



The Theory of Nice Moment (*Lahzah Latifah*) in Islamic Jurisprudence: Analysis, Regulatory Principles and Application

نظرية اللحظة اللطيفة في الفقه الإسلامي: التحليل والضوابط والتطبيق

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Abstract

Nice moment (*Lahzah Latifah*) is a classical juristic theory, adopted by some classical jurists of Shafi'i school of law to accommodate strict or ambiguous rulings that would have been void based on general Shariah principles. However, researchers are concerned about the usefulness and application of nice moment rulings to resolve some contemporary practical issues. The issue of nice moment is one of the issues that can be discussed under the title "Time and its impact in relation to the legal ruling". Jurists have studied the effects of time on principles and many chapters and branches of fiqh, including discussion about the impact of time on broad and narrow *hukm Shar'i* (legal obligation). Some classical jurists of Shafi'i School of law utilized nice moment to restore hope on rulings that are unfriendly in applications. Hence, this study aims to unveil how strict adherence to some Islamic rulings on financial transactions could be lessened. The study analyzes the relevance of nice moment in modern Islamic financial transactions. The study explores the rationale that may prompt the change of legal rulings and application of nice moment as adopted by the Shafi'i School of Law. To achieve the research objective, it employs an extrapolation approach of the qualitative method to extend classical interpretations to broader contexts while maintaining the focus and objective of the contextual rule. This method was used to trace potential applications of nice moment to contemporary Islamic financial transactions. The study concluded that the adoption of nice moment in modern Islamic financial transactions must be accompanied by rules, controls, limitations, reasons, and guidelines.

Keywords: Nice moment, Shafi'i School of law, Shariah rulings, strict adherence, modern Islamic financial transactions.

ملخص البحث

اللحظة اللطيفة نظرية فقهية قديمة، تبناها بعض العلماء القدماء من المذهب الشافعي لاستيعاب الأحكام الصارمة أو الغامضة التي كانت باطلة بناءً على مبادئ الشريعة العامة. ومع ذلك، يهتم الباحثون بشأن جدوى وتطبيق أحكام اللحظة اللطيفة لحل بعض القضايا العملية المعاصرة. قضية اللحظة اللطيفة هي إحدى القضايا التي يمكن مناقشتها تحت عنوان "الوقت وأثره على ما يتعلق بالحكم الشرعي". لقد درس الفقهاء آثار الوقت على المبادئ والعديد من أبواب وفروع الفقه، بما في ذلك مناقشة تأثير الوقت على الحكم الشرعي الواسع والضيق، ومن خلال القيام بذلك، يستغل الفقهاء اللحظات اللطيفة لإعادة الأمل في الأحكام غير الودية في التطبيقات. ولذا، تهدف هذه الدراسة إلى الكشف عن كيفية تخفيف الالتزام الصارم ببعض الأحكام الإسلامية في المعاملات المالية. تحلل الدراسة أهمية اللحظة اللطيفة في المعاملات المالية الإسلامية الحديثة، وتتناول الأسباب التي قد تدفع إلى تغيير الأحكام الشرعية وتطبيق الجزاء كما تبناه المذهب الشافعي. ولتحقيق هدف البحث، استخدم الباحثون الاستقراء للمنهج النوعي لتوسيع التفسيرات من الدراسة إلى سياقات أوسع مع الحفاظ على التركيز على المعنى والسياق، وقد استخدم هذا المنهج لتتبع التطبيق المحتمل للجزاء في المعاملات المالية الإسلامية المعاصرة. وخلصت الدراسة إلى أن تطبيق هذه النظرية في المعاملات المالية الإسلامية المعاصرة يوجب استصحابها بقواعد وضوابط وقيود وأسباب وتوجيهات.

الكلمات المفتاحية: لحظة لطيفة، المذهب الشافعي، الأحكام الشرعية، الالتزام، المعاملات المالية الإسلامية المعاصرة.

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1. Introduction

Islamic law is uniquely distinguished by enduring values like stability, flexibility, and timeless relevance, preserving authenticity over centuries while adapting seamlessly to evolving realities, remaining valid for all times and places (Ibn Nujaym, 1993). Nice moment is sometimes expressed as a “pleasant hour” or “pleasant time”. It is a hypothetical moment whose duration is the minimum amount of time in which what is intended can be accomplished. Many scholars have used the idea of nice moment to remove technical problems and resolve jurisprudential conflicts in many different issues and branches, which led to the expulsion of general rules. The theory of nice moment attempts to explicate ambiguity in transactions and contracts and to correct them from being corrupt without the theory of nice moment. If we apply general rules to this behaviour, we will find it incorrect, but through the theory of the “nice moment”, this behaviour becomes correct and its effects follow (al-Nawawī, n.d., 8/102).

One of the less-popular theories in the science of jurisprudence is the “nice moment” theory needed in our lives after it has been overshadowed by materialism and human interests. We need our souls to calm down and rest in the oasis of nice moments, for such moments are considered supply shipments, providing their owner with what helps him to

complete the journey, because if life dries up, its goodness and blessings diminish. What is strange is that these nice moments that we seek are inexpensive actions, and by them, we mean a gentle smile, a caring word, or thoughtful advice, and hope to see something (al-Nawawī, n.d., 8/102).

It is a known fact that achieving the basis is based on considering the appropriate description and building the process of deducing legal rulings from their detailed or comprehensive sources. The description of “contemporary” with its radical and formal change in financial transactions has an impact in determining the jurisprudential and legal adaptation. After the jurisprudence of transactions was based on an individual nature, whether at the level of dealing or at the level of issuing a *fatwa*, it became a jurisprudence based on the collective work of institutions (banks and Islamic financial institutions), which were established to offer legitimate alternatives to the financial system based on usurious financing. It is also based on institutions of collective *ijtihad* represented by (*fiqh* academies, *Sharia* boards of Islamic banks and financial institutions, as well as *Sharia* advisors and observers) (al-Zuhayli, 2000).

Considering the tributaries of financial transactions, such as calamities, developments, and Qur’anic frameworks, the process of progressive *ijtihad* must follow the objectives of *Shariah* and the law, taking into account the legislative nature of each of them in terms of the agreement’s purpose, to achieve financial stability in its entirety, whether by developing it and investing it or preventing the consumption of money. People are wrong in terms of the difference between them in the means of achieving this goal according to the standard of reference (al-Qaraḍāwī, n. d). Hence, the research addresses the problem of change in *Sharia* rulings, its

rooting and application, and the main question for the research can be formulated as follows: Do *Sharia* rulings change for a nice moment? What is its impact on modern financial transactions?

2. Reasons for Change of Juristic Rulings

The reasons for the change of rulings are many and varied, and the most important of these reasons are that they are based on custom, realities, and development of contemporary issues:

2.1 Reasons for Changing Legal Rulings due to Customs

The most important reasons that lead to a change in rulings are those based on custom and its related factors such as changes in time, place, circumstances, and interests. The following is a description of them according to the following items:

1. *Change of Custom*: Custom is considered as evidence and a legislative plan for constructing rulings, which are those rulings that are based on interest in time, place, and situation. This is an application in business transactions; the exclusion of an implied sale from the option to sell due to the nice moment involved. For instance, when the master sells to the slave, "Once you are sold, then you become free." Normally, the slave is supposed to get to the possession of the buyer first before deciding the situation of the sold slave; however, the use of nice moment allows the automatic transformation of the process as "implied sale" (*bay' ḍimnī*) to affect the situation of the sold slave as a freed person (Dahlān, 2007).

The theory of nice moment applies to transactions that are subject to change. As for those rulings that are eternally fixed and do not change due

to times and places, such as the obligation of duties, the prohibition of prohibitions, and the limits imposed by the *Sharia* on those imposed by them, which are not subject to change, nor is there *ijtihad* other than what has been established by Allah. This type of ruling is not affected by custom because it is fixed (Ibn al-Qayyim, 1988). Al-Qarāfi reached a consensus that the foundations of rulings are based on custom and tradition, and the practice of custom and tradition is to change depending on them. He said, "Implementing rulings that are based on customs while those customs change is contrary to consensus and ignorance in religion" (al-Qarāfi, n. d). Considering the importance of nice moment, if rulings based on customs are not subject to flexibility, when necessary, it will cause hardship to the faith and will lead to disdain for the subject of the law (*Mukhalaf*). This is based on *Sharia* since *Sharia* is based on removing hardship and harm, but the diligent person has slandered *Sharia*, violated its rules, gone astray, and committed a crime against the religion with something that is not in it. Rather, his crime was greater than the crime of one who accustoms all people to differences in their countries, customs, times, and nature. The custom on which the ruling is based must be correct, but the corrupt one does not influence the rulings because it is rejected by agreement. The *usuli* scholars have established several maxims that consider customs to be reliable in the absence of textual evidence. For instance, the maxim of "custom is valid," "it is not denied that rulings change with the change of times," "what is known by custom is like what is conditioned by law," and "when people use an argument it is obligatory to act." All of this testifies to the consideration of a custom and making it a restriction of *Sharia* rulings.

2. *Change of Place*: One of the factors that affect the change of judgments is the spatial environment. There is no doubt that it has an impact on thinking and behavior because the Bedouin lifestyle is different from the urban areas, the countryside is different from the city, and the warm country is different from the cold. Similarly, the East is considered different from the West, and the House of Islam is different from the House of War and different from the House of Covenant, and each of these places has its own influence on governance, unlike its counterpart. The change of place is undoubtedly an important factor influencing rulings, and this is what prompted Imam al-Shāfiʿī to change his *ijtihad* from what he had led in Iraq to a new one in Egypt, considering the difference in the spatial environment. This is what Muslim minorities in the West need regarding jurisprudence of place, which must be considered in the rulings.

3. *Change in Time*: The change in time is a factor influencing *Sharia* rulings that change according to jurisprudence. For instance, "If a person wants to give away the benefits of what he owns in charity during his lifetime and to make that charity take place after his death so that he can benefit from those benefits during his lifetime because he still needs the promised charity element during his lifetime, and decided that it should be spent after his death in charitable course, such as a scholarship for the poor, scientific research. The donor can do this by endowing those benefits during his lifetime and stipulating that giving them to the one for whom the endowment was made is conditional upon his death" (al-Bujayrimī, 1995). The change in time is not intended to move from one year to another or from one decade to another, for this is not the influence. Rather, what is meant is a change in faith, and the percentage of change to faith is a matter related to

marriage; because Yemen is the vessel in which events and actions take place and where customs and traditions change (Al-Bahusaynī, 2012).

Some jurists have expressed this change as the corruption of time, but the truth is that time does not corrupt, but rather it corrupts people, and their morals change from righteousness to corruption, and from brotherhood to selfishness (Ibn Farḥūn, 1995). Thus, 'Umar bin 'Abdul al-Azīz, may Allah bless him and grant him peace, says: "People will be judged according to the amount of immorality they have committed" (al-Shāṭibī, n. d). The change in time is what made Abū Yūsuf and Muḥammad, the companions of Abū Ḥanīfah, may Allah have mercy on them all, disagree with him on several issues, including not being satisfied with the appearance of justice in testimony. This is because they recognized the time in which lies spread. This is what they expressed by saying a difference in era and time, not a difference in argument and proof.

The change in time that necessitates changing the jurisprudential rulings may be the result of corrupted practices and loss of piety, which is called the deterioration of society (*fasād al-zaman*). It may also be the result of the emergence of organizational conditions and new temporal means of self-interested legal orders, administrative arrangements, and human socio-economic sustainability (Ghani et al., 2022). One of the most similar of these is what the latecomers have won with the permissibility of taking wages for teaching and the call to prayer due to the difference in the development conditions of Islamic countries in this era. Likewise, the ruling deems the delivery of property to have occurred as soon as it is registered in the real estate registry, even if no actual delivery occurs (al-Shawkānī, n.d). What matters in real

estate ownership are the real estate registry entries, not the hands and actions.

4 - Change of Situation: Among the secondary reasons that rarely include custom and influence on *Sharia* rulings is a change in the situation, as a distress situation is different from a convenient situation; an illness situation is different from a healthy situation; a travelling situation is different from a non-travelling situation; and the war situation is different from a peaceful situation; the state of strength is different from the state of weakness; the state of old age is different from the state of youth. Since the peculiarities of circumstances must be taken into consideration, the rulings in every place cannot be applied in the same way, as each place has its own suitable rulings (Al-Zarqa, 1998).

5- Change of Benefit (Maṣlaḥah): According to Al-Ghazali, *Maṣlaḥah* means preserving the objectives of *Sharia* as stated by the lawgiver (Allah).¹ Hence, the five higher objectives of *Sharia* are preserving religion, life, intellect, offspring, and property. (al-Zarqā, 1998), "Whatever causes to miss these principles of *Sharia* is corruption, and repelling them is a benefit in *Sharia*" (Al-Ghazali, 1971). The divisions of interest (*maṣlaḥah*) have been multiplied for several considerations, and the most important thing that should be taken into consideration is the important interest or the achievement of the mission, whether it is of a public or private rank, or a necessary, needful, or embellishment issue. It is important for the jurist to weigh these interests, their ranks, and their outcomes according to the established rules, and to consider interests as to when they change. This is important because it may be private, general, or it may be for embellishment or become necessary to consider.

2.2 Reasons for Permissibility of Nice-Moment

Among the causes affecting *Shari'ah* rulings and frameworks that lead to their change are the causes that are due to reality and its development, and among them are the following (al-Qaraḍāwī, n. d):

1. Change of Information: The change in information is caused by human developments driven by the industrial revolution's impact, like the ease of communication, the speed of movement, and the interconnection of science (Abdul Razzaq, 2008). All of this may cause a change in the information on which the diligent person bases his judgment, and it changes accordingly.

An example of this in our time is estimating the maximum duration of pregnancy. The four imams disagreed about it. Some of them maintain that it may prolong until two years based on extrapolating reality in their time. But our contemporary reality supports the estimate of nine months and that pregnancy does not last that long. Since contemporary reality and the knowledge of modern medicine attest to it, then the information on this issue in the past was wrong or incomplete. Because of this change, the *ijtihād* changes (Al-Qaraḍāwī, n. d).

2. Change of Needs: One of the reasons for the change in *Sharia* rulings is the change in people's needs. What was once embellishment (*tahsīnī*) may later become needs or necessities. This is because people's needs are diverse, renewable, and changing, and the same goes for the rules that are built upon them.

It was reported from Sheikh Abu Zaid al-Qayrawani, one of the prominent figures of the Maliki school of thought, that some of his contemporaries visited him and found a guard dog in his house, and they denounced that. He said: If Malik

had remained till our time, he would have taken a lion as a guard. The change in people's needs in the era of Abu Zaid al-Qayrawani from what they were in the era of Imam Malik requires a change in *ijtihad* ('Alish, 1409 A. H).

An example of the change in needs in our time is the change in the concept of maintenance (necessary things for maintaining life), which were limited to food, drink, clothing, and shelter. Today, what is imposed by people's needs is added to it, such as refrigerators, electricity, air conditioning in hot countries, and educating children in schools. *Ijtihad* in this issue has changed according to the change in the needs of the people on which it is based (al-Qaraḍāwī, n. d).

3. Change in Capacities and Capabilities:

People in our time are more capable than they have been in the past generations because modern science has given mankind enormous capabilities through the seven scientific revolutions: the technological revolution, the biological revolution, the space revolution, the nuclear revolution, space technology, the information sciences, and the communication revolution (Yusuf, 1411 A.H).

An example of this in our time is the change in the opinion of jurists regarding medication. They used to see it as permissible, even though some of them disliked medication and relied on Allah (SWT) due to the uncertainty of treatment and medication. However, the reality of medicine today has developed, effective devices have been invented, and proven medicines have been found, so *ijtihad* changes according to those abilities and capabilities.

4. *The Generality of Calamity*: The generality of calamity is a reason for changing legal rulings regarding matters for which there is no text. The definitions of the *usuli* scholars have varied in it, and

one of the definitions of their predecessors is the definition of Al-Sarkhsi, which is: "What exists in the general and the specific (spheres), all are equal in the need to know it." One of the definitions of contemporary scholars is that of Dr. Abd al-Karim Zaydan, who said, "It is the prevalence of what people are exposed to, such that it is difficult to get rid of it" (Zaydan, 1969).

The generality of calamity is a reason for relieving the nation and making things easy, because they need these facts and incidents, and it is difficult to do without them; hence, this necessitates mitigation and facilitation. Evidence of the legitimacy of this rule is many, including the *hadith* of Ibn Omar, who said, "I spent the night in the mosque during the reign of the Messenger of God, and I was a young, single boy, and the dogs used to urinate, kiss, and turn around in the mosque, but they did not spray any of that" (al-Bukhārī, 7030, 9/40).

The *hadith* is evidence that dogs used to urinate in the mosque, and the Companions, may God bless them and grant them peace, did not wash them. This is due to the generality of the calamity and its recurrence, which requires special consideration (al-Baghawī, 1983).

Examples of these in our time include uncovering the head and eating on the road. These matters do not undermine justice or accuse of chivalry. Indeed, it is a widespread affliction in our time; unlike the previous jurists who did not accept their testimony (al-Shāṭibī, 1997).

5. *Change in Social, Economic, and Political Conditions*: Many social, political, and economic conditions have changed according to the year of development. Therefore, the provisions based on them change as they change (al-Qaraḍāwī, n. d).

These are the most important realistic reasons for giving room to nice moments. These reasons should be considered when striving to be far from superstition and anomalies, thus highlighting the flexibility of *Shari'ah* and its care for changes.

For instance, nice moment can be used to determine the minimum period of time for which ownership of an asset is considered. The plaintiff's evidence does not necessarily prove asset ownership, but it does show it. Ownership must have preceded its establishment, but a long period is not required. A brief moment is sufficient for the witnesses to be truthful on asset ownership (‘Attā, 2018).

Although the factor that triggers nice moment to change the legal rulings is the change of custom, factors like changes in time, place, and conditions are also valid reasons for nice moment to cause the change in rules without violating the fundamental *sharia* principles. Among the common examples cited in this study is the application of nice moment in freeing a slave. Although slavery was permissibly restricted in *sharia* to warfare against an enemy that waged war on the Muslims, their emancipation was expanded through *fidyā* (ransome), *makātib* (emancipation agreements), and *kaffārah* (atonement) (Brown & Ali, 2017). However, the principles in this application can be transposed into other similar modern economic and financial transactions for the benefit of humanity. A contemporary application is the example of *waqf*, where the donated asset leaves the possession of the donor to the possession of Allah (SWT) and the proceeds are expected to be spent on charitable cause. However, the donor might wish to endow an asset for the sake of Allah (SWT) but is still in need of the proceeds while alive and does not want to do *wasiyyah* (Islamic will) because that restricts the endowment to a maximum of one-third. Therefore,

the principles of nice moment accommodate the ownership of the asset for the short and specific nice moment before the death of the endower of the endowment. The intention now will be: I endow this asset henceforth the nice moment before my death. Automatically it becomes *waqf* as confirmed from the beginning of the nice moment, and not to be treated as an inheritance or will (Jum‘ah, 2015).

3. Regulatory Principles for the Application of Nice Moment in Modern Islamic Financial Transactions

Despite the safety of *Shari'a* rulings from deviation and their fulfillment of the overall objectives of legislation that *Shari'a* came to preserve, according to Attā (2018), the following is a summary of these regulatory principles:

1. It should not be applicable in fixed rulings: such as acts of worship (*‘ibādah*) with precise limits and estimated rulings.
2. It is not one of the provisions of the general objectives of *Sharia* law, such as preserving necessities.
3. It is not one of the rulings mentioned in detail in the Qur'an or the *Sunnah*, such as inheritance provisions.
4. It should not be one of the general legislative rules, like the obligation to fulfill a promise and the freedom of blame.
5. The change in *fatawa* and rulings should not be the result of the motive of whims and desires.
6. *Ijtihad* application of the nice moment especially to contemporary issues should be undertaken by a diligent scholar who is well-grounded in knowledge to change the rulings. Some of them accept *ijtihad*, while others do not. He must possess jurisprudential ability, sound knowledge of the Qur'an, understanding of the

Sunnah, mastery of the Arabic language. Furthermore, he must also know the principles of repression, understand the purposes of *Sharia* law and the principles of Islamic jurisprudence. Equally, he should know the tools and means of *ijtihad* that make him capable of understanding and deducing in the correct ways.

7. Correct consideration and reasoning, following the methods of deducing rulings and applying them, considering the juristic theory of nice moment, the consequences of rulings, the overall objectives of *Sharia* and its general regulatory principles, and applying the rulings to their place after ensuring the soundness of the changing reality and its correct consequences.
8. It is required that the reason for which *Shari'ah* ruling was changed based on nice moment must be constant or frequent in the case and does not contradict contrary evidence or principles of *Sharia*.

4. Jurisprudential Applications of Nice Moment

The effect of the idea of nice moment has appeared in several jurisprudential forms, including what the Shafi'i jurists – who are the jurists who make the most use of the nice moment-- mentioned in the chapter on purity in the issue of arranging the organs of the person performing ablution if he does not remain in the water for a sufficient time for the arrangement to take place. Sheikh Zakariyā Al-Anṣārī said (Al-Anṣārī, n.d., 1/34): "If a newly initiated person performs ablution to remove (impurity) or the like, even if he intentionally removes (impurity) or the like (he makes a mistake in arrangement) in both of them, (or if he immerses himself in the water) with the intention of what was mentioned, even if he begins with the lower parts (it suffices) for ablution,

(even if he does not stay) in immersion for a period in which it is possible to arrange it because washing is sufficient for the older one, then it is better for the younger one, and to determine the arrangement in nice moments, contrary to al-Rāfi'ī in his saying: (It is only sufficient if he stays)".

Here, the general rules required that the *hadith* of the newly initiated person should not be removed if he became immersed and did not remain immersed for a period in which it was possible to arrange it. According to the Shafi'is, maintaining the order that is a condition for the validity of ablution was not achieved. Despite this, the Shafi'is ruled that impurity should be removed in this case. Based on the assessment of a nice moment, the arrangement is judged to have occurred, and thus the effect of the nice moment appears in correcting actions that the general rules require to be incorrect, but the jurists corrected them based on jurisprudential perceptions that called for their correction, and they found in the theory of nice moment an explanation for abandoning what the general rules require in these forms of jurisprudence and its analogues.

Likewise, it is mentioned that whoever considers standing at 'Arafah as a nice moment between noon of the day of 'Arafah and the rise of the following dawn on the day of sacrifice – is one of those who are eligible to stop – his standing is valid, and thus he completes Hajj (al-Nawawī, n.d., 8/102). Al-Nawawī said (al-Nawawī, n.d., 8/203): "al-Shāfi'ī and his companions said: What is considered is attendance in part of 'Arafah, even for a nice moment, on the condition that he is worthy of worship."

Imam Shihāb al-Dīn al-Ramlī said (al-Anṣārī, n.d., 2/46): "The implied sale should be excluded in his saying; (Emancipate your slave on my behalf for such-and-such), because it is necessary to estimate

his entry into the buyer's possession before emancipating them, and that is at a nice time when no other estimate is possible, so the option is not possible".

It is stated in al-Minhāj and its explanation, "Tuḥfat al-Muḥtāj" by Ibn Ḥajar al-Haytamī: "(It is valid to sell) the (rented) property during the lease (to the landlord), as there is no barrier, such as selling a usurped property from its usurper, but it is not valid to sell the purchased item before taking possession of it to the seller, due to the weakness of his ownership (and the lease is not annulled according to the more correct opinion). If the sold item is returned with a defect, it shall fulfill the rest of the period, or the lease is annulled due to a defect or damage to property; hence, it will be returned for the rent for the remainder of the period (if he sold it to someone else), and it was determined by a time, (it seems permissible), even without the permission of the lessee, because of the difference in suppliers. The lessee's hand is not considered a barrier because it is in trust, and therefore the buyer is not prevented. Whoever receives it for a nice moment, to stabilize his ownership, then returns it to the tenant, is exempted from this small amount due to necessity." Another example is what al-Nawawī mentioned in "al-Rawḍah": The plaintiff's evidence does not necessitate proof of ownership of him, but it demonstrates it. So, ownership must be before establishing it, but it is not required to precede it for a long period. A nice moment is sufficient for the witnesses to be truthful, and what is not necessary cannot be estimated."

Another issue is whether a person wants to give in charity the benefits of what he owns forever and make that charity take place after his death so that he benefits from those benefits while he lives because he needs them during his life. After his

death, it is spent in charitable fields, such as educating the poor, scientific research, and so on. The way to do that is to endow these benefits during his life and stipulate that giving them to the recipient is conditional upon death. Imam al-Zarkashī transmitted its permissibility from Judge Al-Husn from the Shafi'i school of thought, as al-Khaṭīb mentioned in "al-Iqnā'" that this behavior fluctuates between qualifying it as an endowment and qualifying it as a will as there was a similarity between both the endowment and the will. Jurists believed that it was an endowment, and the probability that it was an endowment comes from a nice moment before death in which the owner's will is carried out. So, a *waqf* is concluded during his life, and with this supposedly nice moment, that disposal is not included in the category of wills that are attributed to after death completely. The difference between a *waqf* and a will is that a *waqf* removes the thing endowed from the possession of the person from the moment of the *waqf*, while a will is an additional disposal after death. The bequeathed thing does not go out of the possession of the testator during his lifetime, and here this disposition is ruled as an endowment, but its disbursement to its beneficiaries depends on his death. After his death, the thing does not enter the estate, so it is not a will because the will is executed in the estate.

Jurists have solved the above problems based on what they call the "nice moment." It is a hypothetical moment whose duration is the minimum amount of time in which the intended purpose can be accomplished. It is noted here that since emancipation was a branch of kinship, the existence of kinship was necessary, so a nice moment occurred in which kinship occurred and then emancipation was imposed on the owner, but it was

considered here because there is an amount of time in which all of this can happen.

5. Legal Adaption of Contemporary Financial Transactions

The legal adaptation of tricks in contemporary financial transactions is considered one of the most important procedural approaches through which particular issues are linked to general principles. In Islamic regulation of financial system, the law aims at repelling injustice, attacks on people's money and its unlawfully consumption, even if their means of achieving them differs, according to the standard of reference in considering the controls of interest and corruption (Nazliwī, 2011).

Achieving the nice moment in contemporary financial transactions depends on three aspects:

1. The motive for the contract must be legitimate, and this is the origin of the principle of prohibiting tricks. Looking at trickery from its forbidden aspect, Ibn Qudamah said: "And all tricks are forbidden and are not permissible in any religion when it appears in a permissible contract intending to do something forbidden by Allah, and to make His forbidden things permissible, or waiving a duty, and suspension of paying a right" (Ibn Qudāmah, 1968).
2. The structuring of contracts fulfills the requirements of the contract or the objectives of the contract. This considers the use of the trick from its legitimate side and the legal exits, as mentioned by al-Ḥamawī that: "It is cleverness and good vision, and what is meant here is what is legitimately sincere for one who is afflicted with a religious incident, and such sincerity is only achieved by cleverness and good vision." He called it a trick (al-Ḥamawī, 1985).
3. The outcome must be lawful; that is the principle of blocking pretexts for what is forbidden. It is to look at trickery from its prohibited and legitimate aspects, and from that, al-Shatibi defined it as "the permissible trick to overthrow a ruling or overturn it to another ruling, in such way that it is not overturned except with that intermediary trick, used to achieve that intended purpose" (al-Shāṭibī, n. d).

Therefore, legal trick, is a means to achieve a specific goal by the subject of *Shariah* law (Mukhalaf); the person being addressed by the *Sharia* ruling. Permissible legal tricks are means governed by their objectives, to either render a case as an obligation, as permissible, or as prohibited. Considering the legal tricks during the investigation of *manat al-hukm* (the focus of the rule), and their applications to financial contracts; it often appears to be legitimate, but in reality, they are not, especially when used to legalize usurious contracts (Mish'āl, 2019).

A modern example is *waqf*, where an asset is donated to Allah (SWT) and its proceeds are used for charitable purposes. Some donors, however, may wish to benefit from the asset's proceeds during their lifetime without being restricted by the one-third limit imposed by *wasiyyah* (Islamic will). The "nice moment" principle addresses this by allowing the donor to retain ownership for a specific period before their death. Afterward, the asset automatically transitions into *waqf*, ensuring it is neither treated as an inheritance nor a will (Jum'ah, 2015).

6. Conclusion and Recommendation

The significance of nice moment cannot be overemphasized in contemporary times. The theory is used to accommodate special cases in transactions that would have been declared null and void except with the intervention of the principle of nice moment. The theory of nice moment permits the change in rules of general principles to specific rules for public interest. What is meant by changing the legal rulings is the transformation of a ruling into another ruling for a legal obligation following the purposes of the legislation. It is an established principle among *usuli* scholars. It, along with other legislative principles and rules, provides flexibility in dealing with new developments in transactions and other matters. Thus, the divine law is distinctive, with its validity for all times and places. The reasons for change in *Sharia* rulings are varied, including customs and traditions, such as the change in place, circumstances of those affected, and their interests. Some changes might be due to reality and its development, such as changes in information, needs, abilities, and capabilities, the generality of calamity, and changes in social, economic, and political conditions. Every reason has its legal roots and realistic examples.

Restricting the change in *Shari'ah* rulings through several regulatory principles is necessary. The most important ones of these principles are that there should not be a change in fixed rulings, that *ijtihad* should be exercised so that it is disciplined by its people, and that the *mujtahid* follows the methods of deducing and applying rulings and considers reality and its consequences to ensure that *ijtihad* is controlled towards achieving the objectives of *Shari'ah*. A *mujtahid* who may opt for a nice moment must, in addition to the above guidelines, adhere to the principles of changing the rulings in

Shari'ah and the principles of issuing *fatawa*. Researchers are however encouraged to address the issue of changing *Shari'ah* rulings, especially the *Shari'ah* standards for changing rulings and their applications in contemporary cases and issues. It is equally important to regulate contemporary *fatawa* and jurisprudence by training jurisprudential scholars who address contemporary issues with collective opinions.

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