al-Shihab was once asked, how many volumes of punishment was applied by the Messenger of Allah regarding wine? Ibn Shihab replied that the Messenger of Allah did not set certain limits regarding (people who drink) *khamr*. Rasulullah only ordered the companions who were there to beat people who drank *khamr* with their hands and sandals until the Prophet said "(Enough) raise (your hands)", meanwhile, Abu Bakr set the number of 40 lashes and Umar set 80 lashes (during his leadership). "

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<sup>33</sup> Yusuf Qardhawi, 43.

<sup>34</sup> Silmi Affan Harahap, "Studi Komparatif Fatwa Yusuf Qardawi Dan Syaikh Utsaimin Tentang Hukum Bercadar (Menutup Wajah)," *Jurnal 'Adliya* 12, no. 1 (2018): 34.

<sup>35</sup> (Mustafa al-Zarqa', nd, 941-51)

<sup>36</sup> Amrin Khairusoalihin dan Muthoifin, "Tax Modernization In Indonesia : Study Of Abu Yusuf ' S Thinking On Taxation In The Book Of Al-Kharaj," *Pofetika, Jurnal Studi Islam* 23, no. 1 (2022): 30-42.

The Messenger of Allah punished without any definite amount, ie sometimes 40, sometimes less than that, or even more than 40 strokes. Meanwhile, during the time of Abu Bakr, he determined the certainty of the number of volumes of punishment to be 40 times. The provisions applied by Abu Bakr did not awaken the perpetrators of drinking *khamr*. In fact, there is an increase and an increase in those who drink *khamr*. Meanwhile, Usman also punished those who drank *khamr* up to 100 because as a result of drinking *khamr* they did their actions precisely in the month of Ramadan, the month in which Muslims are encouraged to further increase their good deeds.

Usman's decision (fatwa) was based on changes in human character who became increasingly brave in opposing God's law, thus making Usman feel that the punishment that had been determined during Umar's time had not provided a deterrent effect. changes in the demands of the times, namely in the form of changes in human character and morals, also contribute to making adaptive changes to the law that will be raised in the fatwa.

### **3. Changes in fatwa due to changes in circumstances (*al-Hal*)**

The situation in question is the situation when the law contained in the fatwa will be applied. Considering the current situation is one of the wisdoms of legal experts in applying the law. This is not only related to the legal truth that will be conveyed, but also will always intersect with the legal accuracy when applied.

The changes in circumstances below are a few examples of circumstances that make it very possible for the fatwa to change, namely 1) narrow conditions (*al-dayyiq*) and field conditions. 2) Health and illness. 3) The state of being traveling (*al-safar*) and *mukim* (*al-iqamah*). 4) The state of war (*al-harb*) and peace (*al-salm*). 5) A tense situation full of fear (*al-khauf*) and a state of security (*al-amn*). 6) The state of being able/strong (*al-quwwah*) and powerless/weak (*al-du'f*). 7) The situation is old (*al-shuyukhah*) and young (*al-shabab*). 7) The situation is still not able to read and write (*al-ummiyyah*) and is studying

Someone who is competent in the field of religion and who will give a fatwa will definitely consider the above conditions so as not to get caught in a single legal loophole and limited views while changing.

### **4. Changes in Fatwa are caused by Changes in Customs or Habits (*al-'urf*)**

Habits that exist in certain communities sometimes cannot automatically become something that patents a fatwa. Because the existence of the law itself is often closely related to the culture in which the law will be applied.

There is a Hadith that is often used as an initial legitimacy regarding the way the Prophet gave a very clear decision based on custom. "That the camel of Barra' bin 'Azib had entered someone's garden fence and damaged it. Then the Messenger of Allah gave a ruling that the owner of the garden is obliged to guard his garden

during the day, and the garden which is damaged by livestock at night is the responsibility of the owner of the livestock.<sup>37</sup>

At this stage, the Hadith above can be understood that if the destruction of the garden occurs at night, then Barra' as the owner of the livestock that destroys the garden must be held responsible for being negligent in maintaining the livestock. However, if it occurs during the day, then Barra' is not subject to the obligation to compensate because during the day, the maintenance of property (in the form of a garden) is borne by the owner of the garden.<sup>38</sup>

Yusuf al-Qardhawi gives an interesting statement that it is also necessary to consider some of the texts (contained in the Sunnah of the Prophet) which are based on a temporary custom (tradition), which prevailed in his time and then undergoes changes in the present. There is nothing wrong if we look at the meaning it contains, without having to hold on to its outer meaning.<sup>39</sup>

The statement above provides a meaning process that can at least pay attention to and consider the element of locality in the formation of an Islamic law, because Islamic law is present and exists in the customary space and traditions inherent in the community.

## 5. Changes in fatwa due to Changes in Knowledge (*al-ma'lumat*)

This change is one of the reasons that give rise to the possibility of a fatwa experiencing a status change. Changes in knowledge that occur can be in the form of *syar'i* knowledge, knowledge about current life events.

The changes in knowledge that are *syar'i* are changes in knowledge about the status of certain hadiths. For example, a religious expert issues a fatwa based on a certain hadith, but then after going through a test of clarification and validity of the hadith it turns out to be a weak hadith, the fatwa will change. Or conversely, the person who has a fatwa considers the hadith to be weak (*dha'if*) on certain issues. However, if the hadith has a recognized validity, then the fatwa can be changed due to changes in knowledge about the status of the Hadith.<sup>40</sup>

Meanwhile, changes in knowledge related to contemporary events include smoking laws and the period of pregnancy (*muddat al-haml*). At first, limited knowledge led to the emergence of various fatwas regarding the legal status of

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<sup>37</sup> Sari Utami, "The Law of Online Zakat Based on the Application Providing Easiness in Transaction of Zakat Payment," *Al-Bayyinah* 4, no. 2 (2020): 164–78, <https://doi.org/10.35673/al-bayyinah.v4i2.774>.

<sup>38</sup> Taqiyuddin Abu Bakr Muhammad bin Abdul Mun'im al-Hisny, *Kitab Al-Qawaid* (Riyad: Maktabat al-Rushd, 1997), 358–59.

<sup>39</sup> Yusuf Qardhawi, *Bagaimana Memahami Hadis Nabi SAW*, Penerj: Muhammad Al-Baqir, Cet.V (Bandung: Karisma, 1997), 57.

<sup>40</sup> Sami E. Baroudi, "The Islamic Realism of Sheikh Yusuf Qaradawi (1926–) and Sayyid Mohammad Hussein Fadlallah (1935–2010)," *British Journal of Middle Eastern Studies* 43, no. 1 (2016): 94–114, <https://doi.org/10.1080/13530194.2015.1067159>.

smoking. There are scholars who forbid, there are those who forbid, and there are those who condemn permissible. Even in this case, the legal status of smoking is labeled with 5 different laws with different arguments.<sup>41</sup>

Along with the development of contemporary knowledge, all doctors agree that smoking is a behavior that is very dangerous to human health. Based on considerations, arguments, and scientific explanations in the medical or health field, this knowledge is slowly bringing back awareness about the dangers of smoking on one's health.

Doing actions that endanger yourself or the health of yourself or others is an act that cannot be justified. So by using the principle, for example, in Surah al-Nisa verse 29 regarding the prohibition of suicide, then the act of smoking is part of an attempt to kill one's own body or another person gradually (*qatl tadriji*) to commit suicide slowly (*intihaar bati*).<sup>42</sup>and the hadith of the Prophet, namely "That the Messenger of Allah said, "You must not harm yourself and others".

#### 6. Changes in Fatwa due to Changes in Human Needs (*hajat al-nas*)

Differences in human needs are also one of the instruments in changing the fatwa. Yusuf al-Qardhawi gives a simple narration that: "Needs are increasingly changing in the modern era. Some things that were originally only complementary needs, have now become secondary needs. Even something that used to be said to be just a complementary need can now be considered a primary need. The existence of a fan or air conditioner, for example, which used to be considered as a complement, can now become a primary material that someone always needs, especially when the heat reaches 50 degrees Celsius.<sup>43</sup>

Therefore, human needs that are now changing also become instruments in changing the law, especially those related to fatwas. Among the laws that have changed due to changes in human needs are:

##### 1) Keeping dogs, past and present

Yusuf al-Qardhawi recounts a brief dialogue about the changing need for dog maintenance from a Maliki cleric. Once upon a time, a prominent figure in the Maliki school of thought who had the work of *al-Risalah*, Imam Ibn Abi Yazid al-Qairuwany, was visited by several close friends who were experts in jurisprudence. They found a dog in al-Qairuwany's house just in case (*al-harasah*). They said, "Verily Imam Malik does not like (punishing *Makruh*) regarding the maintenance of dogs". Al-Qairuwany then replied, "If Imam Malik had lived in our time today, he would have kept a savage lion.<sup>44</sup>

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<sup>41</sup> Yusuf Qardhawi, *Mujibat Taghayyur Al-Fatwa Fi 'Asrina*, Cet.II, 69.

<sup>42</sup> Yusuf Qardhawi, *Bagaimana Memahami Hadis Nabi SAW*, Penerj: Muhammad Al-Baqir, Cet.V, 71.

<sup>43</sup> Yusuf Qardhawi, 76.

<sup>44</sup> Yusuf Qardhawi, 76.

Al-Qiruwany's words provide an interesting knot of understanding because even though they use imaginative diction, the expression provides a point of emphasis on changes that occur in relation to human needs that may not have occurred during Imam Malik's time. al-Qiruwany who is a Maliki school of thought takes a different attitude from Imam Malik because he has a different view on the law of keeping the dog, where it has become a person's need to take care of himself, his family, and property. This change in needs is seen by al-Qiruwany as an instrument that makes his fatwa contradict Imam Malik. Differences, or can be referred to as changes, need also make the fatwa related to the legal status of the problem change.

## 2) Purchase of residence in the Western world through the Bank

Among the changing needs that are occurring in Europe, America and other countries is the urgent need for houses that can be owned for himself or for his family, not rented houses. Because the house that is owned will be able to meet some needs that are not contained in a rental house. This is what modern human needs today, especially in the Western world.

The need for this house is not only for a place to live, where residents do not feel controlled and even evicted by the owner of the rental house, but also to provide a better social status in society. Because having your own house will more or less get the same treatment in terms of service, outlook and good social status. However, often to meet the needs of home ownership, a Muslim requires additional costs that are used to buy a house by making a loan at the bank. This loan makes the person in debt with the obligation to pay regularly for a certain time limit. Also related to this need, the European Fatwa Council (*al-Majlis al-Urabyli al-Ifta'*) gave a fatwa regarding the permissibility of Muslims to buy houses for housing through usury-based banks, where a person will have an obligation to pay (in installments) the house every month with monthly installments for the purchase of a house that is sold to him on a tempo basis (*al-ajal*). One of the things that the *Shari'a* considers for the emergence of this fatwa is the level of a strong need for Muslims (to have a place to live) who can be placed in emergency positions. This is also what can be found in the rule of *al-hajat tanzilu manzilat al-darurah chassatan kanat au'ammatan* (that need can occupy an emergency place, both specifically and in general).<sup>45</sup> One of the things that the *Shari'a* considers for the emergence of this fatwa is the level of a strong need for Muslims (to have a place to live) who can be placed in emergency positions. This is also what can be found in the rule of *al-hajat tanzilu manzilat al-darurah chassatan kanat au'ammatan* (that need can occupy an emergency place, both specifically and in general). One of the things that the *Shari'a* considers for the emergence of this fatwa is the level of a strong need for Muslims (to have a place to live) who can be placed in emergency positions. This is also what can be found in the rule of *al-hajat tanzilu manzilat al-darurah chassatan*

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<sup>45</sup> A Iskandar, M Yusram, and ..., "Analysis of Ijtihad Method and Istinbath Jurisprudence in Fatwā Dewan Syariah Wahdah Islamiyah Regarding the Use of Online Payment," ... *Journal Economics and* ... 5, no. 1 (2020): 46–69, <http://journal.iain-manado.ac.id/index.php/TJEBI/article/view/1102>.

*kanat au'ammatan* (that need can occupy an emergency place, both specifically and in general).

**7. Changes in Fatwa are caused by changes in human abilities (*qudrat al-naswa imkanuhum*)**

This change in human abilities is a development that has been achieved by humans, which makes humans have better abilities than the abilities that existed in the past. Several fields that have significant developments make humans have better abilities in several fields such as science (*al-ilmiiyyah*), technology, biology (*al-biyologiyyah*), space (*al-fadaiyyah*), nuclear (*al-fadaiyyah*), and nuclear (*al-fadaiyyah*). - *nawawiyyah*), electrons, information, and communication (*al-ittisalat*).<sup>46</sup>

**8. Changes in fatwa due to social, economic, and political situations, (*al-auda' al-ijtimaiyah, waal-iqtisadiyah, wa al-siyasiyah*)**

A fatwa formed as a result of certain social conditions, certain economic conditions, or certain political situations will of course have the flexibility to change when the elements and instruments that make up the fatwa also change. This change at the next level will give certain colors and patterns in the fatwa.

For example, Saying Merry Christmas, for example, is a greeting that often causes controversy, even today. Several scholars opposed it, including Shaikh al-Islam Ibn Taymiyah forbidding and even forbidden for Muslims to wish Christians a Merry Christmas.<sup>47</sup>

According to Yusuf al-Qardhawi, with the development and change in social relations between religions that are getting better, they should also contribute to determining the law of congratulating interfaith celebrations, including between Muslims and Christians.

The Qur'an teaches one of the social ethics between religions in Surah al-Mumtahanah verse 8, namely: "*Allah does not forbid you to do good and do justice to those who do not fight you because of religion and do not (also) expel you from your country. Verily, Allah loves those who act justly.*"<sup>48</sup>

In that verse Allah allows us to always do good (*al-birr*) towards those who do not fight against Muslims and do not expel Muslims from their respective homes. This proves something, that the relationship that is built between social communities should be built on the basis of goodness, moreover this happens in a safe situation not during a time of war.

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<sup>46</sup> Yusuf Qardhawi, *Bagaimana Memahami Hadis Nabi SAW*, Penerj: Muhammad Al-Baqir, Cet.V, 81.

<sup>47</sup> Abdullah bin Bih, *Sinaat Al-Fatwa Wa Fiqh Al-Aqalliyat* (t.t: al-Markaz al-Alamy li al-Wasatiyyah, 2008), 309–12.

<sup>48</sup> Departemen Agama RI, *AL-JUMANATUL 'ALI Al-Qur'an Dan Terjemahannya*, 550.

The development of a social situation like this should also be taken into consideration regarding fatwas congratulating on certain days when people of non-Muslim religions are celebrating religious observances.<sup>49</sup>

Therefore, the fatwa regarding the prohibition of congratulating on religious days of people of other religions is no longer in accordance with the conditions and situations of social change. Thus, such a situation makes the fatwa regarding congratulatory rituals for other religious celebrations change, from prohibition to permissible (permissible). What's more, this situation occurred in a safe, conducive atmosphere with good interactions, namely when Muslims performed Islamic religious celebration rituals, they were happy to congratulate Muslims.<sup>50</sup>

When that happens, then reciprocating congratulations to non-Muslims when they carry out their religious rituals is also a good Islamic ethic, which is in accordance with the instructions of the Qur'an Surah al-Nisa' verse 86: *"If you are honored with something of respect, then repay that honor with something better than it, or repay that honor (with something similar)]. Verily, Allah takes all things into account."*<sup>51</sup>

In this verse, when the social relations that are formed between Muslims and non-Muslims are going well, then giving each other greetings of respect (*tahiyyah*) when religious people celebrate religious rituals or celebrations, for example, is not only allowed, but also in line with religious guidance.

## 9. Changes in fatwas due to changes in opinions and thoughts (*al-ra'y wa al-fikr*)

Opinions or thoughts also change because of the results of contemplation (*ta'ammul*) and repeating the study of learning or scientific discussions and so on. Changes in the fatwa, as a result of this change in thinking, cannot be underestimated. Even though it can be considered as an absurdity of Islamic law, this actually shows the flexibility of the fatwa that allows it to change.<sup>52</sup>

Several figures who have changed their fatwa due to changes in their religious thinking are Imam Shafi'i. As is well known, one of the unique features of Imam Shafi'i is the existence of his old opinion, often called *qaul qadim*, and his new opinion (*qaul Jadid*).

The term Qaul Qadim refers to the fatwa or opinion of Imam Shafi'i which was delivered while in Iraq, to be precise in Baghdad. At that time, Imam Shafi'i conveyed his religious opinions through oral as well as in writing which was codified into books,

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<sup>49</sup> Abdul Waris, "Fiqh Patterns in the Interpretation of Al- Alūsī : An Analysis of Interpretation of Rūh Al- Ma ' Ānī," *AL-Bayyina* 5, no. 2 (2021): 142–56, <https://doi.org/10.35673/al-bayyinah.v4i2.1762>.

<sup>50</sup> Amrin dan Juryatina, "Students ' Interest in Arabic Language Learning : The Roles of Teacher," *Journal of Educational Management and Intruction* 1, no. 1 (2021): 40–49.

<sup>51</sup> Departemen Agama RI, *AL-JUMANATUL 'ALI Al-Qur'an Dan Terjemahannya*, 96.

<sup>52</sup> Ibnu Irawan, Jayusman Jayusman, and Agus Hermanto, "Fatwa Contribution to the Development of Islamic Law (Study of The Fatwa Institute of Saudi Arabia)," *FITRAH:Jurnal Kajian Ilmu-Ilmu Keislaman* 5, no. 2 (2019): 181–206, <https://doi.org/10.24952/fitrah.v5i2.1979>.

namely, among others: Al-Risalah, al-Za'farah then the book was known as al-Hujjah. This is the first book of fiqh written by Imam Shafi'i.<sup>53</sup>

Meanwhile, *Qaul Jadid* referred to Imam Shafi'i's legal opinion while he was in Egypt. The presence of Imam Shafi'i in Egypt seemed to be valuable for the longing of the people, which at first was only dominated by the Malikis and Hanafis. The two camps of thought are often at odds. The Malikis are hadith experts while the Hanafis emphasize rationality (*ahl al-ra'y*). Imam Shafi'i's ability to reconcile these two often conflicting thoughts caused some people to start leaning towards Imam Shafi'i, one of whom was al-Buwaiti (a follower of Imam Malik).<sup>54</sup>

With the peculiarities of the methodology, the wise and fair nature of Imam Syafi'i, he finally formulated many of his fatwas while in Iraq (*Qaul Qadim*). After leaving Iraq, he moved to Egypt and had a new face, namely *Qaul Jadid* (a new opinion), although some scholars stated that the difference was only in the *furu'* aspect. The style of thought of Imam Shafi'i in Egypt with his *Qaul Jadid* with actualization and contextualization efforts, this is because the building of fiqh in Egypt has been established with the existence of two major schools of thought (Hanafi and Maliki) which are contradictory. So this makes his style of thinking more in the middle between the strongholds of Ahlu al-Ra'yi and Ahlu al-Hadith.<sup>55</sup>

The change in the view of his fatwa here is part of the change in thinking experienced by Imam Shafi'i, including after he began to provide the foundation of al-usul (principles of Islamic law) through his book of *ushul fiqh*, providing branches of problems on general rules, discussing with scholars. experts, carry out answers accompanied by arguments (*hujjah*). All of this certainly contributed to the change in Imam al-Shafi'i's thinking so that he reached a degree of scientific maturity (*al-naj al-ilmiy*) which enabled him to achieve the degree of becoming an expert in jurisprudence that was respected and followed by Muslims.

## 10. Changes in Fatwa due to changes in General disasters (*umum al-balwa*)

The general sentence al-balwa is a combination of 2 general words which can be interpreted as something that happens together in society, while the word al-balwa can be interpreted as disaster, calamity (al-disaster).<sup>56</sup> So that the combination of the two words when combined can be interpreted as a disaster that was previously avoided, has now become a common phenomenon and occurs together in society. General al-balwa is one of the clearest indications of the existence (disaster) that has become a necessity of modern society that is difficult to avoid anymore. Among several things that can be categorized as general al-balwa is the head that is open / not wearing a

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<sup>53</sup> Roibin, *Sosiologi Hukum Islam: Telaah Sosio-Historis Pemikiran Imam Shafi'i* (Malang: UIN Press, 2008), 128.

<sup>54</sup> Roibin, 132.

<sup>55</sup> Roibin, 176–78.

<sup>56</sup> Ahmad Warson Al-Munawwi, *Kamus Arab-Indonesia Cet.25* (Surabaya: Pustaka Progresif, 2002), 109.



head covering (*kashf al-ra's*) and eating on the road (*al-akl fial-tariq*) is a qualification of one's fairness.<sup>57</sup>

Currently the custom of people who take off their headscarves, except for a small number of Muslims and that too in certain religious ritual moments, is made as part of something that can change the fatwa. That is, this kind of attitude will not injure someone's fair nature. For this reason, fiqh experts make general *al-balwa* as part of something that relieves (*al-mukhaffifat*).<sup>58</sup>

However, it should be noted that the general existence of *al-balwa* which can result in legal relief (*al-takhfif*) is not related to something that has already been confirmed as haram (*maqtu' bi hurmatih*). If it is included in things that have been confirmed as haram, moreover, it is a major sin (*kabair al-ithm*) then it is not allowed to do *tasahul* (taking things easy) and of course there is no opening to change the fatwa.<sup>59</sup>

Because if it is included in the general discussion of *al-balwa*, it will potentially become a justification (*tabrir*) for unlawful cases, justification for *munkar* (*taswigh al-munkar*). In fact, regarding things that have been confirmed as haram, Muslims need to be firm and hard by trying to reach the halal while getting rid of the haram, even though all of humanity is wallowing in it.

Therefore, the matter regarding the general instrument of *al-balwa* is more oriented to cases that are still giving rise to polemics (*mukhtalaf fih*) in a certain legal issue, not to issues that have confirmed their prohibition (*maqtu' bi hurmatih*).

#### D. CONCLUSION

Yusuf al-Qardhawi is one of the contemporary scholars who are experts in the field of Islamic jurisprudence and law. Yusuf Qardhawi's thoughts are relevant to the reality of modern and contemporary society today. In his thinking, he tries to present himself as a figure from the face of Islam as harmonious, reformer, inclusive in every dynamic and problematic of life, so that its renewal remains in Islamic values.

In giving contemporary fatwas, Yusuf al-Qardhawi must pay attention to changes that occur, both changes that occur in classical times and changes that occur when legal advice or fatwas are needed. As a legal product which is a response to the reality and problems that occurred, Yusuf al-Qardhawi offers ten instruments that allow for a fatwa to change its legal status, because namely: change of place (*taghayyur al-makan*), change of time (*taghayyur al-zaman*), change circumstances (*taghayyur al-hal*), changes in 'urf (*taghayyur al-'urf*), changes in information/knowledge (*taghayyur al-ma'lumat*), changes in human needs (*taghayyur hajat al-nas*), changes in human abilities

<sup>57</sup> Fathoni Hasyim Muh, "Al-Bukhary Intellectual Genealogy: Tracing The Authority Of An Expert Of Hadith and Fiqh," *SYARIAH: Jurnal Hukum Dan Pemikiran* 19, no. 2 (2019): 141–63.

<sup>58</sup> Yusuf Qardhawi, *Mujibat Taghayyur Al-Fatwa Fi 'Asrina*, Cet.II, 92.

<sup>59</sup> Fathullah Asni, "Analysis of the Concept of Fatwa Uniformity According Mura'ah Al-Khilaf Method," *International Journal of Academic Research in Business and Social Sciences* 8, no. 7 (2018): 156–64, <https://doi.org/10.6007/ijarbss/v8-i7/4331>.

(*taghayyur qadrat al -nas waimkanatihim*), changes in social, economic, and political situations (*taghayyur al-auda' al-ijtimaiyyah*).

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