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- Author (s):** Naser Eddeen Al- Shaer¹, Man Baker¹, Amina A. Alaouni², Abdallah Abu Wahdan¹, and Sulaiman Alkaabi³
- Affiliation (s):** ¹An-Najah National University, Nablus, Palestine
²Palestinian Land Authority, Al-Bireh, Palestine
³Sohar University, Sohar, Oman
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University of Management and Technology, Lahore, Pakistan

A Necessity of Special Jurisprudence for Muslim Minorities: Foundations for Positive Integration and Preservation of Islamic Identity

NaserEddeen Al- Shaer*^{ID}

Man Baker*^{ID}

Department of Fiqh and Legislation,
Faculty of Shar'iah, An-Najah National University,
Palestine

Amina A. Alaouni^{ID}

Palestinian Land Authority,
Palestine

Abdallah Abu Wahdan^{ID}

Department of Fiqh and Legislation,
Faculty of Shar'iah, An-Najah National University,
Palestine

Sulaiman Alkaabi^{ID}

Faculty of Education & Arts,
Sohar University,
Oman

Abstract

The current study aimed to deal with the concept of Fiqh al-Aqalliyyāt al-Muslimah (Islamic jurisprudence for Muslim minorities), treating issues related to its theory, the views of prominent Muslim jurists, the Fiqh academies, Islamic centers, and similar institutions around the world. The study highlighted the need for a separate branch of Fiqh to deal with the issues of Muslims living as minorities in non-Muslim societies, connecting the new development to the roots of Islamic law. Additionally, the study showed that this Fiqh draws strongly on the classical foundations of Islamic law, taking into consideration the elements of necessity, public interest, weighing competing considerations, and the maqāṣid (the higher objectives) of *Sharī'ah*, in dealing with new realities. It explained how this Fiqh enables Muslims living as minorities to contribute positively to society while retaining their Islamic identities. The results highlight the various solutions to challenges facing Muslim minorities, not addressed in classical Fiqh. The study also treats the methodological framework for the practice provided by *Fiqh al-Wāqī'* (jurisprudence of reality), which reflects the call to *ijtihād* within the context of reality as it exists.

Keywords: civic engagement, contemporary Fiqh, Fiqh al-Wāqī, Fiqh for Muslim minorities, identity preservation, *ijtihād*, Islamic legal theory, maqāṣid al-Sharī'a, minority jurisprudence, Muslim minorities

Highlights

- The Maqāṣid-guided approach is very helpful for the *al-Aqalliyyāt al-Muslimah*. This approach is tailored to the needs of the *al-Aqalliyyāt al-Muslimah*. The Maqāṣid-guided approach is also very sensitive to the context.

*Correspondence concerning this manuscript should be addressed to Associate Professor NaserEddeen Al- Shaer and Professor Man Baker, Department of Fiqh and Legislation, Faculty of Shar'iah, An-Najah National University, Palestine at naser.shaer@najah.edu and man.baker@najah.edu.

- This helps the al-Aqalliyyāt al-Muslimah to live together with others in a way. The al-Aqalliyyāt al-Muslimah can take part in activities without giving up their religious identity.
- Many leading scholars today have been surveyed. There is also a lot of support from institutions for a Fiqh that's just for the Muslim minorities.
- The scholars use some principles to make decisions. These principles include necessity and custom. They also include preventing harm and balancing people's interests. The Maqāsid-guided approach and the Fiqh for minorities use these principles to address today's challenges.

Introduction

There is a rising trend in research about Muslim minorities across the Western world. One may wonder what the implications are for Sharī'ah in this context. Many Muslim minorities desire frameworks for appropriate conduct that both appease the host country and stem from their Islamic identity. This article shall examine arguments of some contemporary Sharī'a scholars who offer unique jurisprudential perspectives applicable to Muslim minorities, with the hope of fostering peaceful coexistence and fostering positive integration without compromising their religious identities.

This article addresses a critical aspect of the lives of global Muslim citizens, namely the Muslim minorities, and examines the legal and intellectual thinking guiding their needs and participation as citizens in host societies that are plural, multicultural, and increasingly unstable, globally.

The research problem is to examine the need for a distinctive Fiqh for al-Aqalliyyāt al-Muslimah from the perspective of contemporary Sharī'a scholars and their scholarly communities. It addresses their issues, examines their coexistence with their communities and their engagement with their issues and priorities, explains the arguments and pretexts upon which statements and opinions are based, and demonstrates its impact on the integration of al-Aqalliyyāt al-Muslimah into their communities.

This study aims to explore the need for a special Fiqh that enables Muslim minorities to integrate positively into their societies while maintaining their religious identity and values. Drawing on the ijtihādāt of contemporary Muslim scholars, as well as the resolutions and guidance of Fiqh academies and religious institutions, the study aims to answer the following research questions:

- How do contemporary Islamic scholars and Councils view the issue of separate minority juristic for Muslim communities living as minorities?
- What are the principal arguments/justifications of such an approach to the jurisprudence?
- What governing principles underpin this framework?
- How do these models integrate Muslim minorities whilst safeguarding their particular religions?

Referring to sources and earlier research, the work draws upon relevant literature—scholarly as well as findings of studies—especially those pertaining to fatwas given by Muslim scholars today. Collective fatwas from juridical councils and institutions of learning across the Muslim world and in Muslim minorities in Europe, America, Australia, and Asia, have also been consulted to assess the prevailing position of Muslim scholars and their justifications for it.

There is a current need for a specific jurisprudence dealing with Muslim minorities, which has been studied by many scholars. Major institutions in the Arab and Islamic countries, as well as across Europe, America, and Asia, have also issued fatawa, or recommendations, on this issue. The study relies on all these documentary sources. The study deals with the viewpoints of many contemporary scholars and aims to represent the main schools of thought on the issue.

The authors argue in favour of the necessity of Muslim minorities having their own jurisprudence. They argue that whilst this is not contrary to general Islamic law, its application would differ on account of differing circumstances and realities, a concept referred to by Muslim jurists as *Fiqh al-Wāqī'* (contemporary applications of Islamic law). This paper aims to highlight the importance of such a method of applying Islamic law in facilitating Muslim minorities' harmonious coexistence with the host majority, in a positive participative manner in dealing with communal issues at hand, and in ensuring that their shared values are observed whilst remaining within certain boundaries. In contrast, failure to adopt such an approach would likely lead to feelings of isolation, alienation, and a weaker sense of belonging.

This study is conducted based on a descriptive and analytical approach. It tries to review and analyze the views of present Islamic thinkers and institutions on the need to formulate a special jurisprudence for Muslim minorities. The study attempts to identify arguments and justifications, raise related issues, and direct the reader towards some important principles that need to be observed in formulating such jurisprudence. The study aims to be academic in nature by ensuring accuracy, classification, analysis, and documentation.

The research is structured around an introduction followed by thematic sections of analysis and argument, culminating in a synthesis of the main findings that address the research problem and research questions.

There is a general consensus among the thinkers, the jurisprudential bodies, and Islamic institutions regarding the necessity of a special jurisprudence for Muslim minorities. This jurisprudence encourages a balanced approach and positive coexistence between Muslims and the rest of the society, enabling Muslims to be part of the society and actively participate in it while upholding Islamic values, in the face of various challenges and complex questions encountered by Muslim minorities all over the world.

The report recommends that this approach be developed further within Islamic centers in Muslim minority settings and brought to Muslims living in non-Muslim societies. This could help Muslims become active members of their wider communities while retaining their religious identity, ethics, and values, and contributing to peaceable relations with people of other faiths.

2. The Correlation between Customized “Jurisprudence for Muslim Minorities” and the Objectives of Shari‘a

The concept of minority has different connotations and implications in language, religion, and ethnicity,¹ yet the connotation of and need for *al-Aqalliyyāt al-Muslimah* (the Muslim minority) is clearer when confined to the context of religion.²

One of the questions that arises in the contemporary period is the need for a particular *Fiqh* for Muslim minorities that live in non-Muslim societies, and for Muslims in general to find a balance between upholding their religious and ideological identity and their political and social responsibilities towards the countries in which they live. This question applies especially to the *Fiqh al-Maqāṣid*, which was developed by the classical thinkers and applied across different times and places.

The rules of Shari‘a are intended for the interests of men and women, general interests

¹Jamāl al-Dīn ‘Atiyyah, *Naḥwa Fiqh Jadīd lil-Aqalliyyāt* [Towards a New Jurisprudence for Minorities] (Cairo: Dār al-Salām, 2003), 7.

²Mahmood Ahmad Ghazi, “Islamic Shari‘ah and the Question of Minorities,” lecture, *Policy Perspectives* 6, no. 1 (2009): 63–77, https://www.ips.org.pk/islamic-shariah-and-the-question-of-minorities/index.php?option=com_content&task=view&id=820&Itemid=177.

encompassing both the spiritual interest in achieving the pleasure of Allah and the worldly interest. Sharī‘ah is a divine law that is perpetual and sensitive to time and circumstances. Its principles are broad, extensive, and multiple depending on the area of regulations that are to be pursued and the interests that are intended to be realized.

Sharī‘ah law is unique in its flexibility and all-encompassing in addressing the changing circumstances of time. The presence of Muslim minorities living in non-Muslim societies and/or permanently or temporarily residing in lands dominated by the Kufar or non-Muslims has led to the recent development of Minority Fiqh (*Fiqh al-Aqalliyyāt*). Although Traditional Fiqh provides for various scenarios, these are predominantly related to Muslim-majority societies and communities, and therefore fail to address many of the unique circumstances of Muslim minorities. This new jurisprudential school of thought is one of the notable features of the twentieth century and the ongoing twenty-first century.³ Minority Fiqh thus operates within the bounds of Sharī‘ah law, utilizing the universal nature of Islamic law while addressing the circumstances of the Muslim minority.⁴

While *al-Aqalliyyāt al-Muslimah* is the term commonly used by jurists and scholars to refer to Muslims in the minority, it is mainly used to highlight the fact that Muslims make up a small percentage of the population in non-Muslim countries. In countries such as India, where the Muslim population forms a sizeable percentage of the overall population, the term Islamic presence or permanent settlement may be more suitable. The word minority may give the wrong impression that the Muslim community is not here to stay. Furthermore, the word minority has negative connotations and can give the wrong impression that Muslims in these countries are weak and disengaged from society, which is contrary to the objectives of Sharī‘ah, namely to propagate Islam and to foster a culture of coexistence and inclusion.⁵

Fiqh al-Aqalliyyāt is a part of Islamic jurisprudence that deals with the unique challenges facing Muslims living as a minority in non-Muslim societies. It operates within the framework of the established principles of Fiqh and legal maxims, and does not introduce a separate system of law that is not governed by the disciplined process of ijtihād. It avoids going to extremes in applying exceptional rulings, and maintains the borders to preserve fundamental aspects of religion.⁶

The jurisprudence of dealing with other peoples and cultures has transformed from a backward-looking approach to one that is future-oriented and aligned with the principles of integration and coexistence. The Islamic presence in the West is no longer limited to occasional visits or temporary residence, and Muslim residents of the West need a methodology that guides them in effectively integrating into society while remaining faithful to their Islamic beliefs and practices. This methodology, which has become known as *Fiqh al-Muwāṭanah* (Fiqh of Citizenship), represents a crucial shift from the previous methods of dealing with other cultures and civilizations, whereby Muslims lived in Muslim-majority countries with their laws and customs dominant.

Minority Fiqh facilitates positive ethical and cultural engagement among Muslim communities across various fields, promoting constructive interaction with broader society rather than passive

³Mohammad Hashim Kamali, and Ahmad Badri Abdullah, “The Fiqh Al-Aqalliyyāt (Jurisprudence of Minorities) in light of the higher objectives (Maqāsid) of Shari’ah,” *Islam and Civilisational Renewal* 6, no. 1 (2015): 114–117.

⁴Ḥabībah Raḥāibī, *Uṣūl wa Qawā‘id Fiqh al-Aqalliyyāt* [Principles and Rules of the Jurisprudence of Minorities] (Emir Abdelkader University of Islamic Sciences, 2020–2021), 81.

⁵Raḥāibī, *Uṣūl wa Qawā‘id Fiqh al-Aqalliyyāt*, 81.

⁶Abd Allāh Al-Jubūrī, *Al-Aqalliyyāt al-Muslimah wa Taghayyur al-Fatwā [Muslim Minorities and the Changing Nature of Fatwas]* (Dār al-Kutub al-‘Ilmiyyah, 2015), 1–24. <https://ebook.univeyes.com/125624>.

isolation, while maintaining their religious identity. This positive coexistence is embodied in the concept of the *Fiqh* of Citizenship, which assures integration while preserving identity without dissolution.⁷

Muslims in non-Muslim countries increasingly navigate challenges extending beyond individual matters to encompass broader questions of Islamic identity, communal responsibilities, and connection to the global *Ummah*. While approaches such as *Fiqh al-Ḍarūrāt* (*Fiqh* of Necessities) address some urgent issues, they are insufficient for the complex social, political, and ethical dilemmas faced by minorities.⁸

A growing climate of uncertainty has emerged in the issuance of fatwas for Muslims living as minorities, driven largely by the multiplicity of legal authorities and the broad spectrum of contemporary juristic *ijtihād*.

However, the positions at points of serious departure, on important questions of Islamic law and practice, have not coincided. While some have permitted what others have clearly forbidden, a third group of scholars has come to the view that what is not permissible in *Dār al-Islām* may be permissible in non-Muslim societies. Some have relied upon analogies to past practices without due consideration of the significant differences between then and now. There is much confusion among Muslims living in the West as to what Islamic law requires in this place and time. This confusion has been a barrier to Muslims' full civilizational participation and has generally diminished prospects for meaningful and effective participation in the future. It has also created a sense of isolation and disconnection from the culture in which many Muslims live, and has hindered the Islamic civilization's encounter with the modern world. The challenge of globalization requires Muslims to rethink their laws and practices in a global environment, and the present state of affairs has created much anxiety as to whether or not Islam is able to deal with the questions of modernity.⁹

- Need to cultivate contemporary maqāṣid-oriented *ijtihād*: In order to grapple fairly with Muslims' present-day needs and aspirations while remaining connected to the wider Muslim *Ummah*, there is a pressing need to cultivate a modern-day *ijtihād* practice that will enable Muslims to positively contribute to intercivilizational dialogue and live in harmony with the wider human community based on the values of openness and cooperation.
- Need to articulate an Islamic discourse relevant to the culture, society, and law of the West: This discourse must incorporate the ever-expanding field of modern human knowledge on issues affecting individuals and society at different levels, from social and economic structures that regulate the affairs of life and various professional relations, to the issues of affection, attachment, emotional tranquility, psychological stability and support that directly concern the individual self.
- Addressing modern issues with methodological soundness: The task requires developing sound methodological tools and approaches, and methods that apply the *fiqh* principles and benefit from the wealth of newfound knowledge while remaining consistent with the definitive *Sharī'ah* texts and striving to fulfill its greater objectives when addressing issues affecting Muslims and

⁷Fayṣal Al-Mawlawī, *Al-Muslim Muwāṭṭinān fī Urūbbā* [The Muslim as a Citizen in Europe] [Dublin: International Union of Muslim Scholars (IUMS)], 85.

⁸Tāh Jābir al-'Alwānī, "Madkhal ilā *Fiqh al-Aqallīyyāt*: Nazarāt Ta'sīsiyyah [Introduction to the Jurisprudence of Muslim Minorities: Foundational Insights]," *Islāmiyyat al-Ma'rifah* 5, no. 19 (1999): 5, <https://doi.org/10.35632/citj.v5i19.1775>.

⁹Sālim Abd-Al-Salam Al-Shaykhī, *Al-Aqallīyyāt al-Muslimah wa-Taghayyur al-Fatwā: Awrubā Namūdhajan* [Muslim Minorities and the Changing Nature of Fatwas: Europe as a Model] (European Council for Fatwa and Research, 2016), <https://ebook.univeyes.com/125625>.

Muslim minorities, as well as their relations with the wider world.

- Training future generations: Ability to understand, address, and effectively communicate the Islamic discourse within local and global contexts while exercising intellectual creativity and critical thinking. This is imperative in order to provide novel yet authentic and qualitative *ijtihād* solutions that explore and address issues from various angles, while seeking solutions from the revealed sources and the conflicting legal solutions from national laws and international human rights standards.¹⁰

In recent years, there has been a growing need to study the issue of formulating a special Fiqh for Muslim minorities and the implications of such a shift on the dominant school of jurisprudence and the objectives of the *Ummah*. There have been a number of conferences and symposia organized on this subject with the intention of identifying and critiquing the various viewpoints on this important issue. This study reviews the works of prominent scholars in order to identify their viewpoints on this critical issue, analyze their arguments, and demonstrate the doctrinal aspects of the minority Fiqh in the light of Islamic legal theory and the extent to which such a concept is in conformity with Islamic jurisprudence.

This research examines whether Muslim minorities require their own specific jurisprudential approach. This question is viewed from the perspectives of contemporary Sharī'ah scholars, as well as from the perspectives of professionals and Muslim communities within Muslim minorities' societies. The challenges of Muslim minorities, their ways of living alongside the people of other faiths, dealing with the various social, cultural, and legal aspects of their host societies, and the different approaches of scholars who have dealt with these matters, using their own methodologies, evidence, and reasoning, are examined in depth. The study aims to demonstrate how a specialized fiqh of Muslim minorities can facilitate their integration into their diverse societies and empower them to deal with issues and priorities relevant to their communities.

3. Contemporary Muslim Scholars' Perspectives

To establish a comprehensive foundation, much effort has been invested in gathering views of contemporary scholars and briefly introducing them and their backgrounds (country and specialty). Their opinions on the issue at hand have been collected and discussed, and, to every extent possible, representative views of scholars, intellectuals, researchers, Fiqh academies, and various scientific and religious bodies among Muslim minorities around the world have also been covered.

In this research, we need to look into both legal and practical grounds for justifying a specialized Fiqh for the Muslim minority in non-Muslim countries, as against the possible conflict with general Fiqh. The research title reflects the idea of *Fiqh al-Wāqi'* (Fiqh of Reality) that aims at presenting Fiqh according to the prevailing realities and circumstances, thus facilitating Muslims living in the host country to merge and interact with its environment in an optimum way and get the maximum benefit out of it without compromising from their values and participating fruitfully in life of the host country with stress on human values universally shared. Unlike some other approaches, this research rules out isolationism, disconnectness, and negation of identity.

Under the section on the most influential scholars on Islamic Theology and their impact on later scholars and students, we have already covered a number of scholars. In this section, we present a further collection of scholars from around the world, with diverse backgrounds and perspectives.

¹⁰Nūr al-Dīn Mubārakī, "I'tibār al-Maqāsid fī Fiqh al-Aqalliyyāt al-Muslimah fī Masā'il al-Ijtihād [Considering the Objectives in the Jurisprudence of Muslim Minorities in Ijtihad Matters]" (PhD diss., Universty Of El-oued, 2024), 43, <https://archives.univ-eloued.dz/handle/123456789/37947>.

Yūsuf al-Qaradāwī, head of the International Union of Muslim Scholars and the European Council for Fatwa, emphasizes the necessity of a distinct Fiqh for Muslim minorities that accounts for their unique circumstances compared to other Islamic societies today and the differing conditions faced by Muslims in previous centuries. He has issued numerous fatwas addressing the legal needs for a Fiqh for Muslim minorities across various domains. He advocates for principles that respond to contemporary realities without violating the provisions, objectives, or rules of Sharī'a, describing this approach as: "Inevitably contemporary, realistic, and insightful Fiqh, grounded in the texts' rulings and the purposes of Sharī'a, while taking into account changes in time, place, and human circumstances."¹¹

Many scholars have adopted similar perspectives, including how 'Alī al-Qaradāghī, Secretary-General of the International Union of Muslim Scholars and Vice President of the European Council for Fatwa and Research,¹² and Muḥammad al-Ḍaddu, head of the Center for Scholars' Formation in Mauritania,¹³ emphasized the importance of developing a Fiqh for Muslim minorities to support their presence in non-Muslim societies and help establish communities in accordance with Islamic law.

Shaykh 'Abdallāh bin Bayyah, Head of the Global Center for Renewal, member of the International Islamic Fiqh Academy (IIFA), and member of the European Council for Fatwa, similarly advocates for a special Fiqh for Muslim minorities. He stresses the importance of addressing the distinct realities faced by Muslims in non-Muslim societies, enabling them to fulfill their societal responsibilities while fostering mutual understanding, cooperation, and peaceful coexistence.¹⁴

Other scholars contributing to this discourse include Dr. 'Abd al-'Azīz al-Tuwaijri, the former General Director of the Islamic Educational, Scientific, and Cultural Organization.¹⁵

Dr. Salmān bin Fahd;¹⁶ Dr. Jamāl al-Dīn 'Atīyyah, the consultant of the Islamic Fiqh Council in Jeddah and a member of the Association of Muslim Sociologist Scholars in America;¹⁷ Dr. Mona Adam,¹⁸ and Dr. Ismā'īl al-Ḥasanī, an expert at the International Islamic Fiqh Academy (IIFA).¹⁹ These Sharī'a professors emphasize the need for a contemporary, context-sensitive Fiqh that preserves religious identity while enabling constructive engagement with wider society. They call

¹¹Yūsuf al-Qaradāwī, *Fī Fiqh al-Aqallīyyāt al-Muslimah: Hayāt al-Muslimīn wasaṭ al-Mujtama'āt al-Ukhrā* [On the Jurisprudence of Muslim Minorities: The Life of Muslims in the Other Societies] (Cairo: Dār al-Shurūq, 2001), 29.

¹²https://x.com/Ali_AlQaradaghi/status/1900493431207502278 ((Accessed October 10, 2024).

¹³Muḥammad al-Ḥasan al-Dedew Al-Shanqītī, Available at: <https://n9.cl/cf7ca> (Accessed October 10, 2024).

¹⁴Shaykh 'Abd Allāh Bin Bayyah, *Ṣinā'at al-Fatwā wa Fiqh al-Aqallīyyāt* [The Craft of Fatwa and the Jurisprudence of Minorities], 3rd ed. (Markaz Al-Muwatta', 2018), 255.

¹⁵'Abd al-'Azīz Al-Tuwaijri, *Al-Islām wa al-Ta'āyush bayna al-Adyān* [Islam and Coexistence Between Religions] (Rabat: ISESCO Publications), 22.

¹⁶Sulaymān b. Fahad Al-'Awda, "Fiqh al-Aqallīyyāt al-Muslimah" *Youtube*, September 23, 2009, video, 1:11:53, <https://www.youtube.com/watch?v=BD54y1Hhxfw> (Accessed September 23, 2024).

¹⁷'Atīyyah, *Naḥwa Fiqh Jadīd lil-Aqallīyyāt*, 109.

¹⁸Munā Abdullah Mohammad Adam, "Ḍawābiṭ al-Fiqh al-Aqallīyyāt [Guidelines for Islamic Jurisprudence concerning Muslim Minorities]," *Journal of Islamic Research* 2, no. 8 (2016): 6, <http://search.mandumah.com/Record/748995>.

¹⁹Ismā'īl Al-Ḥasanī, "Qirā'ah fī Binyat Fiqh al-Aqallīyyāt [A reading of the structure of minority jurisprudence]" *Al-Fikr Al-Islāmī Al-mu'āṣir* [Contemporary Islamic Thought] 8, no. 30 (2002), 23, <https://doi.org/10.35632/citj.v8i30.1525>.

for an approach that considers recent developments in reality and differentiates between legal texts, human efforts, and historical practices.

Several contemporary professors of Islamic law from Arab universities also affirm the importance of a *Fiqh* for Muslim minorities.²⁰ Among them are Maḥmūd Sulaymān,²¹ Ḥanān Bayrūdī,²² Abdoul Samba,²³ Ḥanān al-Ḥusayn,²⁴ Muḥammad al-Ṣawwāt,²⁵ Bandar ‘Arīj,²⁶ Muḥammad al-Bayānūnī,²⁷ Sa‘īd al-Kamālī,²⁸ al-Ḥusayn Maḥdāwī,²⁹ Muḥammad Ikīj,³⁰ and Sa‘īd

²⁰Ḥanān Muslim Fattal Yabroudi, “Athar al-Qawā‘id al-Fiqhiyyah fī Tanzīm Fiqh al-Aqalliyyāt al-Muslimah [The Impact of Legal Maxims on Regulating the jurisprudence of Muslim Minorities],” *Journal of Arab Studies* 2, no. 36 (2017), 658, <http://search.mandumah.com/Record/995530>.

²¹Maḥmūd Sayyid Aḥmad Ibrāhīm Sulaymān, “Fiqh Ḥuqūq al-Aqalliyyāt al-Muslimah wa-Asbāb al-‘Ināyah Bihā [Jurisprudence of the Rights of Muslim Minorities and the Reasons for Caring for Them],” *Majallat al-‘Ulūm al-Insāniyyah wa-al-Ijtīmā‘iyyah* 1, no. 1 (2017): 148, <https://search.mandumah.com/Record/818950/Details>.

²²King Faisal University, College of Islamic Studies Portal, *KFU Official Website*. Available at: <https://www.kfu.edu.sa/ar/Colleges/IslamicStudies/> (Accessed October 1, 2024).

²³Abdoul Samba Abdoul Thiam, “Athar al-Qawā‘id al-Fiqhiyyah fī Nawāzil al-Aqalliyyāt al-Muslimah. [The Effect of Legal Maxims on Contemporary Issues of al-Aqalliyyāt al-Muslimah]” MA thesis, Umm al-Qura University, 2015, https://www.researchgate.net/publication/310517957_athr_alqwad_alfqhyt_fy_nwazl_alaqlyat_almslmt.

²⁴Ḥanān bint Muḥammad bint Ḥusayn Jastanih, “I’tibār Ma’ālāt al-Af’āl fī Fiqh al-Aqalliyyāt Ta’ṣīlan wa-Taṭbīqan [Considering the Consequences of Actions in the Jurisprudence of Minorities, both Theoretically and Practically],” *Majallat Kulliyat Dār al-‘Ulūm*, no. 127 (2019): 1003, <http://search.mandumah.com/Record/1121627>.

²⁵Muḥammad Al-Ṣawwāt, “Umūm al-Balwā wa Atharuhu fī al-Nawāzil al-Siyāsiyyah lil-Aqalliyyāt al-Muslimah,” [General Affliction and Its Impact on Political Contemporary Issues],” *Al-Manzūmah Journal* 11, no. 70 (May 2016): 11, 32.

²⁶Bandar Arīj, *Qawā‘id al-Maṣlaḥah wa Ta‘alluquhā bi-Nawāzil Fiqh al-Aqalliyyāt al-Islāmiyyah [The Principles of Public Interest and Their Application in Fiqh of al-Aqalliyyāt]* (Riyadh: King Saud University, 2020), 24.

²⁷Muḥammad Abū al-Faṭḥ Al-Bayānūnī, “Al-Uṣūl al-Shar‘iyyah lil-‘Alāqāt bayna al-Muslimīn wa-Ghayrihim fī al-Mujtama‘āt Ghayr al-Muslimah. [The Islamic legal principles governing relations between Muslims and non-Muslims in non-Muslim societies],” *Majallat Jāmi‘at al-Imām Muḥammad ibn Sa‘ūd al-Islāmiyyah*, no. 6 (1992): 146, <http://search.mandumah.com/Record/21240>.

²⁸Al-Shaykh Sa‘īd Al-Kamālī, “Fiqh al-Aqalliyyāt al-Muslimah,” Mohammed Amine Elgalai, Apr 20, 2019, YouTube video, 58:11, <https://www.youtube.com/watch?v=5BHxwOOInAk> . (Accessed October 13, 2024).

²⁹Ḥusayn Al-Maḥdāwī, *The Major Maqāsid (Higher Objectives) of the Fiqh al-Aqalliyyāt* [Oujda: University of Mohammed I (Morocco)], 14.

³⁰Muḥammad Ikīj, “Taqaḍī al-Aqalliyyāt al-Muslimah amāma Qaḍā’ Ghayr al-Muslimīn [Muslim Minorities litigating before non-Muslim courts and submitting to their rulings],” *Al-Manzūmah: Journal of Jurisprudence and Law*, no. 61 (2017), 39, <http://search.mandumah.com/Record/847537>.

al-Shuwayyah;³¹ Muḥammad Khalīl,³² Ḥabībah Raḥāyibī,³³ ‘Abd al-Karīm Bū Ghazālāh, Nūr al-Dīn Mubārakī,³⁴ ‘Abd al-Jalīl Ḥammādī,³⁵ Narīmān Būkhashbah,³⁶ Aḥmad al-Sūdāy,³⁷ Bashshār al-‘Ajal,³⁸ and Nādyā al-Khayr.³⁹

Additional contemporary voices include Anwar Yasin, who discussed the Fiqh rules regulating the Fiqh for Muslim minorities,⁴⁰ and Fāṭimah al-Zahrā’ ‘Arabāwī, Director of the Youth Platform in Morocco, who emphasized the need for a contemporary civilizational Fiqh for Muslim minorities that facilitates practice, removes hardship, strengthens their adherence to faith, and preserves their collective identity.⁴¹ Additionally, ‘Abdallāh al-Jubūrī called for developing a Fiqh that addresses the specific issues of minorities while taking into account their particular needs, necessities, and circumstances.⁴² Abd al-Karīm Zaydān highlighted the importance of a Fiqh of Muslim minorities

³¹Sa’id Al-Shuwayyah, “Maqāṣidiyyat Qawā’id Fiqh al-Mahjar min Khilāl Qarārāt wa Fatāwā al-Majlis al-‘Urūbī lil-Iftā’ wa al-Buḥūth wa Fatāwā al-Jāliyah [The objectives of the rules of Islamic jurisprudence in exile, through the decisions and fatwas of the European Council for Fatwa and Research and the fatwas of the community].” *Eddakhira Journal for Researchs and Islamic Studies* 4, no. 1 (2020): 190, <https://asjp.cerist.dz/en/article/166248>.

³²Muḥammad Ismā’īl Khalīl, “Fiqh al-Aqalliyyāt al-Muslimah fī Ibā’ al-Zawj al-Islām” [The Jurisprudence of Muslim Minorities Regarding a Husband’s Refusal to Accept Islam].” *Majallat al-Fiqh wa al-Qānūn*, no. 73 (2018): 59, <http://search.mandumah.com/Record/932191>.

³³Raḥāibī, *Uṣūl wa Qawā’id Fiqh al-Aqalliyyāt*, 89.

³⁴Nūr al-Dīn Mubārakī and ‘Abd al-Karīm Bū Ghazālāh, “Al-Darūrah al-Shar’iyyah wa Taṭbiqātuhā al-Mu’āṣirah ‘alā Fiqh al-Aqalliyyāt al-Muslimah: Aḥkām al-Mu’āmalāt Anmūdḥajan [Legal Necessity and Its Contemporary Applications in the Jurisprudence of Muslim Minorities: Transactions as a Model],” *al-Iḥyā’* 21, no. 28 (2021): 501.

³⁵‘Abd al-Jalīl Awlad Ḥammādī, “Taḥlīl Maqāṣid al-Sharī‘ah al-Islāmiyyah fī Nawāzil al-Mu’āmalāt al-Māliyyah ladā al-Aqalliyyāt al-Muslimah bi-al-Gharb: Arḍ wa-Taḥlīl li-Namādhiy Mukhtārāh min Fatāwā al-Majlis al-‘Urūbī li-l-Iftā’ wa-l-Buḥūth,” [Activating the Objectives of Islamic Sharia in Contemporary Financial Transactions of Muslim Minorities in the West: Presentation and Analysis of Selected Fatwas of the European Council for Fatwa and Research],” paper presented at the *Contemporary Jurisprudential Reasoning and the Objectives of Islamic Law*, Faculty of Humanities and Social Sciences, University of Tlemcen, October 2018, <https://www.researchgate.net/publication/361801061>.

³⁶Narīmān Būkhashbah, “Aḥkām al-Mu’āmalāt al-Māliyyah lil-Aqalliyyāt al-Muslimah [Financial Transactions Regulations of Muslim],” (Master’s Thesis, University of Eloued 2018), 6, 19, <https://archives.univ-eloued.dz/handle/123456789/2619>.

³⁷Aḥmad Al-Sūdāy, *Forming Juristic Rulings based on the Principle of Facilitation* (Khartoum: University of the Holy Quran and Islamic Sciences, 2014).

³⁸Bashār Ḥusayn al-‘Ajal, “Ta’āmul al-Aqalliyyāt ma’a al-Bunūk al-Ribawiyyah bayna al-Mujīzin wa-l-Mānī’in: Dirāsah Taḥlīliyyah Ta’šiliyyah Muqārānah [Muslim Minorities’ Dealings with Usurious Banks Between the Permissive and the Prohibitive Opinions],” *Mujalla al-Baḥth al-‘Ilmī al-Islāmī* 12, no. 27 (2017): 100, <http://search.mandumah.com/Record/821732>.

³⁹Nādyah Al-Khayr, *Maqāṣid-based Ijtihād in the Thought of Yūsuf al-Qaradāwī* (Cairo: Dār al-Shurūq, 2006), 50, 81.

⁴⁰Anwar Yassin Muḥammad, “Al-Qawā’id al-Fiqhiyyah al-Ḥākimah li-Fiqh al-Aqalliyyāt [The Legal Maxims Governing the Jurisprudence of Minorities],” *Fiqh of Life* (Blog), March 6, 2015, <https://fiqhoflife.wordpress.com/2015/03/06/154/>.

⁴¹Muḥammad Aḥmad Lūh, “Fiqh al-Aqalliyyāt: Ta’šīl wa-Tawjīh [Minority Jurisprudence: Foundations and Guidance],” *Al-Forqan Magazine*, December 13, 2010, 3, <https://al-forqan.net/%20article/>.

⁴²Al-Jubūrī, *Al-Aqalliyyāt al-Muslimah wa Taghayyur al-Fatwā*, 15.

that takes into account the specific conditions of Muslim minorities;⁴³ Similarly, Nāṣir al-Dīn al-Shā'ir called for developing a fiqh tailored to the circumstances, priorities, and integration of Muslim minorities within their societies.⁴⁴ Other scholars, including Wahbah al-Zuhaylī,⁴⁵ and Muḥammad Lūh,⁴⁶ among many others across Europe, America, Australia, Africa, and Asia, all advocate for a specialized fiqh grounded in Sharī'a principles but responsive to the lived realities of Muslim minorities.

Contributions to this volume are by scholars living and working in the Arab East and the Maghreb, but there are also contributions by specialists who live and work amongst Muslim minorities in a variety of academic, religious, and social settings around the world, from the US and Europe to Australia and Africa, and Asia. Among these scholars is Taha Jābir al-'Alwānī, who assured the necessity of a minority fiqh for addressing their issues through contemporary ijtihād that doesn't limit itself to ancient Fiqh heritage.⁴⁷ Ṣāliḥ al-Darwīsh issued a fatwa for it, in accordance with the principles and foundations of Sharī'a, while taking into account the specific circumstances and conditions of these communities, to preserve the Islamic presence in those countries.⁴⁸ Muḥammad al-Barāzī justified it as a necessity and a pressing need,⁴⁹ while Muḥammad al-Bishārī asserted the role of a fiqh that balances the needs of citizenship with faith and Sharī'a, and helps Muslim minorities incorporate into their societies while remaining committed to their religion⁵⁰. Abdallāh bin al-Juday' praised the formation of the European Council for Fatwa and Research as a meaningful and practical step toward implementing the minority fiqh,⁵¹ and Ḥusayn Ḥalāwah assured

⁴³'Abd al-Karīm Zaydān, *Official Website of Dr. Abd al-Karim Zaydān*. Available at: <https://www.drzedan.com/content.php?id=30> (Accessed September 28, 2024).

⁴⁴Nāṣir al-Dīn Muḥammad Al-Shā'ir, and Muḥammad Ragheb Al-Jītān, "Fiqh al-Aqalliyyāt al-Muslimah inda al-'Allāmah Yūsuf al-Qaraḍāwī: Malāmiḥ wa-Murtakazāt [Minority Jurisprudence According to the Scholar Yūsuf al-Qaraḍāwī: Features and Foundations]," *Rawāfiḍ li-l-Buḥūth wa-l-Dirāsāt* 9, no. 1 (2024): 49.

⁴⁵Wahbah al-Zuhaylī, "Athar al-Ḍarūrah wa-l-Ḥājah wa-'Umūm al-Balwā fīmā Yaḥillu aw Yuḥarramu min al-Miḥan wa-l-Waḍā'if al-Qā'imah Khārij Diyār al-Islām [The Impact of Necessity, Need, and Widespread Affliction on What Is Permitted or Prohibited of Professions and Occupations Outside Muslim Lands]," in *Qaḍāyā al-Fiqh wa-l-Fikr al-Mu'āṣir*, vol. 2 (Dār al-Fikr, 2012), 10.

⁴⁶Lūh, "Fiqh al-Aqalliyyāt: Ta'sīl wa-Tawjīh," 3.

⁴⁷Al-'Alwānī, "Madkhal ilā Fiqh al-Aqalliyyāt: Nazarāt Ta'sīsiyyah," 13.

⁴⁸Ṣāliḥ ibn 'Abd Allāh Al-Darwīsh, "Athar al-Ḍarūrah wa-l-Ḥājah 'alā Ahkām Mumārasat al-Aqalliyyāt al-Muslimah lil-'A'māl al-Tāliyah: al-Muḥāsabah, al-Maṣārif, al-Waḍā'if al-'Āmmah (ka-l-Qaḍā' wa-l-Niyābah wa-l-Muḥāmāh) [The Impact of Necessity and Need on the Legal Rulings Governing Muslim Minorities' Practice of the Following Professions: Accounting, Banking, and Public Positions (such as the Judiciary, Prosecution, and Legal Practice)]," paper presented at the *Fifth Annual Conference of the Assembly of Muslim Jurists of America, Manama, Bahrain*, (November 2007), 172.

⁴⁹Muḥammad Fu'ād al-Barāzī, "Athar al-Ḍarūrah wa al-Ḥājah wa 'Umūm al-Balwā fīmā Yaḥillu wa Yaḥrumu min al-Miḥan wa al-Waḍā'if Khārij Diyār al-Islām [The Effect of Necessity, Need, and Widespread Affliction Beyond the Abode of Islam]" (paper presented at the *Fifth Conference of the Assembly of Muslim Jurists of America*, Assembly of Muslim Jurists of America, 2007), 3, 16, 20.

⁵⁰The World Muslim Communities Council, "Mubāshar | Muḥādarah Ramaḍānīyah bi-'Unwān: 'al-Madkhal ilā Ta'sīs Fiqh al-Aqalliyyāt al-Muslimah' [Live | Ramadan Lecture: 'Introduction to the Foundations of the Jurisprudence of Muslim Minorities']," YouTube video, 45:07, March 2024, <https://www.youtube.com/live/Ooh9H2t4Kpw>. (Accessed September 25, 2024).

⁵¹Yūsuf al-Qaraḍāwī, "Qaḍāyā al-Jālīyāt al-Islāmīyah [Issues of Islamic Communities]," interview by Māhir 'Abd Allāh, *Al-Sharī'ah wa al-Ḥayāh* [Sharia and Life], Al Jazeera, May 2, 1999,

its role in helping them live in accordance with their identity and values in non-Islamic societies.⁵² Abd al-Majīd al-Najjār asserted that the fiqh of minorities must take into account their privacy and their subjection to different laws and cultures,⁵³ as Ṣalāh al-Dīn Sulṭān stated that the fiqh needs to emphasize a sense of citizenship.⁵⁴ Other scholars include Salem Al-Sheikhi,⁵⁵ and Jamil Hamdaoui, call for a special fiqh as a way to alleviate burden and preserve identity.⁵⁶ Mohammed Al-Omrani,⁵⁷ Muḥammad Shaybān,⁵⁸ Hishām Yusrī al-‘Arabī,⁵⁹ and Muḥammad Ṭāhir al-Mīsāwī calls for an objective fiqh that offers steadfastness to minorities in their religion and achieves effective incorporation and positive participation in their daily lives without assimilation into those societies,⁶⁰ while Sulaymān Ṭubūlyāk reinforces the importance of tailoring a fiqh to minority contexts, ensuring both religious adherence and constructive integration.

While some scholars caution against issuing Fatwas specifically for minority communities—fearing multiple overlapping legal frameworks or fragmentation of Sharī‘a’s coherence—this does not preclude recognizing the realities of Muslims living as minorities, which remain central to the principles of *ijtihād*. Sheikh Mohammed Said Al-Buti, formerly head of the Levant Scholars Union, emphasized that expatriate Muslims should generally adhere to Sharī‘a as observed in Muslim-majority contexts, applying the principles of *Fiqh al-Darūrah* when necessary.⁶¹

Crucially, many Muslims in minority contexts are indigenous, with ancestors who embraced Islam generations ago. Expecting them to emigrate is neither practical nor legally justified. It also conflicts with human rights, and disregards the principles of citizenship. *Dar al-Islam* and *Dar al-Kufr* were once categories utilized by Muslim writers to delineate regions on earth where Muslims

<https://www.aljazeera.net/programs/shareeaaandlife/1999/5/2>. (Accessed September 28, 2024).

⁵²Husayn Ḥalāwah, *Fiqh al-Aqallīyāt ‘ind al-Shaykh al-Qarāḍāwī* (European Council for Fatwa and Research, 2007), 39, <https://ebook.univeyes.com/120714>.

⁵³Al-Najjār, ‘Abd al-Majīd, “Towards the Theoretical Foundation of Fiqh al-Aqallīyāt,” *FeqhWeb Official Portal*, Available at: <https://shorturl.at/ZyB2U> (Accessed September 29, 2024).

⁵⁴Ṣalāh al-Dīn Sulṭān, “Al-Ḍawābiṭ al-Manhajīyyah lil-Fiqh al-Aqallīyāt al-Muslimah [Methodological Principles of the Fiqh for al-Aqallīyāt]” (paper presented at the session of the *European Council for Fatwa and Research, Dublin*), accessed October 29, 2024, <https://n9.cl/p0a73>.

⁵⁵Al-Shaykhī, *Al-Aqallīyāt al-Muslimah wa-Taghayyur al-Fatwā*.

⁵⁶Jamīl Ḥamdāwī, “Fiqh al-Aqallīyāt aw Fiqh al-Ta‘āruf [Fiqh of Minorities or Jurisprudence of Mutual Recognition],” *Mujallat al-Buḥūth al-Islāmiyyah*, no. 2 (2015), 170, <https://search.mandumah.com/Record/702910>.

⁵⁷Muḥammad al-Kaddī Al-‘Amrānī, *Fiqh al-Asrah al-Muslimah fī al-Mahājir: Hūlandā Namūdḥajan* [Jurisprudence of the Muslim Family in the Diaspora] (Dār al-Kutub al-‘Ilmiyyah, 2001), 9, <http://www.al-ilmiyah.com/files/bookpage/9782745133748.html>.

⁵⁸Muḥammad ‘Abd Allāh ‘Abduḥ Shaybān, “Al-Qawā‘id al-Akṭhar Iltisāqan bi-Fiqh al-Aqallīyāt: Dirāsah wa-Taṭbīqan ‘alā Wāqī‘ al-Aqallīyāt al-Muslimah [The Legal Maxims Most Closely Related to the Fiqh of Muslim Minorities: A Study and Application to the Reality of Muslim Minorities]” (PhD diss., University of Omdurman Islamic University, 2009), 15, 26, <https://search.emarefa.net/detail/BIM-348108>.

⁵⁹Hishām Yusrī Muḥammad al-‘Arabī, “Nawāzil al-Aḥwāl al-Shakhṣīyyah fī Fiqh al-Aqallīyāt [Contemporary Personal Status Issues in the Fiqh of Minorities],” *Majallat al-Mudawwanah* 2, no. 6 (2015): 150, <http://search.mandumah.com/Record/1006513>.

⁶⁰Muḥammad al-Ṭāhir Al-Mīsāwī, “Fiqh al-Aqallīyāt fī Ḍaw’ Maqāṣid al-Sharī‘ah: Tamayyuz wa-Indimāj [Minority Jurisprudence in Light of the Objectives of Sharia: Distinction and Integration],” *At-Tajdid – Intellectual Refereed Journal* 14, no. 27 (2010): 235.

⁶¹Muḥammad Sa‘īd Ramaḍān Al-Būṭī, “Tārīkh al-Tashrī‘ al-Islāmī [The History of Islamic Legislation],” Posted March 22, 2014, by Al-Imam Al-Shaheed Al-Buti Channel, Youtube, 44:53, <https://youtu.be/IM88GEonHal?si=ld-7C3qUvdmQptxN>.

were able to live under the Law of Allah, whilst other areas were regarded as territories where Muslims had to reside as a minority and fight to preserve their Faith whilst obeying laws and customs that are foreign to Islam. There is, however, no reason today why Muslims are unable to reside anywhere on earth and at the same time be genuinely practicing Muslims, making every effort to live in conformity with the teachings of Allah and His Messenger. The various major authorities dealt with within this volume regard such special legislation concerning Muslim minorities in non-Muslim countries in a very positive light. Such legislation must be recognized and approached in a way that encourages Muslim minorities wherever they may be to live good Muslim lives in their new host country.

4. Muslim Scholars' Attitudes on the Topic in Islamic Countries

Fiqh academies and Fatwa councils in many countries in the Arab and Islamic world are dealing with issues of Muslim minorities. They are working to formulate a special Fiqh for them, given that their needs are far removed from those of Muslims living in majority-Muslim countries. The ultimate goal is to provide Muslims living in the minority with Fiqh rulings which will enable them to preserve their faith and apply it in their life while living in cultures and communities which are often very different from those of Muslims living in Muslim countries.

The International Islamic Fiqh Academy (IIFA), affiliated with the Organization of Islamic Cooperation (OIC), emphasizes the importance of developing a Fiqh for Muslim minorities, aiming to “protect their presence in non-Islamic countries and safeguard their Islamic identity and cultural privacy.” Its work seeks to ensure that the obligations of citizenship in non-Muslim societies do not conflict with Islamic values, and to provide responses to inquiries from these communities to balance civic duties with religious adherence.⁶²

Similarly, the Islamic Fiqh Academy in Mecca has clarified provisions across various aspects of life for minorities, including new marriage contracts, prayer and fasting schedules, Friday and Eid sermons in non-Arabic languages, utilizing zakat funds for schools and hospitals, accepting donations from non-Muslims, and participating in elections alongside non-Muslims.⁶³

The Research Excellence Centre in Jeddah has actively promoted the inclusion of minorities in Fiqh discourse and has intensified its efforts to clarify Shari’a provisions in light of the issues and developments faced by these minorities by issuing fatwas on worship, transactions, sacrifices, dietary laws, personal status, dress, and interpersonal relations, reflecting the evolving realities faced by these communities.⁶⁴

In Egypt, the Iftā’ Council addresses issues arising from the unique living conditions of Muslim minorities, issuing fatwas across political, economic, social, and family life to strengthen their religious identity while affirming that this branch of Fiqh remains integrated within the general framework of Islamic jurisprudence.⁶⁵ Likewise, the Fatwa Committee at Al-Azhar University issues

⁶²International Islamic Fiqh Academy, “Resolution No. 19 (7/3): Ihrām for Pilgrims arriving by Air or by Sea for Hajj and ‘Umrah,” in *Resolutions and Recommendations of the International Islamic Fiqh Academy: Sessions 1–25, Resolutions 1–255 (1405–1444 H / 1984–2023 G)*, 3rd ed. (Jeddah: International Islamic Fiqh Academy, 2024), 37, 240, 331, 350, <https://iifa-aifi.org/wp-content/uploads/2024/12/IIFA-Resolutions-2024.pdf>.

⁶³Islamic Fiqh Council in Makkah, “Resolutions of the 20th Session. Makkah: Muslim World League,” 71, 101, 109, 213, 245, 254, 465.

⁶⁴Center of Research Excellence in Contemporary Fiqh Issues, *Electronic Research Journal*, EREJ Portal, Available at: https://erej.org/sub/?sub_cat_id=275. (Accessed October 26, 2024).

⁶⁵Dār al-Iftā’ al-Miṣriyyah, “Fatwa Concept: Muslim Minorities,” *Egypt’s Fatwa Authority Portal*, Available at: <https://www.dar-alifta.org/ar/ViewFatawaConcept/201/>. (Accessed September

fatwas tailored to the circumstances of minorities in matters such as worship, personal status, financial transactions, medical ethics, and dress.⁶⁶

Similarly, the General Ifṭā' Council of Jordan has given considerable attention to the development and application of a fiqh for Muslim minorities. It has issued a wide range of fatwas specifically tailored to the circumstances of Muslim minorities, addressing the questions they raise in matters related to transactions, acts of worship, social relations, personal status, and many other emerging issues. Through this sustained engagement, the Council seeks to provide legal guidance that responds to the real conditions experienced by Muslims living outside majority-Muslim societies.⁶⁷

The Ministry of Religious Affairs in Tunisia is also interested in publishing a Fiqh for Muslim minorities. The Ministry aims, in particular, to guide Tunisian Muslim women living in the Western world in accordance with the highest Islamic values, help them preserve their religion and culture, and remain connected to their identity. At the same time, the Ministry wants these women to remain in contact with their country of origin and not be affected by deviant ideas that might harm the Muslim community. Thus, the Ministry's interest is part of its overall vision to support the moral, cultural, and social cohesion of the Tunisian Muslim community abroad.⁶⁸

Iraqi Fiqh Academy also dealt in its research and fatwa of Muslim minorities' issues in various dimensions of life, including aspects of worship, personal status, business and trade, health and environment, migration and naturalization and other aspects related to Muslim minority life in non-Muslim countries, in order to find out solutions to problems and issues which these minorities are facing because of the nature of their life in a host country and their interaction with the people of the country where they are living in a righteous manner.⁶⁹

5. The Attitude of Islamic Institutions and Centers in Non-Islamic Countries

A number of Islamic centers, Sharī'a academies, and other scientific institutions for Islam have appeared recently in different parts of the world, including various countries in Europe, the Americas, Australia, and certain regions of Asia. These Islamic centers, Sharī'a academies, and other institutions for Islam cater to the diverse spiritual, legal, educational, and social needs of Muslim minorities and aid them in their attempts to live as good Muslims and at the same time establish a positive presence in the host country without betraying their faith.

The European Council for Fatwa and Research has issued many fatwas on various issues related to family, society, and economy, including issues related to buying and selling, civic behavior, and other issues. The overall objectives of the Council are:

“Issuing Fatwas that meet the needs of Muslims in Europe, solving their problems, regulating their interaction with European societies, in accordance with the provisions and maqāṣid of Sharī'a, issuing legality research and studies that address new issues in Europe in a way that achieves the maqāṣid of Sharī'a and serves the interests of humanity, and guiding Muslims in Europe in general

29, 2024)

⁶⁶Mas'ūd Ṣabrī, *Fatwas of the Fatwa Committee at al-Azhar Mosque* (Cairo: Dār al-Bashīr, n.d.), 33, 42, 54, 125, 147, 275.

⁶⁷Dār al-Ifṭā' al-Āmmah (Jordan), *Encyclopedia of Fatwas*, Official Fatwa Department of Jordan, Fatwas No. 2870, 3470, Available at: <https://www.aliftaa.jo/encyclopedia-fatwas>. (Accessed September 25, 2024)

⁶⁸Ministry of Religious Affairs (Tunisia), “Official Duties and Services Portal,” *Ministry Official Website*. Available at: <https://www.affaires-religieuses.tn>. (Accessed October 1, 2024)

⁶⁹Iraqi Fiqh Council, “Official Fatwa Database,” *Iraqi Fiqh Academy*, Available at: <https://fatwairaq.com/Fatwas/Details/263>. (Accessed October 1, 2024)

and the youth of the Islamic awakening in particular by spreading authentic Islamic concepts and legal and upright fatwas.”⁷⁰

In addition, the Assembly of Muslim Jurists of America (AMJA) has devoted significant effort to the field of Fiqh for Muslim minorities. It has published a number of in-depth studies focused on the challenges faced by Muslim communities in the West, covering areas such as education, financial transactions, and core civil rights. In addition to these initiatives, the Assembly established the Islamic Shari‘a Academy in America with the goal of producing qualified specialists in Islamic legal studies. The Assembly also launched Scholars Without Borders, a unique initiative designed to connect Muslim scholars across the globe, facilitating collaboration and dialogue. Moreover, AMJA actively identifies and analyzes pressing contemporary issues affecting Muslim minorities, bringing those issues before its Permanent Fatwa Committee for rigorous discussion and guidance.⁷¹

In France, institutions such as the Institut Européen des Sciences Humaines (IESH) and the Al-Shāṭibī Center serve the diaspora, addressing social, educational, and legal issues for Muslim minorities.⁷² In the United Kingdom, centers like the Islamic Centre of Manchester, the British Islamic Heritage Centre, and the London Mosque provide guidance emphasizing tolerance, coexistence, and positive incorporation.⁷³

Other examples include the Islamic Cultural Center in Ireland, which focuses on preparing future generations to integrate positively into society while maintaining Islamic principles,⁷⁴ and the Dār al-Salām Centre in Rome, which applies a Fiqh for Muslim minorities principles to nurture communities that are both responsive to modern societal developments and grounded in faith.⁷⁵

In Asia, the Center for Cultural and Islamic Sciences in China actively promotes a Fiqh for Muslim minorities by teaching Islamic rulings, granting academic degrees, training qualified imams and preachers, providing Islamic literature, and assisting them in preserving their religious identity.⁷⁶

Institutions and centres that deal with Fiqh for Muslim minorities are found all over the world. They are engaged in the study and practical application of Fiqh as it applies to the needs of minority Muslim communities while being mindful of the teachings of the Prophet and Islamic Law. Such institutions urge Muslim citizens of non-Muslim states to be good citizens and to be constructive and positive members of their communities while being faithful to Islam and the Muslim community.

⁷⁰ European Council for Fatwa and Research (ECFR), “Official Portal for Fatwas,” *ECFR Website*. Available at: <https://n9.cl/muhmg>. (Accessed October 1, 2024)

⁷¹ Assembly of Muslim Jurists of America (AMJA), *Third Conference: Coexistence Among Civilizations*. Sacramento: (AMJA Publications, n.d.), 9.

⁷² Digital Da‘wah Repository, *Islamic Centers in France. Dawa Center Portal* Available at: https://dawa.center/islamic_centers/FR. (Accessed September 23, 2024)

⁷³ British Muslim Heritage Centre (BMHC), “Heritage and Services,” *BMHC Official Website*, Available at: <https://bmhc.org.uk/>. (Accessed September 24, 2024) and Islamic Centre of Manchester, “Community Services Portal,” *Manchester Islamic Centre Facebook Page*, Available at: <https://www.facebook.com/>. (Accessed September 24, 2024)

⁷⁴ Islamic Cultural Centre of Ireland, “Facilities and Services,” *ICCI Official Website*. Available at: <https://islamireland.ie/facilities-services/>. (Accessed September 26, 2024)

⁷⁵ Mohsen Mubarak Abdel-Azim Arafa, “Dawr al-Marākiz al-Islāmiyyah fī Ītālyā fī al-Da‘wah [The Role of Islamic Centres in Italy in Da‘wah]” (PhD diss., International Islamic University for Sharia and Human Studies, 2015), 121, <https://www.google.com/search?q=https://www.alukah.net/sharia/0/91006/>.

⁷⁶ Xinjiang Islamic Institute, “Report on Islamic Sciences and Education,” *CGTN Arabic Official Website*. Available at: <https://newsar.cgtn.com> (Accessed October 3, 2024).

6. The Justifications Behind the Emergence of Fiqh for Muslim Minorities

6.1. Overall Justifications

The call for a specific Fiqh for Muslim minorities is a legitimate one, legally, practically, and historically speaking. It is a part of Islamic jurisprudence that has been addressed by the previous Fuqaha in their legislation of the Fiqh for the different areas of life, and naming each of them, i.e., giving them a name so as to specify their scope of application. What is notable here is that the Fuqaha have different Fiqhs they deal with in different areas, such as the Fiqh of Inheritance, Financial Transactions, Politics, Criminal Law, and Personal Status, etc. A Fiqh for Muslim minorities is therefore but a part of this tradition, aiming at addressing specific issues and problems that this minority is confronted with.

A Fiqh for Muslim minorities is not intended to conform uncritically to prevailing realities; rather, it aims to take into account the circumstances and necessities shaping the lives of Muslim minorities while remaining rooted in the higher objectives (maqāṣid) of Sharī'a and the principles of balancing interests (*Fiqh al-Mawāzanāt*). It is not an independent or detached Fiqh but integrates fully with the general body of Islamic law. Considering the particular conditions of minorities is neither innovation nor deviation; it lies at the core of Islamic legal theory and reflects the essence of ijtihād in addressing contemporary issues.

Fiqh of Muslim minorities is a branch of Islamic jurisprudence that deals with the lawful rules and regulations on Muslim minorities living in non-Muslim countries, especially in a country that is largely secular or non-Muslim and is governed by a system of law that is not Islamic. This branch of law was developed because of the needs of Muslim minorities. They are people living in a country other than that of the Muslims. Most of them are dwelling in the West, where there is a very strong Western culture. This Fiqh seeks to fulfill the religious needs of Muslim minorities and to provide a jurisprudential approach to their problems and to organize their affairs in accordance with Islamic law.⁷⁷

Muslim minorities are sprouting up across the globe. In many regions, Muslim populations are growing at an incredible rate and in some areas Muslim minorities comprise more than one-fifth of the world's total Muslim population. Jurisprudence that specifically deals with the legal issues of Muslim minorities in their particular contexts has been developed in order to help Muslims apply their faith in their unique settings. Such specialized jurisprudence requires in-depth study and serious thinking (ijtihād). Muslim minority jurisprudence equips minority Muslims with the means to be true Muslims and apply their beliefs, practices, and laws of worship, as well as laws of marriage, divorce, inheritance, halal and haraam foods, business transactions, and other issues of life. In order to live in harmony with their Lord and to deal with their family and the rest of the society in a proper manner.⁷⁸

However, there are many difficulties faced by Muslim minorities compared to those living in Muslim countries with Muslim majorities. The most obvious of these difficulties is that Muslim minorities lack many essential pillars in the lives of Muslims, such as the Muslim ruler, the Islamic judiciary, and the laws of Islam, etc.⁷⁹ In view of these difficulties, a jurisprudence of the life of Muslim minorities was needed. In order to grapple with these special circumstances and to establish a Fiqh which would cater to the needs and life of Muslim minorities, scholarly centers and assemblies

⁷⁷Al-Jubūrī, *Al-Aqallīyyāt al-Muslimah wa Taghayyur al-Fatwā*, 15–16.

⁷⁸Husnul Haq, *Al-Taysīr fī Fiqh al-Aqallīyyāt al-Muslimah 'inda al-Shaykh Yūsuf al-Qarāḍāwī [Facilitation in the Fiqh of Muslim Minorities According to Shaykh Yūsuf al-Qarāḍāwī]* (Purwokerto: LPPM IAIN Purwokerto, 2016), 24, <https://repository.uinsaizu.ac.id/4452/?utm.com>.

⁷⁹Al-Darwīsh, "Athar al-Ḍarūrah wa-l-Hājah," 170.

have been established in Muslim minorities' communities all over the world.

This jurisprudence is intended to avoid duplication and to prevent chaos and confusion amongst the Prophetic instructions, and the laws and edicts issued by our Ulama. It is not to be evaluated on the basis of the grotesque methods and standards of the past, nor is it intended to create unnecessary hardship and complication. The purpose and intention are for Islam to remain a vibrant and dynamic religion that can provide appropriate solutions to the diverse legal needs of Muslim people in all ages, circumstances, cultures, and locales. This Fiqh for Muslim minorities was thus developed on the principles and objectives of Sharī'ah to address the unique circumstances of Muslim minorities living in their host country. It is indigenously based, yet relevant and meaningful to the lives of Muslim minorities. Thus, it is an authentic and timely form of Fiqh.⁸⁰

A major rationale for this distinct Fiqh is that classical Fiqh texts do not address many contemporary issues faced by minorities. As noted:

Those books were written within social and political contexts that differ greatly from the realities faced by modern Aqalliyyāt al-Muslimah. Moreover, the legitimate interests (*maṣāliḥ mu tabarah*) relevant to Muslims residing in Islamic countries differ from those applicable in non-Muslim societies. Many of the questions confronting Aqalliyyāt al-Muslimah today were entirely unknown to early Muslims, which makes renewed ijtihād necessary, deriving rulings based on the general texts of revelation, the objectives (maqāsid) of Sharī'a, and its universal legal principles.⁸¹

Moreover, this “focused attention” on the affairs of Muslim minorities encourages them “to interact constructively with their societies, rather than retreating into isolation and self-imposed insularity.”⁸² However, such engagement occurs within the context of the prevailing influence of non-Islamic teachings and social norms. This reality necessitates careful consideration of their circumstances and the application of ijtihād tailored to their situation, allowing them to uphold their Islamic identity while actively and effectively integrating into the societies in which they live. As one scholar explains, this approach seeks “to maintain their Islam while effectively integrating into the societies to which they belong, and remove the conflict between the provisions of Sharī'a and the requirements of their lives.” This volume explores the challenges Muslim minorities face in their daily lives and how they can practice their religion effectively while remaining active and constructive members of their communities and societies.⁸³

Subsequently, the allocation of a specialized Fiqh for Muslim minorities is expected to achieve a range of interrelated objectives, including the following:⁸⁴

- Assisting Muslim minorities in living their daily lives in non-Islamic societies in full accordance with the provisions of Sharī'ah, but without undue rigidity or restriction. This includes facilitating the practical application of Islamic rulings in their personal and social conduct,

⁸⁰Tāhā Jābir al-‘Alwānī, *Towards a Fiqh for Minorities: Some Basic Reflections*, trans. Ashur A. Shamis (International Institute of Islamic Thought, 2003), 18.

⁸¹Iyāḍ ibn Nāmī al-Sulamī, “Fiqh al-Aqalliyyāt al-Muslimah: Mafhūmuḥu wa-Khaṣā'ishuḥu [The Jurisprudence of Muslim Minorities: Its Concept and Characteristics],” *Majallat al-Buḥūth al-Islāmiyyah*, no. 121 (2020): 26, <http://search.mandumah.com/Record/1078378>.

⁸²Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyyāt al-Muslimah*, 23.

⁸³General Secretariat for Fatwa Authorities Worldwide, *Research and Articles, Official Portal*. Available at: <http://www.fatwaacademy.org/Articles/>. (Accessed September 25, 2024).

⁸⁴Al-Qaraḍāwī, *Fī Fiqh al-Aqalliyyāt al-Muslimah*, 34; Bin Bayyah, *Shinā'at al-Fatwā wa Fiqh al-Aqalliyyāt*, 25; Lūḥ, “Fiqh al-Aqalliyyāt: Ta'sīl wa-Tawjīḥ,” 2; Al-Sulamī, “Fiqh al-Aqalliyyāt al-Muslimah,” 7.

enabling them to commit comprehensively to the values and principles of Islam, and easing the integration of Sharī'ah guidance into all aspects of their lives in a manner consistent with the tolerant and flexible spirit of Islamic law.

- Encouraging disciplined openness, adaptability, and constructive interaction with broader society, rather than isolation or withdrawal. This objective aims to nurture generations raised on principles of legitimate, conscious coexistence, protecting them from assimilation, erosion of religious identity, or the alienation that can result from seclusion, while fostering confidence in engaging with diverse communities.
- Issuing fatwas on the questions and problems put forward by the Muslim minorities living in different parts of the world, experiencing different situations and encountering various difficulties and challenges from different aspects, such as law and society in places where they live as a minority in non-Islamic environments. This is a new challenge that requires conducting contemporary ijtihād on the issues facing the Muslim minority and their solutions, which need to be addressed as soon as possible. The solutions to these problems should harmonize with *Fiqh al-Maqāsid*, *Mawāzanāt*, and *Awlawiyyāt*, and have *Ma'ālāt*. Moreover, these solutions should be grounded in Islam's eternal values.
- Awareness of rights to these claims among Muslim minorities living in their country and introducing these rights to the laws of their country of residence. Also, equipping them with the ability to discharge all Islamic duties in all spheres of life.
- Providing opportunities and means for Muslim minorities to share the message of Islam with the non-Muslim communities they live amongst. Preference is given to practical illustrations and real-life experiences over theoretical frameworks and dialogue.
- The work is relevant to the needs of minority Muslim communities and provides jurisprudential solutions to a number of questions and issues which have not been dealt with in the existing fiqh literature of the two main Muslim sects. The work provides legal solutions and answers in light of the social reality of the Muslim minorities and the circumstances of life as they are today.

6.2 *Fiqh al-Wāqi'* (Fiqh of Reality)

A core justification for allocating a distinct Fiqh for Muslim minorities lies in its responsiveness to reality, which differs markedly from the context of Muslims in majority-Muslim countries. The principle of accounting for changing circumstances is well-established in Uṣūl al-Fiqh: whenever the nature or context of an issue changes, its legal judgment may also change. This is the essence of *Fiqh al-Wāqi'*, increasingly employed by contemporary scholars to apply Sharī'a appropriately to lived realities.⁸⁵

Fiqh al-Wāqi' involves analyzing the actual state of affairs to exercise ijtihād, applying rulings based on a dual understanding of the revealed text (and its legal cause, 'illah) and the contemporary context. Its application is guided by Sharī'a principles, aiming to protect human interests, prevent

⁸⁵Sa'īd ibn Muḥammad Bayhī, *Al-Ta'sīl al-Shar'ī li-Mafhūm Fiqh al-Wāqi'* [The Legal Foundation of the Concept of the Jurisprudence of Reality], 2nd ed. (Al-Dār al-Ālamiyyah, 2005), 195, <https://feqhup.com/uploads/145072218029631.pdf?utm>.

Abū al-Tayyib Muḥammad Ṣiddīq Khān ibn Ḥasan ibn 'Alī ibn Luṭf Allāh al-Ḥusaynī al-Bukhārī al-Qinnawjī, *Abjad al-'Ulūm: al-Washī al-Marqūm fī Bayān Aḥwāl al-'Ulūm* [The Alphabet of Sciences: An Account of the Conditions of the Sciences], 1st ed. (Beirut: Dār Ibn Ḥazm, 2002), 413, <https://ablibrary.net/books/13752?page=179&tab-id=2&page-label=179>.

harm, and facilitate life in accordance with societal conditions.⁸⁶

Fiqh al-Wāqī' occupies a central role in contemporary ijtihād, as one of its essential requirements is "a sound understanding of reality, without succumbing to it or justifying deviations from Islamic law." Genuine ijtihād does not involve the legitimization of corrupt or deviant social realities, nor does it permit the distortion of sacred texts to conform to them. Yielding to a deviant reality and attempting to rationalize it by manipulating legal evidence is incompatible with sound religious discourse and undermines the integrity of Islamic law.⁸⁷

One of the clearest expressions of Islam's realism is its recognition of human necessities and its accommodation of them, including the conditional allowance of certain prohibitions under specific circumstances and within well-defined limits. Consequently, authentic religious discourse must account for human realities, needs, and necessities, reflecting the well-established maxim that "necessities know no law."⁸⁸

Over the centuries, Muslim jurists have developed a series of legal maxims to guide mujtahidīn in understanding reality and responding to social and temporal changes. Among the most widely cited is the principle that "It is not to be denied that legal rulings based on custom may change with the change of time and place." This principle, however, applies only to rulings derived from mutable custom, not to the immutable foundations of the faith. These maxims illustrate both the flexibility of Islamic law and its capacity to address contemporary issues (nawāzil), demonstrating how legal rulings grounded in custom may evolve alongside societal practices.⁸⁹ As a result, customary practice ('urf) has become a central component of ijtihād, aiding scholars in understanding lived realities and in applying scriptural rulings appropriately. The two quoted expressions – "Custom is authoritative in law" and "What is recognized by custom is as binding as a stipulated condition" – highlight the significance of the community's customs for the jurists and prescribe upon the mufti the necessity of having knowledge of the customs of his community in the process of ijtihād. Many of the laws are dependent and vary accordingly with time and the customs."⁹⁰

Further to above mentioned "maxims" or "principles" is the legal foundation(s) which Islamic Scholars always refer to "harm removal" or "the doctrine of necessity", and the rule that "equates urgent need with necessity."⁹¹ The Qur'ān explicitly acknowledges such allowances, stating: "But whoever is constrained (to eat) any of these, not intending to sin or transgress, incurs no guilt."⁹² Complementing this are the principles of alleviating hardship—"Hardship brings ease"—and God's

⁸⁶Abd al-Majīd Qāsim Abd al-Majīd, "Fiqh al-Nawāzil wa-Fiḥ al-Wāqī': Muqārabat al-Ḍawābiṭ wa-l-Shurūṭ [The Jurisprudence of New Cases and the Jurisprudence of Reality: An Approach to the Principles and Conditions]," paper presented at the conference *Al-Fatwā wa-Istishrāf al-Mustaqbal* [Fatwa and Anticipating the Future], Libya, 2009, 473, <https://feqhup.com/uploads/142778959522451.pdf>.

⁸⁷Al-Qaradāwī, *Fī Fiqh al-Aqallīyyāt al-Muslimah*, 180.

⁸⁸Yūsuf al-Qaradāwī, *Khiṭābunā al-Islāmī fī 'Aṣr al-'Awlamah* [Our Islamic Discourse in the Age of Globalization] (Dār al-Shurūq, 2004), 114, <https://qaradawibooks.com/dwPdf-10?utm.com>.

⁸⁹Aḥmad ibn Muḥammad Al-Zarqā, *Sharḥ al-Qawā'id al-Fiqhiyyah* [Commentary on the Jurisprudential Maxims], rev. and annotated by Muṣṭafā Aḥmad al-Zarqā, 6th ed. (Dār al-Qalam, 2001), 227.

⁹⁰Muḥammad Amīn ibn 'Umar ibn 'Abd al-'Azīz Ibn 'Ābidīn, *Majmū'at Rasā'il Ibn 'Ābidīn* [Collected Epistles of Ibn 'Ābidīn], vol. 2 (Dār Iḥyā' al-Turāth al-'Arabī, 1980), 73.

⁹¹Amānī Ibn Mūsā, *Qā'idat al-Darūrāt Tubīḥ al-Maḥzūrāt* [The Maxim: Necessities Permit the Prohibited] (Al-Azhar University, 2018), 13–35

⁹²al Baqarah 2:173.

guidance: “Allah wants ease for you and does not want hardship for you,”⁹³ which collectively underscore the obligation to facilitate and ease matters whenever difficulties arise.⁹⁴ In addition to the goals of benefit (*maṣlaḥah*) and preventing harm (*maḥṣadah*), determining priorities (*Fiqh al-Awlawiyyāt*) is another objective of jurisprudence that is also discussed by this school of thought. These general maxims (*qudsī aḥādīth*) have significant importance in modern *ijtihād* and are essential concepts for the scholar to cope with prevailing circumstances and connect with the objectives of *Sharī‘ah*.

6.3 Examples: Conventional and Modern Fatwa

A *Fiqh* for Muslim minorities, therefore, remains firmly grounded in primary and secondary sources of Islamic law, *maqāṣid*, universal legal maxims, and general *Sharī‘a* principles. A practical example is the timing of the night prayer (*‘ishā’*) in regions where twilight is absent or delayed. Islamic law allows facilitation by estimating prayer times or combining prayers, following the Prophet’s example: “He did not wish to cause hardship to his *Ummah*.”⁹⁵

If flexibility applies to ritual worship, it is even more warranted in social and civil matters, which are influenced by changing customs and societal conditions.⁹⁶

In addition, numerous fatwas have been issued in recent decades in support of Muslim minorities, and some Western councils have adopted more flexible positions in certain cases, reflecting the specific conditions of Muslim minorities. For example, the European Council for Fatwa permitted the use of milk banks under specific conditions, based on medical necessity.⁹⁷ This contrasted with the position of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, which prohibited milk banks due to concerns over lineage uncertainty and the potential for unintended marital prohibitions arising from unknown milk kinship.⁹⁸ Similarly, the European Council for Fatwa permitted investment in companies with mixed activities, including some prohibited transactions such as interest-based dealings.⁹⁹ In contrast, the International Islamic Fiqh Academy maintained a stricter position, prohibiting participation in such companies on the grounds that ownership of shares constitutes involvement in prohibited activities regardless of proportionality.¹⁰⁰ In addition, the European Council for Fatwa and the Fiqh Council of North America endorsed the use of astronomical calculations as an independent method for determining the beginning of lunar months. They argued that sighting is a means rather than an end, and that modern astronomical precision removes uncertainty, and facilitates the organization of religious and social life for Muslims in non-Muslim contexts. By contrast, the International Islamic Fiqh Academy prioritized visual sighting, allowing astronomical calculations only to negate impossible sightings

⁹³al-Baqarah 2:185

⁹⁴Wahbah, “Al-Qawā‘id al-Fiqhiyyah wa Taṭbīqātuhā fī al-Madhāhib al-Arba‘ah [Legal Maxims and Their Applications in the Four Schools of Law],” in *Qaḍāyā al-Fiqh wa-l-Fikr al-Mu‘āṣir*, vol. 1 (Damascus: Dār al-Fikr, 2012), 288.

⁹⁵Ṣaḥīḥ Muslim, *Book of Combining the Prayers*, Hadīth no. 490 and 706.

⁹⁶Al-Qaraḍāwī, *Fī Fiqh al-Aqallīyyāt al-Muslimah*, 7.

⁹⁷European Council for Fatwa and Research, “Twelfth Ordinary Session of the European Council,” Fatwa 12/4, December 31, 2003–January 4, 2004, <https://www.e-cfr.org/blog/2017/11/04/twelfth-ordinary-session-european-council-fatwa-research/?utm>.

⁹⁸International Islamic Fiqh Academy, “Human Milk Banks,” Resolution No. 6 (6/2), adopted at the Academy’s 2nd Session, December 28, 1985, <https://iifa-aifi.org/en/32213.html>.

⁹⁹European Council for Fatwa and Research, Fatwa 12/4.

¹⁰⁰International Islamic Fiqh Academy, “Financial Markets (Shares, Options, Commodities, and Credit Cards),” Resolution No. 63 (1/7), adopted at the Academy’s 7th Session, May 14, 1992, <https://iifa-aifi.org/en/32438.html>.

rather than as a direct method for establishing the start of the month.¹⁰¹

7. Findings

Unlike in past centuries, today it is the majority of scholars, as well as many Fiqh councils and academic institutions, who are engaged in formulating a jurisprudence for Muslim minorities living in non-Muslim societies and cultures. This jurisprudence is imperative to enable Muslim minority individuals to be productive members of the citizenry of their host country while at the same time being good Muslims and adhering to Shari'ah principles.

In addressing environmental legal problems, the book formulates principles and rules of those problems by employing *Fiqh al-Mawāzanāt*, *Fiqh al-Awlawiyyāt*, and *Fiqh al-Ma'ālāt*, and by utilizing the *maqāṣid al-Sharī'a*, legal maxims, and other Islamic jurisprudence principles, and by exploring the methods and tradition of *ijtihād* and its dynamic applications. The book is therefore confined within the parameters of Islamic jurisprudence, but seeks to draw on its full potential.

Opposition remains limited and is largely associated with rigid literalist readings that overlook contextual change, often insisting on uniform application of rulings or migration from non-conforming environments.

Contemporary fiqh academies and fatwa councils across the Muslim world have recognized the distinct conditions of Muslim minorities, particularly in Western contexts, and have issued rulings addressing their religious and social needs while preserving identity.

Similarly, Islamic institutions in non-Muslim countries have operationalized Fiqh al-Aqalliyyāt through guidance and fatwas that support integration, cooperation, and identity preservation.

Numerous fatwas have been issued in recent decades in support of Muslim minorities, and some Western councils have adopted more flexible positions in certain cases, reflecting the specific conditions of Muslim minorities. For example, the European Council for Fatwa permitted the use of milk banks under specific conditions, based on medical necessity.¹⁰² This contrasted with the position of the International Islamic Fiqh Academy of the Organization of Islamic Cooperation, which prohibited milk banks due to concerns over lineage uncertainty and the potential for unintended marital prohibitions arising from unknown milk kinship. Similarly, the European Council for Fatwa permitted investment in companies with mixed activities, including some prohibited transactions such as interest-based dealings. In contrast, the International Islamic Fiqh Academy maintained a stricter position, prohibiting participation in such companies on the grounds that ownership of shares constitutes involvement in prohibited activities regardless of proportionality. In addition, European Council for Fatwa and the Fiqh Council of North America endorse the use of astronomical calculations as an independent method for determining the beginning of lunar months.¹⁰³ They argued that sighting is a means rather than an end, and that modern astronomical precision removes uncertainty and facilitates the organization of religious and social life for Muslims in non-Muslim contexts. Some said that sighting is easier in this era because of the advances in modern astronomy, and this will help Muslims to coordinate their religious and social activities while they live in non-Muslim countries. The International Islamic Fiqh Academy, however, attaches the highest importance to actual visual sighting of the moon and has permitted the use of calculations only to preclude the possibility of sighting.

¹⁰¹The International Islamic Fiqh Academy, "Unification of the Beginning of Lunar Months," Resolution No. 18 (6/3), adopted at the Academy's 3rd Session, October 16, 1986, <https://iifa-aifi.org/en/32260.html>.

¹⁰²European Council for Fatwa and Research, Fatwa 12:4.

¹⁰³International Islamic Fiqh Academy, Resolution No. 63 (1:7).

Yusuf al-Qaradawi and Abdullah bin Bayyah have issued fatwas for Muslim minorities on a variety of subjects. These include accommodating differences in time and form of worship as circumstances dictate; estimating times of prayer in inclement weather; the legitimacy of purchasing a home on financing for a minority Muslim who needs a residence; and participating in non-Muslim political systems in order to safeguard the rights of Muslims.

8. Conclusion

The review shows that most contemporary jurists, along with jurisprudential councils and academic institutions, support the development of a specialized jurisprudence for Muslim minorities. This jurisprudence addresses their specific circumstances, applies the principles of necessity and need, and seeks to balance integration and positive engagement with the preservation of religious identity and adherence to Sharī'a. It is grounded in established principles of Islamic legal reasoning, including *Fiqh al-Mawāzanāt* (balancing interests), *Fiqh al-Awlawiyyāt* (prioritization), *Fiqh al-Ma'ālāt* (consideration of outcomes), *maqāṣid al-Sharī'a*, and general legal maxims, while remaining responsive to changing contexts.

Opposition to this view remains limited and is mainly associated with rigid approaches that do not adequately account for contextual change. Such views tend to emphasize either full application of rulings regardless of circumstance or migration from non-conforming environments.

Unlike in the past, most scholars and institutions today suggest a context-oriented approach to apply Islamic law to Muslim minorities living in the West. Many fiqh academies and centers are researching and studying the conditions of Muslim minorities and issuing fatwas and legal opinions to assist and guide them, while helping them maintain their Islamic faith and values in their new homeland.

This methodology relies on the principle of *Fiqh al-Wāqī'* and other public interests that require adjusting the legal rules in light of the different situations and other similar public interests. It also aims to lift the difficulties away from religion and its followers, and to look into the consequences of applying the rules of fiqh in different situations. This work generalizes Islamic fiqh and the different approaches to dealing with the problems of Muslim minorities who live in non-Muslim countries, in comparison to other elements of society. This approach is called *Fiqh al-Aqalliyyāt*.

8.1. Recommendations

The study asserts that the fiqh academies and relevant Islamic institutions and stakeholders around the world should work further and benefit from the expertise of each other in dealing with the issues of Muslim minorities and the application of legal principles in this context. It also recommends establishing a specialized digital platform dedicated to Muslim minorities, including relevant fatwas and academic studies, and ensuring effective mechanisms for disseminating this content globally so that it can guide conduct and decision-making.

Furthermore, the study calls for greater attention to documenting and promoting scholarly views that support constructive coexistence and positive integration of Muslim minorities within their societies, while safeguarding religious identity, core principles of Sharī'a, and its higher objectives.

Author Contribution

NaserEddeen Al-Shaer: conceptualization, formal analysis. **Man Baker:** supervision, writing – review & editing. **Amina A. Alaouni:** data curation, writing original draft. **Abdallah Abu Wahdan:** methodology. **Sulaiman Alkaabi:** data curation.

Conflict of Interest

The authors of the manuscript have no financial or non-financial conflict of interest in the subject matter or materials discussed in this manuscript.

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