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A Comparative Study of Reasoning through Maṣāliḥ Mursalah and Related Juristic Principles in Fatawa Razawiyyah and Fatawa Darul Uloom Deoband

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Abstract

Maṣāliḥ mursalah (public interest) is not usually counted as an independent source in Hanafi jurisprudence. Hanafi jurists have, however, taken benefit and necessity into account through related principles such as *maṣlaḥah*, *istiḥsān*, *ḍarūrah*, and *ḥājah*. This study offers a comparative and analytical reading of two major Hanafi fatwa collections of the subcontinent, *Fatawa Razawiyyah* and *Fatawa Darul Uloom Deoband*. It examines how each reason through maṣāliḥ mursalah and these related principles. It asks whether each collection names maṣlaḥah openly or discusses it under the related principles, and what limits it sets so that a ruling does not conflict with an explicit text. Selected fatwas on worship, social custom, discretionary punishment, medical, financial, educational and family questions are analysed to show where the two approaches agree and where they differ. The study finds that both collections treat public interest not as an independent source but under *istiḥsān*, necessity, need and custom, and that in both it is subordinate to definitive texts and consensus. *Fatawa Razawiyyah* applies it mostly to individual and social ease, as in concessions in worship and respect for local custom, while *Fatawa Darul Uloom Deoband* applies it more clearly and systematically to modern and collective questions and states explicitly that public interest cannot prevail over a definitive text. The study concludes that the difference between the two lies in scope and style of application, not in principle.

Keywords: *maṣāliḥ mursalah, Hanafi jurisprudence, istiḥsān, ḍarūrah, Fatawa Razawiyyah, Fatawa Darul Uloom Deoband*

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Introduction

The purpose of the Islamic Shariah is to protect a person's religion, life, intellect, lineage and property, and also to make life easy for him. Every age brings new problems, and the Shariah offers solutions to them. Even so, an explicit text of the Qur'an or the Sunnah does not exist for every new problem of life. On such occasions the jurists have drawn on various secondary sources of Islamic jurisprudence, and one of them is *maṣāliḥ mursalah* (unrestricted public interest).

The Malikis and the Hanbalis accept maṣāliḥ mursalah as an independent and valid source. Hanafi jurists, by contrast, do not generally mention it as an independent source, but they achieve the same purpose through principles such as *istiḥsān* (juristic preference), *ʿurf* (custom), *ḍarūrah* (necessity) and *ḥājah* (need).

In the subcontinent, two major Hanafi fatwa collections, *Fatawa Razawiyyah* and *Fatawa Darul Uloom Deoband*, enjoy exceptional scholarly standing. This paper examines these two collections. If maṣāliḥ mursalah has no separate status as an independent source in Hanafi legal theory, how do the two collections reason from this principle? The paper also asks whether each collection mentions public interest (*maṣlaḥah*) explicitly or expresses it through the terms *istiḥsān*, necessity and need, and what limits each set for it.

Literature Review

Maṣāliḥ Mursalah in Islamic Jurisprudence

In Islamic jurisprudence, the tools of juristic reasoning (*ijtihād*) are used for problems on which no explicit text exists. One important and long-standing tool among them is maṣāliḥ mursalah, which relates to the objectives of the Shariah and to the public good. The principle applies to matters not mentioned in the texts of the Shariah but containing a benefit that accords with the general principles of the religion.

Maṣāliḥ mursalah means a benefit that is not mentioned in any particular text of the Shariah but is in keeping with its general rules, objectives and spirit, and whose validity can be established in the light of both reason and transmitted evidence. Imam al-Shatibi describes it as follows:

> It is the benefit for which no specific source testifies, either by consideration or by cancellation, and which is consonant with the dispositions of the Lawgiver and His objectives. (Al-Shatibi, 2005, vol. 2, p. 342)

That is, it is a benefit that is neither clearly supported nor clearly negated by any particular Shariah source, yet is in harmony with the dispositions and objectives of the Shariah.

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The Hanafi Position

The Hanafis have not, as a matter of principle, used maṣāliḥ mursalah explicitly. Yet if their doctrine of *istiḥsān* and its rulings is studied closely, it becomes clear that they fulfil the purpose of maṣāliḥ mursalah under istiḥsān. For Imam al-Sarakhsi, certain benefits are given weight if they accord with ease, necessity, custom or general analogy:

> In reality, juristic preference consists of two analogies: one apparent (*jalī*), weak in effect, which is called analogy; the other hidden (*khafī*), strong in effect, which is called juristic preference, that is, an approved analogy. It is the abandoning of hardship for ease, and this is a foundational principle in religion. (Al-Sarakhsi, 1986, vol. 1, p. 145)

That is, istiḥsān is made up of two analogies. The apparent one has a weak effect and is called analogy. The hidden one has a strong effect and is called istiḥsān, that is, an approved analogy. Istiḥsān means giving up hardship for the sake of ease, and creating ease is a basic principle of the religion. If the opinions of the Hanafis are studied carefully, examples of maṣāliḥ mursalah can be found in their discussions of istiḥsān; a few are mentioned below.

Recent Scholarship

Several recent studies address the principle itself. Tjut Intan (1990) reviews the scholarly debate over *maṣlaḥah mursalah*, including whether it is equivalent to *istiḥsān* and whether it can serve as a legal basis where explicit texts exist. Zameri et al. (2024) set out its definitions, its three categories and the conditions for its validity according to classical and contemporary jurists, and then show how it has informed practice in Islamic finance. Haq et al. (2021) show how al-Shatibi tied maṣlaḥah mursalah and istiḥsān to the prohibition of *bidʿah* as a limit on the development of the law, and conclude that he rejected using either to justify innovations. Khodadadi (2025), writing on Iran, shows the opposite risk: *maslahat* has been used to place state interests above traditional rulings, and its subjective nature has fuelled debate about its legitimacy.

On istiḥsān and the Hanafi tradition, Shahawy (2019) traces the history of istiḥsān in early Hanafism, showing how it came to be contested between the eighth and eleventh centuries while remaining a practical tool for legal change. Pane et al. (2025) review istiḥsān, *ʿurf*, *sadd al-dharāʾiʿ* and maṣlaḥah as supplementary principles that help apply the law to matters the primary sources do not address, and conclude that they keep Islamic law adaptable while grounded in core Shariah values.

On necessity and fatwas, Azhar et al. (2024), in a study of the use of blood plasma in medicine, find that modern scholars give priority to the preservation of human life, whereas classical jurists took a stricter position. Ali and Maravia (2020) map seven conflicting positions on organ transplantation drawn from fatwas and research since 1925, including those of Deobandi and Barelvi scholars. These works show the continuing importance of benefit and

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necessity in juristic reasoning, but among them none compares how *Fatawa Razawiyyah* and *Fatawa Darul Uloom Deoband* reason through maṣāliḥ mursalah.

Research Gap

Considerable research has already been done on each of the two collections individually. Many theses and research articles have been written, but most of them take up the overall method, the jurisprudential contribution, or particular chapters of each collection separately. Work that places the reasoning of the two side by side with regard to maṣāliḥ mursalah is comparatively scarce, and this article is an attempt to fill that gap.

Methodology

The study follows a comparative and analytical approach. It selects fatwas from *Fatawa Razawiyyah* and *Fatawa Darul Uloom Deoband* in which benefit, ease, necessity or need is the ground of the ruling, and it analyses each in three respects: the principle under which the benefit is argued (maṣlaḥah itself, istiḥsān, necessity, need or custom); the limit set so that the ruling does not conflict with an explicit text or consensus; and the kind of question to which it is applied. The two collections are then compared in a table and in a discussion of their points of agreement and difference. Passages from the primary and classical sources are used to explain the principles on which each fatwa rests.

Results and Findings

Reasoning in Fatawa Razawiyyah

Concessions in Worship: Illness and Travel

In Islamic jurisprudence, the principle of maṣāliḥ mursalah means that in acts of worship human welfare, health and ease are given priority. Fasting is an obligatory act of worship, but a long fast may harm the health of a sick or weak person. Likewise, fasting while travelling sometimes causes hardship. In *Fatawa Razawiyyah*, Maulana Ahmad Raza Khan states that in such circumstances it is permissible, and even preferable, to break the fast or to make it up later, so that health is preserved and the spiritual aim of worship is also achieved. These are all practical examples of the principle. Ahmad Raza says that if fasting would harm a sick person's health, he should break the fast, since this accords with the welfare and ease intended by the Shariah:

> If fasting is harmful to a patient's health, it is permissible and preferable for him to break the fast, and making it up later is obligatory, for this accords with the interest of the Shariah and the protection of human beings. (Barelvi, 2009, vol. 10, p. 233)

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Under the principle of maṣāliḥ mursalah, it is permissible to set aside the general ruling of fasting in order to protect health. The Shariah has given priority to the welfare and ease of the sick, so that worship does not bring hardship or harm. This also shows that the aim of worship is not merely the performance of words and actions but spiritual obedience together with well-being and comfort. Ahmad Raza states that it is permissible for a traveller to break the fast and make it up later, so that ease and the protection of health are possible:

> If fasting is hard or harmful for a traveller, he should break the fast and make it up later, for this accords with the interest and ease of the Shariah. (Barelvi, 2009, vol. 10, p. 237)

The Shariah has granted the traveller a concession in fasting so that hardship and harm may be avoided. According to the principle of maṣāliḥ mursalah, this permission secures not only the acceptance of worship but also the person's convenience and the protection of his health. By analogy fasting is obligatory, but under maṣāliḥ mursalah the Shariah adopts the easier solution. Al-Kasani states that it is permissible and lawful for the sick and the traveller to break the fast and make it up later, so that health and ease are preserved:

> It is permissible for the sick person and the traveller to break the fast and to make it up afterwards, for the preservation of health and to make worship easy. (Al-Kasani, 1986, vol. 3, p. 118)

Al-Kasani's statement strengthens the principle: by analogy fasting is obligatory in every case, but where health or the hardship of travel is involved, taking the easier course is lawful under the Shariah. The principle reflects human welfare, ease and the wisdom of the Shariah, and it makes worship easy and practicable.

Local Customs and Their Conformity with the Shariah

In Islamic jurisprudence, it is possible under the principle of maṣāliḥ mursalah to treat local customs or habits as lawful, provided they do not violate the limits of the Shariah. According to the method of Maulana Ahmad Raza Khan, the Shariah has granted the concession that local custom may be taken into account for the sake of social welfare, ease and humanity. Although certain principles are laid down by the general texts, taking exceptions in local customs is permissible under maṣāliḥ mursalah so that social relations remain good and hardship is reduced. Ahmad Raza states that if particular customs are current in a city or town on the day of a wedding, it is permissible to follow them, provided they do not contradict the texts and do not harm health and ease:

> If particular customs are current in a city on the wedding day, and they are not against the Shariah, it is permissible to follow them, and this accords with the interest of the Shariah and social ease. (Barelvi, 2009, vol. 12, p. 87)

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It is not necessary to abandon local customs and practices, provided they do not conflict with the limits of the Shariah. Under the principle of maṣāliḥ mursalah the Shariah has given this concession so that social relations, welfare and ease are maintained. This shows that the jurists gave priority to ease and benefit not only in acts of worship but also in social matters. Ahmad Raza states that if particular habits are current in a region in daily dealings, it is permissible to observe them, so that social relations remain strong and the texts are not contravened:

> If habits and customs are routine in a region and are not contrary to the texts, following them is permissible and recommended, for this accords with the interest of the Shariah and social ease. (Barelvi, 2009, vol. 13, p. 52)

The Shariah has not ignored social relations and habits. Under the principle of maṣāliḥ mursalah, observing local habits is permissible so that social ties are maintained and, despite the strictness of the textual rule, ease and welfare become possible. Respect for local custom is thus lawful in the light of the wisdom of the Shariah and human welfare. Al-Zurqani states that local customs or habits that do not violate the limits of the Shariah may be followed, so that social welfare and ease are achieved:

> It is permitted to follow, in seasons and customs, whatever does not contradict the Shariah, in order to realise benefits and ease matters. (Al-Qarafi, 1998, vol. 1, p. 345)

This statement makes clear, in accordance with the principle of maṣāliḥ mursalah, that following local customs and habits is lawful and legitimate provided they do not contradict the texts. It also shows the mercy of the Shariah, social ease and human welfare. Through this principle the jurists struck a balance between general rules and local need.

Concession in View of Necessity: Prayer in Heavy Rain

In *Fatawa Razawiyyah*, Maulana Ahmad Raza Khan Barelvi explains this concession very clearly under the principle of *istiḥsān*: the Shariah never intends to place the person charged with obligations in hardship. Praying at home in heavy rain is a clear example. Ahmad Raza states that if going to the mosque becomes difficult because of rain, mud or danger, praying at home is permissible, and this concession is a manifestation of the mercy of the Shariah:

> If the rain is so heavy that going out is difficult or harm is feared, it is no longer necessary to go out for the congregation, and one may pray at home, for the Shariah has provided this facility to remove hardship and distress. (Barelvi, 2009, vol. 5, p. 421)

Ahmad Raza clearly states the principle that when going to the mosque causes hardship and harm because of heavy rain or mud, the Shariah waives the requirement of congregational prayer. Analogy says that the congregational prayer must be performed in the mosque in every

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case, but istiḥsān gives preference over that analogy to the stronger evidence of ease, facility and the removal of hardship. Ahmad Raza establishes this concession not as a temporary indulgence but on the basis of the basic temper of the Shariah, the removal of hardship (*rafʿ al-ḥaraj*). Praying at home in heavy rain is thus a clear expression of juristic preference. He also states that giving up the congregation in dangerous weather or heavy rain is a concession, and that this concession is lawful on the strength of both the text and the principle of istiḥsān:

> At times an excuse is so general that people's going to the mosque would cause harm or severe difficulty; in that case, leaving the congregation is excused, and this is a wise concession of the Lawgiver. (Barelvi, 2009, vol. 6, p. 144)

This passage further strengthens Ahmad Raza's method of istiḥsān. In ordinary circumstances the congregation is obligatory, but when dangerous weather makes it impossible or very hard, the Shariah suspends the original ruling and grants a concession. Analogy says that the congregation must be maintained in every case, but istiḥsān abandons that analogy on the basis of stronger evidence, namely "the removal of harm" and "the protection of life." In this way Ahmad Raza shows that the principle of the Shariah is not strictness but ease, and that praying at home in rain or dangerous weather is a pure fruit of that principle.

Necessity and Need: Discretionary Punishments and the Ruler's Authority

In Islamic jurisprudence, *taʿzīr* refers to punishments whose amount or nature is not specified in the Qur'an and the Sunnah. According to the method of Maulana Ahmad Raza Khan, it is permissible for the ruler to fix a punishment in view of the circumstances of the time, the gravity of the offence and the public interest. This authority is in full accord with the principle of maṣāliḥ mursalah, so that social welfare and protection are possible and the texts are not contravened. The purpose of taʿzīr is not merely to admonish the offender but to maintain social order and public safety and to prevent future crime. Ahmad Raza states:

> If there is an offence for which no fixed limit is set in the texts, the ruler has the authority to fix a punishment according to the nature and gravity of the offence, provided it involves no injustice or contradiction of the texts. This is permissible so that welfare and order are maintained in society. (Barelvi, 2009, vol. 22, p. 315)

With respect to unspecified punishments, the Shariah has given the ruler authority so that social welfare, the prevention of crime and the protection of the public are possible. According to the principle of maṣāliḥ mursalah, where the texts are not explicit, it is lawful and legitimate for the ruler to give priority to the social interest. Ahmad Raza states:

> The purpose of discretionary punishment is not only admonition and punishment but to reduce the effects of crime and to keep peace in society. The ruler should therefore fix a suitable punishment after considering the nature of the crime, the condition of the

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> offender and the time and circumstances, provided the limits of the Shariah are preserved. (Barelvi, 2009, vol. 22, p. 318)

In discretionary punishments the Shariah keeps purpose and wisdom in view, so that punishment serves to remedy the crime and to maintain social order, not personal revenge or oppression. This shows that welfare and protection are essential elements in the ruler's authority.

Public Announcement for an Absconding Offender

In Islamic jurisprudence the ruler has the authority, in the case of an absconding offender, to issue a public announcement or notice in order to find him. According to the method of Ahmad Raza, this measure is fully in accord with the principle of maṣāliḥ mursalah, so that social welfare, peace and security are maintained and the effect of the crime is kept to a minimum. The purpose here is only to arrest the offender and prevent crime, not to make unjustified accusations or to harass. Ahmad Raza states:

> If an offender escapes and cannot be seized, it is permissible for the government or the ruler to make an announcement among the people so that they report him, provided no one is accused without justification and the limits of the Shariah are maintained. This measure is lawful for the sake of social interest and the preservation of peace. (Barelvi, 2009, vol. 22, p. 329)

The Shariah has permitted the use of an announcement or notice for an absconding offender so that crime can be prevented in society. According to the principle of maṣāliḥ mursalah, methods of informing the public fall within the ruler's authority, provided there is no unjustified accusation or injustice. Ahmad Raza states:

> Searching for an absconding offender through an official announcement or notice is permissible so that peace may be maintained and the public may be made aware of the crime. This is a lawful measure under discretionary punishment or the general interest and does not contradict the Shariah. (Barelvi, 2009, vol. 22, p. 331)

This is in full accord with the principle of maṣāliḥ mursalah. The Shariah has given priority to ease and social protection. The announcement or notice is used only to find the offender and prevent crime, so that social welfare and order are maintained, and not to accuse anyone without justification. Issuing an announcement or notice is lawful for social welfare, crime prevention and public cooperation. This shows that the Shariah has given priority to the general welfare and to the preservation of peace, and has given the ruler the authority to adopt a suitable procedure provided no one is wronged without justification.

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Promoting Good: Modern Means for Religious Purposes

In *Fatawa Razawiyyah*, Maulana Ahmad Raza Khan Barelvi applied the principle of public interest and related principles in a very cautious yet active way. In his view, if a method, means or act helps in achieving religious objectives, the Shariah has no objection to adopting it, and it may even be obligatory or recommended, provided it remains within the limits of the Shariah. On the use of modern means for the promotion of religious education, Ahmad Raza states:

> Means that are useful for the reform of religion, the dissemination of truth, and the conveying of the general counsel of the scholars to the public are in themselves permissible, even if they are new or were considered unusual in earlier custom. Indeed, when the aim of the Shariah cannot be achieved without them, or when the general interest predominates in them, their use sometimes becomes obligatory, for the pure Shariah rests on objectives, not merely on forms and shapes, provided those means contain no Shariah-based corruption or forbidden thing. (Barelvi, 2009, vol. 23, pp. 412–413)

Ahmad Raza makes clear that there is no prohibition on the use of modern printing, pamphlets, magazines or other styles for religious education; rather, depending on need, it may be recommended or obligatory under the principle of opening the means (*fatḥ al-dharā'i'*). In his view the aim is the attainment of the objectives of the Shariah and the religious guidance of the public, and this principle gives that aim a practical form. On the use of such means in the reform of beliefs and in the style of debate, Ahmad Raza states:

> Any style that helps to convey the truths of religion to the hearts and minds of the people of religion, whether written or in the form of debate, is permissible and recommended to adopt, for the Shariah has permitted the means in order to open the paths of good, provided it involves no polytheism or innovation. (Barelvi, 2009, vol. 24, pp. 98–100)

Ahmad Raza has allowed the use of maṣāliḥ mursalah for the reform of beliefs. The purpose of debates, sermons, pamphlets and other written styles is to give people a true understanding of religion, and if knowledge and reform become widespread through them, the Shariah declares this choice recommended. This jurisprudential method provides practical guidance for the promotion of religion and the reform of thought among the public.

Reasoning in Fatawa Darul Uloom Deoband

In *Fatawa Darul Uloom Deoband*, the use of maṣāliḥ mursalah and related principles is found especially in modern medical, social and financial questions. A prominent feature, however, is that even while general benefit is recognised, definitive prohibitions and explicit texts take precedence. In this way a balance of the objectives of the Shariah (*maqāṣid*) is maintained, in which neither unbridled expediency nor rigid literalism is permitted.

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Organ Transplantation

Mufti Aziz al-Rahman Uthmani states in *Fatawa Darul Uloom Deoband*:

> The sale and purchase of human organs, or their removal without need, is not permissible, because the human body has sanctity in the Shariah. However, if there is an unavoidable case of saving a life and the other conditions are met, an allowance can be made at the level of necessity, but even then caution is essential. (Uthmani, 2003, vol. 15, p. 143)

Although this passage speaks of necessity, it is a clear example of the balance of objectives in maṣāliḥ mursalah. On the one hand there is the objective of protecting life: if transplantation is unavoidable to save a patient's life, it should be considered. On the other hand there is the principle of the sanctity of the body and the dignity of humanity, which is established by the Qur'an and the Sunnah. The Dar al-Ifta recognised the general interest (saving life) but did not turn it into an absolute permission; it bound it to necessity and conditions. In this way a balance was maintained between the texts of prohibition and the objectives of the Shariah.

Modern Banking

Elsewhere Mufti Aziz al-Rahman Uthmani states:

> Although the modern banking system has certain conveniences and general benefits, when it is founded on interest it cannot be declared lawful merely on the basis of the public interest, because the prohibition of usury (*ribā*) is established by a definitive text. (Uthmani, 2003, vol. 9, p. 231)

An important limit on the use of maṣāliḥ mursalah is stated here: public interest cannot stand against a definitive text. Although the modern financial system provides economic conveniences, when it is founded on interest it conflicts with the definitive prohibition of the Shariah. Therefore, although Mufti Aziz al-Rahman Uthmani recognised the general economic interest, he did not give it priority over the definitive text (the prohibition of usury). This is the very balance of objectives: public interest is valid, but subordinate to the text.

Administrative Regulations in Religious Institutions

Mufti Aziz al-Rahman Uthmani states:

> The establishment of administrative regulations in madrasas and religious institutions, and the enforcement of certain rules not specified in the texts, is necessary to observe if they serve general order and the interest of education and are not contrary to any ruling of the Shariah. (Uthmani, 2003, vol. 6, p. 78)

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This passage makes one point clear: permission for public interest holds only so long as it does not contradict the text, and if it does, it is absolutely not permitted. The passage is an example of the positive and constructive use of maṣāliḥ mursalah. Certain rules are needed for educational discipline on which no explicit text exists, but they are in keeping with the general objectives of the Shariah. The Dar al-Ifta made clear that if these rules do not contradict any text, their enforcement is permissible and indeed necessary, because they serve the general interest and the preservation of order. Here maṣāliḥ mursalah is made a means of establishing collective order, in harmony with the objectives of the Shariah of preserving religion and intellect. Imam Abu Ishaq al-Shatibi states:

> Every benefit by which the objectives of the Shariah are sought is valid, provided it does not conflict with a text or consensus. (Al-Shatibi, 2005, vol. 2, p. 8)

Imam al-Shatibi systematised the principle of maṣāliḥ mursalah and made clear that benefit must be based on the objectives of the Shariah, not merely on custom or temporary advantage, and further that it must not conflict with a text or consensus. The same principle is seen in *Fatawa Darul Uloom Deoband*. Giving priority to the sanctity of the body in organ transplantation, preferring the definitive text in the interest-based system, and keeping public interest subordinate to the text in educational administration are all practical applications of the principle stated by al-Shatibi.

The use of maṣāliḥ mursalah is unavoidable in modern and collective problems. Public interest is kept subordinate to the objectives of the Shariah. Against a definitive text and consensus, public interest is not valid. Principles such as the sanctity of the body, the prohibition of usury and public order are practical examples of the balance of objectives. The method of the Dar al-Ifta of Deoband is that it adopts neither rigid literalism nor unregulated expediency, but a moderate and balanced path between the texts and the objectives.

The principle of maṣāliḥ mursalah is a manifestation of the comprehensiveness of the Shariah and its wisdom in understanding the times. In *Fatawa Darul Uloom Deoband* its application is clearly seen in modern medical problems, the financial system and the establishment of collective order. A basic restriction is, however, observed everywhere: public interest is subordinate to a definitive text, not against it. The balance of the protection of life and the sanctity of the body in organ transplantation, the precedence of the prohibition of usury despite economic interest in the interest-based system, and the permissibility of unspecified rules in educational discipline are all bright examples of the balance of objectives. The correct use of maṣāliḥ mursalah thus keeps the Shariah in harmony with contemporary demands while protecting its fundamental principles, and this is the true manifestation of juristic moderation.

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Family Questions: A Second Marriage

Islamic law is a comprehensive and all-embracing system of life, stating rulings with both the individual and the collective needs of human beings in view. Sometimes matters arise on which no clear text exists in the Qur'an and the Sunnah, but in which the general good and interest of the community or society is concealed. In such cases the jurists adopt the principle of maṣāliḥ mursalah, that is, an interest that harmonises with the objectives of the Shariah and in which there is goodwill and collective benefit for people. Mufti Aziz al-Rahman Uthmani states:

> It is valid for a husband to contract a second marriage without the permission of the first wife; there is no legal need to obtain permission from the wife, and the marriage takes place. But if, for the sake of interest, so that there is no discord between them, he takes her permission and then contracts the second marriage, that is better. (Uthmani, 2003, vol. 7, p. 63)

This fatwa makes the principle clear: the basic ruling is permissibility under the Shariah, that is, a man does not legally need the first wife's permission to contract a second marriage, and the marriage is valid. However, the Shariah is not limited to legal permissibility but also looks at the moral and social side. If obtaining permission can preserve love, peace and mutual trust in the home, it will count as the better course under maṣāliḥ mursalah. This shows that in Islamic jurisprudence mere permissibility is not enough, and family stability and social harmony are also given priority.

Opium and Cannabis: Substances, Ritual Purity and Ease

Mufti Aziz al-Rahman Uthmani writes in *Fatawa Darul Uloom Deoband*:

> Opium, cannabis and the like are not ritually impure (*najis*), but eating and drinking them is forbidden, and a small amount for the purpose of treatment is permissible, provided it does not reach the point of intoxication. (Uthmani, 2003, vol. 1, p. 255)

These ruling states the principle that opium, cannabis and hashish are not ritually impure in themselves; their use is declared forbidden because they are intoxicating. This clarifies the jurisprudential point that not everything forbidden is impure, and that the ground of prohibition is that a thing is intoxicating or harmful. Under the principle of istiḥsān, if these substances mix in a small quantity with water, the water does not lose its original purity, because the impurity of these substances is not established and there is no certain effect on the purity of the water. For this reason, ablution and the full ritual bath with such water are held to be valid. This ruling rests on jurisprudential ease and the removal of hardship from the community, for if every such admixture were to render water unusable, the system of purification would become difficult for ordinary people, which is contrary to the temper of the Shariah.

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The Methodological Framework of Fatawa Darul Uloom Deoband

In the jurisprudential tradition of the subcontinent, the Dar al-Ifta of Darul Uloom Deoband holds a prominent scholarly and juristic position. The jurisprudential method of this institution represents a balanced system in which the supremacy of the texts of the Shariah, adherence to the principles of jurisprudence and the practical application of contemporary problems are placed within an organised intellectual structure. The overall style of *Fatawa Darul Uloom Deoband* is neither one of complete literal rigidity nor does it adopt a free expediency that goes beyond the limits of the texts. Its basic distinction is rather that it tries to apply the principled moderation of Hanafi jurisprudence at the practical level.

The intellectual foundation of this system rests on the four principles: the Qur'an, the Sunnah, consensus (*ijmāʿ*) and analogy (*qiyās*). In the fatwas of the Dar al-Ifta, the Qur'an and the Prophetic traditions are first given the status of primary proof. If an explicit text exists on a question, it is given the decisive position. The opinions of the jurists are likewise viewed as the result of understanding and applying the texts, not as an independent means of legislation. In this method the centrality of the text is given the utmost importance, because the real spirit of Islamic law is adherence to divine revelation. For this reason, in the decisions of the Dar al-Ifta the texts are sought first, then consensus, and after that analogy or other derivational means are used.

The secondary sources of juristic derivation, including istiḥsān, custom (*ʿurf*), presumption of continuity (*istiṣḥāb*) and maṣāliḥ mursalah, are also important in the method of the Dar al-Ifta, but their status is not that of independent sources; it is that of supporting principles subordinate to the four principles. The basic characteristic of this system is that the secondary sources are used when direct guidance cannot be obtained from the explicit texts or from the consensus of the community. If a conflict between a secondary principle and a text appears to arise, the preference is always given to the text. This gives the system scholarly stability and theoretical moderation.

The principle of istiḥsān is used in the fatwas of Mufti Aziz al-Rahman Uthmani in a very cautious manner. Istiḥsān means that a stronger evidence, necessity or valid interest is preferred over apparent analogy. Its purpose is to preserve the general temper of the Shariah, namely ease and the removal of hardship. For example, in certain economic or social questions, if apparent analogy demands strictness and there is a fear that people will suffer hardship, a moderate solution is adopted through istiḥsān. This ease, however, is not given absolute freedom but is kept subordinate to the texts and objectives of the Shariah. In this way istiḥsān becomes a means of preserving the internal balance of the Shariah, not a path to free-ranging juristic effort.

The principle of maṣāliḥ mursalah assumes particular importance in modern and collective problems. It means an interest that is in keeping with the general objectives of the

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Shariah and does not conflict with a definitive text or consensus. The Dar al-Ifta of Deoband has used this principle in resolving medical, economic and social problems. For example, in the question of organ transplantation a cautious position was adopted so as to preserve the sanctity of the human body and the objective of protecting life. Although the need to save someone's life was not ignored, it was bound by particular conditions. Similarly, in financial matters the general economic interest was considered, but definitive rulings such as the prohibition of usury were not disregarded under any circumstances.

The usefulness of this jurisprudential system is also evident in the resolution of contemporary problems. Despite modern medical advances, economic changes and the complexity of social structures, the method of the Dar al-Ifta maintains principled stability. Its procedure is first to understand the reality of the question, then to look for the relevant texts, then to review the opinions of the jurists, and finally, if necessary, to take help from derivational principles such as analogy, istiḥsān or maṣāliḥ mursalah. This organised procedure has given the fatwas both scholarly credibility and practical usefulness. The method of *Fatawa Darul Uloom Deoband* serves as a strong scholarly bridge between the classical tradition of Islamic jurisprudence and contemporary demands. Its foundation is the supremacy of the texts of the Shariah, adherence to the principles of jurisprudence and the balance of the objectives of the Shariah. For this reason, this jurisprudential tradition is recognised as a reliable and stable method not only in religious circles but also in the scholarly world.

Discussion

Comparative Analysis

Table 1 sets the two collections side by side in terms of their dominant style, principal field of application, concept of public interest and limits.

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Table 1

Comparison of Reasoning from Public Interest in the Two Collections

Aspect	Fatawa Razawiyyah	Fatawa Darul Uloom Deoband
Dominant style	Case by case; emphasis on ease and removal of hardship	Systematic, principled method; balance of objectives
Prominent field	Worship, customs, discretionary punishment, means of religious propagation	Modern medical, economic, educational and family questions
Concept of public interest	Under istiḥsān and necessity	As a secondary source, subordinate to the text
Limits	Regard for the explicit limits of the Shariah	Public interest unacceptable against a definitive text, stated explicitly

Note. The comparison is based on the fatwas analysed in this study.

Points of Agreement

1. In both collections public interest is subordinate to the text. In both there is no room for public interest against a text.
2. Both apply this principle not under a separate name but under the principles of istiḥsān, necessity, need and custom.
3. The aim of both is ease, the removal of harm and the general good.

Points of Difference

A. The examples in *Fatawa Razawiyyah* are linked mostly to worship and everyday social life. The aspect of concession and ease is prominent in them.

B. The examples in *Fatawa Darul Uloom Deoband* extend more to modern and collective questions, and the order of the principles is also stated more explicitly.

C. In Deoband it is stated explicitly that public interest will be rejected in the face of a definitive text, as in the matter of interest. In the examples of *Fatawa Razawiyyah* this point is found only incidentally.

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Key Findings

- Both collections use maṣāliḥ mursalah not as an independent source but under istiḥsān, necessity, need and custom.
- In both, the basic condition of public interest is that it does not conflict with a definitive text or consensus.
- In *Fatawa Razawiyyah* the use of public interest appears mostly in the form of individual and social ease.
- In *Fatawa Darul Uloom Deoband* its use is clearer and more systematic in modern and collective questions.
- Both schools of thought keep changing needs in view within the framework of Hanafi principles. The difference between them is not one of principle but of the scope and manner of application.

Conclusion

Overall, the study of the two collections shows that they contain examples relating to maṣāliḥ mursalah and also reason directly from the principles of istiḥsān, necessity and need. In *Fatawa Razawiyyah*, regard for public interest is found relatively more in worship and everyday social life, such as the concession in illness and travel, the waiving of congregation in heavy rain and respect for local customs. In *Fatawa Darul Uloom Deoband* this regard is relatively more prominent in modern and collective questions, such as medical, economic and educational matters, and it is also stated there that public interest will not be accepted against a definitive text. In both collections public interest remains subordinate to the text. Fundamentally, the purpose of maṣāliḥ mursalah and its related principles is to provide ease for people and to remove their difficulties, and both collections have kept this purpose in view within the framework of Hanafi principles.

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