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Juristic Integration (Talfiq) in Fatwa Issuance and Its Implications for Contemporary Financial Transactions: A Critical Analytical Study with Applied Models

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Abstract

The accelerating pace of social, economic, and financial transformations in the contemporary world has generated unprecedented juridical questions (nawāzil) that were unknown to earlier generations of Muslim jurists. These developments pose significant challenges to the process of fatwa issuance, requiring renewed methodological frameworks capable of addressing complex, hybrid, and evolving realities—particularly in the field of modern financial transactions. In response to these challenges, contemporary jurists have increasingly adopted flexible juristic approaches that move beyond strict adherence to a single legal school (madhhab), among which the practice of talfiq—the integration of juristic opinions drawn from multiple schools—has emerged as a prominent method. This study offers a comprehensive analytical examination of talfiq in fatwa issuance, focusing specifically on its application by qualified mujtahids rather than its more commonly discussed use by muqallids. The paper first clarifies the conceptual foundations of talfiq, fatwa, and ijtihad, while distinguishing between legitimate juristic integration and impermissible eclecticism. It then reviews classical and contemporary scholarly positions concerning the legal ruling (ḥukm sharʿī) of talfiq, including debates on introducing third opinions, selecting among the views of mujtahids, and the conditions under which talfiq is deemed acceptable or prohibited. The study further analyzes the practical implications of talfiq through selected case studies from contemporary financial transactions, with particular attention to issues such as zakat on agricultural produce and murābaḥah to the purchase-orderer accompanied by a binding promise. By employing descriptive, inductive, and comparative methodologies, the research demonstrates that talfiq, when exercised within the parameters of sound juristic reasoning and the objectives of Islamic law (maqāṣid al-sharīʿa), can serve as a legitimate and effective tool for addressing modern financial realities. The article ultimately argues that responsible talfiq contributes to the dynamism, adaptability, and relevance of Islamic jurisprudence, while cautioning against its misuse in ways that undermine legal coherence and ethical integrity.

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Introduction

The rapid transformations of our time, which affect all aspects of life, inevitably generate new situations and evolving realities. Many of these raise pressing questions concerning their legitimacy and conformity with the rulings of Islamic law, particularly in an era in which the world has effectively become an open village. This reality has led contemporary jurists to adopt diverse methodological approaches in order to clarify the ruling of Islamic law on newly emerging cases (*nawāzil*) with which the Muslim community has no prior experience. Among these approaches is the practice of combining the opinions of mujtahids, as reliance on a single legal school alone is insufficient to meet the needs of the ummah.

Accordingly, this research paper seeks to address the following central questions: What is meant by *talfiq* in fatwa issuance? What is its legal ruling? And what are its effects on certain contemporary financial transactions?

To answer these questions, the study is structured as follows:

- **Introduction**
- **Chapter One:** The Concept of *Talfiq* in Fatwa Issuance
    - Section One: The Concept of Fatwa
    - Section Two: The Concept of *Talfiq*
    - Section Three: The Intended Meaning of the Mufti
    - Section Four: The Concept of *Talfiq* in Ijtihad and Fatwa
- **Chapter Two:** The Legal Ruling on *Talfiq* in Ijtihad and Fatwa
    - Section One: The Ruling on Introducing a Third Opinion
    - Section Two: The Ruling on Selecting among the Opinions of Mujtahids
    - Section Three: The Ruling on *Talfiq* in Ijtihad and Fatwa
- **Chapter Three:** Practical Examples of *Talfiq* in Ijtihad and Fatwa
    - Section One: *Talfiq* in the Issue of Zakat on Vegetables and Fruits
    - Section Two: *Talfiq* in the Ruling on Murabaha to the Purchase-Orderer Accompanied by a Binding Promise
- **Conclusion**

The importance of this topic stems from the significance of fatwa itself, given its gravity and far-reaching consequences. For this reason, fatwa is regarded as more specific than jurisprudence (*fiqh*). This distinction is noted by Ibn Rushd al-Hafid in the introduction to *Bidayat al-Mujtahid*, where he likens the one who merely memorizes legal rulings without being able to relate them to reality to a sandal seller who possesses many sandals but is not a skilled cobbler. Although he owns many sandals, he is unable to serve those who seek footwear that fits them properly, and thus they must turn to a true craftsman[i].

In this regard, Ibn Bayyah explains that he entitled his book *Ṣināʿat al-Fatwa* ("The Craft of Fatwa") because craftsmanship implies precision, synthesis, and the ability to move from the simple to the complex, and from isolated elements to composite structures[ii].

It is noteworthy that the topic of *talfiq* has attracted considerable scholarly attention among contemporary writers. However, most of what has been written has focused on *talfiq* as practiced by *muqallids* (those who follow established legal opinions without independent reasoning), as well as on *talfiq* in the realm of legislation. By contrast, *talfiq* as practiced by *mujtahids* has not received the same level of scholarly scrutiny. Among the most significant works we have reviewed on this subject are the following:

- *Al-Talfiq wa Mawqif al-Uṣūliyyīn Minhu* ("Talfiq and the Position of Usul Scholars Regarding It") by Muhammad al-Duwaish, published in its first edition by the Ministry of Awqaf and Islamic Affairs in the State of Kuwait in 1434 AH / 2013 CE. In this work, the author undertakes a comprehensive foundational study of *talfiq*, addressing its concept, its domains of application, and the views of usul scholars concerning it.

- *Al-Talfiq Bayna al-Madhāhib al-Fiqhiyyah wa ʿAlāqatuhu bi-Taysīr al-Fatwa* ("Talfiq between the Juristic Schools and Its Relationship to Facilitating Fatwa"), a paper by Ghazi al-ʿUtaybi presented at the Conference on Fatwa and Its Regulations, organized by the Islamic Fiqh Council of the Muslim World League in 1430 AH / 2009 CE. The author examines the nature of *talfiq*, its legal ruling, and its relationship to facilitating fatwa issuance.

Despite the existing literature, this study seeks to focus specifically on *talfiq* as practiced by *mujtahids*, with the aim of clarifying its legal ruling.

In conducting this research, several methodological approaches have been employed. The descriptive method is used to define and clarify key terminological concepts; the inductive method is applied to present the opinions of scholars on the issues discussed; and the comparative method is utilized to analyze, evaluate, and weigh the various viewpoints presented.

Chapter One: The Concept of *Talfiq* in Fatwa Issuance

We begin by defining the term *fatwa* from both its linguistic and technical perspectives. We then present the concept of *talfiq*, followed by a clarification of what is meant by the *mufti*, in order to arrive at a precise definition of *talfiq* in fatwa issuance.

Section One: The Concept of Fatwa

First: Fatwa in the Linguistic Sense. *Fatwa* (*fatwā*) and *futyā* are two nouns used to denote the act of issuing a legal opinion (*iftāʾ*). A *fatwa* is what a jurist provides in response to a question, and to issue a fatwa (*afātahu*) means to clarify a matter for someone[iii]. Al-Azhari states: "A man issues a fatwa on a matter, and I seek his fatwa, and he responds to me—*iftāʾ*, *futyā*, and *fatwā* are nouns derived from *afitā* and are used in place of *iftāʾ*."[iv]

In Arabic usage, the term *futyā* is more commonly employed than *fatwā*[v], and it is used only in response to a question posed by an inquirer. Numerous examples from the Qurʾan support this usage, including the verse in Surat al-Nisaʾ: ﴿وَيَسْتَفْتُونَكَ فِي النِّسَاءِ قُلِ اللَّهُ يُفْتِيكُمْ فِيهِنَّ﴾. "They seek your legal opinion concerning women. Say: Allah gives you a ruling concerning them" (Qurʾan 4:127);

and His statement in Surat al-Saffat: ﴿فَاسْتَفْتِهِمْ أَهُمْ أَشَدُّ خَلْقًا أَمْ مَنْ خَلَقْنَا إِنَّا خَلَقْنَاهُمْ مِنْ طِينٍ لَازِبٍ﴾. "So ask them: are they more difficult to create, or those We have created? Indeed, We created them from sticky clay" (Qurʾan 37:11);

as well as His statement on the tongue of the Aziz of Egypt: ﴿يَا أَيُّهَا الْمَلَأُ أَفْتُونِي فِي رُؤْيَايَ إِنْ كُنْتُمْ لِلرُّؤْيَا تَعْبُرُونَ﴾. "O eminent ones, give me your opinion concerning my dream, if you can interpret dreams" (Qurʾan 12:43).

Second: Fatwa in the Technical Sense. Fatwa has been defined in a number of ways, among which the following may be cited. Al-Qarafi, in *al-Furūq*, defines fatwa as "conveying information on behalf of God, Exalted be He, concerning obligation or permissibility[vi]." Al-Laqqani defines it as "conveying information about a legal ruling without the element of compulsion." The *Kuwaiti Encyclopedia of Fiqh* defines it as "clarifying the legal ruling, based on evidence, for one who inquires about it[vii]." Al-Qaradawi defines it as "clarifying the legal ruling in a given matter in response to the question of an inquirer, whether specified or unspecified, an individual or a group."

Similarly, Muhammad al-Ashqar defines *ifiā'* (the issuance of a fatwa) as "conveying information about the ruling of God, Exalted be He, based on legal evidence, to one who asks about it concerning a newly arising matter[viii]."

From these closely related contemporary definitions, it may be inferred that fatwa issuance constitutes a response to a question without the force of compulsion, thereby distinguishing it from *ijtihad* and judicial adjudication. Moreover, the question must pertain to a newly arising and problematic matter; otherwise, it would constitute instruction rather than a fatwa[ix].

Section Two: The Concept of *Talfiq*

First: *Talfiq* in the Linguistic Sense. *Talfiq* derives from the verb *lafaqa*. *Al-lafq* refers to stitching two separate pieces together, such that one is joined to the other by sewing. *Talfiq* has a broader meaning, though both terms denote the joining of parts so long as they remain connected. If, after being joined, the two parts separate, it is said that their *lafq* has come undone, and the term *lafq* does not apply prior to stitching[x].

In *al-Ṣiḥāḥ*, it is stated: "I stitched the garment (*lafaḳtu al-thawb*)—that is, I joined one piece to another and sewed them together. *Al-lifq*, with a kasrah on the lām, refers to one of the two joined pieces of a wrap. It is also said: *talāfaqa al-qawm*, meaning their affairs became harmonious. *Aḥādīth mulaffaqah* refers to embellished falsehoods[xi]."

From the foregoing, it is evident that *tallīq* in the linguistic sense denotes joining and harmonization, as joining necessarily implies compatibility. It may also carry the meaning of embellished or fabricated falsehood[xii].

Second: *Talfiq* in the Technical Sense. *Talfiq* is a verbal noun derived from *lafaqa*. In the context of menstruation according to the Hanbali school[xiii], it refers to joining one instance of blood to another when a period of purity intervenes between them. Thus, jurists employ the term *talfiq* in the sense of combination or aggregation, as in the case of a woman whose bleeding stops and then reappears intermittently—such as bleeding one day and being pure the next, or two days of bleeding followed by two days of purity—provided that the total period of interruption does not exceed fifteen days according to most jurists, in contrast to the predominant Shafi'i view[xiv].

The notion of *tallīq* is likewise applied to other legal contexts, such as combining land and sea travel when calculating the distance that permits shortening the prayer, as well as in matters related to expiations (*kaffārāt*)[xv].

Among legal theorists (*uṣūliyyūn*), *talfiq* is a technical term that emerged after the consolidation and widespread diffusion of the juristic schools and the prevalence of adherence to them across regions. Jamal al-Din al-Qasimi observes: "The term *tallīq* is not found in the writings of the imams, neither in their *Muwaṭṭa'āt* nor in their foundational works, nor even in the writings of their immediate students. It is not far-fetched to suggest that discussion of *talfiq* arose in the fifth century, at a time when sectarian partisanship intensified and political considerations entered into school affiliation.[xvi]"

Al-Shatibi mentions this term in *al-Muwāfaqāt* while discussing the harmful consequences of indiscriminately following the concessions (*rukhaṣ*) of different schools, stating: "Such practice may lead to the adoption of *tallīq* among the schools in a manner that violates their consensus[xvii]."

Al-Qarafi addresses the issue of *tallīq* in *al-Iḥkām*, even though he does not explicitly use the term, when discussing cautions that a mufti must be attentive to. Among these is the requirement that, if a mufti permits moving between schools in individual issues, he must ensure that the ruling he issues is not rejected by the school from which he has

departed[xviii]. He provides examples that correspond to the issue of *talfiq*. Abu Ghuddah comments on this in a marginal note, stating: "This reflects the author's adherence to the commonly held view that *talfiq* is invalid[xix]."

Talfiq has been defined in several ways, among them the definition transmitted by al-Bani, who states: "They define it as adopting a manner [of practice] that no mujtahid has held." He then explains this definition—without attribution—by stating: "It is to combine, in a single case, two or more opinions, resulting in a composite reality that no one has affirmed[xx]." What may be observed regarding this definition is that its author restricts *talfiq* to the actions of a *muqallid*, thereby excluding *talfiq* practiced by a *mujtahid*, which is the focus of investigation in this paper.

The *Kuwaiti Encyclopedia of Fiqh* defines *talfiq* as follows: "What is meant by *talfiq* between legal schools is to derive the validity of an act from two schools simultaneously after each of them has deemed it invalid when considered independently."

ʿAbd Allah ibn Muhammad al-Saʿidi defines it as: "the combination of different juristic schools in the components of a single ruling." What may be observed regarding these two definitions is that they exclude *talfiq* between the opinions of jurists within the same school or among independent mujtahids[xxi]. This exclusion may be understood as reflecting the most common usage of the term. Moreover, such combination may sometimes constitute synthesis rather than *talfiq* in the technical sense[xxii].

Section Three: The Intended Meaning of the Mufti

In order to discuss *talfiq* in fatwa issuance, it is necessary to clarify what is meant by the *mufti*, and whether this term refers to the absolute mujtahid (*al-mujtahid al-muṭlaq*).

In this context, the mujtahid intended here is one who possesses a degree of analytical engagement with juristic opinions and views, yet falls below the rank of the absolute or fully affiliated mujtahid. This is because contemporary jurists to whom *talfiq* in ijtihad—and, by extension, in fatwa issuance—has been attributed are adherents of the four legal schools and do not exercise independent reasoning outside them.[xxiii]

Al-Bani classifies legally responsible individuals into muftis and inquirers (*mustaftūn*), and further divides the category of muftis into two groups[xxiv]:

1. Absolute mujtahids, who have no connection to *talfiq*, as they engage directly in legal reasoning and derivation.
2. Those who exercise ijtihad in matters whose evidences they know, while following authority (*taqlid*) in matters whose evidences they do not know. For this group, *talfiq* becomes relevant insofar as they may be regarded as followers in one respect.

Accordingly, the preferred approach is the nuanced distinction articulated by al-Bani, who states: "Taqlid is obligatory for the layperson, as he is excused due to his inability; it is prohibited for the scholar who has comprehensive knowledge of the evidences[xxv]. One who is knowledgeable of some evidences but not others must exercise ijtihad in what he knows and follow authority in what he does not know, thus being a mufti in one respect and a seeker of fatwa in another[xxvi]." This position is based on the permissibility of the divisibility of ijtihad, which is the view of the majority of scholars. Al-Zarkashi states: "The correct view is the permissibility of the divisibility of ijtihad, meaning that one may be a mujtahid in one field but not in others."

In light of the foregoing, it becomes clear that *talfiq* in fatwa issuance is linked to the aforementioned category of jurists. This, in turn, leads to the need to clarify the concept of *talfiq* in ijtihad and, consequently, in fatwa issuance.

Section Four: The Concept of *Talfiq* in Ijtihad

Most early scholars who addressed *talfiq* discussed it in conjunction with *taqlid*, in line with the definitions previously cited. One rarely finds explicit discussion of *talfiq* as practiced by a mujtahid, apart from occasional references, such as

the statement of al-Murawi: "Just as we rule validity if *talfiq* occurs through ijtihad, so too do we rule validity if *talfiq* occurs through taqlid."[xxvii]

Al-Bani likewise addressed *talfiq* in the context of ijtihad when discussing situations in which *talfiq* may arise. He explicitly stated that he sees nothing in the foundational principles of the tolerant Islamic Shariʿah that prevents a mujtahid, in matters in which he lacks the capacity for full ijtihad—whether due to an inability to bear strict obligations or because of pressing needs—from personally adopting the easier view from each legal school, even if this results in *talfiq*. As for those who seek fatwas from him, this matter depends on the mufti's wisdom, insight, sound judgment, and piety. He should guide those capable of strict adherence toward the more cautious rulings, while those who are weak or similar in circumstance should be guided by the facilitative aspect of the Shariʿah, even if this leads to *talfiq*[xxviii].

Al-Dihlawi mentions *talfiq* in the context of his discussion of the restricted mujtahid (*al-mujtahid al-muqayyad*), stating: "If one does not possess the full set of tools required of the absolute mujtahid, it is permissible for someone of this kind to engage in *talfiq* between two schools[xxix]."

After noting the scarcity of discussion on this issue, al-Duwaish defines *talfiq* in ijtihad as follows: "It is the exercise of ijtihad by one who possesses a degree of analytical capacity with respect to juristic opinions and views, selecting that which is most appropriate to adopt from among the legal rulings of scholars, based on his ability to discern and weigh between them[xxx]."

Al-Sanhuri clarifies the meaning of *talfiq* in his study entitled "Talfiq between the Rulings of the Legal Schools," stating: "By *talfiq* in ijtihad, or composite ijtihad, I mean nothing other than that two or more jurists exercise ijtihad on a given issue and arrive at two or more opinions, after which a later jurist engages in ijtihad on the same issue, and his reasoning leads him to adopt parts of each opinion, the sum of which then constitutes his own position on the matter[xxxi]."

Murtada al-ʿAnazi defines it as follows: "*Talfiq* in ijtihad is when a mujtahid exercises ijtihad in an issue and his reasoning leads him to combine two opinions held by earlier mujtahids regarding the same issue[xxxii]."

Chapter Two: The Legal Ruling on *Talfiq* in Ijtihad and Fatwa Issuance

In order to examine the legal ruling on *talfiq* in ijtihad, it is necessary to first clarify the rulings of the foundational issues upon which it is based. These consist of two principal questions: first, the issue of introducing a third opinion; and second, the issue of choosing among the opinions of mujtahids. Accordingly, the discussion of the ruling on *talfiq* will be directly linked to the rulings on these two issues, as follows:

Section One: The Ruling on Introducing a Third Opinion

The issue under consideration is as follows: if the scholars of a given era differ on a matter, holding two or more established opinions, is it permissible for those who come after them to introduce a third opinion? Scholars have differed on this issue, with three views reported by al-Shawkani. He qualifies this discussion by stipulating that the disagreement must have settled on two or more established opinions; if it has not, there is no basis for prohibiting the introduction of another view[xxxiii]. The three positions are: absolute prohibition; absolute permissibility; and a nuanced position, the substance of which is that if the newly introduced opinion entails nullifying the two earlier opinions, it is impermissible to introduce it; otherwise, it is permissible.

It should be noted that *talfiq*, according to this scenario, occurs when the introduction of a third opinion results in a composite view formed from the opinions of two or more mujtahids. If, however, it involves abandoning both existing opinions altogether, it does not constitute *talfiq*, as it represents the formulation of an entirely new opinion.

An example of this scenario is cited by al-Amidi, who states: "If some scholars say that the grandfather inherits the entire estate along with the brother, and others say that inheritance is by equal division (*muqāsamah*), then the view that he inherits nothing constitutes a third opinion[xxxiv]."

The various positions on this issue, following al-Shawkani's classification, are as follows:

First: Absolute Prohibition. This view is based on the premise that there is an implicit agreement that no opinion exists beyond the two established ones. It is the position of the majority of scholars. Al-Baji states in *al-Iḥkām*: "If the Companions differ regarding a ruling, holding two opinions, it is not permissible to introduce a third opinion. This is the view of all our companions and the view of the companions of al-Shafiʿi." Al-Kiya al-Harrasi stated that this view is sound and is the basis for fatwa. It was decisively adopted by al-Qaffal al-Shashi, al-Qadi Abu al-Tayyib al-Tabari, al-Ruyani, and al-Sayrafi[xxxv], none of whom reported any disagreement except from some speculative theologians. Al-Rahuni states: "If they agree upon two opinions and a third is introduced, the majority prohibit it, as in the case of the grandfather with the brother: it was said that inheritance is by equal division, and it was said that he takes the entire estate; deprivation constitutes a third opinion[xxxvi]."

Second: Absolute Permissibility. This view was reported by Ibn Burhan and Ibn al-Samʿani from some Hanafis and the Zahiris. A number of scholars, including Qadi ʿIyad, attributed it to Dawud, though Ibn Hazm rejected attributing this view to Dawud. Al-Zarkashi states: "Absolute permissibility. Qadi Abu al-Tayyib said: I have seen some of the companions of Abu Hanifah adopt and advocate this view.[xxxvii]"

Third: The Qualified (Nuanced) Position. According to this view, if the newly introduced opinion necessarily nullifies the two earlier opinions, it is impermissible to introduce it; otherwise, it is permissible. This nuanced position is reported from al-Shafiʿi and was adopted by later scholars among his followers. It was also favored by a number of legal theorists, including Ibn al-Hajib. They argued that a newly introduced opinion that nullifies the two earlier opinions contradicts what was established by consensus, whereas a newly introduced opinion that does not nullify them does not contradict that consensus but rather aligns with each of the two opinions in some respect[xxxviii].

Al-Zarkashi states in *al-Baḥr al-Muḥīṭ*: "This is the correct view according to the later scholars[xxxix]: if the third opinion entails nullifying what they agreed upon[xl], it is impermissible to introduce it; otherwise, it is permissible. The wording of al-Shafiʿi in *al-Risalah* indicates this." Likewise, al-Rahuni adopts this view, stating that if the third opinion nullifies what the two earlier opinions agreed upon, it is prohibited[xli]—as in the case of the grandfather[xlii]—otherwise, it is permissible, since in each case it accords with one of the established schools[xliii].

Al-Amidi states: "The preferred position in this matter is the nuanced one. This is illustrated by the case in which some scholars hold that intention (*niyyah*) must be considered in all acts of ritual purification, while others hold that it is not to be considered in any of them. The third opinion—namely, that intention is required in some acts of purification but not in others—does not constitute a violation of consensus, because violating consensus consists only in adopting a view that contradicts what the people of consensus have agreed upon. That is not the case here, for the one who affirms intention in some instances and negates it in others has, in each instance, conformed to the view of one of the established schools[xliv]."

After presenting the opinions of scholars and their respective positions on this issue, we incline toward the third view, which advocates a nuanced approach, due to the strength of its evidentiary basis.

It is also appropriate to note the relationship between this issue and *talfiq*. There is a similarity between them insofar as both involve the introduction of a new view not previously articulated by earlier mujtahids. They differ, however, in that *talfiq* leads to a composite ruling formed by combining two or more juristic opinions and producing a new configuration, whereas introducing a third opinion may involve abandoning the two differing opinions altogether by advancing an entirely new view[xlv].

Accordingly, our preference for the nuanced position extends to the issue of *talfiq* in ijtihad when it follows this particular pattern.

Section Two: The Ruling on Selecting among the Opinions of Mujtahids

It should be noted that the selection (*takhyīr*) intended here is one grounded in ijtihad and considered judgment, based on what the selecting jurist deems more appropriate to adopt or more legally tenable due to the strength of its evidence or the clarity of its proof, and not selection based on personal desire or the pursuit of convenience. Furthermore, the discussion here concerns cases in which a connection exists between the opinions that are combined; if no such connection exists, the matter falls outside the scope of this study—such as one who adopts the opinion of one jurist regarding zakat and the opinion of another regarding hajj[xlvi].

The positions on this issue may be summarized in three views: absolute permissibility, absolute prohibition, and a nuanced approach.

First: Absolute Permissibility. This is the view of the majority of scholars[xlvii]. The author of *al-Taḥbīr* states: "It is not obligatory to adhere to a single legal school, nor to adopt all of its concessions and strict rulings, and, according to the majority, it is not prohibited to move from one school to another[xlviii]." Amir Badshah notes in *al-Taysīr* the absence of obligation, stating: "The majority of scholars hold that it is not obligatory for a follower to adhere to a single school and adopt its concessions and strict rulings. It has been said that such commitment would constitute obedience to someone other than the Prophet ﷺ in all commands and prohibitions, which contradicts consensus[xlix]."

Ibn al-Qayyim states: "As for the obligation to adhere to a single school and the prohibition of moving to another school in a particular issue, there are two views in agreement with Malik and al-Shafiʿi, may God have mercy on them. The more widely held view is that such adherence is not obligatory, and this is the correct position, decisively affirmed[l]."

They also cite as evidence the practice of the Companions, may God be pleased with them, who did not object to laypersons following one Companion in certain issues and another Companion in other issues[li]. Accordingly, if a layperson commits himself to a particular legal school, such commitment is not binding upon him, since it constitutes imposing an obligation that the Shariʿah itself has not imposed[lii].

Second: The View of Absolute Prohibition. This position is founded on the obligation of binding the layperson to a specific legal school and the impermissibility of departing from what he has committed himself to in individual issues.

Al-Kiya al-Harrasi decisively held that a layperson must adhere to a particular legal school. In *Jamʿ al-Jawāmiʿ*, he opted for the view that such adherence is obligatory, and that it should not be motivated by mere caprice. Rather, one should choose a school to follow in all matters, believing it to be more sound or at least equal to others, and not inferior[liii].

Muhammad ʿAlish explicitly affirmed this obligation, stating: "As for the scholar who has not reached the rank of ijtihad and the pure layperson, both are required to follow a mujtahid, in accordance with the divine statement: *'So ask the people of knowledge if you do not know'* (Qurʾan 16:43). The sounder view is that both are required to adhere to a specific school among the schools of the mujtahids, which they believe to be superior to others or at least equal[liv]. In the case of equality, they should endeavor to determine its superiority so that their preference for it over others is well-founded[lv]."

Similarly, the author of *Ghāyat al-Sūl* affirmed the choice of the view obligating adherence within the Hanbali school, stating: "The layperson is required, according to one narration, to adhere to a legal school, adopting both its concessions and strict rulings. It is not permissible for him to pursue concessions selectively, and doing so renders him morally blameworthy[lvi]."

It is noteworthy that those who held the obligation of adherence to a legal school stipulated that such adherence must not lead to the indiscriminate pursuit of concessions (*talqīṭ al-rukhaṣ*), nor to sectarian fanaticism toward the adopted school.

From the disagreement over this issue arises another point of contention among those who affirm the obligation of adhering to a specific school: is it permissible for one who has committed himself to a school to move to another school or not? On this matter, several views have been advanced: absolute impermissibility; absolute permissibility; and a

nuanced position, according to which if one has already acted upon a ruling[lvii], it is not permissible for him to transfer to another view, whereas if he has not yet acted upon it, transfer is permissible.

Al-Amidi reports consensus on this latter point, as does Ibn al-Hajib[lviii]. Al-Amidi states: "If a layperson follows one of the mujtahids regarding the ruling of a particular incident and acts upon his opinion, they have agreed that he is not permitted thereafter to abandon that ruling in favor of another[lix]." Al-Rahuni likewise adopts this view, stating: "Any issue in which one has already acted does not permit him to follow another opinion therein, unlike issues in which he has not yet acted[lx]."

Objections, however, have been raised against Ibn al-Hajib and al-Amidi, on the grounds that disagreement does in fact persist regarding what they claimed to be a point of consensus[lxi].

3. That the mufti must not follow people's whims; rather, he should follow the evidence and consider interests that are legally recognized by the Shari'ah. His intention in choosing a particular opinion must be sound, such that he does not choose an opinion to appease a ruler or cater to popular inclinations. It has been observed in the conduct of some muftis that they adopt leniency when dealing with rulers and themselves, yet strictness when dealing with the general public.

If the layperson is not obligated to adhere to a particular legal school—since his school is effectively the school of his mufti—then it is even more appropriate that one who possesses a degree of ijtihad and analytical engagement with juristic opinions should not be bound to a single school. Affirming the non-obligation of adhering to a specific school, al-Dihlawi states regarding those who fall short of the rank of the absolute mujtahid: "If one does not possess the full set of tools possessed by the absolute mujtahid, it is permissible for someone of this kind to engage in *talfiq* between two schools."

Accordingly, the view we consider most persuasive is the third position, which holds that *talfiq* is permissible subject to the previously mentioned conditions. These conditions are not contested by those who permit *talfiq* unconditionally, as they regulate the process of selection in a manner that preserves the objective of seeking what fulfills the intent of the Lawgiver in His commands and prohibitions, rather than devolving into arbitrary choice driven by desire, caprice, or manipulation of legal rulings under the pretext of permissibility.

Section Three: The Ruling on *Talfiq* in Fatwa Issuance

After presenting the views of scholars on the two foundational issues—introducing a third opinion and selecting among the opinions of mujtahids—upon which the question of *talfiq* in ijtihad and fatwa issuance is based, and after clarifying the views we regard as most persuasive, we conclude that *talfiq* in ijtihad and fatwa issuance is permissible subject to certain conditions, the most important of which are:

1. That the ijtihad of the selecting jurist does not lead to violating an established consensus in the matter under consideration.

2. That the jurist's intention is to seek the truth and to identify what is most appropriate to adopt in a manner that fulfills the intent of the Lawgiver in His commands and prohibitions. Al-Qasimi states: "What is meant by the *talfiq* discussed by later scholars is that, when a mufti is asked about an issue involving it, he should examine its basis in the Qur'an and Sunnah or in their rationally derived principles. Hastily judging *talfiq* to be either invalid or acceptable constitutes a departure from the path of the early scholars."

3. That selection is not used as a stratagem to pursue personal interests out of desire, frivolity, or to appease rulers and influential figures, without regard to the strength or weakness of the evidence, or the soundness or aberrance of the opinion.

4. That one does not incline toward adopting weak opinions except in cases of necessity or compelling need, since adopting such opinions merely out of desire leads to manipulation of religion and evasion of legal responsibility.

5. That one does not adopt anomalous opinions or the slips of scholars, as these are irregular views that contradict the principles and foundations of the Shariʿah.

6. That the jurist considers the newly formed composite opinion produced by his ijtihad to be preponderant, either in absolute terms or at least in the specific case for which he has been consulted.

Chapter Three: Practical Examples of *Talfiq* in Ijtihad and Fatwa Issuance

Following the foregoing discussion of *talfiq* in fatwa issuance, we now present two applied examples: the first illustrating permissible *talfiq*, and the second illustrating impermissible *talfiq*. This will be done through the following two sections.

Section One: *Talfiq* in the Issue of Zakat on Vegetables and Fruits

The Wilaya of al-Wadi is distinguished by its leading agricultural activity, particularly in vegetable cultivation. This has resulted in the recurring annual inquiry into certain issues, most notably: Is zakat obligatory on vegetables? And if so, what is the amount due? For this reason, we have chosen this issue as an applied case study, which we will examine through the conclusions reached by Yusuf al-Qaradawi in his work *Fiqh al-Zakat*, as outlined below.

First: Juristic Views on Zakat on Vegetables and Fruits

Jurists have differed regarding the obligation of zakat on vegetables and fruits, dividing into two groups. The majority of jurists held that zakat is not obligatory on them. This is the position attributed to Ibn ʿUmar (may God be pleased with them both) and the view of Malik, al-Shafiʿi, and Ahmad. By contrast, Mujahid, Hammad ibn Abi Sulayman, al-Zuhri, ʿUmar ibn ʿAbd al-ʿAziz, and Ibrahim al-Nakhaʿi held that zakat is obligatory on them. This is also the position of Abu Hanifah, which was supported by the Maliki jurist Ibn al-ʿArabi in *Aḥkam al-Qurʾan*. The principal evidences of both positions are presented below.

1. Evidences of Those Who Hold That Zakat Is Not Obligatory on Vegetables and Fruits

The majority relied on several evidences, the most important of which are:

a. The hadith of Muʿadh ibn Jabal (may God be pleased with him), in which the Messenger of God ﷺ said: "On what is watered by rain, natural springs, or floodwater, one-tenth is due; and on what is irrigated artificially, half of one-tenth is due. This applies only to dates, wheat, and grains. As for cucumbers, watermelons, pomegranates, and fodder crops, the Messenger of God ﷺ exempted them.[lxii]" Al-Bayhaqi also cites a number of *mursal* reports in support of this hadith.

b. What al-Qarafi mentions in *al-Dhakhira*, namely that if zakat were obligatory on vegetables, this would have been known in the time of the Prophet ﷺ and would have been widely recognized in Madinah. Malik used this argument against Abu Yusuf in the presence of al-Rashid, whereupon Abu Yusuf accepted it. Moreover, according to the Malikis and Shafiʿis, the operative cause (*ʿillah*) for zakat is that the produce is storable and serves as staple sustenance—criteria that do not apply to vegetables and fruits[lxiii].

2. Evidences of Those Who Hold That Zakat Is Obligatory on Vegetables and Fruits

The Hanafis relied on several evidences, foremost among them the divine statement: ﴿وَآتُوا حَقَّهُ يَوْمَ حَصَادِهِ﴾ "And give its due on the day of its harvest" (Qurʾan 6:141). The point of inference is that the "due" is extracted from produce on the day it is harvested in a literal sense, whereas grains are only processed after threshing and cleaning[lxiv].

They also relied on the generality of the verse: ﴿يَا أَيُّهَا الَّذِينَ آمَنُوا أَنْفِقُوا مِنْ طَيِّبَاتِ مَا كَسَبْتُمْ وَمِمَّا أَخْرَجْنَا لَكُمْ مِنَ الْأَرْضِ﴾ "O you who believe, spend from the good things you have earned and from that which We have brought forth for you from the earth" (Qurʾan 2:267).

In his commentary on this verse, Ibn al-ʿArabi states: "As for Abu Hanifah, he took this verse as his guiding mirror and thereby perceived the truth, holding that God has made zakat obligatory on all edible produce, whether it constitutes staple sustenance or not[lxv]."

3. Al-Qaradawi's Position in *Fiqh al-Zakat*

After presenting the views of scholars and their evidences and critically examining them, al-Qaradawi inclines toward the view of Abu Hanifah. He states: "The view most deserving of preference among these schools is that of Abu Hanifah: that zakat is due on everything produced by the land. This view is supported by the textual evidence of the Qurʾan and Sunnah and is consistent with the wisdom underlying the legislation of zakat.[lxvi]"

Second: The Amount of Zakat on Vegetables and Fruits. After preferring the Hanafi position regarding the obligation of zakat on vegetables and fruits, a second question arises: Is zakat due on the gross yield regardless of debts and expenses, or is it due only after deducting debts and expenses? Al-Qaradawi's position on this issue, as articulated in his work *Fiqh al-Zakat*, is outlined below.

1. The Issue of Deducting Debts. Al-Qaradawi cites reports from Ibn ʿAbbas and Ibn ʿUmar (may God be pleased with them) regarding a man who borrows money and spends it on his crops and on his family. Ibn ʿUmar stated: "He should first repay what he borrowed and then give zakat on what remains." Ibn ʿAbbas stated: "He should repay what he spent on the crop and then give zakat on what remains." Ahmad ibn Hanbal reported two narrations on this issue: in the first, he agreed with the view of Ibn ʿAbbas, and in the second, with the view of Ibn ʿUmar.

2. The Issue of Deducting Non-Debt Expenses Incurred for Crops and Produce. This issue concerns whether the amount corresponding to such expenses should be deducted from the yield and zakat given on what remains, or whether zakat should be given on the entire yield without deduction. Among the most significant reports in this regard is what al-Bayhaqi relates in *al-Sunan al-Kubra* from Ismaʿil ibn ʿAbd al-Malik, who said: "I said to ʿAtaʾ: 'I cultivate land.' He replied: 'Deduct your expenses and give zakat on what remains.'"

Ibn al-ʿArabi held that expenses should be deducted from the yield by analogy with the one-third or one-quarter that the estimator (*khārṣ*) deducts. Ibn al-Humam, however, responded in *al-Fatḥ* by stating: "The Prophet ﷺ ruled that the amount due varies in proportion to the cost incurred. If expenses were deducted, the obligation would always be one-tenth of what remains, because it was only reduced to half due to the expense. Yet the premise is that what remains after deducting expenses entails no further cost. Thus, the obligation would always be one-tenth. However, since the obligation has varied—sometimes one-tenth and sometimes half of it—due to expense, we know that the Lawgiver did not consider the exemption of a portion of the produce equivalent to the expense in the first place[lxvii]."

3. Al-Qaradawi's Preference in the Two Preceding Issues. After presenting and examining the various views, al-Qaradawi preferred the opinion that debts and expenses should be deducted first, and that zakat should then be paid on what remains. This is because the Lawgiver differentiated the amount due from produce based on differences in hardship and effort expended in irrigating the land, which historically represented the most significant factor distinguishing agricultural lands. As for other expenses, no explicit text exists either affirming or negating their consideration. He supported his preference with two arguments[lxviii]:

a. That cost and expenditure have an effect in the consideration of the Lawgiver, as they may reduce the amount due, as in the case of irrigation by mechanical means.

b. That the reality of growth (*namāʾ*) lies in increase, and wealth is not considered gain if an equivalent amount has been expended to obtain it.

Third: The Effect of *Talfiq* in the Issue of Zakat on Vegetables and Fruits and the Amount Due

From the foregoing discussion, it becomes clear that in *Fiqh al-Zakat*, al-Qaradawi adopted the Hanafi position that zakat is obligatory on vegetables and fruits, in opposition to the majority, including Ibn ʿUmar (may God be pleased with them). At the same time, he diverged from the Hanafis on the issue of deducting debts and expenses, acting in accordance with the view of Ibn ʿUmar. The resulting position is that zakat is obligatory on vegetables and fruits, provided that debts and expenses are deducted first. This constitutes a form of *talfīq* that appears to be permissible, as it accords with the view of a mujtahid in one respect—namely, Ibn al-ʿArabi, whose position on both issues was previously noted—thus entailing no violation of consensus. Moreover, it was the outcome of adherence to evidence.

This view is, in our assessment, the most appropriate to adopt in our region, as it achieves a balance between safeguarding the interests of the poor and taking into account the position of the zakat payer. Investment in vegetable cultivation is substantial, and the level of risk is high due to climate variability and market instability. Furthermore, it is customary among local farmers not to retain wealth for a full lunar year, as it is continually reinvested either in expanding agricultural projects or converted into assets such as real estate and vehicles, which are not subject to zakat. Consequently, if a fatwa were issued in accordance with the majority view, the poor would be deprived; whereas if a fatwa were issued strictly in line with the Hanafi view, zakat payers might be discouraged in times of investment risk, leading them to refrain from paying zakat by relying on the majority opinion.

Section Two: *Talfiq* in the Ruling on Murabaha to the Purchase-Orderer with a Binding Promise

First: The Concept of Murabaha to the Purchase-Orderer

1. Murabaha in the Linguistic Sense. *Murabaha* is derived from *ribḥ* (profit). *Ribḥ*, *rabḥ*, and *rabāḥ* denote growth and increase in trade[lxix].

2. Murabaha in the Technical Sense. In juristic usage, *murabaha* refers to a sale conducted at a price that includes an agreed-upon increase over the original cost[lxx].

Sami Hamoud defines murabaha to the purchase-orderer as follows: "Murabaha to the purchase-orderer refers to a transaction in which the bank fulfills the request of its contracting partner by purchasing, in cash, the item requested—either wholly or partially with the bank's funds—against the client's commitment to purchase the item ordered, in accordance with the profit agreed upon at the outset."[lxxi]

Second: The Ruling on Murabaha to the Purchase-Orderer and the Effect of *Talfiq* Therein

1. The Ruling on Murabaha to the Purchase-Orderer. Imam al-Shafiʿi explicitly permitted this form of transaction subject to the condition of an option (*khiyār*), stating: "If a man shows another a commodity and says to him: 'Purchase this and I will give you such-and-such profit on it,' and the man purchases it, then the purchase is valid. The one who said, 'I will give you profit on it,' retains the option: if he wishes, he may conclude the sale, and if he wishes, he may abandon it." This scenario described by al-Shafiʿi closely corresponds to murabaha to the purchase-orderer.

The Maliki jurists, however, regarded this form of murabaha as falling under *ʿīnah* transactions and as a form of selling what one does not possess, and therefore prohibited it. Ibn Rushd enumerated six prohibited forms, among them: "The fifth is that he says to him: 'Buy it for yourself for ten in cash, and I will purchase it from you for twelve on deferred payment.'"

In summary, the Malikis prohibited this transaction on the grounds that it constitutes selling what one does not possess, and they considered the promise to be a prearranged agreement to sell the commodity. Ibn Rushd al-Jadd stated: "This is because it involved a prior arrangement to sell it before it became obligatory upon the one commanded [to purchase], thereby falling under selling what one does not possess." Al-Shafiʿi, by contrast, permitted it on the condition that both parties retain the option (*khiyār*), as previously noted.

The Islamic Fiqh Council permitted this transaction at its Fifth Conference held in Kuwait from 1–6 Jumada al-Ula 1409 AH, corresponding to 10–15 December 1988 CE, through a resolution that stated:

a. Murabaha to the purchase-orderer, when conducted with respect to a commodity after it has entered into the ownership of the one ordered to purchase and after legally required possession has occurred, is a permissible sale, provided that liability for loss prior to delivery and responsibility for returning the commodity due to hidden defects or similar causes remain with the seller, and that the conditions of sale are fulfilled and its impediments removed.

b. A promise—issued unilaterally by either the orderer or the one ordered to purchase—is binding upon the promisor morally (*diyānah*) except in cases of excuse, and binding judicially (*qaḍā'an*) if it is contingent upon a cause and if the promisee has incurred expense as a result of the promise. In this case, the effect of bindingness is either the fulfillment of the promise or compensation for actual harm resulting from failure to fulfill it without excuse.

2. The Effect of *Talfiq* on the Ruling of Murabaha to the Purchase-Orderer. The aforementioned resolution of the Islamic Fiqh Council combines the Maliki view regarding the judicial enforceability of a binding promise—according to which fulfillment of a promise is required without dispute, though scholars differed regarding its enforceability in court, with four views reported by al-Hattab, the fourth being that it is enforceable if it is contingent upon a cause and the promisee has undertaken an obligation as a result of the promise, which is the well-known position—and the Shafiʿi view permitting murabaha as described above.

This combination constitutes *talfiq*, because al-Shafiʿi, who permitted murabaha, stipulated the condition of option (*khiyār*), whereas the Malikis, who held the promise to be judicially binding, did not permit murabaha in its stated form. The resulting fatwa thus permits murabaha to the purchase-orderer without an option, a position held by neither school, as explained. This represents a prohibited form of *talfiq*, because it leads to engaging in the sale of what one does not possess, which is prohibited. A binding promise effectively acquires the force of a contract, rendering the client obligated to complete the transaction; if he withdraws, he is compelled to pay compensation. Consequently, the contract concluded after ownership of the commodity is acquired becomes merely formal.

Conclusion

At the conclusion of this study, the following findings and recommendations may be summarized:

First: Findings

1. *Talfiq* in ijtihad—and, by extension, in fatwa issuance—refers to the exercise of ijtihad by one who possesses a degree of analytical engagement with juristic opinions, selecting from among the rulings of scholars that which is most appropriate to adopt, based on his ability to discern and weigh between them.
2. *Talfiq* in ijtihad and fatwa issuance is permissible subject to conditions, the most important of which are:
    - That it does not result in a violation of consensus.
    - That it is grounded in adherence to evidence.
    - That the mufti does not incline toward adopting weak opinions except in cases of necessity or compelling need.
    - That selection is not used as a stratagem to pursue personal interests out of desire, frivolity, or to appease rulers and influential figures.
3. *Talfiq* constitutes one of the methodological approaches employed to address unprecedented cases (*nawāzil*), subject to its conditions and regulatory constraints.

Second: Recommendations

1. The necessity of activating collective ijtihad at both the national and local levels in order to address complex unprecedented cases.
2. Further research into *talfiq* between the opinions of mujtahids where necessity provides justification, particularly with regard to the temporal framework governing the application of the resulting rulings.

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Conflict of Interest

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Endnotes

[i] Ibn Rushd states at the beginning of Bidayat al-Mujtahid, in the chapter on currency exchange (al-ṣarf):
"We composed this book only so that the jurist striving in this discipline (al-mujtahid fī hādhihi al-ṣināʿa) may, through it, attain the rank of independent reasoning (ijtihād), provided that he has previously acquired what he must acquire of a sufficient measure of knowledge in grammar, language, and the discipline of the principles of jurisprudence (uṣūl al-fiqh). From these, an amount equal to the size of this book—or less—suffices. By attaining this rank one is called a jurist (faqīh), not by merely memorizing juridical cases, even if their number reaches the utmost that a human being could possibly memorize. As we observe among the jurists of our time, they imagine that the most learned jurist is the one who has memorized the greatest number of cases. These have fallen into an error similar to that of one who thinks that the shoemaker is the person who possesses many shoes, rather than the one who is capable of making them. It is evident that the one who owns many shoes will be approached by someone with a foot for which none of his shoes fit, and he will necessarily resort to the shoemaker—the one who fashions for every foot a shoe that suits it. This, then, is the likeness of most jurists of our time."
See: Ibn Rushd al-Ḥafīd, Bidayat al-Mujtahid, vol. 3, pp. 210–211.
Cited by: ʿAbd Allāh ibn Bayyah, Ṣināʿat al-Fatwā wa Fiqh al-Aqalliyyāt (The Craft of Fatwā and the Jurisprudence of Minorities), p. 29.
Sources (authoritative):
Ibn Rushd (Averroes), Bidayat al-Mujtahid wa Nihayat al-Muqtasid, classical fiqh text.
[ii] ʿAbd Allāh ibn Bayyah, Ṣināʿat al-Fatwā wa Fiqh al-Aqalliyyāt, contemporary scholarly work on legal theory and fatwā methodology.
[iii] See: Ibn Manẓūr, Lisān al-ʿArab, entry: fatā, vol. 15, p. 148.
[iv] Muḥammad ibn Aḥmad al-Azharī, Tahdhīb al-Lugha, entry: fatā, vol. 14, p. 234.
[v] See also: ʿUmar Ḥusayn Ghazāy, Asbāb al-Khaṭaʾ fī Fatāwā al-Muʿāṣirīn (Causes of Error in Contemporary Fatwas), p. 19; and Muḥammad Yasrī Ibrāhīm, al-Fatwā: Ahamiyyatuhā, Ḍawābiṭuhā wa Āthāruhā (The Fatwa: Its Importance, Regulations, and Effects), pp. 22–23.
[vi] Al-Qarāfī, al-Furūq, vol. 4, p. 53.

[vii] Ibrāhīm al-Laqānī, Manār Uṣūl al-Fatwā wa Qawāʿid al-Iftāʾ bi-l-Aqwā (The Beacon of the Principles of Fatwa and the Rules of Issuing Fatwas According to the Stronger View), p. 231.
[viii] Kuwaiti Encyclopedia of Islamic Jurisprudence, vol. 32, p. 20.
[ix] Yūsuf al-Qaraḍāwī, al-Fatwā bayna al-Inḍibāṭ wa al-Tasayyub (The Fatwa between Discipline and Laxity), p. 11. Muḥammad Sulaymān al-Ashqar, al-Futyā wa Manāhij al-Iftāʾ (Fatwa and the Methodologies of Issuing Fatwas), p. 9. See: Muḥammad Sulaymān al-Ashqar, al-Futyā wa Manāhij al-Iftāʾ, p. 9; and ʿUmar Ḥusayn Ghazāy, Asbāb al-Khaṭaʾ fī Fatāwā al-Muʿāṣirīn (Causes of Error in Contemporary Fatwas), p. 21.
[x] Al-Khalīl ibn Aḥmad al-Farāhīdī, Kitāb al-ʿAyn, entry: lafaqa, vol. 5, p. 165.
[xi] Al-Jawharī, al-Ṣiḥāḥ: Tāj al-Lugha wa Ṣiḥāḥ al-ʿArabiyya, entry: lafaqa, vol. 4, p. 1550; and Ibn Manẓūr, Lisān al-ʿArab, entry: lafaqa, vol. 10, p. 330.
[xii] See: Kuwaiti Encyclopedia of Islamic Jurisprudence, vol. 13, p. 286.
[xiii] Saʿdī Abū Ḥabīb, al-Qāmūs al-Fiqhī (The Juridical Dictionary), p. 331.
[xiv] See: Kuwaiti Encyclopedia of Islamic Jurisprudence, vol. 13, p. 286.
[xv] See: Abū Bakr al-Kashnāwī, Ashal al-Madārik: Sharḥ Irshād al-Sālik, vol. 1, p. 423; Ibn ʿĀbidīn, Radd al-Muḥtār ʿalā al-Durr al-Mukhtār, vol. 3, p. 508; and al-Qarāfī, al-Dhakhīra, vol. 2, p. 359
[xvi] Jamāl al-Dīn al-Qāsimī, al-Fatwā fī al-Islām (The Fatwa in Islam), p. 170.
[xvii] al-Shāṭibī, al-Muwāfaqāt, vol. 5, p. 103.
[xviii] Among the cited examples is the following:
"If a Shāfiʿī mufti permits, for example, moving from the Mālikī school to the Shāfiʿī school, and he is asked about omitting rubbing (tadlīk) in ritual bathing (ghusl) by a Mālikī, then it is incumbent upon him not to permit it. This is because the prayer would become invalid for the Mālikī by consensus of the two imams: the Mālikī does not recite the basmala, so Mālik invalidates it due to the absence of rubbing, while al-Shāfiʿī invalidates it due to the absence of the basmala."
See: al-Qarāfī, al-Iḥkām fī Tamyīz al-Fatāwā ʿan al-Aḥkām (Distinguishing Fatwas from Judicial Rulings), p. 233.
[xix] See: the same source, p. 234.
[xx] Muḥammad Saʿīd al-Bānī, ʿUmdat al-Taḥqīq fī al-Taqlīd wa al-Talfīq (The Pillar of Verification on Taqlīd and Talfiq), p. 183.
[xxi] ʿAbd Allāh ibn Muḥammad al-Saʿīdī, al-Talfīq wa Ḥukmuh (Talfiq and Its Ruling) [article], p. 20.
[xxii] al-Tahānawī defined tarkīb (composition) as follows:
"Composition is synonymous with compilation; it is the bringing together of multiple things in such a way that the name of a single thing is applied to them."
See: al-Tahānawī, Kashshāf Iṣṭilāḥāt al-Funūn wa al-ʿUlūm, vol. 1, p. 423.
[xxiii] See: ʿIyāḍ al-Sulamī, Uṣūl al-Fiqh alladhī lā Yasaʿ al-Faqīh Jahluh (The Principles of Jurisprudence That a Jurist Cannot Be Ignorant Of), p. 491; and Muḥammad al-Duwaysh, al-Talfīq wa Mawqif al-Uṣūliyyīn minhu (Talfiq and the موقف of the Legal Theorists toward It), p. 245.
[xxiv] See: Muḥammad Saʿīd al-Bānī, ʿUmdat al-Taḥqīq fī al-Taqlīd wa al-Talfīq, p. 229.
[xxv] Muḥammad Saʿīd al-Bānī, ʿUmdat al-Taḥqīq fī al-Taqlīd wa al-Talfīq, pp. 138–139.
[xxvi] al-Zarkashī, al-Baḥr al-Muḥīṭ fī Uṣūl al-Fiqh, vol. 8, p. 242.
[xxvii] Al-Mourawî, The Sound Statement on Certain Issues of Ijtihad and Taqlid, p. 94.
[xxviii] See: Mohammad Saïd Al-Bânî, The Essential Investigation on Taqlid and Talfiq, pp. 235–238.
[xxix] Al-Dehlawî, Fairness in Explaining the Causes of Disagreement, p. 103.
[xxx] Al-Douweych, Talfiq and the Position of the Usulis Toward It, p. 245.
[xxxi] Al-Douweych, Talfiq and the Position of the Usulis Toward It, p. 185; see also: Sayyed Mohammad Moussa Tawanâ, Ijtihad and the Extent of Our Need for It in This Era, p. 548.
[xxxii] Mourtadâ Al-'Anzî, "Talfiq Between Jurisprudential Opinions" (article), https://www.alukah.net/sharia/0/121330/#ixzz5YtdWi5v6
[xxxiii] See: Al-Shawkânî, Guiding the Scholars, 1/229.
[xxxiv] Al-Āmidī, Al-Iḥkām fī Uṣūl al-Aḥkām, vol. 1, p. 268.
[xxxv] Al-Bājī, Iḥkām al-Fuṣūl fī Aḥkām al-Uṣūl, pp. 429–430.
[xxxvi] Al-Rahūnī, Tuḥfat al-Masʾūl fī Sharḥ Mukhtaṣar Muntahā al-Sūl, vol. 2, pp. 273–274.
[xxxvii] Al-Zarkashī, Al-Bahr al-Muhīt, vol. 6, p. 517.

[xxxviii] Al-Shawkānī, Irshād al-Fuḥūl, vol. 1, p. 229

[xxxix] He states toward the end of it:
Analogical reasoning (qiyās) would require giving precedence to the brother over the grandfather. However, what prevented us from adopting this view is that I found the scholars in disagreement unanimously agreeing that the grandfather, when inheriting alongside the brother, receives a share equal to or greater than his. Therefore, I could not oppose their consensus, nor follow analogy, since analogy would lead outside all of their opinions.
See: Al-Zarkashī, Al-Baḥr al-Muḥīṭ, vol. 6, p. 519

[xl] Al-Zarkashī, Al-Baḥr al-Muḥīṭ, vol. 6, p. 518.

[xli] With regard to the issue of the grandfather: if the Muslim community has agreed upon two opinions—namely, that he inherits independently or that he shares inheritance with the brother—then both groups agree that the grandfather is entitled to a portion of the estate. Consequently, the newly introduced opinion that he inherits nothing at all would constitute a violation of consensus (ijmāʿ).
See: Al-Āmidī, Al-Iḥkām fī Uṣūl al-Aḥkām, vol. 1, p. 269

[xlii] Among examples of this case: if some scholars hold that intention (niyyah) is required in all acts of purification, while others hold that it is not required in any of them, then a third opinion—namely, requiring intention in some acts of purification but not others—does not constitute a breach of consensus.
See: Al-Āmidī, Al-Iḥkām fī Uṣūl al-Aḥkām, vol. 1, p. 269

[xliii] Al-Rahūnī, Tuḥfat al-Masʾūl fī Sharḥ Mukhtaṣar Muntahā al-Sūl, vol. 2, p. 274.

[xliv] Al-Āmidī, Al-Iḥkām fī Uṣūl al-Aḥkām, vol. 1, p. 270.

[xlv] See: Ghāzī al-ʿUtaybī, Al-Talfīq bayna al-Madhāhib al-Fiqhiyyah wa-ʿAlāqatuhu bi-Taysīr al-Fatwā (Juristic Cross-School Synthesis and Its Relationship to Facilitating Fatwas), p. 17.

[xlvi] See: Al-Duwaysh, Al-Talfīq wa-Mawqif al-Uṣūliyyīn Minhu (Juristic Cross-School Synthesis and the موقف of Legal Theorists toward It), p. 184.

[xlvii] See: Al-Taqrīr wa-al-Taḥbīr, vol. 3, p. 345; see also Al-Mardāwī and Ibn Amīr Ḥājj, Al-Taḥbīr Sharḥ al-Taḥrīr, vol. 8, p. 4087; and see Ibn Taymiyyah, Majmūʿ al-Fatāwā, vol. 20, pp. 208–209.

[xlviii] Al-Mardāwī, Al-Taḥbīr Sharḥ al-Taḥrīr, vol. 8, p. 4086.

[xlix] Amīr Bād Shāh, Taysīr al-Taḥrīr, vol. 4, p. 247

[l] Ibn al-Qayyim, Iʿlām al-Muwaqqiʿīn, vol. 1, p. 238.

[li] See: Al-Shawkānī, Irshād al-Fuḥūl, vol. 2, p. 252.

[lii] See: Aḥmad Bey al-Ḥasanī, Tuḥfat al-Raʾy al-Sadīd al-Aḥmad, p. 67.

[liii] See: Al-Dihlawī, ʿAqd al-Jīd fī Aḥkām al-Ijtihād wa-al-Taqlīd (The Firm Bond Concerning the Rulings of Ijtihād and Taqlīd), p. 31.

[liv] Muḥammad ʿAllīsh, Fatḥ al-ʿAlī al-Mālik fī al-Fatwā ʿalā Madhhab al-Imām Mālik, vol. 1, p. 60.

[lv] Muḥammad ʿAllīsh, Fatḥ al-ʿAlī al-Mālik fī al-Fatwā ʿalā Madhhab al-Imām Mālik, vol. 1, p. 60.

[lvi] Jamāl al-Dīn Ibn al-Mibrad, Ghāyat al-Sūl ilā ʿIlm al-Uṣūl, p. 155.

[lvii] See: Al-Minyāwī, Al-Tamhīd, p. 129; and Al-Dihlawī, ʿAqd al-Jīd fī Aḥkām al-Ijtihād wa-al-Taqlīd, p. 31.

[lviii] See: Al-Shawkānī, Irshād al-Fuḥūl, vol. 2, pp. 252–254.

[lix] See: Al-Rahūnī, Tuḥfat al-Masʾūl fī Sharḥ Mukhtaṣar Muntahā al-Sūl, vol. 4, p. 302.

[lx] Al-Āmidī, Al-Iḥkām fī Uṣūl al-Aḥkām, vol. 4, p. 238

[lxi] Ibn al-ʿArabī, Aḥkām al-Qurʾān, vol. 2, p. 283.

[lxii] Yūsuf al-Qaraḍāwī, Fiqh al-Zakāh, vol. 1, p. 337.

[lxiii] Al-Bayhaqī, al-Sunan al-Kubrā, Book of Zakāh, Chapter: Debt together with Charity, ḥadīth no. 7608, vol. 4, p. 249.

[lxiv] See: Ibn Qudāmah, al-Mughnī, vol. 3, p. 68.

[lxv] Al-Bayhaqī, al-Sunan al-Kubrā, Book of Zakāh, Chapter: Debt together with Charity, ḥadīth no. 7610, vol. 4, p. 250..

[lxvi] See: Ibn al-ʿArabī, ʿĀriḍat al-Aḥwadhī, vol. 3, p. 143

[lxvii] Al-Kamāl Ibn al-Humām, Fatḥ al-Qadīr, vol. 2, p. 251.

[lxviii] See: Yūsuf al-Qaraḍāwī, Fiqh al-Zakāh, vol. 1, pp. 373–374.

[lxix] See: Ibn Manẓūr, Lisān al-ʿArab, entry: Ribḥ (Profit), vol. 2, pp. 442–443.

[lxx] Al-Manāwī, al-Tawqīf ʿalā Muhimmāt al-Taʿārīf, p. 302.
[lxxi] Sāmī Ḥammūd, Murābaḥah to the Purchase Orderer, Journal of the Islamic Fiqh Academy, no. 5, p. 1092.

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