

THE DYNAMIC FLUIDITY OF HANAFI JURISPRUDENCE IN ITS CONFORMITY WITH TEMPORAL AND SPATIAL CONTEXTS

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Abstract. This article investigates the inherent dynamism and fluidity of Hanafi jurisprudence in its capacity to accommodate varying temporal and spatial contexts. From its inception, the Hanafi school has been deeply intertwined with the socio-political, economic, and cultural developments of Muslim societies, consistently endeavoring to address evolving circumstances and respond to the exigencies imposed by changing times and environments.

Employing a descriptive-analytical methodology and drawing upon extensive library-based sources, this study seeks to elucidate how the Hanafi school, through its foundational principles and interpretive mechanisms, has successfully maintained an equilibrium between the permanence of scriptural injunctions and the evolving needs of society. Furthermore, it explores the extent to which this school of law has succeeded in adapting itself to diverse temporal and spatial conditions, thereby providing coherent responses to the complex and shifting demands of Muslim communities across different historical periods and regions.

The findings indicate that Hanafi jurisprudence, by emphasizing the purposive dimension of the law (*maqāṣid al-sharīʿa*) and employing principles such as *istiḥsān* (juristic preference), *qiyās* (analogical deduction), *ʿurf* (customary practice), and *maṣāliḥ mursala* (considerations of public interest), has succeeded in striking a sophisticated balance between the constancy of the textual sources and the variable exigencies of social life — particularly in critical domains such as commercial transactions, personal status law, and the organization of governance. Moreover, the problem-oriented methodology of Imam Abū Ḥanīfa, coupled with his systematic application of pragmatic rationality, has rendered the Hanafi school one of the most enduring and adaptable models of Islamic jurisprudence in responding to diverse civilizational contexts.

Keywords: Hanafi Jurisprudence, Fluidity, Maqāṣid-based Jurisprudence, Ijtihād, Contemporary Developments.

1. Introduction

Islamic jurisprudence (*fiqh*) has consistently been regarded as one of the most challenging and, at the same time, most dynamic domains of religious knowledge. This field, which has historically been situated within the fabric of social, political, economic, and cultural transformations of Muslim societies, requires a degree of flexibility and fluidity that enables it to respond to emerging issues and problems.

Among the schools of jurisprudence, the Ḥanafī school, due to its distinctive approach to legal reasoning and its utilization of principles such as analogical reasoning (*qiyās*), juristic preference (*istiḥsān*), and the recognition of custom, is recognized as one of the most comprehensive and flexible schools.

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In the contemporary era, scientific advancements, modern technologies, and the complexity of social relations necessitate a reconsideration of methods of juristic reasoning. As a comprehensive system for regulating individual and social relations among Muslims, Islamic jurisprudence has historically faced the challenge of adapting to changing temporal and spatial conditions. In this regard, the Ḥanafī school, as a deeply rooted system in the history of Islamic jurisprudence, has demonstrated, through its capacity to incorporate custom, public interests (*maṣāliḥ mursala*), and the use of *qiyās* and *istiḥsān*, a model of flexibility and adaptability. This has led many Muslim societies, across diverse geographical and temporal contexts, to adopt this school.

The characteristic of juridical fluidity within the Ḥanafī school constitutes a turning point that allows legal rulings to adapt to changing circumstances without compromising fundamental principles and Islamic identity. This feature not only prevents stagnation in jurisprudence but also facilitates the preservation of the vitality of religion across various domains and contributes to strengthening the structure of Islamic law in both the present and the future (Kamali, 2003: 4).

The present study aims, through an analytical-comparative approach, to examine comprehensively the characteristic of fluidity in Ḥanafī jurisprudence by analyzing its principles and methodologies, including *qiyās*, *istiḥsān*, and *urf*. Despite the passage of centuries since the emergence of the schools of jurisprudence, a fundamental question remains: can existing legal schools, including the Ḥanafī school, adequately address the emerging issues of the modern world?

One of the major concerns of Islamic thinkers in recent centuries has been the capacity of *fiqh* to respond to new issues (Salmani Izadi, 2004).

On the one hand, rigidity in some legal schools has slowed intellectual development; on the other hand, excessive modernism poses the خطر of detachment from the principles of Sharīʿa.

It appears that the fluidity of Ḥanafī jurisprudence is grounded in flexible mechanisms of *ijtihād*, such as *qiyās*, *istiḥsān*, *urf*, and *maṣlaḥa*, which allow adaptation without violating the general principles of Sharīʿa (Salmani Izadi, 2004).

Ḥanafī jurisprudence, founded by Imām Abū Ḥanīfa al-Nuʿmān ibn Thābit (may God have mercy on him), became distinguished from other schools due to its specific methodology in legal derivation. This methodology, based on rationality, extensive use of analogy, attention to custom, and juristic preference, has endowed the school with a high degree of flexibility. This issue stems from two fundamental necessities: first, rapid transformations in cultural, economic, political, and social spheres require new—and sometimes different—legal responses; second, the necessity of preserving the authenticity and stability of legal foundations to prevent arbitrary and unscientific changes.

This duality poses a serious challenge for jurists and legal scholars: how can jurisprudence remain flexible while being protected from inconsistency and instability in legal opinions?

Therefore, it is essential to examine deeply and comprehensively the instruments of flexibility in Ḥanafī jurisprudence, such as *qiyās*, *istiḥsān*, *maṣāliḥ mursala*, and *urf*, which are considered fundamental pillars of its dynamism. Accordingly, the study begins with conceptual clarification, proceeds to examine the importance of dynamism in Ḥanafī jurisprudence, analyzes

its tools of flexibility, presents practical manifestations of this dynamism, and concludes with findings and recommendations.

2. Conceptual Clarifications

Despite the expansion of civilizations and transformations in social, economic, and medical structures in the contemporary world, Islamic jurisprudence has consistently relied on dynamic interpretive principles to understand and reconstruct itself. Among the four major Sunni schools, the Ḥanafī school has been renowned for its rationality, innovation, and adaptability to the demands of time. This is due to its reliance on tools such as *qiyās*, *istiḥsān*, *ʿurf*, and, at a deeper level, consideration of public interests (Hallaq, 2007: 32).

Imām Abū Ḥanīfa and his students, such as Abū Yūsuf and Muḥammad ibn al-Ḥasan al-Shaybānī, were among the first to attempt to harmonize immutable principles of Sharīʿa with the realities of urban societies and complex socio-economic relations (Hallaq, 2007: 38). In fact, *ijtihād* in the Ḥanafī school was not limited to *qiyās* but also employed *istiḥsān* and custom to resolve practical difficulties. This contributed to the widespread adoption of the school in regions such as Central Asia, the Indian subcontinent, and the Ottoman domains (al-Qaraḍāwī, 1412 AH: 22).

2.1. The Nature of Fiqh and Its Position within the System of Sharīʿa

Linguistically, *fiqh* has two meanings: general understanding (whether deep or superficial) and understanding the intent of the speaker. In the terminology of *uṣūl al-fiqh*, it refers to knowledge of practical subsidiary legal rulings derived from detailed evidences (Fayeq, citing Ibn ʿĀbidīn, 2015: 14). In other words, *fiqh* is the body of rules derived through juristic effort from legal evidences. Therefore, *fiqh* is the science that regulates the relationship of humans with God, themselves, and others within the framework of divine law.

2.2. Definition of Sharīʿa as the Conceptual Foundation of Fiqh

Linguistically, *Sharīʿa* means a straight path, a way leading to water, the beginning of something, or manifestation (Fayeq, 2015: 24). Technically, it refers to the rulings revealed by God through the Qurʾān and the Sunnah (verbal, practical, and tacit). In other words, *Sharīʿa* consists of general principles derived from definitive texts, aimed at achieving public welfare (al-Qaraḍāwī, 1412 AH: 18).

The fundamental difference between *Sharīʿa* and *fiqh* is that *Sharīʿa* consists of fixed and eternal principles, whereas *fiqh* represents the interpretation and application of those principles in changing contexts (Hallaq, 2007: 44).

2.3. The Concept of Juristic Fluidity

Dynamism in jurisprudential discourse refers to the ability of *fiqh* to adapt to temporal and spatial conditions. In Ḥanafī sources, this principle is reflected in maxims such as “legal rulings do not remain unchanged with the change of time” and “custom is authoritative.”

Fluidity (*flexibility*) refers to the structural adaptability of jurisprudence in addressing new issues without violating the principles of *Sharīʿa* (Kamali, 2003: 75). Wahbah al-Zuhaylī emphasizes that flexibility in legislation has been the key to the survival of Islamic civilization.

Contemporary scholars distinguish between legitimate flexibility and excessive modernism: the former adapts fixed principles to new realities, while the latter may disregard foundational norms (al-Qaraḍāwī, 1412 AH: 65).

3. The Importance of Flexibility in the Ḥanafī School

Given the rapid developments in artificial intelligence, medical sciences, modern economics, information technologies, and even international relations, Islamic jurists—and by extension, the institution of Islamic jurisprudence—require an approach capable of deriving practical and implementable rulings from the ثابت principles of Sharīʿa. The regulation of constant norms within changing realities, and the manner in which textual sources engage with evolving contexts across time and space, constitutes the fundamental function and philosophy of *fiqh*. In this regard, the experience of the Ḥanafī school, which is grounded in dynamic tools and adaptive principles, represents one of the most successful models in this domain (Fīrāhī, 2010: 230).

For example, in issues such as organ transplantation, abortion, or digital currencies, Ḥanafī jurisprudence can formulate contemporary rulings through a combination of *qiyās*, *istiḥsān*, *maṣāliḥ mursala*, and *ʿurf*, without undermining the ثابت principles of Sharīʿa (al-Qaraḍāwī, 1412 AH: 135).

The characteristic of flexibility in Ḥanafī jurisprudence is not merely an abstract شعار, but rather a historical and practical reality that has played a central role in the political, economic, and social transformations of Muslim societies—particularly within Islamic civilization. The author seeks to examine the importance of this feature through three key dimensions: philosophical-theoretical, socio-functional, and legal-functional in the contemporary era.

3.1. The Rational Orientation of Ḥanafī Jurisprudence

One of the most fundamental distinguishing features of the Ḥanafī school, compared to some other schools, is its emphasis on rationalism and the active use of *qiyās* and *istiḥsān* as advanced tools of *ijtihād*. Abū Ḥanīfa, at a time when *uṣūl al-fiqh* had not yet been formally systematized, effectively constructed an interpretive system in which *qiyās*, *istiḥsān*, *maṣāliḥ mursala*, and *ʿurf* were integrated within a coherent logical framework.

This rational structure established flexibility as one of the essential pillars of Ḥanafī jurisprudence. Historical evidence indicates that even the direct students of Abū Ḥanīfa—such as Abū Yūsuf and Muḥammad al-Shaybānī—applied these principles in their roles as chief judges (*qāḍī al-quḍāt*) in legislative and judicial processes (Hallaq, 2007: 35).

Such a theoretical foundation ensured that Ḥanafī jurisprudence did not fall into rigidity in the face of social changes and emerging structures, but rather retained continuous adaptability to the demands of time (Ahmadi, 2022: 57–76).

3.2. Preserving the Coherence of Sharīʿa with Social Transformations

As previously explained, the feature of flexibility in the Ḥanafī school prevents conflicts between legal rulings and social transformations or modern technologies, providing a framework in which immutable principles are implemented within changing forms.

The well-known maxim “legal rulings are not denied to change with the change of time and circumstances” (*lā yunkar taghayyur al-aḥkām bi taghayyur al-azmān wa al-aḥwāl*) is one of the clearest foundational evidences of flexibility in Ḥanafī jurisprudence. This principle implies that a Ḥanafī jurist never considers rulings as absolute and static; rather, they are reinterpreted in light of customary changes, public needs, and contextual demands.

For instance, during the Abbasid period, many rulings related to transactions, taxation, and judicial procedures were redefined based on this principle. This adaptive capacity highlights the distinctive feature of the Ḥanafī school compared to more literalist schools (Hallaq, 2007: 42).

3.3. Engagement with Custom and Social Practices

Custom (*ʿurf*) is one of the most important tools for aligning certain legal rulings with temporal and spatial conditions. A common critique raised today is that Islamic rulings belong to 1,500 years ago and are fixed and unchangeable; therefore, how can such rulings address contemporary problems?

In response, it must be stated that while the essence of Islam is ثابت and immutable, its juristic rulings are flexible and adaptable. This is because the core of religion pertains to ثابت realities, whereas practical rulings relate to matters inherently subject to change.

Custom serves as a crucial bridge between ثابت religious principles and social transformations (Salmani Izadi, 2004). The principle “custom is authoritative” (*al-ʿāda muḥakkama*) holds a central position in Ḥanafī jurisprudence (Ibn Nujaym). According to this principle, valid custom is considered legally binding, especially in areas such as contracts, guarantees, and new transactions.

For example, in lease and sale contracts, custom determines implicit conditions and contractual meanings (*al-Kāsānī*). Some later Ḥanafī jurists even stated that if custom contradicts apparent analogy, preference may be given to custom in many cases (*al-Qaraḍāwī*).

3.4. Openness of the Gate of Ijtihād

Abū Ḥanīfā adopted a rational-analogical approach as the foundation of his legal reasoning to answer questions lacking explicit textual evidence (Baluchzahi et al., 2018). Contrary to the claim of the “closure of the gate of *ijtihād*,” the Ḥanafī tradition preserved its continuity (Hallaq, 2007: 40).

3.5. Protection of Public Interests

Ḥanafī jurisprudence prioritizes the objectives of Sharīʿa—such as the protection of life, intellect, religion, lineage, and property—over rigid literalism.

3.6. Adaptability to Modern Legal Systems

The Ottoman experience demonstrates the practical application of Ḥanafī flexibility, particularly through the codification known as *Majallat al-Aḥkām al-ʿAdliyya*, where legal rulings were adapted to contemporary conditions.

4. Structural Instruments of Flexibility in Ḥanafī Jurisprudence

The dynamism of Ḥanafī jurisprudence is not merely a theoretical claim; rather, within its practical framework, a set of methodological instruments has been developed that enable this school to respond effectively to social needs and continuous transformations across diverse temporal and spatial contexts. Among these, four principal tools—*qiyās* (analogical reasoning), *istiḥsān* (juristic preference), *ʿurf* (custom), and *maṣāliḥ mursala* (unrestricted public interests)—have played the most significant role. Each of these instruments possesses extensive theoretical and practical foundations within the literature of *uṣūl al-fiqh* as well as in the legal opinions (*fatāwā*) of Ḥanafī jurists. In the following, each of these tools will be examined in detail.

4.1. Qiyās: The Rational Pillar of Legal Development

Linguistically, *qiyās* means “measurement” or “comparison.” In the terminology of *uṣūl al-fiqh*, it refers to the extension of a ruling from an original case (*aṣl*) to a new case (*farʿ*) due to a shared effective cause (*ʿillah*) between them. The essential elements of *qiyās* consist of the original case, the new case, the effective cause of the ruling, and the ruling of the original case.

Numerous examples of *qiyās* can be found in Ḥanafī legal literature. For instance, regarding the prohibition of conducting a sale over the sale of another person or proposing marriage over another’s proposal, a Prophetic ḥadīth explicitly states:

“A believer is the brother of another believer; therefore, it is not lawful for a believer to outbid the sale of his brother, nor to propose marriage over his brother’s proposal until he withdraws.”

The implication of this ḥadīth is that both practices—selling over another’s sale and proposing over another’s proposal—are prohibited, and the underlying cause is the violation of others’ rights. However, there is no explicit textual evidence regarding renting over another person’s rental agreement. Consequently, the latter case is analogically extended (*qiyās*) from the former, since both share the same underlying cause. Therefore, the ruling of prohibition is extended to renting over another’s rental as well (Nazir, 2017: 58).

Based on the above explanation of the function of *qiyās*, it should be emphasized that analogy is a central instrument in deriving legal rulings. Imām Abū Ḥanīfa considered *qiyās* as one of the primary means for the development of legal rulings in the absence of explicit textual evidence (*naṣṣ*). For example, the extension of the prohibition of wine to modern narcotic substances is carried out on the basis of analogy. As the foundation of *ijtihād* in the absence of textual evidence, *qiyās* occupies a central position in the methodology of Abū Ḥanīfa (Fayeq, 2015: 299).

The extension of rulings through similarity enables the application of established legal principles to new issues. Wahbah al-Zuhaylī argues that without *qiyās*, jurisprudence would lose its functionality; therefore, in the Ḥanafī school, analogy serves as the primary mechanism for the expansion of *fiqh* and for responding to emerging needs (al-Zuhaylī, 1406 AH: 1335).

Unlike the Zāhirī school, Ḥanafī jurisprudence regards *qiyās* as an integral component of *ijtihād*. However, despite its advantages, some classical and modern critics argue that excessive reliance on analogy may, in practice, amount to a form of تشبه-legislation, thereby blurring the boundary between revealed text and personal reasoning. In other words, if the effective cause (*ʿillah*) is not accurately identified, analogical rulings may lead to error.

Moreover, Shāfiʿī jurists, drawing upon the position of Imām al-Shāfiʿī, maintain that *qiyās* is permissible only in the absence of textual evidence and strongly oppose its excessive expansion.

They argue that the Ḥanafī approach has, in certain cases, led to ambiguity and multiplicity of opinions.

Nevertheless, what safeguards Ḥanafī analogy from deviation is its integration with complementary principles such as *istiḥsān* and *ʿurf*. This means that when analogy produces imbalanced or unjust outcomes, a Ḥanafī jurist is permitted to abandon it in favor of juristic preference or local custom (Qaradāwī, 2015: 265). It is precisely this methodological integration that constitutes the principal strength of flexibility in Ḥanafī jurisprudence.

4.2. Istihsān: Justice-Oriented Reasoning in the Derivation of Legal Rulings

Linguistically, *istihsān* means “to deem something good” or “to consider something preferable.” In the terminology of Ḥanafī legal theory, it refers to abandoning a particular application of analogy (*qiyās*) due to the presence of a stronger and more compelling evidence. In other words, it is the departure of the jurist (*mujtahid*) from a general ruling to an exceptional one based on a proof that he finds more convincing and upon which he has developed firm confidence (Fayeq, 2015: 310).

Imām Abū Ḥanīfa and his students regarded *istihsān* as a mechanism for preventing unjust or inequitable outcomes that might arise from strict analogical reasoning in particular cases. Thus, *istihsān*—which may be described as the application of reasoning contrary to the ظاهر (apparent implication) of analogy—constitutes a form of *ijtihād* involving a choice between two rulings, wherein the jurist, based on a precise understanding of the circumstances, selects the more appropriate one.

From the perspective of Ḥanafī jurisprudence, *istihsān* serves as a means of avoiding the rigidity of pure analogy and facilitates access to more equitable and practical rulings. While preserving the general framework of Sharīʿa, this principle enables the law to adapt to new circumstances. As such, *istihsān* represents the second major instrument of dynamism in Ḥanafī jurisprudence and signifies the abandonment of ظاهر analogy in favor of a stronger justification.

A well-known example of *istihsān* in Ḥanafī jurisprudence is the case of renting public bathhouses (Fellahi & Masjedsaraei, 2020). According to strict analogy, the rental fee should be determined in advance of use; however, in practice, this is often not feasible. Therefore, Ḥanafī jurists, through *istihsān*, permitted the fee to be calculated based on duration of use and prevailing custom. Al-Qaraḍāwī regards this function of *istihsān* as ensuring practical justice and removing hardship (al-Qaraḍāwī, 1412 AH: 53). Similarly, Mohammad Hashim Kamali notes that *istihsān* in Ḥanafī jurisprudence operates precisely where textual sources and general analogy fail to secure real justice and public interest (Kamali, 2003: 248).

This tool ensures the necessary flexibility in many particular cases. Its central function is to prevent the rigidity of strict analogy and to adjust legal rulings in accordance with the real مصالح (interests) of people. For instance, if analogy in a particular case leads to the invalidity of a transaction that is widely accepted in customary practice and essential for people’s needs, a Ḥanafī jurist may resort to *istihsān* to validate that transaction.

Despite its importance, *istihsān* has also been subject to criticism. One of the primary concerns is the potential for misuse and the subjectivity of legal opinions, which could lead to instability and inconsistency in rulings. Additionally, the absence of precise criteria for distinguishing legitimate *istihsān* from arbitrary reasoning is considered a critical issue. These concerns appear justified, as the boundary between “rational *istihsān*” and mere personal opinion is not always entirely clear.

Ḥanafī jurists have addressed these critiques by emphasizing that *istihsān* is not an unrestricted or arbitrary principle; rather, it operates strictly within the framework of analogy and textual evidence, serving as an exception mechanism to preserve the higher objectives of Sharīʿa (Hallaq, 2007: 69). For this reason, *istihsān* in Ḥanafī jurisprudence is typically accompanied by specific conditions and معتبر evidences, and its excessive use is rare.

In conclusion, although some legal schools have regarded *istihsān* as an innovation (*bid'a*), in practice it functions as a safeguard for achieving real public interest in the face of changing temporal and spatial conditions—provided that its *اصولی* framework is maintained. This juristic tool allows the scholar to depart from analogy when it leads to unjust or inequitable outcomes and to issue a ruling that better fulfills justice and welfare. Consequently, *istihsān* has enabled Hanafi jurisprudence to demonstrate greater flexibility and adaptability in areas such as judicial practice, transactions, and social issues, and to avoid the impasses resulting from rigid and purely formal analogical reasoning.

4–3. Custom ('*urf*) and Social Practice: The Reflection of Culture in Jurisprudence

Linguistically, '*urf* refers to something that people accept and habitually practice (Khudari Bek, 1387/2008, p. 281). In the terminology of *uṣūl al-fiqh*, custom ('*urf*) denotes the commonly accepted practices and norms of people within a specific time and place, which—provided they do not contradict the Sharia—may serve as a source for legal inference.

In Hanafi jurisprudence, '*urf* is regarded as an independent evidentiary basis in deriving legal rulings. Thus, if a matter is accepted within prevailing custom, its legal validity is likewise recognized unless there exists a clear textual proof (*naṣṣ*) to the contrary. This approach has rendered Hanafi fiqh closely aligned with the lived realities of society and has enabled it to function as a dominant legal framework across diverse regions and cultures.

Unlike more restrictive schools such as the Zāhirī school, the Hanafi school formally recognizes custom and, in many areas of transactional law, treats it as an interpretive tool for contracts and agreements (Kamali, 2003, p. 252). The legal maxim "*al-ʿādah muḥakkamah*" (custom is authoritative) is not merely a subsidiary rule in the Hanafi tradition, but rather a principal instrument for interpreting legal texts within their socio-cultural context.

The utilization of custom allows the Hanafi jurist to harmonize general legal rulings with changing circumstances. For instance, in contemporary financial transactions or partnership contracts, where no explicit textual evidence exists, prevailing market customs serve as the primary criterion for interpretation and application.

Nevertheless, some later jurists have cautioned that excessive reliance on custom may lead to uncritical conformity rather than its reform, thereby conflicting with the primary objective of the Sharia in the moral refinement (*tazkiyah*) of society. Despite this concern, the proper application of custom in Hanafi jurisprudence remains consistently conditioned upon its non-contradiction with definitive textual sources. Hanafi jurists have explicitly stated: "*al-ʿurf muḥakkam mā lam yuʿarīḍ naṣṣan*" (custom is authoritative so long as it does not conflict with a valid text) (Ibn ʿĀbidīn, vol. 2, p. 512). This restriction constitutes the most important rational safeguard ensuring that custom serves the dynamism of Islamic law without undermining its foundational principles.

One of the most significant advantages of recognizing custom is the flexibility it provides in accommodating cultural diversity and evolving social conditions. Custom enables the incorporation of local and geographical differences in the implementation of legal rulings, thereby preventing rigid and unrealistic uniformity in legal application. For example, in matters such as the organization of pilgrimage rituals, local transactions, or the regulations governing inheritance and marriage, custom allows jurists to tailor rulings according to the specific conditions and social

contexts of each community, without compromising the overarching principles of the Sharia (Kazemi & Mohammadi, 1398/2019).

The application of *urf* in Hanafi jurisprudence is manifested in numerous areas, including:

Determining the scope and manner of executing contracts and transactions; Defining the conditions and requirements of marriage and divorce; Establishing financial and legal standards in judicial proceedings and Regulating the legal boundaries and conditions of social and economic affairs.

4–4. Maṣāliḥ Mursalah: Flexibility in the Absence of Explicit Text

The term *maṣlahah* (plural: *maṣāliḥ*) linguistically denotes benefit, welfare, or that which secures advantage and prevents harm. Any matter that entails the attainment of benefit or the prevention of harm is considered a *maṣlahah*. From a juristic perspective, some interests have been explicitly recognized by the Lawgiver (*Sharīʿah*), others explicitly rejected, and a third category—neither explicitly affirmed nor negated—is referred to as *maṣāliḥ mursalah* (unrestricted public interests) (Fayeq, 2015: 315).

Although the Ḥanafīs did not employ *maṣāliḥ mursalah* as extensively as the Mālikīs, they nonetheless incorporated considerations of public interest within the frameworks of *qiyās* (analogy) and *istiḥsān* (juristic preference) (al-Qaraḍāwī, 1412 AH: 65). Particularly in novel issues where no direct textual evidence exists, the Ḥanafī jurist may derive rulings through *istiṣlāḥ* (consideration of public welfare).

Practical manifestations of *maṣāliḥ mursalah* can be observed in contemporary issues such as modern taxation systems, Islamic banking, and insurance mechanisms. In such cases, Ḥanafī jurists, guided by considerations of public welfare and the removal of hardship, have recognized the legitimacy of many contemporary contractual forms.

4–5. Interaction of Legal Tools: An Integrated and Coherent Structure

A distinctive strength of the Ḥanafī school lies in its integrative use of juristic tools, rather than employing them in isolation. *Qiyās* and *istiḥsān* often function as complementary mechanisms; *urf* may serve as a basis for departing from strict analogy; and *maṣāliḥ mursalah* provides the overarching framework that legitimizes this process.

This interconnected and systemic structure transforms Ḥanafī fiqh from a static legal system into a dynamic, responsive, and adaptive one. However, it must be emphasized that despite their considerable flexibility, these tools require a well-defined methodological framework to prevent interpretive deviation and misuse.

In sum, the instruments of *qiyās*, *istiḥsān*, *urf*, and *maṣāliḥ mursalah* constitute the structural pillars of dynamism within Ḥanafī jurisprudence. Through these mechanisms, the Ḥanafī school has successfully maintained its relevance and adaptability across diverse historical contexts.

This capacity becomes even more evident in the subsequent discussion on the role of the objectives of the Sharīʿah (*maqāṣid al-sharīʿah*) in shaping the dynamism of Ḥanafī fiqh.

5. The Utilization of Maqāṣid-Oriented Jurisprudence and Its Impact on the Dynamism of Ḥanafī Fiqh

Maqāṣid-oriented jurisprudence (*fiqh al-maqāṣid*) has emerged in recent decades as a significant intellectual trend in Islamic legal theory, emphasizing the understanding of the ultimate

objectives and purposes of the Sharīʿah and their application to contemporary conditions. Despite its historical antiquity, the Ḥanafī school possesses substantial inherent capacity in this regard; through methodological tools such as *qiyās* (analogy) and *istiḥsān* (juristic preference), it has consistently preserved the objectives of the Sharīʿah across centuries. This section examines how Ḥanafī jurists have employed this approach and its implications for the flexibility of their legal system.

The *maqāṣid al-sharīʿah*—namely the preservation of religion, life, intellect, lineage, and property—provide a goal-oriented framework for legal reasoning. Abū Zahrah emphasizes that in the absence of explicit textual evidence (*naṣṣ*), the *mujtahid* must derive rulings in light of these overarching objectives (Abū Zahrah, 1975: 127). This perspective establishes a foundational basis for juristic flexibility. Contemporary Ḥanafī scholars widely maintain that neglecting the objectives of the Sharīʿah leads to legal rigidity, whereas attention to them enables the adaptation of fiqh to the modern world.

5–1. The Position of Maqāṣid al-Sharīʿah in Ḥanafī Ijtihād

In its precise sense, maqāṣid-oriented jurisprudence seeks to derive legal rulings based on the purposes and welfare considerations underlying the Sharīʿah, paying attention not only to the outward form of the texts but also to their spirit and philosophical foundations (Abū Zahrah, 1975: 127). This approach is particularly discernible in Ḥanafī jurisprudence, as Imām Abū Ḥanīfah and his disciples, through the use of *istiḥsān* and welfare-oriented *qiyās*, endeavored in practice to formulate rulings that preserve the essential interests of social life (al-Kāsānī, 1324 AH: 80).

This orientation endowed Ḥanafī fiqh with a high degree of flexibility, enabling it to respond effectively even to novel issues such as complex commercial transactions and evolving social conditions. In essence, the principle of safeguarding public welfare (*ḥifẓ al-maṣāliḥ*) constitutes one of the foundational bases for the adaptability of Ḥanafī jurisprudence to changing circumstances. The preservation of the five essential objectives (*al-maqāṣid al-khamsah*: religion, life, intellect, lineage, and property) serves as a central guiding framework within the Ḥanafī methodology (al-Qaradāwī: 25).

This maqāṣid-based orientation, when combined with the aforementioned juristic tools, protects Ḥanafī fiqh from rigid textualism. One of the most significant features of this approach is its recognition of the gradual and context-sensitive application of rulings. In other words, legal rulings are not treated as static and immutable in their application, but rather are subject to adjustment in accordance with specific circumstances and the changing conditions of time and place.

Ibn ʿĀbidīn explicitly states: “*al-aḥkām tanzil ʿalā al-waqāʾiʿ bi-ḥasabi ikhtilāf al-azminah wa al-aḥwāl*”—“legal rulings are applied to cases in accordance with differences in times and circumstances” (Ibn ʿĀbidīn, 1252 AH: 5). This principle plays a pivotal role in sustaining the vitality of fiqh and ensuring its responsiveness to everyday human needs.

5–2. The Principle of the Change of Rulings with the Change of Time

A clear manifestation of juristic flexibility is the transformation of legal rulings in response to new circumstances. For example, during the early period of Islam, complex banking contracts did not exist; however, Ḥanafī jurists, by understanding public welfare and preserving the

objectives of the Shari‘ah, have developed legal frameworks for modern financial transactions that ensure the prohibition of *ribā* (usury) while maintaining necessary flexibility.

Similarly, in medical issues such as abortion, Ḥanafī jurists have issued context-sensitive rulings based on temporal conditions and advancements in medical science, all within the framework of the objectives of the Shari‘ah (Qaraḍāwī, 2010: 708). This demonstrates the capacity of Ḥanafī fiqh to evolve in response to scientific and social developments without compromising its foundational principles.

5–3. The Existence of General Legal Maxims

Ḥanafī jurisprudence ensures its adaptability through reliance on universal legal maxims such as “*al-ḍarar yuzāl*” (“harm must be eliminated”) and “*al-mashaqqah tajlib al-taysīr*” (“hardship brings about facilitation”). These principles empower the jurist to issue rulings that promote welfare and remove harm in situations where explicit textual evidence is absent or where circumstances have significantly changed.

Accordingly, maxims such as “*al-ḍarūrāt tubīḥ al-maḥzūrāt*” (“necessities permit prohibitions”) provide a juristic foundation for issuing rulings appropriate to states of necessity, thereby legitimizing exceptional decision-making under such conditions (Qaraḍāwī, 2015: 710).

This methodological framework ensures a coherent integration of text and reason, tradition and innovation, and stability and transformation—an integration that is particularly crucial in addressing contemporary legal and medical challenges.

In conclusion, maqāṣid-oriented jurisprudence, as a central pillar of the dynamism of Ḥanafī fiqh, has effectively ensured the system’s capacity for flexibility and responsiveness to change. This approach not only presents the Ḥanafī school as a living and evolving legal tradition, but also provides a robust foundation for its application to contemporary issues (Zaydān, 2016: 40).

6. Manifestations of the Dynamism of Ḥanafī Fiqh in Contemporary Issues

With the rapid expansion of medical sciences, technology, modern economics, and increasingly complex social transformations, new challenges have emerged within the domains of Islamic jurisprudence and law. These challenges range from issues such as organ transplantation and abortion to Islamic banking, insurance, digital currencies, and artificial intelligence. Owing to its inherent flexibility and adaptive juristic tools, Ḥanafī fiqh has been recognized as a leading school in addressing such emerging issues. The following subsections provide a detailed analytical account of these applications.

6–1. The Legitimacy of Organ Transplantation

One of the most significant contemporary medical issues discussed in Islamic jurisprudence is organ transplantation. Although it is not explicitly addressed in the primary textual sources, Ḥanafī jurists, through a maqāṣid-oriented approach and the application of *istiḥsān*, have sought to balance the sanctity of the human body—particularly the inviolability of the corpse—with the overriding interest of preserving human life.

Wahbah al-Zuhaylī maintains that considerations of public welfare and the preservation of life justify organ transplantation (al-Zuhaylī, 1406 AH: 284). This position, aligned with modern medical standards, represents a clear example of the flexibility of fiqh and its capacity to adapt to contemporary exigencies.

6–2. Abortion

Abortion constitutes one of the most sensitive and complex issues in contemporary jurisprudence. Within the Ḥanafī school, and in light of the principles of preserving life and balancing competing interests, abortion is generally prohibited after the stage of *ensoulment* (*nafkh al-rūh*). However, prior to this stage, certain exceptions are recognized under specific conditions.

Ḥanafī jurists hold that in cases where the mother's life is at risk, abortion before ensoulment may be permitted based on the objective of preserving life (*hiḏ al-naḑs*). This position has been emphasized by contemporary scholars such as al-Qaraḏāwī. Such a flexible interpretation reflects a nuanced consideration of competing interests and demonstrates the capacity of Ḥanafī fiqh to address modern medical dilemmas without resorting to rigid formalism (Qaraḏāwī, 2015: 271).

6–3. Genetic Therapies

With the advent of modern technologies such as genetic engineering, Ḥanafī jurisprudence has sought to regulate their use through established juristic tools like *qiyās* and *istiḥsān*. Genetic therapies that contribute to the improvement of human health and the protection of future generations are generally considered permissible under the objective of preserving lineage (*hiḏ al-naṣl*), provided that ethical and Sharī'ah-based boundaries are observed (al-Zuḥaylī, 1406 AH: 476). Accordingly, the use of genetic treatment to prevent hereditary diseases may be deemed acceptable within Ḥanafī fiqh, subject to the condition that it does not harm future generations.

This demonstrates that the dynamism of Ḥanafī jurisprudence enables a principled assessment of emerging biomedical technologies within the framework of *maqāṣid*.

6–4. Islamic Banking and Contemporary Financial Transactions

Due to its reliance on tools such as *qiyās* and *istiḥsān*, Ḥanafī fiqh has shown a relatively greater capacity to respond to the complexities of Islamic banking, modern financial contracts, and innovative economic instruments. The avoidance of *ribā* (usury) and the realization of justice in transactions constitute central priorities within this school.

Consequently, the use of participatory contracts such as *muḏārabah*, *mushārahah*, *murābahah*, and even Islamic financial securities aligns with Ḥanafī legal reasoning and has gained significant prominence in the financial markets of Muslim-majority countries. These instruments have provided the foundational structure for interest-free banking systems (Ansari, 2010: 46).

6–5. Insurance and Modern Financial Protection Systems

Insurance, conceptualized in Islamic jurisprudence as *takāful*, requires careful juristic analysis. Ḥanafī jurists, emphasizing the principles of harm removal and the protection of public welfare, have developed legitimate frameworks for insurance contracts by drawing upon *maqāṣid*-based reasoning and customary practices (Qaraḏāwī, 2015: 210).

Takāful, as a cooperative financial mechanism, has been widely accepted among Ḥanafī scholars and represents a clear instance of the adaptation of fiqh to contemporary needs.

Furthermore, contemporary Ḥanafī jurists, invoking principles such as the removal of hardship, have extended permissibility to certain forms of modern insurance.

6–6. Digital Currencies and Emerging Juristic Challenges

One of the most significant contemporary developments of the twenty-first century is the emergence of digital currencies and cryptocurrencies. In this domain, Ḥanafī jurisprudence, relying on *qiyās* and *maṣāliḥ mursalah*, is actively examining the legal implications of their use and exchange.

Although a comprehensive and definitive juristic position is still evolving, the flexible nature of Ḥanafī fiqh has enabled scholars to respond promptly to these innovations by issuing provisional and context-specific rulings. Based on the objectives of ensuring justice and transparency in financial transactions, some contemporary scholars have conditionally recognized the permissibility of digital currencies, subject to compliance with relevant legal and regulatory frameworks (Islamic Fiqh Academy, 2021).

Thus, Ḥanafī jurists, through the combined application of custom, analogy, and maqāṣid-based reasoning, are evaluating the legitimacy of cryptocurrency transactions within the framework of newly emerging contractual forms. In conclusion, the dynamism of Ḥanafī jurisprudence in the contemporary era provides a robust framework for addressing complex and unprecedented issues. This flexibility has enabled fiqh to transcend a rigid and limited structure, engaging continuously with modern sciences and technologies while offering practical solutions that remain faithful to the objectives of the Sharīʿah.

7. Conclusion

The characteristic of flexibility (*siyālah*) in Ḥanafī jurisprudence is not merely a theoretical feature; rather, it represents a practical and historically grounded principle that, through the employment of rational tools and juristic methodologies, has enabled the school to respond effectively to extensive social, economic, and scientific transformations.

Through an analytical examination of the definition of fiqh and its dynamism, the significance of flexibility in the Ḥanafī school, the principal juristic tools (*qiyās*, *istiḥsān*, *ʿurf*, and *maṣāliḥ mursalah*), the incorporation of maqāṣid-oriented jurisprudence, and its broad implications in contemporary legal domains, it has been demonstrated that Ḥanafī fiqh—grounded in a strong rational foundation and a maqāṣid-based perspective—possesses a systematic ijtihād framework that has historically maintained its capacity for adaptation and transformation in response to changing circumstances.

This dynamism is particularly evident and effective in contemporary issues such as organ transplantation, abortion, genetic therapies, Islamic banking, insurance, and cryptocurrencies. By accommodating changes in time and place and giving due consideration to custom and public welfare, the Ḥanafī school has succeeded in preserving the authenticity of the Sharīʿah while simultaneously enabling juristic development.

However, this flexibility must be reinforced within a clearly defined methodological framework, supported by comparative engagement and cooperation with other legal schools, in order to safeguard it from the risks of subjectivity and deviation from the overarching objectives of the Sharīʿah (*maqāṣid al-sharīʿah*).

It is therefore recommended that, in order to maintain a balance between flexibility and stability in Ḥanafī jurisprudence, in addition to adherence to established methodological principles, broader comparative research with other Islamic schools of law and modern legal

systems should be conducted. Such an approach would allow for the optimal utilization of the potential inherent in juristic flexibility (*siyālah*) in a more structured and effective manner.

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