PhD thesis

**Integration and minority fiqh: the halāl to harām ratio**

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**‘Integration and Minority Fiqh:**

**The Ḥalāl to Ḥarām Ratio’**

Matthew Reifsnider

OCMS, MPhil./Ph.D

January 2023

## ABSTRACT

Minority Fiqh, (*fiqh al-‘aqalliyyāt*), has been theorised by Taha Jabir al-Alwani to assist minority Muslims, particularly in a Western setting, to be able to integrate in society, as in the maxim, “integration without assimilation.” This thesis examines how a selection of Muslims in America interprets and practices Islamic jurisprudence and whether there are similarities to the theoretical fiqh al-aqalliyat. Through a qualitative study of Muslims interviewed in Jacksonville, Florida, this thesis examines how Muslims in the community interpret *sharī‘ah*, and its purposes (*maqāṣid al-sharī‘ah*) as it directly relates to them and integration. It is discussed and analysed in comparison to the traditional/*taqlīd* approach as well as fiqh al-aqaliyat in ordet to shed light on similarities and differences.

A two-fold model of integration is assessed, which first incorporates Muslims’ behaviour modification (body), educational efforts (soul), and emotional connection (heart) with the surrounding society. Second, the host society, into which the Muslim-Americans are integrating, is evaluated by acceptance either of ethnicity, cultural traditions and/or religious values of the other. This thesis contributes to the discussion of *fiqh al-‘aqalliyyāt* to discuss and analyse whether there are similarities found among the respondents practices and views within their context, spanning the gap between al-Alwani’s theory of a *fiqh* that assists integration and lived experience.Through this process, another model of Muslim integration is proposed of overlapping elements of integration. This also adds to the data involving Muslims of Jacksonville, Florida.

# ‘Integration and Minority Fiqh:

# The Ḥalāl to Ḥarām Ratio’

by

Matthew Reifsnider

MA. (University of Chester)

A thesis submitted in partial fulfilment of the degree of

Doctor of Philosophy

in Middlesex University

January 2023

Oxford Centre for Mission Studies

**DECLARATION**

This work has not previously been accepted in substance for any degree and is not being concurrently submitted in candidature for any degree.

Signed ..... (Candidate)

Date 1 Feb 2023

**STATEMENT 1**

This thesis is the result of my own investigations, except where otherwise stated. Where correction services have been used, the extent and nature of the correction is clearly marked in a footnote.

Other sources are acknowledged by midnotes or footnotes giving explicit references. A bibliography is appended.

Signed ..... (Candidate)

Date 1 Feb 2023

**STATEMENT 2**

I hereby give consent for my thesis, if approved, to be available for photocopying by the British Library and for Inter-Library Loan, for open access to the Electronic Theses Online Service (EthoS) linked to the British Library, and for the title and summary to be made available to outside organizations.

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Date 1 Feb 2023

## DEDICATION

This thesis is dedicated to anyone who wants to know the "other," and catch a glimpse of what it might be like as a religious minority attempting to fit in to another community.

**ACKNOWLEDGMENTS**

I wish to thank the following peoples who have made a difference along the way:

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My daughter, Tara – who listened to snippets of research and encouraged me to keep going. Thank you so much for the nearly daily calls.

Finally, my wife, Usha – Without her insistence, I would not have embarked on the journey. Thanks for setting the example.

There are so many who contributed to this project including all those who participated in the research. Thank you!

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**TRANSLITERATION**

For words that would normally be written in Arabic script the following alphabetical transliterations are used. The exception is for proper names, where a simplified English is opted for instead. In the section, Vowels/dipthongs, the circles represent a place holder for another consonant.

Consonants:

| | |
|---|---|
| ب : b | ط : ṭ |
| ت : t | ظ : zh |
| ث : th | ع : ‘ |
| ج : j | غ : gh |
| ح : ḥ | ف : f |
| خ : kh | ق : q |
| د : d | ك : k |
| ذ : dh | ل : l |
| ر : r | م : m |
| ز : z | ن : n |
| س : s | ه : h |
| ش : sh | و : w |
| ص : ṣ | ي : y |
| ض : ḍ | ء : ’ |

Vowels/dipthongs:

| | | |
|---|---|---|
| ا : ā | ◌َ : a | |
| و : ū | ◌ُ : u | ◌َو : aw |
| ي : ī | ◌ِ : i | ◌َي : ay |

**FIGURES**

## LIST OF ABBREVIATIONS

| | | |
|---|---|---|
| AMJA | - | Assembly of Muslim Jurists in America |
| CILE | - | Research Center for Islamic Legislation and Ethics |
| CRT | - | Critical Race Theory |
| ECFR | - | European Council for Fatwa and Research |
| ESL | - | English as a Second Language |
| FCNA | - | Fiqh Council of North America |
| FCC | - | Federal Communications Commission |
| IIIT | - | International Institute of Islamic Thought |
| IT | - | Information Technology |
| MASS | - | Muslim American Social Services |
| MGT | - | Muted Group Theory |
| UNF | - | University of North Florida |
| US | - | United States |

# Chapter 1: Introduction

## 1.1 Introduction

> What does integration mean? I think that from my own perspective, I think that really means that, one community interacting with the other community. Because that's the only way you can really overcome prejudice.
>
> - Edward[1]

This thesis examines Western Muslim practice concerning integration into non-Islamic polities and its similarities to *fiqh al-'aqalliyyāt*, (Muslim minority jurisprudence). The research follows a qualitative methodological approach comparing interviews of Muslims from Jacksonville, Florida with the expectations of Muslim scholars, (as stipulated primarily by Taha Jabir al-Alwani and Yusuf al-Qaradawi), regarding *fiqh al-'aqalliyyāt* and integration (see the section, Background to the Problem). In this manner, it is possible to span the divide between the social integrational probabilities proposed by Islamic scholars, and the lived experiences of a general Muslim population within a non-Muslim society.

As the United States Census Bureau does not collect data on religion, there are no exact figures as to the population of American Muslims. The estimated Muslim populace is a range between 2 - 11 million.[2] According to Michael Lipka from the Pew Research Center there are approximately 2.75 million Muslims in the US.[3] Furthermore, 63% of American Muslims are immigrants. In 2012, 10% (in the region of 100,000) of immigrants were Muslim. Most large cities in the United States have substantial Muslim communities.[4] The American Muslim community has become very diverse with the largest groups being African-Americans, Arabs, and South Asians.[5] Many universities also have a concentration of Muslim students.[6]

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[1] See Appendix 1.

[2] Yvonne Yazbeck Haddad, 2011 *Becoming American? The Forging of Arab and Muslim Identity in Pluralist America* Waco, TX: Baylor University Press.

[3] Michael Lipka, 2016 'Muslims and Islam: Key findings in the U.S. and around the world' *Pew Research Center* http://www.pewresearch.org/fact-tank/2016/07/22/muslims-and-islam-key-findings-in-the-u-s-and-around-the-world/ Accessed 14.1.2016.

[4] Paul M. Barrett, 2008 *American Islam The Struggle for the Soul of a Religion* New York, NY: Picador, p. 9.

[5] Karen Isaksen Leonard, 2003 *Muslims in the United States: The State of Research* New York, NY: Russell Sage Foundation, p. 5.

[6] Leonard, *Muslims in the United States*, p. 111.

Though there has been a small minority of African-American Muslims, when other primarily Arab Muslims arrived to the United States in the late 19th to mid 20th century, many of them assimilated into American culture. However, as more Muslims arrived they no longer felt the need to assimilate (be absorbed within the larger American population) or to integrate (adopt some American ways, yet maintain a distinct cultural identity). While there were some Muslim scholars who approved of a segregational approach, others began to question the viability of a Muslim community without a voice among the majority, non-Muslim society.[7]

This chapter begins with an abbreviated discussion on *fiqh al-'aqalliyyāt* as a way some American Muslim's may attempt to overcome cultural/religious variances living in a Western/non-Islamic society, (See also Chapter 4: Understanding the Fiqh). Then the problem statement and research questions are presented from which this thesis is built. Finally, each chapter is condensed to provide an overview of the entire thesis.

## 1.2 Background to the Problem

Contemplating the issues that Muslim minorities face, al-Alwani, who became president of the Fiqh Council of North America, realised that there was little integration of Western Muslims into the surrounding non-Islamic society. Therefore he stated, "Friction might be provoked by the dominant majority if they attempted to eliminate the minorities' distinctive cultural and religious characteristics so as to absorb them into the non-Muslim society."[8] Since social friction may develop or cultural/religious distinctives could be lost if Muslims were forced into assimilational situations, al-Alwani reasoned,

> Muslims should not withdraw from proactive interaction with the environment he or she lives in. Otherwise, it would be a contradiction to the principles advanced by Qur'ân that calls for affirmative and constructive engagement preserving the identity and promoting responsible citizenship…Accordingly, to preserve their identities under somewhat different customs, legislation and laws.[9]

---

[7] Sharon McIrvin Abu-Laban, 1989 'The Coexistence of Cohorts: Identity and Adaptation Among Arab-American Muslims' *Arab Studies Quarterly* 11/2/3:45–63.

[8] Taha Jabir Al-Alwani, 2003 *Towards a Fiqh for Minorities: Some Basic Reflections,* Herndon, Virginia: The International Institute of Islamic Thought, Available at: https://www.academia.edu/7121199/Towards_A_Fiqh_For_Minorities_Some_Basic_Reflections_Taha_Jabir_Al_Alwani p. xiv.

[9] Al-Alwani, *Towards a Fiqh for Minorities*, p. 34.

The fear of assimilationism in the United States promoted pursuing the possibility of permitting responsible citizenship, and an active involvement of Muslims in the dominant society without losing their religious distinctiveness.

Al-Alwani, (and a short time later al-Qaradawi), initially proposed *fiqh al-'aqalliyyāt* as a theory to provide a place for Muslims to live, work, and thrive within a Western context. Later, as a founding member of the European Council of Fatwa and Research (ECFR), al-Qaradawi began to propose *fatāwā*, (juridical opinions), to answer questions that Muslims had regarding life outside of the traditionally Islamic territories. However, questions remain as to the influence and extent of integration that *fiqh al-'aqalliyyāt* affords.

While most nations have a Muslim presence, there are only about forty-eight nations with a Muslim majority.[10] Therefore, *fiqh al-'aqalliyyāt* could have a wider application than the Western, (US and European), perspective originially conceived. Furthermore, even within those Western nations, it is not always clear whether the ideology of *fiqh al-'aqalliyyāt* is accepted by the leadership of the various Muslim communities, whether the concepts are deseminated beyond a scholarly level, or realised by the Muslim populations living in those nations. Therefore, this thesis will discuss the views and practice of individual Muslims and analyse whether minority *fiqh* seems to have an effect upon identified integration issues within their experience.

### 1.3 Problem Statement

Considering the length of time Islam has existed, *fiqh al-'aqalliyyāt* is a relatively new subject first written by al-Alwani in 2001, (though conceived some time earlier).[11] Since the time of its conception, there has been a growing number of theses and research papers. Despite the range of research prepared since al-Alwani's and al-Qaradawi's views became public, Iyad Zahalka commented that "…the existing research refers to a small number of religious ruling in this field and does not examine the applicability of *fiqh al-'aqalliyyāt* for diverse Muslim minorities."[12] The diversity of minority Muslims by

[10] 'Muslim Majority Countries 2022,' *2022 World Population Review* Available at: https://worldpopulationreview.com/country-rankings/muslim-majority-countries Accessed: 3.02.2020.

[11] Shammai Fishman, 2006 'Fiqh al-Aqalliyyat: A Legal Theory for Muslim Minorities' Washington D.C.: Hudson Institute, Inc, p. 2.

[12] Iyad Zahalka, 2016 *Shari'a in the Modern Era Muslim Minority Jurisprudence* Cambridge: Cambridge University Press, p. 7.

location and national/ethnic background in the Western context creates many possibilities for research.

It is in this realm of the "application" of *fiqh al-'aqalliyyāt* that this thesis will focus - particularly Muslims in the greater Jacksonville/Northern Florida area. There have been several textual studies on *fiqh al-'aqalliyyāt*, yet there has been little research relating to personal relevance of *fiqh al-'aqalliyyāt* for the average Muslim living as a minority. Therefore, questions regarding individual Muslims' practice and understanding of *sharī'ah* (Islamic law), among the informants are investigated and whether there are similarities to minority jurisprudence in their application, and if so, in what fashion.

Therefore, the main thesis question may then be constructed as:

- How and to what extent does the application of *fiqh al-'aqalliyyāt* to the selected Muslim population enable them to move from segregation to integration in Jacksonville?

There are several questions that should be explored which relate to the main question:

- How are the interviewed Muslims applying *sharī'ah* to their lives and does minority *fiqh* seem to have an influence on their practice and to what extent?
- How does the individual's interpretation of *sharī'ah* compare with the traditionalist (those who follow the *taqlīd*[13]) understanding of *sharī'ah*?
- How is the range of segregation to integration realised among the selected Muslim populations of Jacksonville?

These questions concerning the Muslims' of Jacksonville conception of *sharī'ah* and integration will be examined through the lens of *fiqh al-'aqalliyyāt*. Thus, this research will not only contribute to the discussion of *fiqh al-'aqalliyyāt* in Islamic studies but also the sociology of religion, cultural anthropology and immigration/diaspora studies. The purpose of this research is to determine whether, and in what fashion the Muslim minority in Jacksonville use personal interpretations of *sharī'ah,*[14] (as examined through principles of *fiqh al-'aqalliyyāt*), to allow integration into the surrounding society.

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[13] The conforming to one particular Islamic school of jurisprudence's ruling on *sharī'ah*, to the exclusion of others.

[14] Personal interpretation as a hermeneutical phenomenology not in the sense of a personal *ijtihād*, (see Chapter 4, Methodology).

## 1.4 Chapter Overview

The previous portion gave a description of the setting of the research. This section will give a brief overview of each chapter of this thesis. Not only to establish the argument, but to show the line of reasoning that runs through the thesis.

### 1.4.1 Chapter 2: Literature Review

To accomplish the objectives of this thesis, the literature review is in three sections. The first section, Islam in America, covers how Muslim-Americans relate their American experience, the Muslim population of various American cities, and how *fiqh* features in particularly American based literature. Subjects discussed include fear of assimilation, Islamic identity, *sharī'ah* reform, *dār al-islām*/*dār al-ḥarb*, (abode of Islam/abode of war), and interpretations of Islam.

The second section, Islamic Jurisprudence, discusses three main subjects, *fiqh al-'aqalliyyāt*, *sharī'ah*, and *maqāṣid al-sharī'ah*. The debates on *fiqh* comprise *ijtihād* and individual interpretation, the balance between integration and assimilation, and the effect of minority *fiqh* on moral judgments and values. The examination of *sharī'ah* encompasses the use of *maṣlaḥah*, *'urf* and *ijtihād*, theory and practice, and *sharī'ah* reform. The conversation regarding *maqāṣid al-sharī'ah* focuses on the use of the *maqāṣid* by Muslims to advocate public or private interests, a personal ideology, and/or global issues of minorities.

Even though the relationship between *fiqh* and integration is the nucleus of this thesis, the third section, "Integration" has only two subsections: "Definitions," and "Muslim Integration." "Definitions" looks at the meaning and applications of the terms: assimilation, integration, segregation, and marginalisation. "Muslim Integration" investigates the issues that governments and Muslims have with integration, various tracks of Muslim minority socialisation within a society, and potential solutions for integration.

### 1.4.2 Chapter 3: Methodology

Though chapter two examines the literature that has been amassed concerning *fiqh al-'aqalliyyāt*, chapter three surveys the processes and the philosophical underpinning of the research that has been conducted. The subjective approaches of social constructivism and social constructionism are closely related and can be combined as "constructive theories." Due to the subjective nature of this study a hermeneutical phenomenology is utilised as a method for analysis.

This is qualitative research with data gathered through interviewing Muslims in Jacksonville, Florida. Debates relating to the qualitative method of research are presented to further explain the process. In some ways, getting the interviews have been problematic due to interviews across boundaries of gender, religion, and the additional issue of Covid-19 that occurred during 2020. Questions of "trustworthiness" of the research is answered through a social constructionist paradigm. This is examined through the concepts of confirmability, credibility, authenticity, and transferability.

Considering the volume of data that has been collected, how that data will be handled and assessed is also answered. The analysis of the data will be examined through a practice of description, comparison and assessment. The description of the data should be thorough enough to allow a comparison between that data and elements of *fiqh al-'aqalliyyāt*. Analysis lies in the hermeneutic phenomenological method of the hermeneutical spiral. Simply stated, it's a cyclic approach to examining data, by reflection, interpretation, further reflection and reinterpretation. Continuing the process until such time a conclusion is reached.

Finally, considering the interpretative element of the methodology, the researcher's positionality is surveyed. This chapter expounds the particular approach and methodology which was employed during the investigation of gathered empirical data, how the research has been conducted and evaluated, and the way the subjective nature of the thesis has been handled.

### 1.4.3 Chapter 4: Understanding the Fiqh

Chapters two and four have similar goals. While chapter two broadens the understanding of the literature related to the *fiqh* in the American context, chapter four provides a general understanding of *fiqh al-'aqalliyyāt*. Beyond academia, there are few Muslims and fewer non-Muslims that are familiar with the concept *fiqh al-'aqalliyyāt*. Therefore the purpose

of chapter four is to set the scene for a proper understanding of *fiqh al-'aqalliyyāt* from which this thesis builds. Beginning with a brief background of Taha Jabir al-Alwani and Yusuf al-Qaradawi, the fourth chapter investigates the development of minority jurisprudence through what he considers as a *wasaṭiyyah* (moderate) approach, which attempts to straddle the difference between modernism and traditionalism.

From the perspective of al-Alwani, the purpose of the *fiqh* is to promote integration for Muslims within a non-Muslim polity and simultaneously to prevent them from losing their religious identity. However, for al-Qaradawi it is to provide a platform for *da'wah*. One of the first issues that was confronted was the long standing division between *dār al-islām* and *dār al-ḥarb* within Islamic tradition. By reevaluating those traditions, the necessary permission to immigrate and retain citizenship beyond the sphere of an Islamic territory was provided.

In order to accomplish the goals of *fiqh al-'aqalliyyāt*, the somewhat abandoned practice of *ijtihād*, (the act of interpreting *sharī'ah*), had to be reinstated. The differences between creative *ijtihād* and selective *ijtihād* are contrasted. The distinctive practice of *ijtihād* within *fiqh al-'aqalliyyāt* concerns the emphasis on the purposes or aims of *sharī'ah*, and the time and location of the Muslims considered in the ruling.

In order to gain the understanding of how *fiqh al-'aqalliyyāt* is applied, three rulings of the European Council of Fatwa Research (ECFR) are discussed. The first concerns whether it is permissible for Muslim military personnel serving in a non-Muslim nation, to participate in an act of war against a Muslim nation. The second involves wives who convert to Islam, and whether they are permitted to remain married to their non-Muslim spouses. The final example concerns the viability of Muslims in the West taking interest-bearing loans in order to purchase property. These three examples were chosen as being representational of social, financial and family aspects of *sharī'ah*. The following chapter, "Interpreting Sharī'ah," begins to build upon the hermeneutic framework that has already been established.

### 1.4.4 Chapter 5: Interpreting Sharī'ah

After the background chapter explaining minority *fiqh*, follows three chapters of analysis. This chapter attempts to answer the question: How do Muslims in Jacksonville interpret *sharī'ah*? Interpretive models of the Qur'an, the *aḥādīth* and the Juristic Schools of Jurisprudence are examined in light of the respondents.

As the linchpin of Islamic faith, the Qur'an is fundamental for interpreting *sharī'ah*. Therefore, the search for meaning for those Muslims who do not necessarily speak Arabic is discussed. While *tafsīr* (Qur'anic exegesis) is an often used tool to assist in grasping the meaning of the Qur'an within a certain context, there are others who are willing to use their own initiative to determine their personal understanding. How some Muslims justify following a personal interpretation of the Qur'an compared to a more traditional approach is also deliberated.

There has always been some debate on various *aḥādīth*, and therefore an elaborate vetting process has been established by scholars. However, non-academic Muslims often view them with a little skepticism. This is due to how some Muslims see the proscriptions built upon the *aḥādīth* as flexible, and there are other Muslims that do not perceive them as having a real consequence for them on a personal basis.

The place for *madhhab*s, (juridical schools), in the typical Muslims' search for answers concerning *sharī'ah* is the final aspect of interpretion that is reviewed. There is evidence for both those who advocate a traditional view, and for those who wish to be untethered to the Islamic juristic schools. Finally, the fifth chapter explores the respondents' reactions through the lens of *fiqh al-'aqalliyyāt* and constructive theories before the next chapter which concerns *maqāṣid al-sharī'ah*.

### 1.4.5 Chapter 6: Maqāṣid al-Sharī'ah

Chapter 6 is the bridge between interpretation and integration. This continues al-Alwani's presupposition that integration would occur through a greater understanding of *maqāṣid al-sharī'ah*. The purposes or aims of *sharī'ah* as realised by Jasser Auda[15] and by the respondents who are attempting, (or perhaps "not" in some cases), to integrate in the greater Jacksonville society is explored.

In order to arrive at the *maqāṣid*, the section "Distinguishing the Purposes of Sharī'ah" relays the respondents view of *sharī'ah* and their relation to it. The section ends

[15] President of the Maqāṣid Institute Global and a member of the Fiqh Council of North America (FCNA), and the ECFR.

with the theory of *maqāṣid* as presented by Robert Crane,[16] Musfir bin Ali al-Qahtani,[17] and Muhammad al-Tahir ibn Ashur.[18] They explained the various benefits, and the methods of deriving *maqāṣid al-sharī'ah*.

The following section, "Maṣlaḥah Realised," is completed in four subsections. The first, "Individualism/Collectivism," focuses on the tension between those two concepts as the respondents wrestle with "the public good or welfare." The second subsection, 'What is "The Community,"' features the various positions of "community" which the respondents share, and differ. The third, "Giving Back," highlights how some Muslims react to their individual ideas of *maṣlaḥah* by works of altruism. The final subsection on *maṣlaḥah*, "Exceptions," demonstrates that, for the sake of the five necessities, (*ḍurūriyyāt*), allowances can be made in certain situations to permit what would otherwise be prohibited.

In "Other Views of Maqaṣid Among the Respondents," six of the *maqāṣid* from Auda's list are posed through the conducted interviews. Among those modelled are orderliness, freedom, women's rights, justice, developing civilisation, and preserving the faith. These were chosen for their harmony or possible contrast toward integration. In the next chapter integration issues are examined as they relate to Muslims in Jacksonville.

### 1.4.6 Chapter 7: Integration

The final of the three data chapters, Chapter 7, begins by surveying three models of integration. The first, and briefest, is through the work of Amjad M. Mohammad which states that assimilation, integration, and segregation are separate, parallel tracks. The second pattern of integration occurs, according to Abdolmohammad Kazemipur, via a body, mind, and soul tactic. The "body" relates to adjusting behaviour, in that context othering and interacting with the other is considered. The mind is a scholastic approach with interfaith events and language and culture acquisition being a key component. Kazemipur's third idea of soul or heart is understood through an emotion connection with

[16] Muslim convert and Deputy Director of Planning for the United States National Security Council under Nixon.

[17] Professor of the Islamic and Arabic Studies Department at King Fahd University of Petroleum and Minerals (KFUPM), Dhahran, KSA and Executive manager of Prince Abdul Mohsin Bin Jalawi Centre for Islamic Research and Studies, Dammam.

[18] (d. 1973) Tunisian, Islamic scholar and graduate of the University al-Zaytuna.

the host society. Therefore, what Muslims consider their home is reflected in light of locational belonging.

The third model of integration is proposed by Jan A. Ali. He describes integration, as a need of acceptance of the others' ethnicity, cultural traditions and religious values by the host society. Mohommad's and Kazemipur's ideas of integration are wholly dependent upon the minority. However, Ali's views require a shift in the attitudes of accepantance for the minorities by the surrounding majority population. It is both Kazemipur and Ali's applications that is required for integration to transpire. Therefore, the complicated nature of integration is underscored and explained.

Since this is primarily a chapter on integration, *fiqh al-'aqalliyyāt*, (which has previously been thoroughly explained in Chapter 4), is mentioned in terms of its intentions to make the complication of integration easier for minority Muslim residents. Those obstacles of integration are illustrated through various versions of Venn diagrams. The next chapter is the conclusion that will overview the structure of the argument and suggest further areas of research on this topic.

### 1.4.7 Chapter 8: Conclusion

While the previous three chapters represent the data chapters, the final chapter of this thesis candidly endeavours to answer the questions posed in the introductory chapter. The conclusion chapter begins with a brief outline of the thesis and then provides an overall summary of the relevant chapters. Following the synopsis, a section is devoted to the examination of the enquiries asked from the first chapter before the original contribution to knowledge is appraised. After looking at three, future, potential areas of research which could be accomplished beyond the scope of this thesis, a few personal, thoughts are presented.

## 1.5 Clarifications

This section clarifies several points regarding the reading of this thesis. Among the issues the reader may have are Arabic transliteration, methodological considerations and some terminology. This is not meant to be a comprehensive list of potential trouble areas, but aims to assist in digesting the available material.

The subject matter of this thesis is concerned about Muslims and the practice of their faith in relation to integration. Consequently, there may be a large number of unfamiliar, non-English words, which are primarily from the Arabic language. The Arabic script does not use the Latin alphabet, so an approximate transliteration of the Arabic script for the English reader is provided. The transliteration used is found at the beginning of this thesis on page vi. Many of the sources do not follow the same system of transliteration. In a direct quote, this thesis follows the original writer's system. However, if I refer to other material, I revert back to my preferred system. For example, in the second chapter, Musfir bin Ali al-Qahtani is quoted as, "…ignorance of the objectives of the Shari'ah..."[19] He uses the transliteration, "shari'ah," while in this thesis "sharī'ah" is favoured, and not to be considered a different word. Usually, non-English words are italicised, a notable exception is the word "Qur'an," which has been sufficiently anglicised. Most of the words have been defined at the first mention in the text. Even so, to facillitate understanding, there is also a glossary of Arabic terms included at the end of the thesis.

The majority of the methodology is explained in "Chapter 3: Methodology," and a brief outline is found in section 1.4.3. Please allow me to attempt to simplify some potential difficulties. For my positivist friends, the idea of a constructed reality may seem difficult. For some, reality is reality, and there can only be one reality. I am not arguing for, or against any view of reality. Instead, all reality is interpreted by the one who is experiencing it, putting the pieces together to form a personal understanding of reality. In this sense, it is always changing, as experience builds upon experience.

There are several, commonly used terms that I wish to make clear. The first is assimilation, which has previously been defined as "being absorbed within the larger American population." (pg.2). For example, as a family becomes part of a new society, over time and across generations they may lose the lingua-cultural/religious attributes and blend into the surrounding community becoming indistinguishable from the dominant society. In this instance, they have become assimilated.

On the other hand, integration, though related to assimilation, (and often used interchangeably in literature), I have defined as to "adopt some American ways, yet maintain a distinct cultural identity." Integration allows for communication, employment, and varying levels of personal success within and as a part of the surrounding society.

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[19] Musfir bin Ali al-Qahtani, 2015 *Understanding Maqāṣid al-Sharī'ah a Contemporary Perspective* Herndon, VA: The International Institute of Islamic Thought, p. 102.

However, the people who integrate continue in a separate religio-cultural heritage from the host society, which allows for a hyphenated identity.

Finally, it may appear to some that segregation is always imposed by an outside force. However, for the sake of this thesis, segregation will be defined as a separation from the surrounding society, whether by choice or by any other influence. In the literature review self-segregation is mentioned. Nevertheless, this thesis generally makes no distinction between self-segregation and imposed segregation, unless specified.

### 1.6 Conclusion

This initial chapter lays the foundation necessary for the research of this thesis. After a short background of the thesis is presented, the problem statement and related questions are specified. Finally, a chapter overview is given and several issues that may need to be clarified are highlighted. The following chapter contains the literature that formulates dialogues pertaining to the *fiqh*, and will consider some aspects of *fiqh* that is relevant for the analysis of the empirical data, particularly those which lead to topics of integration.

## Chapter 2: Literature Review

### 2.1 Introduction

> I trust like some of the some of the authors. I checked their opinions also. And I checked like first Qur'an. I checked out authors' opinion and then I see like if it's right or if it's not wrong like sometimes it's hard to understand the writing.
>
> - Opal[1]

In the first chapter, Introduction, the question was asked, "How are the interviewed Muslims applying *sharī'ah* to their lives and does minority *fiqh* seem to have an influence on their practice and to what extent?" Therefore, in the second chapter the literature and arguments surrounding minority *fiqh* and integration will be explored. Within the scope of this literature review, I will develop two main objectives in order to further build upon the foundations of the first and fourth chapters. Firstly, any significant debates and other relevant research to the thesis will be discussed.[2] Secondly, in this process the theoretical framework of this thesis will be established.[3] This is done in order to ascertain potential gaps in previous research, and the discipline of this thesis.

In light of al-Alwani's purpose of *fiqh al-'aqalliyyāt*, this literature review begins to cover three elements of the ensuing thesis. The first, "Islam in America," will cover works by authors who have shown how Islam in America is shaped by culture and geography. This subject comprises the Muslims living in Jacksonville, Florida, and should be relevant to their lived experiences. The second, "Islamic Jurisprudence," primarily covers *fiqh al-'aqalliyyāt,* (which will be used as the lens from which the study of Muslim integration will be examined). Finally, since *fiqh al-'aqalliyyāt* revolves around a medium to facilitate integration, the section, "Integration," is recounted. While theoretically, of the three subjects, integration may have the most extensive literature therefore, only literature relevant to this thesis is covered.

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[1] See Appendix 1.

[2] Emma Tomalin 2007 "Sociology, Religion and Development: Literature Review," Available at: https://www.researchgate.net/publication/242478820_Sociology_Religion_and_Development_Literature_Review Accessed: 25.04.2021, p. 1.

[3] Syed Asad Ali Shah, 2017 "The Social Construction of Muslim Minority Groups is Canada" Thesis submitted, University of Saskachewan Available at: https://harvest.usask.ca/bitstream/handle/10388/8334/SHAH-DISSERTATION-2018.pdf?isAllowed=y&sequence=1 Accessed: 6.10.2018, p. 9.

## 2.2 Islam in America

Considering that the thesis will investigate *sharī'ah* among an American Muslim community, literature regarding American Muslims must also be considered. This will be further divided into three subsections. The first, the American-Muslim Experience, presents writings that concentrates on life in the US context. The second, American Cities and their Muslim Residents, discusses Muslim communities in the environment of specific cities. The third, Fiqh in America, is mostly from edited volumes concerning Islam in America and yet discusses minority *fiqh*, which transitions to the next section of the literature review, Islamic Jurisprudence.

### 2.2.1 The American-Muslim Experience

Yvonne Yazbeck Haddad has written extensively on the American Muslim experience. In her book, *Becoming American?*, she takes a historical perspective of Muslim immigration and recognizes cross-generational identity issues. Primarily from an Arab-American perspective, the book addresses major topics that were later coalesced within *fiqh al-'aqalliyyāt*. Issues such as the fear of assimilation, and where does the United States stand in relationship to *dār al-islām*.[4] According to Haddad, Ismail al-Faruqi maintained that, "…Muslims were not beggars in the United States, but active participants in the building of a just society."[5] Moreover, Abdullahi An-Na'im from Emory University proposed that *sharī'ah* should be reformed, since "…traditional answers are no longer valid."[6]

Despite its publication of more than ten years after al-Alwani's essays on minority *fiqh*, *Becoming American?* fails to mention *fiqh al-'aqalliyyāt* or al-Alwani's contribution to the discussion. The book shows that al-Alwani's ideas were not born in a vacuum, but were built upon debated discourses that had been occurring for over thirty years. It would appear that al-Alwani's work, (as well as al-Qaradawi's), on *fiqh al-'aqalliyyāt* involved naming the mode of "reform," and knitting the pieces of previous discussions together.

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[4] Yvonne Yazbeck Haddad, 2011 *Becoming American? The Forging of Arab and Muslim Identity in Pluralist America* Waco, TX: Baylor University Press, pp. 28- 29.

[5] Haddad, *Becoming American?* p. 33.

[6] Haddad, *Becoming American?* p. 58.

The last chapter of *Becoming American?* concentrates on Muslim-American acceptance chiefly in the political sphere. This was punctuated by the terrorist events of 9/11, and the Oklahoma City bombing (of which Muslims were not involved). This accentuates the difficulties of acceptance of the host society, (which is further discussed in Chapter 7, Integration of this thesis).

For Zareena Grewal, the American Muslims' quest for religious authority is central to *Islam is a Foreign Country*. There are several themes that Grewal thoroughly surveys which are apropos to this thesis. Like Haddad, a discussion of being accepted is a theme which she refers to as the difference "…between legal citizenship and social citizenship."[7] Further ethnic issues of acceptance are explored between Islam and the political US.[8] She briefly explores what it means to belong without being assimilated. Yet, in her context it usually means a conformity to a particular ethnic Islam.[9] She also claims that American Muslims grapple with the confusion of defining tradition and modernity for themselves. This confusion is reinforced by travelling to homelands, where differences of religious experience is manifested.[10] Much of the book is focused on the debate of tradition and by who or what authority tradition is enforced.

Grewal seems to attempt to bring the American-born, Nation of Islam alongside a more mainstream version of Islam. In that sense, she does refer to Islam as being non-binary and there being "Islams."[11] She mentions the mounting questions regarding *sharī'ah* that many American Muslims share, "on a range of topics, from funerary rites to stem-cell research."[12] Much like Haddad, there are allusions to foundational ideas of the *fiqh*, without actually exploring them.

There are three chapters devoted to American Islam within *Religion and Immigration: Christian, Jewish and Muslim Experiences in the United States* edited by Haddad and John L Esposito. Aminah Beverly McCloud, associate professor at DePaul University, writes about diversity in the American Muslim community (see chapter 6,

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[7] Zareena Grewal 2014 *Islam is a Foreign Country American Muslims and the Global Crisis of Authority*, New York, NY: New York University Press p. 4.

[8] Grewal *Islam is a Foreign Country*, pp.152-158.

[9] Grewal *Islam is a Foreign Country*, pp. 7, 304.

[10] Grewal *Islam is a Foreign Country*, pp. 36-38, 57-58.

[11] Grewal *Islam is a Foreign Country*, p. 69.

[12] Grewal *Islam is a Foreign Country*, p. 145.

"What is the Community" section), and issues of integration.[13] However, McCloud refers to "assimilation and acculturation," which lacks definitions that would clarify the differences between the two, and also elucidate the Muslim controversy on the subject. The theme of integration is continued by M.A. Muqtedar Khan, assistant professor of political science at Adrian College, as Muslims labour to define American Muslim identity. Khan mentions that it is the aspiration of Muslim leaders in the US to use Islamic identity as a defence against assimilation.[14] Another, element of this thesis, that Khan does mention is the struggle against prejudice.[15] One last mention is that of "*tajdīd*" (renewal) of Islamic tradition as added security to keep Islamic identity.[16]

Finally, Ingrid Mattson, professor of Islamic studies at the MacDonald Center for the Study of Islam and Christian-Muslim relations at Harvard Seminary, points out not only areas of identity contention between American Muslims and America, but also areas of American identity that Muslims can embrace. She condenses integrational acceptance by writing, "… this process will be affected by the immigrant's race, ethnicity, financial means, linguistic ability, and… what religious paradigms are available to them to interpret their particular experience with America."[17] Mattson writes about the abode of war and the abode of peace, in relation to US Muslims, which is a major theme of *fiqh al-'aqalliyyat.* However, Mattson states that it "…does not have great relevance for most Muslim immigrants to America."[18]

Both Khan and Mattson hint at the tension between Muslim isolationists and integrationists. While this thesis is from the perspective of integrationism, there is a movement of isolationism that cannot be forgotten. This is a reminder that in constructive theories, (see methodology chapter three), there is not simply one social construction available even if there are peoples from the same background with similar experiences.

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[13]Aminah Beverly McCloud "Islam in America," in Yvone Yazbeck Haddad, Jane I. Smith and John L. Esposito [Eds.] 2003 *Religion and Immigration Christian, Jewish and Muslim Experiences in the United States* Walnut Creek, CA: AltaMira Press.

[14] M. A. Muqtedar Khan "Constructing the American Muslim Community," in Yvone Yazbeck Haddad, Jane I. Smith and John L. Esposito [Eds.] 2003 *Religion and Immigration Christian, Jewish and Muslim Experiences in the United States* Walnut Creek, CA: AltaMira Press, p. 182.

[15] Khan "Constructing the American Muslim Community," pp. 186-188.

[16] Khan "Constructing the American Muslim Community," p.194.

[17] Ingrid Mattson "How Muslims use Islamic Paradigms to Define America," in Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. 201.

[18] Mattson "How Muslims use Islamic Paradigms to Define America," p. 203.

There are a growing number of resources where Muslims have recorded their experience as an American Muslim. For example, Asma Gull Hasan writes on identity, stereotypes, politics, and she writes on female issues such as the *ḥijāb*.[19] Equally, Paul M. Barrett, a journalist, weaves individual Muslim accounts into an overarching narrative that relates the arguments within the American Muslim community and the political, social, and economic pressures from outside. He attempts to present the diversity of Islamic thought, ethnicity and practice through the lives of a publisher – Osama Siblani, a scholar – Abou El Fadl, an imam – Siraj Wahhaj, a feminist – Asra Nomani, mystic – Victor Krambo, a webmaster – Sami Omar al-Hussayen, and an activist – Mustafa Saied. This is discussed as a debate on a fundamentalist trend toward extremism, (which for Barrett seems to mean terroristic tendencies), and a moderate (and thereby pro-American) standpoint. Though he is quick to point out "…that not all fundamentalists endorse violence."[20]

Perhaps the largest drawback from such works as Asma Gull Hasan's is that it is primarily derived from her own experience, though other secondary sources are included. In that sense, it is reductionist seen through a sole experience. On the other hand, Barrett's writing may have a more sources, they are high profile Muslims with media coverage, where the voice of an ordinary Muslim living in the US seems to be lacking. This creates a gap that is developed with this thesis, where interviews with the Muslims around the city of Jacksonville are the primary sources.

Three resources that discuss the ethical ideals and realities for Muslims in the United States are first, *Islamic Values in the United States*. This book by Haddad and Adair T. Lummis covers attitudes among Muslims throughout the Midwest, East Coast (the New York City megalopolis), and New York State. Of particular interest for this study are points of monetary interest, alcohol, diet, and participation in American culture. They claim that for the most part Muslims living in the Midwest "…have been socialized by the American public-school system, where they have formed friendships with people of other faiths."[21] Another aspect that is covered in integration is that of American holidays. Apparently, Muslims feel that they are free to celebrate most American holiday,

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[19] Asma Gull Hasan 2002 *American Muslims The New Generation*, New York: Continuum International Publishing.

[20] Paul M. Barrett, 2007 American Islam The Struggle for the Soul of a Religion, New York, NY: Picador, p. 278.

[21] Yvonne Yazbeck Haddad and Adair T. Lummis 1987 *Islamic Values in the United States A Comparative Study*, New York: Oxford University Press p.79.

though Christmas becomes problematic. However, many in mixed religious relationships or have "…social interactions with Christians" are more likely to observe Christmas at some level.[22]

In the chapter on "Islamic Laws, Muslims Praxis and American Culture," Haddad and Lummis discuss examples of how Muslims have coped with interest despite *ribā* restrictions. Another relevant section are occupations that are appropriate for Muslims, which features liquor sells. They assert that, "The lower the educational level, the more likely Muslims are to feel bartending is acceptable," which they link to upward social mobility.[23] When it comes to eating *ḥalāl* foods, Haddad and Lummis relate that "…it is permissible to buy kosher meat from a delicatessen or butcher shop. And if that is not available, then one must make do with whatever one can get, as long as it is not pork."[24] The expansive study shared by Haddad and Lummis could spawn multitudes of other research. However, they do not refer directly to Islamic law or *fiqh*, nor do they discuss how Muslims derive their conclusions.

The second is the book*, Muslim Family in a Dilemma*, where Mohammad Akhtar writes about how the American Muslim family copes in the US. The subjects comprise of the youth, divorce, women's roles, identity, and family dynamics in a cross-cultural setting.[25] The remarkable thing about the book is that it contains an interview by the author with al-Alwani, who talks about previous expectations placed on Muslims living in the West. Al-Alwani states that Muslims were permitted to come to America, "…for certain opportunities. No sooner do the opportunities end, would you leave for your home."[26] However, now he claims that "America is our country now."[27] In this regard, al-Alwani asserts that he belongs to America, and questions of preference toward old country or new are irrelevant. He further talks about the interpretive nature of Islam and how an old dynamic being used in America is absurd.[28]

Similarly, the book, *The Practice of Islam in America*, covers the American Muslims' experience, but in particular the ritual they perform as part of their life in the

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[22] Haddad and Lummis *Islamic Values in the United States*, pp.91-96.

[23] Haddad and Lummis *Islamic Values in the United States*, p. 106.

[24] Haddad and Lummis *Islamic Values in the United States*, p. 117.

[25] Mohammad Akhtar [Ed.] 2007 *Muslim Family in a Dilemma Quest for a Western Identity*, Lanham, MD: University Press of America, Inc.

[26] Akhtar, *Muslim Family in a Dilemma* p. 121.

[27] Akhtar, *Muslim Family in a Dilemma* p. 121.

[28] Akhtar, *Muslim Family in a Dilemma* p. 123.

United States. In her chapter, Juliane Hammer mentions *fiqh al-'aqalliyyāt* as a necessary part of marriage life in the United States, so they are able to follow the laws germane to the country in which they live. Furthermore, organisations have been created "…to offer American Muslims legal advice, *fatāwā* on issues raised in their specific context, and recommendations for how to address the challenges of contemporary life."[29] In context of the wider book, Hammer's chapter gives an acknowledgement that *fiqh al-'aqalliyyāt* is having an effect on the practices of Muslim in the US.

There are a growing number of books, and articles regarding American Islam as a general topic, and it is impossible to go through them all. I chose a few apropos references in order to give a proper framework for this thesis. At the end of *Islam in America*, Jane I. Smith asks the questions, "Which elements of law and custom are mandatory… and which allow for some reasonable degree of interpretation? What does constitute a modern Islam…?"[30] These are a cross-section of the questions this thesis also attempts to answer. The next section concerns literature surrounding Muslim populations in certain American cities.

### 2.2.2 American Cities and their Muslim Residents

For many Americans, Muslim and non-Muslim, Dearborn, Michigan, just outside of Detroit, typifies what it means for Muslims to live in the United States. Sally Howell, Director of the Center for Arab American Studies and Associate Professor of History at the University of Michigan-Dearborn, writes extensively on Detroit area Muslims from an historical context. In the book, *Old Islam in Detroit*, Howell talks about the development of Muslim communities, considering not only Arab sources of immigration, but the African-American Nation of Islam as well.

Though Howell's book on Detroit is not about *fiqh*, she alludes to the creation of *fiqh al-'aqalliyyāt* in the conclusion:

> The new, self-aware, expressly politicized, and fiqh-based Islam favored by a new generation of American Muslim activists… vexed by the obvious fact that they were living… outside dar al-Islam (the abode of Islam)—these newcomers (both immigrants and converts) had to reinvent themselves not simply as practitioners of Islam or as Muslim believers but as interpreters of Islam in a decidedly non-Muslim sociopolitical context. They did this gradually, as earlier generations of Muslim

[29] Juliane Hammer, "Weddings: Love and Mercy in Marriage Ceremonies" in Edward E. Curtis IV [Ed] 2017 *The Practice of Islam in America* New York, NY: New York University Press, p. 171.

[30] Jane I. Smith 2010 *Islam in America* New York, NY: Columbia University Press p.193.

> Americans had also done… they did so largely on their own, rejecting, or never seriously considering, the innovations developed by their Muslim American predecessors.[31]

Howell ties the formation of *fiqh al-'aqalliyyāt* within the historical framework of new immigrants' rejection of the changes American Muslims made to their faith. She seems to imply that the arrivals acknowledged the "non-Muslim socio-political context" that had to be accommodated, however, they did not desire an assimilationist approach that the predecessors often utilized. Another relevant topic which Howell raises is that mosques are "transcommunal spaces" which brings together various ethno-cultural Muslims within the same location, (see Chapter 6, What is the Community?).[32]

There are several references to other American cities with substantial Muslim populations. Kambiz GhaneaBassiri examines the diversity of the Los Angeles Islamic community and attempts to create a "…microscopic view of the varied American Muslim population as a whole."[33] There are a number of integration issues that are looked at in this study including Muslim understanding of Americanisation and their social, religious and political role within the United States. Though the subject of *sharī'ah* is broached, it is usually regarding attitudes of *ḥalāl* foods and dress codes.

GhaneaBassiri seems to indicate that Muslims have difficulty integrating into the US due to the fact that they "…do not have close ties or loyalty to the United States."[34] This seems to be a divergent idea from others that will be expressed in chapter 7 of this thesis. He does, however, present a multifaceted view of integration where there is a need for loyalty alongside an acceptance of American people. He explains that there is a difference between how Islam is perceived by non-Muslims and the Muslims' experience with non-Muslims, which has caused a paradox for many Muslims. On one hand they have developed friendships with non-Muslims, and on the other, their religion is seen as alien.

Without going into too much detail, GhaneaBassiri makes a very pertinent conclusion, "…in the absence of centralized religious authorities, Muslims have come to interpret Islam and Islamic values for themselves."[35] This he says creates tension between American Muslims and immigrants, and refers to it as a dilemma. This absence of

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[31] Sally Howell 2014 *Old Islam in Detroit: Rediscovering the Muslim American Past* Oxford: Oxford University Press, pp. 276-277.

[32] Howell *Old Islam in Detroit*, p. 13.

[33] Kambiz GhaneaBassiri, 1997 *Competing Visions of Islam in the United States* Westport, CT: Greenwood Press, p. 11.

[34] GhaneaBassiri, *Competing Visions of Islam*, p. 47.

[35] GhaneaBassiri, *Competing Visions of Islam*, p. 183.

centralized religious authorities will most likely affect the informants of this thesis. For further research he suggests, "We have not yet examined the way in which the inner mechanisms and particular doctrines of these communities are sustained and promoted in the United States."[36] While this thesis is not examing any "particular doctrine," it is in this realm of interpretive Islam together with *fiqh al-'aqalliyyāt* and its practice and interpretation of *sharī'ah* among individual Muslims in Jacksonville that this thesis attempts to uncover.

A similar study by Garbi Schmidt researches Islam in Chicago. Schmidt approaches the subject differently looking at the history of Muslims in Chicago, the experience of Muslim children and university students. The centrality of mosques and religious practice for the adults are also explored. There is little information on *sharī'ah* and is quoted as being Islamic culture. Schmidt does mention that s*harī'ah* is open to interpretation, but does not pursue it in any detail. However, there is much written on *da'wah*.[37]

In her study, Schmidt adds to the concept of "Islams," which I previously mentioned Grewel alluded to. Schmidt argues that Haddad and Lummis referred to an "American Islam" thus creating "Islams." However, it is her assertion that within Islam there is a preconditioning structure that contains a global context of geography and includes, "…social experience, politics, time frames, and technological and communicational progress."[38] She states that it is therefore simultaneously Islam, the religious tradition which contains the aforementioned structure, and Islams, the tradition as it relates to particular environments.

Relevant to this study is Schmidt's attention to "otherness." In her conclusion she explained how groups such as the Muslim Student Association, "formed new relations with the Other, so did they include the transformation of images of the Self."[39] Furthermore, she stressed that '…certain interpretations were presented as "ignorant," "cultural," and "wrong" was a consequence both of Muslims' encounter with each other… and their encounter with American society and powerful discourses within it.'[40]

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[36] GhaneaBassiri, *Competing Visions of Islam*, p. 187.

[37] Garbi Schmidt, 1998 *American Medina A Study of the Sunni Muslim Immigrant Communities in Chicago* Lund Sweden: Department of History of Religions. University of Lund.

[38] Schmidt, *American Medina*, p. 17.

[39] Schmidt, *American Medina*, p. 239.

[40] Schmidt, *American Medina*, p. 241.

These are constructionist theory concepts that tie directly to the methodology of this thesis, (see Methodology Chapter three).

In the edited volume, *Muslim Communities in North America*, Haddad highlights the "tensions… that affirms an Islam incubated in a different country and the growing community that has adjusted to American realities…"[41] The book examines religious communities by virtue of the affiliation (Shi'a, Nation of Islam, or the Five Percenters for example), by city (Los Angeles, San Diego, Seattle, New York City, Chicago, Indianapolis, and Montreal), and finally by ethnic origin (Turkish, Albanian, Yemeni, etc.).

A brief overview of the book reveals that Ron Kelley claims that the Muslims in Los Angeles "…have remained highly fragmented along religious, cultural and political lines."[42] Though M. K. Hermansen states that in San Diego "…there is no strong sense of ethnic rivalry or ideological conflict among the various centers."[43] Despite later saying, "…increased segmentation of the San Diego Muslim community will occur, particularly along ethnic lines."[44] Marc Ferris assumes that, "The American impact upon Islamic practices will remain an important issue for generations…" and they "…must grapple with assimilation and Americanization."[45] Likewise, Asad Husain and Harold Vogelaar add that the Muslim community in Chicago "…has many languages and different points of view, as well as ethnic entities based on their geographic, linguistic and other sociocultural origins that divide them sharply."[46] These divisions are said to be about various approaches to issues, but there is no explanation of the particular issues. Steve A. Johnson, writing about Indianapolis observed that, '…the major divisions among Muslims are generally along conservative-liberal, socioeconomic, and immigrant

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[41] Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. xxv.

[42] Ron Kelley, "Muslims in Los Angeles" in Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. 165.

[43] M. K. Hermansen, "The Muslims of San Diego" in Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. 190.

[44] Hermansen, "The Muslims of San Diego" p. 191.

[45] Marc Ferris, "Immigrant Muslims in New York City" in Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. 225.

[46] Asad Husain and Harold Vogelaar "Activities of the Immigrant Muslim Communities in Chicago" in Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. 255.

indigenous lines."[47] This is one of the reasons for identity issues, according to Johnson. While it appears that many of the divisive issues could be based upon assorted interpretations of the faith, Tamara Sonn offers an alternative analysis. She explains that it arises out of "…two levels of loyalty that compete for allegiance,"[48] one of ethnic origin and the other of religion. Despite a wide range of Muslim communities and issues, *fiqh al-'aqalliyyāt* or Jacksonville, Florida are not portrayed.

Likewise, McCloud approaches *Transnational Muslims* along ethnic lines. South Asian Muslims are discussed whether they are Iranian, Arab, Chinese or Somali (though African). She argues that the definition of Islam has become a struggle for the "…indigenous and immigrant American Muslims" as they seek to find their place in the Islamic world.[49] Concerning s*harī'ah*, McCloud quickly mentions eating *ḥalāl*, the Hanafi *sharī'ah* tradition among the Deobandis, and how Chinese Muslim have unified *sharī'ah* with culturally Chinese norms.

The mention of Jacksonville is missing from any of the above references. There are some small indications of Jacksonville in other volumes. For example, there are three Jacksonville mosques listed in *The North American Muslim Resource Guide*.[50] Richard Brent Turner in *Islam in the African-American Experience* mentions Jacksonville briefly twice and only in the introduction. The first was a commonly found news item that retells the story of Pastor Jerry Vines from the First Baptist Church, who asserted that the God of Islam was not the God of Christianity.[51] The second, there was a national Muslim African-American community movement known as Jabul Arabiyya, which was ruled by Islamic law until the 1990s, and a group formed in Jacksonville.[52] The news story of an attempted pipe-bombing of a mosque in Jacksonville in 2010, is pointed out by Naved Bakali, Assistant Professor of Education at the American University in Dubai, and has

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[47] Steve A. Johnson "The Muslims of Indianapolis" in Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. 274.

[48] Tamara Sonn "Diversity in Rochester's Islamic Community" in Yvonne Yazbeck Haddad and Jane Idleman Smith [Eds.], 1994 Muslim Communities in North America Albany, NY: State University of New York Press, p. 291.

[49] Aminah Beverly McCloud 2006 Transnational Muslims in American Society Gainesville, FL: University Press of Florida.

[50] Mohamed Nimer 2013 *The North American Resource Guide* Abingdon: Routledge p. 213.

[51] Richard Brent Turner 2003 *Islam in the African-American Experience* Indianapolis, IN: Indiana University Press, p. XIV.

[52] Turner *Islam in the African-American Experience*, p. XVIII.

been recorded in several books related to Islamophobia.[53] Muslim billionaire, Shahid Khan's purchase of the American football team Jacksonville Jaguars is listed in a chronology in *The Bloomsbury Reader on Islam in the West*.[54] A sentence regarding the Muslim American Social Services clinic of Jacksonville is found in *Neighbors: Christians and Muslims Building Community* by Deanna Ferree Womack.[55] There is little else besides these few references to Jacksonville specifically, which indicates that there is a gap of knowledge concerning Muslims in Jacksonville.

### 2.2.3 Fiqh in America

There is information cross-over between *fiqh al-'aqalliyyāt* and Islam in America. In this portion of the chapter, minority *fiqh* will be discussed which is relevant to the Americanisation of Islam. Therefore, this section acts as a bridge from American Islam to Islamic Jurisprudence. The subdivision, Islamic Jurisprudence will examine *sharī'ah* and *fiqh* in a broader sense.

Muslims in America, as a broad subject, is covered in *The Cambridge Companion to American Islam*. The edited volume has a chapter by Kambiz GhaneaBassiri on the religious practice of American Muslims which does mention *fiqh al-'aqalliyyāt,* but only as a question for further exploration.[56] He also suggests that there are questions regarding the *ijmā'*, which should prevent Islam from becoming "…idiosyncratic or factional." On the other hand, he asserts that individual interpretation could create an opportunity for "translocal and transtemporal articulations of Islam to develop."[57] This tension between the two seems to be an ongoing debate for some Muslims regarding *fiqh al-'aqalliyyāt*.

Similarly, in a chapter penned by Karen Leonard, she raises questions regarding *fiqh*. Beginning with an historical narrative, Leonard brings to light various debates concerning American Islam including the contextualisation of Islamic law. She contends

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[53] Naved Bakali 2016 *Islamophobia Understanding Anti-Muslim Racism through the Lived Experiences of Muslim Youth* Rotterdam: Sense Publishers, P. 72.

[54] Edward E. Curtis IV [Ed.] 2015 *The Bloomsbury Reader on Islam in the West* London: Bloomsbury Academic, p. xvii.

[55] Deanna Ferree Womack 2020 Neighbors Christians and Muslims Building Community Louisville, KY: Presbyterian Publishing Corporation, p. 99.

[56] Kambiz GhaneaBassiri "Religious Normativitiy and Praxis among American Muslims" in Julianne Hammer and Omid Safi [Eds.] 2013 *The Cambridge Companion to American Islam* New York, NY: Cambridge University Press, p. 210.

[57] GhaneaBassiri "Religious Normativitiy and Praxis among American Muslims" p. 215.

that a feature of American Islam is that "…religious law is interpreted by laypeople rather than specialists in *fiqh*."[58] In the book *Muslims in the United States,* (which is a wide source of research subjects), she picks up the theme of contextualizing Islamic law once more. It is her understanding that one of the biggest problems within American Islam is the lack of specialists in Islamic law in the US. Within this realm, the issue of *dār al-islām* and *dār al-ḥarb* in relation to citizenship is presented, (see chapter four, "Immigration Considerations"). She also speaks of al-Alwani as an advocate for the citizenship option. It seems to be her assertion that al-Alwani and the creation of reformist ideology was the beginning of a change that caused "…a landscape devoid of respect for the schools and methods of Islamic legal scholarship and for pluralism."[59] The book does not allow a depth of discussion, but succinctly states a few thoughts on the subject.

Another reference for American Islam in a wide range of topics includes the book, *Muslim's Place in the American Public Square.* The opening chapter by al-Alwani is a reprinting of *Toward a Fiqh for Minorities*, (which will be reviewed in the next section). Afterwards, Omar Khabaldi provides an overview of *sharī'ah* where he explains the differences between *sharī'ah* and *fiqh*, and *ḥalāl* and *ḥarām*. He then spends a great deal of effort defining related terms such as *mujtahid*, *ijmā'*, *hukm*, *'ibādāt*, *mu'āmalāt*, *ijtihād*, *qiyās*, *istiḥsān*, and *istiṣlāh* (see glossary). This was apparently to offer a foundation for *fiqh al-'aqalliyyāt*, which he briefly touches in order to contribute to the discussion as to where Muslims should live. Khabaldi claims that there are no clear guidelines within the Qur'an. However, he adds historically, "…Muslim minorities came into being as a result of the conquest of non-Muslim lands."[60] He picks up the debate on *dār al-islām* and *dār al-ḥarb* as presented among the Islamic juristic schools. He then relates Muslim minority examples from India, Russia, non-specific postcolonial nation-states where secularism is the prevailing ideology, and finally within the United States.

At the end of an extensive chapter, Khabaldi writes a brief, one paragraph conclusion where he makes three assertions. First, he affirms that Muslims can live in peace in non-Muslim environments. Second, Muslims have no other choice but to live

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[58] Karen Leonard, "Organizing Communities: Institutions, Networks, Groups" in Julianne Hammer and Omid Safi [Eds.] 2013 *The Cambridge Companion to American Islam* New York, NY: Cambridge University Press, p. 175.

[59] Karen Isaksen Leonard 2003 *Muslims in the United States: The State of Research*, New York, NY: Russell Sage Foundation, p. 91.

[60] Omar Khabaldi "Living as a Muslim in a Pluralistic Society and State" in Zaid H. Bukhari, Sulayman S. Nyang, Mumtaz Ahmad, and John L. Esposito [Eds.] 2004 *Muslims' Place in the American Public Square Hope, Fears and Aspirations* Walnut Creek, CA: AltaMira Press, p. 41.

where they are presently. Third, migrating to *dār al-islām* is not option due to "…the lack of peace and economic opportunities just about everywhere in the Muslim world."[61] In this chapter where minority *fiqh* apparently is a major theme, it seems that the *fiqh* is reduced to the permissibility to live outside of *dār al-islām*. In the following chapter, Aminah Beverly McCloud deals with the possible reductionism of minority *fiqh* by stating "… both modernity and living as minorities in the West… have come under critical review and spawned new discourses."[62] Then she explains that she is more interested in the discussion of living as minorities than modernity issues, before moving on to the *dār al-islām*/*dār al-ḥarb* dichotomy.

Other minor mentions regarding American *fiqh* include M.A. Muqtedar Khan who writes, "…Muslim communities' focus from battling the West to building bridges with it. They have rejuvenated the tradition of ijtihad… and now openly talk about fiqh al-akhliat…" [sic].[63] In this context, Khan is concerned with creating an American Muslim identity, where it appears that *fiqh al-'aqalliyyāt* would be central to its formation. Jane I. Smith adds to the conversation by declaring that women contribute to a Muslim American interpretation of *sharī'ah* and are involved in the process of *ijtihād*.[64] The next section of this chapter discusses works that have been specifically written on various aspects of Islamic Jurisprudence as it relates to this thesis.

### 2.3 Islamic Jurisprudence

Islamic Jurisprudence is a vast subject, and incorporates religious and civil law, the accepted elements of interpretation, and the reasonings behind them. Therefore, this will be divided into three sections. The first portion will examine some of the previous research regarding *fiqh al-'aqalliyyāt* which is relevant to this thesis. The second will contain a brief section on *sharī'ah*. Though there are many volumes written on *sharī'ah*,

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[61] Khabaldi "Living as a Muslim in a Pluralistic Society and State" p. 70.

[62] Aminah Beverly McCloud "Conceptual Discourse" Living as a Muslim in Pluralistic Society" in Zaid H. Bukhari, Sulayman S. Nyang, Mumtaz Ahmad, and John L. Esposito [Eds.] 2004 *Muslims' Place in the American Public Square Hope, Fears and Aspirations* Walnut Creek, CA: AltaMira Press, p. 77.

[63] M.A. Muqtedar Khan, "Living on Borderlines: Islam beyond the clas and Dialogue" in Zaid H. Bukhari, Sulayman S. Nyang, Mumtaz Ahmad, and John L. Esposito [Eds.] 2004 *Muslims' Place in the American Public Square Hope, Fears and Aspirations* Walnut Creek, CA: AltaMira Press, p. 106.

[64] Jane I. Smith "Muslims as Partners in Interfaith Encounter" in Zaid H. Bukhari, Sulayman S. Nyang, Mumtaz Ahmad, and John L. Esposito [Eds.] 2004 *Muslims' Place in the American Public Square Hope, Fears and Aspirations* Walnut Creek, CA: AltaMira Press, p. 184.

many of the ideas are repeated or at a level not necessarily pertinent. The final part is on the *maqāṣid al-sharī'ah* or the aims and purposes of *sharī'ah*.

### 2.3.1 Fiqh al-'Aqalliyyāt

Since the seminal works of al-Alwani and al-Qaradawi, there have been a number of theses, dissertations and research papers written on the subject. There are several authors who researched *fatāwā* relating to European Muslim minorities, among them are Alexandre Caeiro, Mathias Rohe (German framework), Karen-Lise Johansen Karman, and Pieter van Koningsveld.[65]

Van Koningsveld's article, 'The Significance of Fatwas for Muslims in Europe: Some Suggestions for Future Research,' provides an overview of *muftīs* and Islamic organisations who issue *fatāwā* throughout Europe. He claims that, "…we are facing a complete absence of a general approach of the significance of fatwas for Islam in present-day Europe."[66] Furthermore he states, "Available publications are comparatively small in number and they are usually focusing on some parts or aspects of the phenomenon only."[67] This may have been true at the time of the writing, but these statements appear to be out of date. However, van Koningsveld would like to see the following future stages of *fatāwā* research: firstly, identification and contents analysis, secondly comparative analysis of trends and models, finally social and cultural analysis.[68] These recommendations seemed to have influenced research conducted since that time, as many have referenced van Koningsveld's article, (for example, Alexandre Caeiro, Makram Ghatas Ishak, and Said Hassan).

The thesis of Karen-Lise Johansen Karman primarily examines "the effects that relocation to a minority context may have on the production of legal texts and the

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[65] Due to the unavailability of the book by Matthias Rohe, it will not be discussed in this literature review

Matthias Rohe 2007 *Muslim Minorities and the Law in Europe: Chances and Challenges* New Delhi: Global Media.

[66] P. S. Van Koningsveld, 2006 "The Significance of Fatwas for Muslims in Europe: Some Suggestions for Future Research." Nederlandsch theologisch tijdschrift 60.3 208–221, pg. 216.

[67] Van Koningsveld, "The Significance of Fatwas for Muslims in Europe," pg. 217.

[68] Van Koningsveld, "The Significance of Fatwas for Muslims in Europe," pg. 219.

articulation of a normative Islam for Muslims living in non-Muslims countries."[69] This is accomplished through a study of the practice of *fiqh* councils in North America, Europe, and Egypt, an analysis of the councils *fatāwā*, and the communication between the councils with the rest of the Muslim majority world.[70]

Johansen Karman sets her discourse in the historic development of minority fiqh, through the *dār al-islām*/*dār al-ḥarb* debate, and the methodology for *fiqh al-'aqalliyyāt* which uses *maqāṣid al-sharī'ah* and *maṣlaḥah*.[71] She examines how the European Council for Fatwa and Research (ECFR), the Fiqh Council of North America (FCNA) and al-Azhar each approach *sharī'ah* through legal opinions that affect Muslims living in the West.[72] In this way, the structure, language, and sources of various *fatāwā* are analysed where al-Azhar's rulings are used as the standard for traditional means.

In the conclusion, Johansen Karman states that the… "Western councils challenge traditional authority structures, but simultaneously they confirm tradional authority of the religious structures."[73] At the time of her thesis, there seems to a lack of actual *ijtihād*, and the FCNA seems to be more reluctant to publish their results than the ECFR. In her final evaluation, she determines that it does not appear that the rulings are leading towards any *sharī'ah* reform, but has the potential to create a new branch of *fiqh*.[74]

According to Caeiro's thesis, 'Fatwas for European Muslims: The Minority Fiqh Project and the Integration of Islam in Europe,' there are Muslim voices calling for "…the integration (indimaj) of Muslims in Europe and against tendencies towards assimilation (dhawaban) and segregation ('uzla)."[75] He addresses this by researching the "…specific grammar of this integration talk, and how it translates into fiqh discourse and fatwas…" primarily through the work of the ECFR.[76]

As the thesis draws to a conclusion, Caeiro mainly studied the responses of muftis in regards to minority *fiqh*, and the *fatāwā* they produced. He also stressed that

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[69] Karen-Lise Johansen Karman, 2008 *Rethinking Islamic Jurisprudence for Muslim Minorities: The Politics and the Work of Contemporary Fatwa Councils* Aarhus, Denmark: Det Teologiske Fakultet, Aarhus Universitet, p. 5.

[70] Karman, *Rethinking Islamic Jurisprudence,* p. 6.

[71] Karman, *Rethinking Islamic Jurisprudence,* pp. 50-53.

[72] Karman, *Rethinking Islamic Jurisprudence,* pp 59 -62, 99-106, 136-140.

[73] Karman, *Rethinking Islamic Jurisprudence,* p. 230.

[74] Karman, *Rethinking Islamic Jurisprudence,* pp. 232-236,

[75] Alexandre Vasconcelos Caeiro, 2011 'Fatwas for European Muslims: The Minority Fiqh Project and the Integration of Islam in Europe', Utrecht University, p. 6.

[76] Caeiro, 'Fatwas for European Muslims,' p. 6.

"…minority fiqh requires recognition from its Muslim addressees to be effective."[77] This suggests a gap in research which could be conducted to determine the knowledge of the elements of the *fiqh al-'aqalliyyāt* by the members of a Muslim society in which it was meant to assist.

MMM Rafeek's doctoral thesis, '*Fiqh al-Aqalliyyāt* (Jurisprudence for Minorities) and the Problems of Contemporary Muslim Minorities of Britain from the Perspective of Islamic Jurisprudence,' claims that integration into non-Muslims societies require a usable, comprehensive *fiqh*. In order for this to occur there must first be "…proper identification of these problems and presenting sound solutions through case studies and research works."[78] Rafeek claims that discrimination may occur if Muslims try to maintain their distinctive identity and not assimilate into the majority society. He also alludes to the *ḥalāl* to *ḥarām* ratio, (see chapter 7), when he states:

> …striking a balance between integration and assimilation or engaging in society while preserving identity has become the most challenging task Muslim minorities confronted with and it has been the great concern of modern-day Muslim scholars who deal with Muslim minority affaires [sic] from the perspective of Islamic jurisprudence.[79]

In this instance it is possible for integration to represent what is *ḥalāl* and assimilation what would be *ḥarām*. Finding the place where one can integrate without assimilating is part of discovering that ratio.

According to Rafeek there is a difference in al-Alwani's and al-Qaradawi's definition of *fiqh al-'aqalliyyāt*. For al-Qaradawi, minority *fiqh* is about temporary concessions (*rukhas*). However, for al-Alwani it is a model for Muslims living in a home nation as a minority and therefore has permanence.[80] Al-Alwani's ideas of a more permanent solution could be the basis for a separate interpretation of Islam apart from the European temporary model created by al-Qaradawi and the ECFR.

The thesis by Makram Ghatas Ishak, "Everyday Practices and Shari'ah Interpretation: The Dynamics of Shari'ah Interpretations in the Life of Muslims in Belgium," focuses on Wassati,[81] Salafi, or Liberal Muslim approaches to interpretation

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[77] Caeiro, 'Fatwas for European Muslims,' p. 262.

[78] MMM Rafeek, 2012 'Fiqh al-Aqalliyyāt (Jurisprudence for Minorities) and the Problems of Contemporary Muslim Minorities of Britain from the Perspective of Islamic Jurisprudence' University of Portsmouth Available at: http://eprints.port.ac.uk/9110/2/Thesis_-_Abstract_to_Bibliography.pdf Accessed 18.7.2016, p. 30.

[79] Rafeek, 'Fiqh al-Aqalliyyāt (Jurisprudence for Minorities)," pp. 57-58.

[80] Rafeek, 'Fiqh al-Aqalliyyāt (Jurisprudence for Minorities)," p. 235.

[81] Ishak's spelling not mine.

and integration issues.[82] It appears that concerning integration, much of Ishak's thesis is concerned with perceptions of whether Muslims wish to integrate from either the native Belgium or Muslim immigrant's perspective. While his research answers questions regarding *sharī'ah* interpretations in the lived experiences of Muslims of Belgium, his research does not engage with any theories of integration. So, it is up to the reader to distinguish what integration looks like beyond language acquisition.

There are a number of master's theses relating to *fiqh al-'aqalliyyāt*. Okan Dogan's dissertation 'Rethinking Islamic Jurisprudence for Muslim Minorities in the West' was submitted to the University of Texas.[83] Dogan attempts to answer the Question: 'how and to what extent this new area of *fiqh* is unique and different from the classical *fiqh*.'[84] He discusses *ijtihād* and its relation to *fiqh al-'aqalliyyāt*. Four different minority issues are discussed; residency in a non-Muslim country, marriage to a non-Muslim, interest-based loans, and inheritance from non-Muslims. In the final chapter, Dogan received inspiration from the work of Hellyer who evaluated Islamic law in Europe, by comparing *fiqh al-'aqalliyyāt* with *fiqh al-nawāzil*[85] and modern Islamic law codes.[86] A key conclusion from the thesis is the lack of a methodological framework for *ijtihād* within *fiqh al-'aqalliyyāt*.[87] He also points out that there are some disagreements within minority *fiqh* advocates regarding methodology, without a lengthy discussion of contentions.

Dina Taha also penned the master's dissertation, 'Muslim Minorities in the West: Between *FIQH* of Minorities and Integration' for the American University in Cairo.[88] It is her belief that this *fiqh* is a solution to issues Muslims has living in the West. She deduces that this *fiqh* could be a means of integration. However, as a means of integration

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[82] Makram Ghatas Ishak 2019 "Everyday Practices and Shari'ah Interpretations: The Dynamics of Shari'ah Interpretations in the Lives of Muslims in Belgium" Middlesex University, p. 210.

[83] Okan Dogan 2015 'Rethinking Islamic Jurisprudence for Muslim Minorities in the West', University of Texas.

[84] Dogan, 'Rethinking Islamic Jurisprudence,' p. 5.

[85] The jurisprudence of contemporary issues where there is a shortage of textual evidence and considers occurance, novelty significance and severity.

[86] Dogan, 'Rethinking Islamic Jurisprudence,' pp 68, 71-72.

H. A. Hellyer, 2009 *Muslims of Europe: The "Other" Europeans* Edinburgh: Edinburgh University Press.

[87] Dogan, 'Rethinking Islamic Jurisprudence,' p. 88.

[88] Dina M Taha 2012 'Muslim Minorities in the West: Between *FIQH* of Minorities and Integration', American University in Cairo.

it lacks because it does not affect or alter the host nation's attitudes towards the Muslim population, (see chapter 7, "Are Muslims Accepted?").

There are newly published books on the subject. Foremost is Said Hassan's '*Fiqh al-Aqalliyyāt'*.[89] Hassan displays the debates formed by the *fiqh* as an historical argument, setting historical figures and ideologies in opposition. He concludes that *fiqh al-'aqalliyyāt* gives Muslims freedom to maintain an identity with a pluralist world without destroying tradition (*taqlīd*), and their unique religio-cultural distinction. Hassan wrote that *fiqh al-'aqalliyyāt* caused a "…shift from a purely legal sphere to an ethical philosophical sphere, or to a sphere of the meta-ethics where the questions are about the meaning and nature of moral judgments and values, and how they can be supported."[90] This coincides well with the comparison of American/Christian and Muslim religious values in this study in chapter 7, the section, "Religious values."

Iyad Zahalka's book endeavors to present the '…religious tools, mechanisms and principles it utilizes to create religious decrees, an inquiry into whether those are applicable to all walks of life …'[91] This is done by comparing the implementation of *fiqh al-'aqalliyyāt* in Britain, The United States, and Israel. As Uriya Shavit's work, *Shari'a and Muslim Minorities: The wasati and salafi approaches to fiqh al-aqalliyyat al-Muslima*, Zahalka explains in detail the *fatāwā* involved, and the response of various Muslim leaders in those nations.[92]

Like Rafeek, Zahalka explains the differences between al-Qaradawi and al-Alwani's ideologies in the way they define Muslim minority. For al-Qaradawi, that refers to Muslim immigrants and Western converts only. However, for al-Alwani, the definition is governed by the outcome of twenty question that involve topics such as: identity, power structures (government, economic and cultural), relationship with majority (shared resources, integration/segregation, acceptance of activities, historical differences etc.) and others.[93]

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[89] Said Fares Hassan, 2013 *Fiqh al-Aqalliyyāt: History, Development, and Progress* New York, NY: Palgrave Macmillan.

[90] Hassan, *Fiqh al-Aqalliyyāt: History, Development, and Progress*, p.160.

[91] Iyad Zahalka, 2016 *Shari'a in the Modern Era Muslim Minority Jurisprudence* Cambridge: Cambridge University Press, p. 5. Zahalka, *Shari'a in the Modern Era,* p. 5.

[92] Uriya Shavit, 2012 'The Wasaṭī and Salafī Approaches to the Religious Law of Muslim Minorities' Available at: http://www2.tau.ac.il/internetfiles/yedion/syllabus/06/2012/0631 /0631246301_ILS_019_04_416-457_Shavit_off_syl.pdf Accessed 16.11.2016.

[93] Zahalka, *Shari'a in the Modern Era,* pp. 174-177.

Susanne Olsson attempts to "…analyse interpretations of Islam that comment on issues related to integration and segregation, as well as how to relate and view 'others'…"[94] She does this by comparing advocates of *fiqh al-'aqalliyyāt*, al-Alwānī and Ramadan with Salafi Scholars, Fawzan and al-Awlaki. The concept of 'others' is often approached in the way *da'wah* is defined and promoted by the represented scholar.

While Dogan explains specific questions of *fiqh al-'aqalliyyāt*, he does so in association with the *fatāwā* given on the subject; divorced from actual application. Though Zahalka attempts to answer the question on praxis he does so with interviews from '…religious leaders in Islamic centers across the United States (New York, Washington, Virginia, Detroit, Texas, California, Utah and Maryland) …'[95] Further inquiry is explored outside of the United States. Nothing is discussed concerning Muslims in the state of Florida, furthermore even though Muslims are interviewed in France and Germany, there are no interviews conducted to American Muslims who are not religious leaders. Therefore, this advances the question of theory versus application, in which this thesis shall explore further.

### 2.3.2 Sharī'ah

While *fiqh* and *sharī'ah* are not the same thing, they are certainly closely related. *Fiqh al-'aqalliyyāt* is presented as an alternative to traditional *fiqh*. This thesis engages with several pieces of literature concerning *sharī'ah*, which shall be divided by a more analytical or a confessional approach. This develops a baseline for traditional *fiqh*, beginning with Mohammad Hashim Kamali's *Principles of Islamic Jurisprudence.*

Kamali's hefty tome lays out the elements and formulae of jurisprudence that a jurist would use in order to determine *sharī'ah*. He complains about a "…gap between theory and practice…"[96] which occurred as the processes to determine *sharī'ah* were established. It is his understanding that the solution for the issue would be to reinstate *ijtihād* that would take into account time and space factors.[97] According to Kamali, another way that some of the weaknesses of *uṣūl al-fiqh*, (principles of *fiqh*), is overcome

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[94] Susanne Olsson, 2016 *Minority Jurisprudence in Islam: Muslim Communities in the West* London: I.B. Tauris, p. 3.

[95] Zahalka, *Shari'a in the Modern Era* p. 9.

[96] Mohammad Hashim Kamali, 2003 *Principles of Islamic Jurisprudence*, Cambridge: The Islamic Texts Society, p. 503.

[97] Kamali, *Principles of Islamic Jurisprudence*, pp. 504-506.

is through *maqāṣid al-sharī'ah*, (the objectives of Islamic law). He further critiques literalism, where the words become more important than the objectives of *sharī'ah*. He also argues that *maṣlaḥah* and *'urf* have not been given equal attention with other elements of juristic rulings due to literalism. [98]

Though Kamali does not mention *fiqh al-'aqalliyyāt*, it appears as though his reasoning supports the minority *fiqh* agenda. While the works of al-Alwani and al-Qaradawi provide arguments for the need to create a minority jurisprudence to facilitate integration, Kamali provides a space within established principles of *fiqh* for someone to format rulings based upon *fiqh al-'aqalliyyāt*. It has already been established that *maṣlaḥah*, *'urf* and *maqāṣid al-sharī'ah* are important concepts within *fiqh al-'aqalliyyāt*, (see chapter 2), and Kamali seems to verify their importance in a present-day context.

*Shari'a Islamic Law in the Contemporary Context*, edited by Abbas Amant and Frank Griffel,[99] seeks to illuminate many modern concerns through a *sharī'ah* lens, for example, justice, *maṣlaḥah*, democracy, and Shiite interests.[100] There is a chapter regarding *maṣlaḥah* and another on al-Qaradawi's position on democracy, but neither chapter relates to this thesis. However, writing about Justice, Gudrun Krämer, professor of Islamic Studies at Free University of Berlin, claims that:

> Conventional views have not gone unchallenged, and there are interesting new approaches… they are theoretical rather than practical in nature and as a rule are not based on systematic recourse to the language of *fiqh*, though the authors liberally quote from the Qur'an and Sunna and refer to *maṣlaḥa* and the five essential goods, benefits, or utilities as defined by al-Ghazālī, al-Shāṭibī and others.[101]

This seems to be a reference to reformers and those who are neither conservative nor liberal in the approach to *sharī'ah*, but *wasaṭiyyah* in their ideology, (see chapter 4).[102] Furthermore, Krämer mentions the work done up to this point is theoretical and having precedence over the practical. It seems like the practical aspect she is alluding to are rulings based on new approaches to *fiqh*.

In this section, the following literature represents a more confessional perspective. *Sharia Compliant* by Rumee Ahmed claims to be a user's guide to hacking Islamic law,

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[98] Kamali, *Principles of Islamic Jurisprudence*, pp. 513-515.

[99] Abbas Amanat is professor of history at Yale University, and Frank Griffel is associate professor of Islamic Studies at Yale University.

[100] Abbas Amanat, Frank Griffel [Eds.] 2007 *Shari'a Islamic Law in the Contemporary Context*, Stanford, CA: Stanford University Press.

[101] Gudrun Krämer "Justice in Modern Islamic Thought," in Abbas Amanat, Frank Griffel [Eds.] 2007 *Shari'a Islamic Law in the Contemporary Context*, Stanford, CA: Stanford University Press, p. 35.

[102] Krämer "Justice in Modern Islamic Thought," p. 35.

and as such is designed to be understood by a *fiqh*-minded Muslim who wishes to expand his/her knowledge and practice of *sharī'ah*. Ahmed suggests that *ḍarūrah* may create a need for temporary "patch" or suspension of *sharī'ah*, though the law still remains unaltered. These patches are in the forms of *'urf*, *takhayyur*, and *talfīq*, (see chapter 4, "Selective Ijtihād").[103] Concerning rulings based upon *maqāṣid al-sharī'ah*, he avers "Despite the popularity of this approach among reform-minded Muslims, it has neither gained traction among the fiqh minded nor resulted in significant changes at the state level."[104]

Ahmed sets the "reform-minded" against those who are "fiqh-minded." Apparently, for Ahmed one cannot be both reform-minded and *fiqh*-minded simultaneously. Perhaps, that is why he does not make any direct references to *fiqh al-'aqalliyyāt*, though he does refer to *ribā* laws being flexible due to *ḍarūrah*. However, for Ahmed that is only a temporary patch. While acknowledging that people could possibly use *sharī'ah* for their own purposes (hacking), Ahmed claims that it is only those in power who do so. For the hacks "…will never be adopted if they fail to play into existing power networks."[105] Therefore, it seems that the book does not consider minority Muslims living in non-Islamic polities, who are deprived of the necessary power networks.

There seems to be some disputes regarding the *sharī'ah* surrounding acceptable *fiqh*. Even though Kamali suggests that *maṣlaḥah* and *'urf* are mainstream concepts, (however not on equal footing with others), Ahmed believes they are mere temporary patches to provide a necessity. Krämer, on the other hand, declares that the reformers' work on this issue up to this point is only theoretical.

### 2.3.3 Maqāṣid al-Sharī'ah

Literature on the purposes, aims or intentions of *sharī'ah*, known as *maqāṣid al-sharī'ah*, could have been part of the previous *sharī'ah* section. Due to the centrality of the subject to this thesis, and the chapter devoted to the issue, (see chapter 6), *maqāṣid al-sharī'ah* warranted its own section. Similar to the *sharī'ah* section, this portion of the literature will be divided by analytical and confessional writings. Beginning with Muhammad al-

[103] Rumee Ahmed, 2018 *Sharia Compliant A User's Guide to Hacking Islamic Law*, Stanford, CA: Stanford University Press, pp. 102-115.

[104] Ahmed, *Sharia Compliant*, p. 119.

[105] Ahmed, *Sharia Compliant*, p. 159.

Tahir Ibn Ashur's *Treatise on Maqāṣid al-Shari'ah*, the section will examine key ideas and debates on the *maqāṣid*.

Ibn Ashur's analytical volume, *Treatise,* is a scholarly cornerstone for much of what has been written on the theme of *maqāṣid al-sharī'ah*. The large book is divided into three sections. The first, establishes the theory and reasonings behind the *maqāṣid*. Of particular interest in the first section is the methodology which attempts to separate Ashur's usage of *maqāṣid* from a literalist, Islamic approach. He argues that while literalists attempt to find the essence of a word, they neglect, "…contextual evidences (*qarā'in*), speech conventions (*iṣṭilāhāt*), and general context."[106] Ibn Ashur does not explain what he means by those three things beyond the hint of the Arabic word following two of them. *Qarā'in* can be translated as "reading," which I suppose he means within the context of what has been written. *Iṣṭilāhāt* is the word "terms," which could possibly refer to idiomatic speech. Finally, general context could be either *'urf* or a historical context. Regardless, it is his claim that *maqāṣid al-sharī'ah* would be a sounder methodology.

The second, is the use of *maqāṣid al-sharī'ah* within Islamic legislation. The final section connects the *maqāṣid* to the way Muslims deal with humankind. In this section there are two chapters dedicated to *maṣlaḥah*. An often overlooked concept, Ibn Ashur bifurcates *maṣlaḥah* into public interests and private interests, (see chapter 4, Maṣlaḥah – The Public Good). The public interests concern *maṣlaḥah* as the greater good for the entire community/*ummah*, while private interests are for the greater good of the individual. He acknowledges that public interests have the pre-eminence in common usage and importance, however one cannot totally ignore the private interests.[107]

This analytical portion concludes with a look at Jasser Auda's *Maqāṣid al-Sharī'ah as Philosophy of Islamic Law: A Systems Approach*. Auda challenges the literalism, reformism, or Westernisation typology where Westernisation equates to modernism and rational arguments are considered secular.[108] He claims that within *sharī'ah* it is possible to have a disagreement among the source evidences. This, he surmises creates a binary of either certain or uncertain situations regarding rulings. He proposes that if it is "…combined with a *maqāṣidi* approach, could offer a theoretical

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[106] Muhammad al-Tahir Ibn Ashur, 2006 *Treatise on Maqāṣid al-Shari'ah* Herndon, VA: The International Institute of Islamic Thought, p. 27.

[107] Ibn Ashur, *Treatise on Maqāṣid al-Shari'ah*, p. 97.

[108] Jasser Auda, 2008 *Maqasid Al-Shariah as Philosophy of Islamic Law A Systems Approach* Herndon, VA: The International Institute of Islamic Thought, p. 253.

solution to the dilemmas of opposing evidences."[109] Thereby, any *ijtihād* regardless of the outcome could be fully justified.[110]

Though Auda's proposal may have some merit, the proposal is not without some problems. First, not everyone in the Muslim world, or Western Muslims agree with a newly formed *ijtihād* process. There are many traditionalists who accept the *taqlīd* as being sufficient. Second, the majority of Muslims in the US do not recognize an authority beyond the local mosque and many do not accept any authority beside their personal reading/interpretation of the Qur'an. This also creates an Islamic binary where a *mujtahidīn* class develops following updated rulings that most Muslims either know nothing about or ignore. In this instance, the issue which Auda was attempting to avoid, becomes yet another hurdle to overcome.

From the more confessional literature, the book, *Maqasid Al Shari'a and Contemporary Reformist Muslim Thought* edited by Adis Duderija presents the perspectives of reformists Kamali, al-Qaradawi, Tariq Ramadan, and Rachid al-Ghannushi. It looks at the impact of *maqāṣid al-sharī'ah* in Doha, Turkey, Rabat and Tunis. Furthermore, it surveys *maqāṣid al-sharī'ah* among the Shī'ī, and finally the hermeneutic implications of the Qur'an in family law, and regarding patriarchy and slavery.[111]

The use of *maqāṣid al-sharī'ah* by various scholarly trends in Turkey is discussed in the chapter by Aydogan Kars. He claims that traditionalist scholars use the *maqāṣid* to emphasize tradition over reform, while revisionists to support an *ijtihād* methodology. At the same time, secularists propose *maqāṣid* reasoning over *sharī'ah* in an attempt to arrive at a "…*sharī'a*-free Islam."[112]

Edited by Idris Nassery, Rumee Ahmed and Muna Tatari, *The Objectives of Islamic Law* has two sections. The first, "Promises," relates to the theoretical application of *maqāṣid al-sharī'ah*. Discussions include methodological perspectives, the religious other, Ibn Ashur's interpretation, and finance. The second, "Challenges" discusses

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[109] Auda *Maqasid Al-Shariah as Philosophy of Islamic Law*, pp. 256-257.

[110] Auda *Maqasid Al-Shariah as Philosophy of Islamic Law*, p. 258.

[111] Adis Duderija [Ed.] 2014 *Maqasid Al Shari'a and Contemporary Reformist Muslim Thought: An Examination* New York, NY: Palgrave Macmillan.

[112] Aydian Kars "Maqāṣid or Sharī'a? Secularism, Islamic Reform, and Ethics in Modern Turkey," in Adis Duderija [Ed.] 2014 *Maqasid Al Shari'a and Contemporary Reformist Muslim Thought: An Examination* New York, NY: Palgrave Macmillan, p. 147.

various issues and debates on the topic. Among the deliberated themes are contemporary ethical debates, hermeneutical modern reinterpretations, and Muslim minorities.[113]

Within this book, Mouez Khalfaoui's chapter proposes that *fiqh al-'aqalliyyāt* is too limited considering the global scale of Islam as it is currently understood. Therefore, he suggests that new concept of *fiqh al-'aqalliyyāt* should be developed where minority Muslims are encouraged to work alongside other minority groups facing the same difficulties with integration. In this context, it could be open to the global issues of all of human beings living as minorities, and therefore could be minority *fiqh* for all, Muslim and non-Muslim.[114]

A philosophical approach to *maqāṣid al-sharī'ah* is presented by Musfir bin Ali al-Qahtani who critiques, "… contemporary philosophers such as Martin Heidegger, Paul Sartre, and Jacques Lacan. All of them invite people to a kind of intellectual and moral anarchy."[115] He claims that eventually, materialism and naturalism will abate, and nihilism leaves people without constraints or values. In his view, postmodernism leads to deconstructionism, which chips away at reality. This has created several crises[116] which al-Qahtani spends several chapters explaining that goals (*maqāṣid*) would overcome the problems that modern philosophy creates.

Due to the renewed interest in *maqāṣid al-sharī'ah*, there are a growing number of resources on the subject. While there are few books available, there are a large quantity of articles, and it appears as though new ones arrive daily. Much work has been done to use the *maqāṣid* to justify reformists, and to disqualify literalists. Furthermore, the *maqāṣid* seems to be used by some to provide a panacea to cure all ills, whether extremism, westernisation, or philosophical leanings. Only time will tell if *maqāṣid al-sharī'ah* will have the impact that some scholars have advanced.

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[113] Idris Nassery, Rumee Ahmed, and Muna Tatari [Eds.] 2018 *The Objectives of Islamic Law* Lanham, MD: Lexington Books.

[114] Mouez Khalfaoui "*Maqāṣid al-Sharī'ah* as a in Legitimization for the Muslim Minorities Law" in Idris Nassery, Rumee Ahmed, and Muna Tatari [Eds.] 2018 *The Objectives of Islamic Law* Lanham, MD: Lexington Books, p. 281.

[115] Musfir bin Ali al-Qahtani, 2015 *Understanding Maqāṣid al-Sharī'ah a Contemporary Perspective* Herndon, VA: The International Institute of Islamic Thought, p. 127.

[116] These are religious extremism and various social issues.

## 2.4 Integration

One of the themes of *fiqh al-'aqalliyyāt* is "integration without assimilation," and viewpoints on integration will be regarded in the thesis. Therefore, it is necessary to be familiar with the arguments relating to integration and assimilation. Due to the information regarding social integration being so immense, this review will limit the literature review of integration to the definitions of major terms and theories, and integration of Muslims into the host society.

### 2.4.1 Definitions

According to Wendy Peters of Russell Sage College, there are four themes that flow from acculturation - assimilation, integration, segregation and marginalisation.[117] The 'Classic Theory of Assimilation' from the 1920's sees the host nation as a melting pot where immigrants become '…more similar over time in norms, values, behaviors, and characteristics.'[118] In other words, various socio-cultural groups could become a single, homogeneous people as they socialized. These ideas remained unchanged for the most part until 1964 when Gordon suggested that assimilation came in stages: language, social relations, intermarriage, identification and the end of value conflict.

There is some confusion as to the meanings of integration, and assimilation. The terms are often used interchangeably. For example, referencing French policies on integration, Ayhan Kaya writes, "…integration refers to the acculturation of foreigners into the dominant French culture, which has a universalist claim. Acculturation in this respect means Franco-conformity, or assimilation into a particularist form of culture."[119] After making that claim, the term can be found as "assimilation/integration." Kaya then states that integration may occur into cultural, political or economic arenas.[120]

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[117] Wendy M. K. Peters "The Indigenous Soul Wounding: Understanding Culture, Memetics, Complexity, and Emergence" in Sherrow O. Pinder [Ed.] 2013, *American Multicultural Studies: Diversities of Race, Ethnicity, Gender and Sexuality* Sage, Los Angeles, California p. 217.

[118] Susan K. Brown, and Frank D. Bean, 2006 'Assimilation Models, Old and New: Explaining a Long-Term Process' in *Migration Policy Institute*, http://www.migrationpolicy.org/article/assimilation-models-old-and-new-explaining-long-term-process Accessed 25.4.2017.

[119] Ayhan Kaya 2009 *Islam, Migration and Integration: The Age of Securitization*, New York, NY: Palgrave Macmillan p. 3.

[120] Kaya, *Islam, Migration and Integration*, p. 30.

According to Elena Maestri and Annemarie Profanter there are three sociological ideas concerning integration, "…assimilation theory, multiculturalism and structuralism as well as segmented assimilation."[121] They further explain that multiculturalism is a co-existence of various ethnic groups alongside a majority group. Whenever the ability to integrate into society is affected by social and economic factors of the host society, then structuralism is a factor. Finally, segmented assimilation suggests that as a minority group integrates, there are patterns formed based upon how economic and demographic factors relate to racial, socio-economic background and current residential elements.[122]

Likewise, Nissa Finney and Ludi Simpson in their book, *Sleepwalking to Segregation*, identify 3 arenas of integration. The first, "spatial," are the locations where people live. In this sense, integration is said to have occurred when a people are disseminated throughout society, and is the opposite of ghettoization. The second, "structural" integration, transpires when there is involvement with the structures of society, (for example, employment and education). The third, "cultural" is a lived understanding of the values, traditions and customs of those participating within a society.[123]

Segregation, on the other hand, is the opposite of assimilation. Minority people groups are separated from the dominant group, either by choice or by design. According to Stephen Moore, racial segregation occurs due to several factors. First, minorities often gain employment where the dominant society does not want. Second, the availability of housing may limit the minority to certain areas and as the minority community develops it causes ghettoization. Third, as new comers arrive they are naturally settled alongside relatives or friends. Fourth, harassment and fear of retaliation from the dominant group, keep minorities within their established communities. While segregation may be forced by the dominant society, it is also possible for groups to seek self-segregation in order to maintain their cultural integrity.[124] The topic of segregation is mentioned in Chapter 4 "To Segregate or Integrate?" and in Chapter 6 "Where is Home?" sections of this thesis.

One issue in the quest for integration is the propensity to be marginalized by the majority people group within the society. According to Marcia Tucker, marginalisation

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[121] Annemarie Profanter and Elena Maestri [Eds.] 2021 *Migration and Integration Challenges of Muslim Immigrants in Europe* Cham: Palgrave Macmillan, p. 7.

[122] Profanter and Maestri *Migration and Integration Challenges*, p. 7.

[123] Nissa Finney, and Ludi Simpson 2009 *Sleep walking to segregation: challenging myths about race and migration* Bristol: The Policy Press, pp. 8-9.

[124] Stephen Moore 2001 *Sociology Alive!* Cheltenham: Nelson Thomes Ltd, pp. 106, 120.

is when a particular group is '…ignored, trivialized, rendered invisible and unheard, perceived as inconsequential, de-authorized, "other," or threatening, while others are valorized.'[125] Marginalisation can be perceived by the minority in many different ways, often without the majority realizing that they are perpetrating the action. This can further complicate relations as accusations of a lack of understanding for the other can amass on by the minority and majority.

The process of migration brings various cultures in contact with the other which over time creates cultural changes, (primarily for the immigrant).[126] Bradford Hall, Head of Department of Languages, Philosophy, and Communication Studies Utah State University, states that acculturation goes through four stages.[127] The Honeymoon Stage is characterized by the excitement of the trip and as an opportunity to revise or reject religious and other commitments thereby shaping identity. There may be an anticipation to take on the characteristics of the dominant culture. Afterwards, comes the Crisis Stage when culture shock causes frustration and annoyance due to unmet expectations. Following the crisis, a Recovery Stage begins to once again perceive the host culture in a positive light and culture shock has less influence over time. Finally, the Adjustment Stage in which one feels at home and no longer feels an outsider.[128]

If both nationals and immigrants desire assimilation, what could cause a cultural differentiation to develop as opposed to assimilation? Acculturation as a process takes time. However, in the United States many nationals expect instant assimilation for newcomers. John R. Hinnells proposed that the greater the expectation to assimilate from the dominant culture, the more resistant to assimilate immigrant groups become.[129] He compared Zoroastrians from Canada, US, and Britain and found that they identify themselves as 'Canadian due to a multicultural acceptance. However, the United States'

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[125] Marcia Tucker "Director's Forward" in Russell Ferguson, Martha Gever, Trinh T. Minh-ha, and Cornel West [Eds.] 1999 *Out There: Marginalization and Contemporary Cultures* Cambridge, MA: The MIT Press, p. 7.

[126] Frosso Motti-Stefanidi and Ann S. Masten "Immigrant Youth Resilience: Integrating Developmental and Cultural Perspectives" in Derya Güngör and Dagmar Strohmeier [Eds.] 2020 *Contextualizing Immigrant and Refugee Resilience: Cultural and Acculturation Perspectives* Cham: Springer, p.17.

[127] Bradford 'J' Hall, 2005 *Among Cultures The Challenge of Communication*, Belmont: Wadsworth, pp 272-274.

[128] Raymond Brady Williams, 'South Asian Christians', in Harold Coward and John R. Hinnells, and Raymond Brady Williams (eds.) 2000 *The South Asian Religious Diaspora*, Albany: State University of New York Press, p. 17.

[129] John R. Hinnells, 'Zorastrian Diaspora in Britain, Canada and the United States, in Coward, and Hinnells, and Williams (eds.), *The South Asian Religious Diaspora*, p. 50.

intense assimilation attitudes caused differentiation for fear of losing Zoroastrian identity. Britain was discovered to be a median between Canada and the United States.

The concepts of integration, marginalisation, and acculturation are key elements of this thesis. These concepts become a focus for the use of constructive theories, (see chapter 3 Methodology), which states that one constructs a perceived reality based upon interactions of the environment, individuals, and communities to other individuals and communities.

### 2.4.2 Muslim Integration

This section of the literature review examines academic writings, which deal with issues of minority Muslim integration into a non-Muslim society specifically. Beginning with the perspectives of a non-Muslim state policy before discussing various Muslim thoughts regarding integration, this will conclude the literature review.

Christian Joppke, (Chair in General Sociology at the University of Bern), and John Torpey, (Professor of Sociology at City University of New York Graduate Center), compare Muslim integration policy in Europe and North America (France, Germany, Canada and The United States). They stated that 'American society has up to this point not known any particular problem with integrating Muslim immigrants and, even after 2001 is frequently seen by Muslims as more accommodating than Europeans societies.'[130] Their assumptions are based upon state policies, not on empirical research of Muslims or non-Muslim members of the society. They seem to assume that first European states are primarily Christian states and that the United States is religiously neutral, and therefore has not had a federal integration policy of immigrants.[131] They add that '… Muslims in the United States generally fare much better economically than their European counterparts…'[132] They assert that this is a key component to integration into society, (see Chapter 7 the sections: Language Acquisition, Ethnicity, and Cultural Tradition).

In their conclusion, Joppke and Torpey briefly mention the minority *fiqh* of Yusuf al-Qaradawi and Tariq Ramadan's citizenship approach to integration. However, Joppke and Torpey's assessment is that al-Qaradawi's and Ramadan's concepts are more about

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[130] Christian Joppke and John Torpey 2013 *Legal Integration of Islam A Transatlantic Comparison* Cambridge MA, Harvard University Press, pp. 10-11.

[131] Joppke and Torpey 2013 *Legal Integration of Islam*, pp. 11, 89.

[132] Joppke and Torpey 2013 *Legal Integration of Islam*, p. 129.

keeping separate than "cultivating ties with the larger society."[133] Furthermore, they state that the ECFR has an '…emphasis being less on "integration" than on "without assimilation."'[134] However, Joppke and Torpey fail to offer a proper definition of integration. It may appear that they are referring to assimilation policy rather than to an integration policy.

Similarly, Zeyno Baran, Senior Fellow of Hudson Institute's Center on Islam, spends much of the book, *Citizen Islam,* comparing Islam with Islamism. Islamism according to Baran is a political-religious ideology which stresses that "…all forms of government, including secular democracies, must as some point be replaced by Islamic theocracies based on sharia."[135] Her response is for governmental policies that regulate Islamist schooling, discredit Islamism, and prevent Muslim self-segregation. However, it may be difficult for government policies to make the distinction between Islam and Islamism. Furthermore, these policies could become established legal structures used to oppress Muslims, (see Chapter 7, Ethnicity). Baran indicates that Islamism is a deterrent to integration, but neglects to indicate potential ways that could make integration flourish, or how it has occurred in the past.

Integration from a Muslim perspective is addressed in the book, *Muslims in Non-Muslim Lands*, written by Amjad M. Mohammed. While the book is predominately about issues of *fiqh* relating to Muslim minorities, in the introduction Mohammed attempts to bridge integration and *fiqh*. It is his position that there are three different tracks of socialization relevant to the Muslim community. The first, isolation, is a literalist approach to Islam. The second, integration is a traditionalist model. While the third, assimilationist is associated with liberalism or modernism. However, he explains that the interpretive aspect can be demonstrated as a continuum from a Literalist, hundred percent "absolute application of text" at one end, and a Liberalist, hundred percent "society impacts on law"[136] at the other end. In the middle of the spectrum is the Traditionalist approach. As one moves across the spectrum from literalism towards liberalism, literalism begins to blend with Traditionalism, until Traditionalism gains dominance.

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[133] Joppke and Torpey 2013 *Legal Integration of Islam*, p. 148.

[134] Joppke and Torpey 2013 *Legal Integration of Islam*, p. 148.

[135] Zeyno Baran 2011 Citizen Islam: The Future of Muslim Integration in the West New York, NY: Continuum Publishing Group, p. 1.

[136] Amjad M. Mohammed 2013 *Muslims in Non-Muslims Lands A Legal Study with Applications* Cambridge: The Islamic Texts Society, pp. XVI-XVIII.

Then, across Traditionalism as it approaches the end, traditionalism blends with Liberalism until Liberalism has ascendency.

The three interpretational approaches, (literalist, traditionalist and liberalist), are further expounded in Chapter 2 of Mohammed's book. He describes literalist ideology as interpreting the source material "…without 'dispensations' or 'flexibility'."[137] Due to literalist rigidity, it is too difficult for Muslims to live up to the standard. Therefore, Muslims must either immigrate to Islamic lands or isolate themselves completely from the socio-political and educational spheres. A literalist/Islamist view does not allow for integration.

When Mohammed defines the differences between traditionalism and liberalism, he claims that, "Simply put, traditionalists believe in the authority of revelation and liberal/modernists in the authority of reason."[138] It is Mohammed's appraisal of al-Alwani, and al-Qaradawi's theories of *fiqh al-'aqalliyyāt* that it is a modernist, (therefore liberalist), approach. He reasons that because *fiqh al-'aqalliyyāt* deals with contemporary issues in a time/space context, application of minority *fiqh* makes the *aḥādīth* no longer valid. Furthermore, he states that since al-Alwani, "insists that the background of the query, the enquirer and the underlying social factors which brought about that query need to be taken into context", then reason is the preeminent factor, thus Liberalist/Modernist.[139] However, he points out that between the two, al-Qaradawi is more traditional.

Moreover, Mohammed's ties liberalism/modernism with an assimilationist approach to Islam. Yet, according to al-Alwani and al-Qaradawi, integration is stressed to avoid assimilation, and at the same time it allows the Muslim community to have a voice in the adopted non-Islamic lands. As an explanation of the risks of Muslims living in non-Islamic territories, Mohammed mentions that "Kattani asserts, it was assumed that by the second generation, Muslims would lose their Islamic identity and hence would be no different from other citizens, even in terms of attitudes towards religion."[140] So for Mohammad, losing one's identity and religious differentiation is assimilation. Likewise, this was a similar concern for al-Alwani and al-Qaradawi, and they considered *fiqh al-'aqalliyyāt* as a solution to prevent a loss of Islamic identity, and religious fervour.

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[137] Mohammed *Muslims in Non-Muslims Lands*, p. 35.

[138] Mohammed *Muslims in Non-Muslims Lands*, p. 27.

[139] Mohammed *Muslims in Non-Muslims Lands*, pp. 39, 41.

[140] Mohammed *Muslims in Non-Muslims Lands*, p. 8.

However, Tariq Ramadan appears to reject any Western definition of integration, which he attributes to a colonialistic ideology. He argues that to '… "Integrate" means to accept other, it promotes tolerance towards foreign nationals and immigrants..."[141] Therefore, integration is coupled to otherness and foreignness regardless of the citizenship status of the individuals.

For many Muslims integration concerns can be tied to identity issues. Tariq Ramadan makes the statement that, 'On the one hand, Muslim identities relate to their origins, … on the other hand it represents a type of prison that by its very nature inhibits integration because Muslims are *different*.'[142] Therefore, he declares that identity must begin with an '… understanding the society in which we live, its history, culture and institutions.'[143]

Ramadan seems to suggest that identity should be more about citizenship and less about previous ethno-national associations, (which Joppke and Torpey alluded to). At the same time, Ramadan's remarks on understanding society in which Muslims live also seems to refer to *fiqh al-'aqalliyyāt*. In his book *Radical Reform*, Ramadan does mention minority *fiqh*, though as a subject it seems included reluctantly. While he acknowledges that the *fiqh* has helped Muslims maintain their practice in non-Islamic lands, Ramadan seems to be unconvinced of the ability of the *fiqh* to make a sustained impact. He states, "The world is moving on and legal scholars are forever lagging behind that constantly accelerating progress that seems to except them…"[144] Due to the ever changing culture and progress of Muslims around the world, it is impossible for Muslim scholars to keep up with the mounting questions regarding the faith.

The Research Center for Islamic Legislation and Ethics (CILE) produced the multi-authored book, *Migration and Islamic Ethics*. In a chapter by Mettursun Beydulla, the Uyghur people's migration from China to Turkey and the US is used as a case study.[145] According to Beydulla, the Uyghur are free to practice Ramadan, *'īd,* and to

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[141] Tariq Ramadan, 2012 *Western Muslims from Integration to Contribution* Swansea: Awakening Publications, p. 5.

[142] Ramadan, *Western Muslims*, p. 10.

[143] Ramadan, *Western Muslims*, p. 11.

[144] Tariq Ramadan 2009 *Radical Reform: Islamic Ethics and Liberation*, Oxford: Oxford University Press, p. 32.

[145] Metturson Beydulla, "Experiences of Uyghur Migration to Turkey and the United States: Issues of Religion, Law, Society, Residence, and Citizenship" in Ray Jureidini, and Said Fares Hassan [Eds.] 2020 *Migration and Islamic Ethics: Issues of Residence, Naturalisation, and Citizenship* Boston, MA: Brill available at: https://www.cilecenter.org/publications/publications/volume-2-studies-islamic-ethics-migration-and-islamic-ethics-issues Accessed: 24.09.2022, pg. 184

demonstrate in front of the Chinese Embassy twice a year. However, it is also his assessment that the Uyghur "…find themselves socially and legally marginalized by United States' restrictive asylum policies."[146] Therefore, he proposes that there is a difference between citizenship and national identity, due to the majority of Americans perceiving the Uyghurs as the "other" and thereby excluded from being accepted as proper Americans, (see section 7.3, Are Muslim Accepted?).[147]

The book *European Muslims, Civility and Public life: Perspectives On and From the Gülen Movement*, edited by Paul Weller and Ihsen Yilmaz, covers a number of integration issues from the perspective of Turkish-Gülenist Muslims in Europe. Among the subjects discussed are the *dār al-islām*/*dār al-ḥarb* divide, immigration, and multiculturalism. Within the book, Shanthikumar Hettiarachchi observed:

> South Asian Muslims are perplexed about the complexity of the integration process in the adopted land without compromising their core beliefs and attached values, even though individual Muslims may have uncritically embraced certain aspects of European life and even values.[148]

As with many of the writings involving Muslims and integration, Hettiarachchi explains that there is a difficulty in the integration process without clearly stating why those difficulties exist, nor offers much of a solution. Hettiarachchi does suggest that is possible for "…renewed relations of goodwill and co-operation as part of the Abrahamic legacy of faith and practice," but keeps communication and relationship within the context of the two religions, (Islam and Christianity), and their relationship with the other.[149] Society outside the sphere of religion seems to be missing in this discourse. Broaching core beliefs and values, for Hettiarachchi may have a solely religious meaning. However, all peoples possess some core beliefs and values whether they are a part of the "Abrahamic legacy of faith" or not. Therefore, it appears to me that a wider understanding of the issues surrounding integration are needed. (See Chapter 7, Are Muslims Accepted?)

On the other hand, by saying, "…the vision of integration promoted by the Gülen movement centres is one of cultural exchange and enrichment rather than

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[146] Beydulla, "Experiences of Uyghur Migration," pg. 186

[147] Beydulla, "Experiences of Uyghur Migration," pg. 187

[148] Shanthikumar Hettiarachchi "Turkish Muslims and Islamic Turkey: perspectives for a new European Islamic identity?" in Paul Weller and Ihsan Yilmaz [Eds.] 2012 *European Muslims, Civility and Public Life: Perspectives On and From the Gülen Movement* London: Continuum International Publishing Group, p. 41.

[149] Hettiarachchi "Turkish Muslims and Islamic Turkey, p. 49-50.

assimilation,"[150] Araks Pashayan outlines his answers for the same questions raised by Hettiarachch. Pashayan claims that inter-faith and inter-cultural dialogue are the solutions to "…sectarianism, isolation, and radical relativism."[151] While interfaith/intercultural dialogues may assist in integration (see Chapter 7 The Educational Approach), Pashayan fails to provide answers to the complicated processes of integration that occurs beyond a reasonable dialogue.

Ayhan Kaya's *Islam, Migration and Integration* focuses on Muslims primarily from Europe covering Germany, France, Belgium and the Netherlands.[152] He claims that that fear of Muslims has been used by governments to reinforce a security based agenda for their nations. Then whenever integration is stressed "…the tendency is to lay emphasis on cultural, attitudinal and linguistic integration rather than structural, political and social integration."[153] In other words, a blending, assimilationist approach has been preferred rather than to Muslims gaining an active involvement in all aspects of society. Accordingly, this has left a gap in the integration process for the Muslim immigrant.

In order to close the gap that Kaya presented, he proposes a transnationalizing approach to integration. He argues that "…integration starts in the country of origin."[154] As such, international migrants are connected to their homeland and new residence and are no longer in a unidirectional relationship, but could be aided with the assistance of the sending nation. There are transnational networks of family, friends, and organisations that could contribute to the transition creating a transnational third space between the sending and receiving nations. Kaya believes this could overcome the assimilationist tendency previously mentioned.

While Kaya's ideas may be helpful in settling migrants in a new location, it seems as though he bypasses all previous concepts of integration in the meantime. The concern could be a newly constructed organizationally reinforced ghettoization of immigrants left in their third space. It seems that while it may be a gentler movement from one location to another, it too may hamper integration. There may be a need for yet another fourth

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[150] Araks Pashayan "Integration of Muslims in Europe and the Gülen movement" in Paul Weller and Ihsan Yilmaz [Eds.] 2012 *European Muslims, Civility and Public Life: Perspectives On and From the Gülen Movement* London: Continuum International Publishing Group, p. 87.

[151] Pashayan "Integration of Muslims in Europe and the Gülen movement," p. 88.

[152] Ayhan Kaya is Professor of Politics at Istanbul Bilgi University.

[153] Ayhan Kaya 2012 *Islam, Migration and Integration: The Age of Securitization* New York, NY: Palgrave Macmillan, p. 220.

[154] Kaya *Islam, Migration and Integration*, p. 220.

space to be created between the third space and the receiving nation, and perhaps a fifth or sixth. Where does it end?

Most literature surrounding Muslim integration is concentrated on Europe, though there are books on Australia and New Zealand, Canada, and even the Philippines, Thailand, and Myanmar.[155] There is little literature on the integration of Muslims in the United States, apart from either governmental policies or stories relating personal experiences.

## 2.5 Conclusion

The section, "Islam in America" began in an historical context where development of *fiqh al-'aqalliyyāt* could be formed due to fear of assimilation and a desire to maintain an Islamic identity. There was also discussion of *sharī'ah* reform and questions regarding *dār al-islām* and *dār al-ḥarb*, though it was explained that for many American Muslims this was not considered an issue. Furthermore, it was stated that there is a difference between legal citizenship and social citizenship, and that Islam is not a singular entity. America is presented as a new homeland, and there is a need for ongoing interpretation of Islam. As far as US cities are concerned, there have been studies on Detroit, Los Angeles, Chicago, San Diego, Indianapolis and others, but none specifically on Jacksonville apart from a casual mention related to Islamophobia.

Debates relating to individual interpretation, authorities in Islamic law, the consequences of reformist ideology, and the *dār al-islām*/*dār al-ḥarb* divide were presented. It was suggested that individual interpretations would allow Islam to develop across various locations and times. Within the debate of authority versus individual interpretation, it was argued that *fiqh al-'aqalliyyāt* has a place to have an influence for American Muslims. However, there seems to be a tendency to reduce the meaning of minority *fiqh* to the permissibility to live beyond *dār al-islām.*

In the section, "Islamic Jurisprudence," it was proposed that *fiqh* is needed to accomplish integration. Several subjects were broached claiming debate without much discussion. For example, methodological challenges of *fiqh al-'aqalliyyāt* were briefly

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[155] Erich Kolig and Malcolm Voyce 2016 *Muslim Integration: Pluralism and Multiculturalism in New Zealand and Australia* London: Lexington Books.
and
Moshe Yegar 2002 *Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand, and Western Burma/Myanmar Lanham*, Maryland: Lexington Books.

considered, particularly in the area of *ijtihād*. Other debates included, in what way does minority fiqh affect "moral judgments and values," and the insufficiency of minority *fiqh*, because it does not affect a host nation's attitude.

During the discussion of *sharī'ah*, complaints were made concerning the lack of attention due *maṣlaḥah*, *'urf*, and *ijtihād*, and apparent deficiencies which can be compensated through use of *maqāṣid al-sharī'ah*. Furthermore, there is an apparent gap between theory and practice. It was also expounded that the reformers have cross-purposes with those who are "fiqh minded." From a more confessional literature stance, *'urf*, *takhayyur*, and *talfīq* are counted as only temporary patches for a particular problem where the *taqlīd* has precedence.

In the dialogue concerning *maqāṣid al-sharī'ah*, several opposing ideas were revealed. *Maṣlaḥah* was promoted as a dual expression depending on public or private interests, where public interests have the dominance. It was suggested that different ideologues use the *maqāṣid* to promote their particular slant. For example, the *maqāṣid* were used as the cure for modern materialism, naturalism, and nihilism.

The division, Integration, begins with definitions of assimilation, integration, segregation and marginalisation. It was argued that proponents of the *fiqh* are more concentrated on not assimilating than on integrating within the society. Islamism was said to be deterrent to integration. There is an attempt to bridge integration and *fiqh* by exploring three tracks of socialisation: isolation/literalist, integration/traditionalist, and assimilation/modernist approaches. An argument was also made that *fiqh al-'aqalliyyāt* as a liberal/modernist concept negates the *taqlīd* and make the *hadīth* invalid, and thereby assimilationist in nature. Several possible solutions to integration have been proposed by Muslims. For example, ignoring concepts of integration and accepting full citizenship. It was also proposed that interfaith/intercultural dialogues could assist in integration, and there could be a transnational method to integration.

In the afore-mentioned literature, the debates and previous research were discussed. Surrounding Muslims in the United States there is often a lack of definitions in the terms used, particularly in the area of integration. Since, "integration without assimilation," is a premise of *fiqh al-'aqalliyyāt*, and whether the practice and interpretaions regarding integration among the informants share similarities to *fiqh al-'aqalliyāt* is a foci of this thesis. Therefore, terms relating to integration should be defined, otherwise goals of integration may never be understood.

Even though there is a growing number of personal accounts or high-profile Muslim sources, but little research that relates to the perceptions of the average Muslims and their

life in the US. Furthermore, there are not a large number of sources which refer to Islamic law or *fiqh*, and the manner American Muslims interpret them. Subjects surrounding *fiqh* and *sharī'ah* in a general sense have been investigated, particularly in value studies and practices of the faith. Despite *fiqh al-'aqalliyyāt* being debated and theorised by many Muslim scholars and imams, it has never been studied as qualitative research at a local level. As qualitative research this thesis determines to understand the relationship between he actual practice of jurisprudence among minority Muslims.and minority *fiqh*.

While there are many centres of Muslim populations in the United States that have been studied, yet Jacksonville and its environs have not been included in any written study. Plus, the development of *fiqh al-'aqalliyyāt* is still in its infancy within the history of Islamic theories. Therefore, this study lies in the interstice created by the union of location, individual practice/interpretation, minority *fiqh* and integration.

This chapter explored literature which surrounds and connects the practice of integration with minority *fiqh* in the United States. This determined that there is a space for the research to be conducted. The following chapter presents the methodological approach that the researcher chose in order to accomplish this study.

## Chapter 3: Methodology

### 3.1 Introduction

> When it comes to differences of understanding, no man has the same two fingerprints… And so, there's many differences.
>
> - Adam[1]

Chapter 2 examined a selection of literature between minority *fiqh* and integration in order to ascertain where this thesis fits in the discussion and potential gaps in the literature. The purpose of this phenomenological study is to discover, how integration into the majority society is accomplished in the lives of Muslims in Jacksonville, Florida while adhering to their personal interpretation of *sharī'ah* (*fiqh al-'aqalliyyāt*). For the sake of methodology, in its simplest form, *fiqh al-'aqalliyyāt* will generally be defined as an interpretation of *sharī'ah* of minority Muslims for the purpose of integration into the surrounding populace.[2]

Within this chapter we will discuss the methodological approaches of social constructivism and phenomenology and their application to qualitative research. After discussing how this research project is assembled, the task of gathering interviewees is considered. Due to the methodological issues of dealing with constructive theory, the trustworthiness of the research is discussed in depth. Following the division relating the methods of assessing the data, is a final section examining the researcher's biases and the part they play in the conclusions drawn.

### 3.2 Constructing What?

There are three terms that are held in close proximity to this research. The first two, social constructionism and social constructivism are often used interchangeably, but is argued that there is a difference. Kathy Chamaz defines "social constructionism" as a "theoretical perspective that assumes that people create social reality(ies) through individual and

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[1] See Appendix 1.

[2] John W. Creswell, 1998 *Qualitative Inquiry and Research Design Choosing Among the Five Traditions*, Thousand Oaks, CA: Sage Publications, Inc.

collective actions."[3] Andy Lock and Tom Strong speaking about George Herbert Mead's ideas, share that "…reality is itself something that has been constructed…" through interaction with one's environment.[4] Also, by way of social interaction between individuals and between communities, what is considered reality is "constructed." Because reality is constructed, Vivian Burr "…denies that our knowledge is direct perception of reality."[5] Therefore, one's perception of the world as accurate should not be taken for granted and should be approached with a level of distrust.[6]

Social constructivism also challenges perceptions of reality. Chamaz explains that, "This perspective assumes that people, including researchers, construct the realities in which they participate."[7] Both social constructionism and constructivism are subjective understandings of knowledge. However, according to John Sommers-Flanagan, within constructionism reality is constructed with the social exchange between individuals and communities, while constructivism dictates that reality is a process that is created by the mind of the individual.[8] He further suggests that due to their similarities that one could "…lump them together as constructive theories…"[9]

There are problems with such a subjective approach. How then does one define truth and reality? Burr explains the issues:

> Truth becomes revealed not as some irrefutable state of affairs ultimately discoverable through the application of scientific method, but a fluid and unstable description of the world created through discourse. Reality likewise, becomes unstable and multiple, dependent upon the historically and culturally situated perspective of the perceiver.[10]

The constructionist is not overly occupied with the accuracy of the subjects' truth or reality. Instead, it is concerned with the discourse created within the subjects' relationships and the consequences involved as they interrelate reality against reality, truth against truth.[11]

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[3] Kathy Charmaz, 2006 *Constructing Grounded Theory: A Practical Guide through Qualitative Analysis*, London: Sage, p. 189.

[4] Andy Lock, and Tom Strong 2010 *Social Constructionism Sources and Stirrings in Theory and Practice* Cambridge: Cambridge University Press.

[5] Vivian Burr, 2015 *Social Constructionism*, Hove: Routledge, p. 9.

[6] Burr, 2015 *Social Constructionism*, p. 3.

[7] Charmaz, 2006 *Constructing Grounded Theory*, p. 187.

[8] Sommers-Flanagan, John 2015 "Constructivism Vs. Social Constructionism: What's the Difference?" Available at: https://johnsommersflanagan.com/2015/12/05/constructivism-vs-social-constructionism-whats-the-difference/ Accessed 25.09.2019.

[9] Sommers-Flanagan, 2015 "Constructivism Vs. Social Constructionism."

[10] Burr, 2015 *Social Constructionism*, p. 92.

[11] Mary Gergen and Kenneth J. Gergen (eds.) 2003 *Social Construction A Reader* London: Sage, p. 158.

It may appear on the surface that this research is merely discovering whether the lives of Muslims in Jacksonville are mirroring al-Alwani and al-Qaradawi's conclusions of how best to strengthen the Islamic community and allow integration in the host society through *fiqh*. This could be perceived as being a postpositivist approach, a binary, does the Muslim's experience match the *fiqh*'s theoretical format, yes or no.[12] However, from a constructionist perspective, there cannot be a mere postpositivist-binary formula that would allow for a reality. One's reality is created through the fabric of social interaction between individuals and communities. Within the lives of the Muslims in the United States social interaction continues to change. For those who came to the U.S. they often came from a majority religio-ethnic setting to becoming a minority. Within that expanded social fabric, interaction with other American people, customs, and language should have an influence in one's reality.

As an example, there has been some debate on the codification of *sharī'ah*, however the use of human reasoning to deduce *sharī'ah* (*fiqh*) from the sources could be seen as interpretivist.[13] Therefore *fiqh* has produced a spectrum of rulings based upon time, location and circumstance. Likewise, the subjects of the inquiry have shared their understanding of *sharī'ah* and their methods of interpretation, and the practices of faith that their interpretation produces. This seems to move away from a positivist perspective toward a more interpretivist understanding.

### 3.2.1 Then, There is Hermeneutic Phenomenology

The third term that is close to this study is 'hermeneutic phenomenology,' There seems to be some confusion on the use of the expression phenomenology. James Spickard shared that the term phenomenology is often misused. So much so, that he has misgivings about using the word at all.[14] The expression, hermeneutic phenomenology, has grown out of

[12] John W. Creswell, 2009 *Research Design Qualitative, Quantitative, and Mixed Methods Approaches*, Los Angeles, CA: Sage Publications, Inc., p. 6.

[13] Rumee Ahmed, 2018 *Sharia Compliant A User's Guide to Hacking Islamic Law*, Stanford, CA: Stanford University Press, p. 12, 15-16.

[14] James V. Spickard "Phenomenology" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge p. 335.

phenomenology and they are often used interchangeably.[15] He makes the distinction on his use of phenomenology as "empirical phenomenology."

There are differences in phenomenological uses and it is continually changing, often based on the methodology and the need of the researcher. Some of those differences are best explained through how they were developed. In the next subsection we will look at how phenomenology changed through the course of Husserl, Heidegger and Gadamer. Afterwards, this chapter looks at how phenomenology will be used in this research.

### 3.2.2 Husserl, Heidegger and Gadamer

As Father of Phenomenology, Edmund Husserl (1859-1938) understood that using natural science to define the human experience was flawed. Instead he believed that the life-world was not separate from the person and attempted to answer what a person's experience (or phenomena) is like. He defined life-world as a purified experience without any preconcieved notions. To arrive at a conclusion Husserl proposed bracketing out the biases and judgments that an individual possesses in order to get to the essence of the phenomena.[16]

Bracketing is a reductionist process which is accomplished in three stages. The first, known as "exemplary intuition," imagines a particular experience. Second, through "imaginative variation" one looks for other comparable experiences. Third, is the "synthesis" of the various experiences into one. Through the process of thick description of the phenomena (experience), Husserl believed he could understand the experience, void of any external predispositions.[17]

Following in Husserl's footsteps, Martin Heidegger (1889-1976) was also interested in phenomenology, however he moved it in a different direction. While Husserl attempted to separate the background of a person from the lived experience, Heidegger recognized the "…view of a people and the world as indissolubly related in cultural, in social and in historical contexts."[18] Since experience cannot be separated from the

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[15] Susan M. Laverty, 2003 "Hermeneutic Phenomenology and Phenomenology: A Comparison of Historical and Methodological Considerations" *International Journal of Qualitative Methods* Available at: https://journals.sagepub.com/doi/full/10.1177/160940690300200303.

[16] Laverty, "Hermeneutic Phenomenology and Phenomenology."

[17] Laverty, "Hermeneutic Phenomenology and Phenomenology."

[18] Laverty, "Hermeneutic Phenomenology and Phenomenology."

individual, meaning is part of the experience and constructed from both the person's background and the ever-changing world in which they live.

Hans-Georg Gadamer (1900-2002) desired to make Heidegger's phenomenology into a practical approach towards hermeneutics. From Gadamer's perspective, as an individual interprets the world around him, understanding occurs. Understanding is increased by asking questions which adds to the interpretation process. The practice of dialogue then alters a person to reinterpret the world around him. Susan M. Laverty stated that "Gadamer believed that understanding and interpretation are bound together and interpretation is always an evolving process, thus a definitive interpretation is never possible."[19]

Though Husserl, Heidegger and Gadamer were all working on phenomenology, they each took it in a direction, that was not necessarily expected by the previous. All three were concerned with how to capture the experience of an individual. Husserl explored experience emptied of all externals. Heidegger studied experience in light of the world in which it is lived. Gadamer considered how experience is interpreted not only by the one who experienced it, but by the one to whom the experience is relayed.

### 3.2.3 The Use of Phenomenology in this Research

Spickard's definition of phenomenology is "…to grasp the world as people experience it, shorn of their interpretations of those experiences."[20] However, this is not the direction and use of phenomenology that this research is particularly interested. On the other hand, Max Van Manen stated that "…all or much of phenomenology has hermeneutic (interpretive) elements…"[21] It is that interpretive nature of phenomenology that this research wishes to pursue, therefore when referring to phenomenology in this research it is defined as hermeneutic phenomenology.

As a method, hermeneutic phenomenology is also subjective in nature. John Creswell writes that a phenomenology methodology consists of "...studying the problem that includes entering the field of perception of participants; seeing how they experience, live and display the phenomenon; and looking for the meaning of the participants'

[19] Laverty, "Hermeneutic Phenomenology and Phenomenology."

[20] Spickard "Phenomenology" p. 336.

[21] Max Van Manen 2016 *Phenomenology of Practice*, Abingdon: Routledge.

experiences."[22] In this section Creswell's description of phenomenology will be used as a template for a brief discussion. Firstly, the "perception of the participants" is examined in light of a constructionist approach. Secondly, how the participants' "experience, live and display the phenomenon" will be included. Finally, how the "meaning of the participants' experiences" as it relates to phenomenology will be mentioned.

This is a qualitative study of Muslims' experiences in the United States as minority Muslims and issues of *sharī'ah* as reasoned in *fiqh al-'aqalliyyat*. "The purpose of this type of interviewing is to describe the meaning of a concept or phenomenon that several individuals share."[23] The process of this research involves many layers of interpretation. As the phenomenon of negotiating *sharī'ah* in a non-*sharī'ah* environment, we explore the particular reality of various Muslims as they interpret their experience in conversation. As a template for comparison, various Muslim authors' interpretive understanding of *fiqh al-'aqalliyyat* will be examined. Likewise, as the researcher, I am not only interpreting the interpretation of those authors, but I am interpreting the interviews of those who are interpreting their experiences.

The method that has been presented for phenomenological research has been described as cyclic. Beginning with self-reflection, the researcher moves from evaluating his/her biases and ideas to examining the experiences, (in the case of this research – the interviews), of individuals. The researcher again returns to his/her self-reflection.[24] This could be ongoing, again never arriving at a definitive interpretation, but at some point an adequate interpretation is made. In this way, "…the mode of understanding implied by qualitative research involves alternative conceptions of social knowledge, of meaning, reality and truth..." and, "…no longer objective data to be quantified, but meaningful relations to be interpreted."[25]

There has been some debate as to whether the hermeneutic reflection and the consequent examination of experience is a circle or spiral. While it is important to note that within both illustrations the same process is accomplished. The difference is that those who propose a spiral understand that the at the end of each cycle, one should not end at the same location that one began. Therefore, conclusions made are propelled

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[22] Creswell, Qualitative Inquiry, p. 31.

[23] Catherine Marshall, and Gretchen B. Rossman 2006 *Designing Qualitative Research* Thousand Oaks, CA: Sage Publications Inc., p. 104.

[24] Laverty, "Hermeneutic Phenomenology and Phenomenology."

[25] Steinar Kvale, 1996 *Interviews An Introduction to Qualitative Research Interviewing*, Thousand Oaks, CA: Sage Publications, Inc., p. 11.

forward, creating a spiral. When there is no longer forward momentum, a proper conclusion has been made.[26]

Constructive theory and hermeneutic phenomenology are both subjective in character which works well in conjunction with the approach of this study.[27] Both of these elements have some challenges. First, of which is philosophical in nature, in application, how do you know what is truth? The second, issue involves knowing whether the research is trustworthy. However, qualitative research is not interested in ultimate truth, but in the nuances of truth as experienced by those researched. The trustworthiness of this research is deliberated at length later. Now that the approach's foundations have been laid, the research design will be considered.

### 3.3 The Drawing Board

Engineers and architects use a drawing board to craft blueprints from which their projects are created. This section is the drawing board containing the blueprint of this research project. This thesis is built on Islamic scholarship concerning Muslims who have wrestled with a world in which they are minorities. There is often a gap between what a scholar dictates and the reality expressed in individual lives. This thesis attempts to span the void between those two domains.

Essential to the exploration of the space between scholarly *fiqh* and the Muslim on the street is qualitative research. There has been a debate on the value of qualitative research, as it has been "…seen as lacking the rigor necessary for truly scientific research and as failing to offer practical solutions to pressing problems."[28] This has been part of an ongoing debate on whether social sciences can actually be considered as part of the scientific community. Uwe Flick answers these allegations by sharing that due to a diversification of the social order of the world, traditional methods of creating a theory and testing the hypothesis is no longer practical, and instead requires a subjective study of "…everyday experience and practice."[29] Qualitative research also allows exploration

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[26] Mohammad Motahari 2007 "The Hermeneutical Circle or the Hermeneutical Spiral?" *International Journal of Humanities Vol. 15 (2)* Available at: https://pdfs.semanticscholar.org/c0cb/d842421f8a189f5fec6ec69d21cc7d2c0d22.pdf Accessed: 19.02.20.

[27] Creswell, Research Design, p. 17.

[28] Martin Packer 2011 *The Science of Qualitative Research* Cambridge: Cambridge University Press, p. 1.

[29] Uwe Flick 2005 *An Introduction to Qualitative Research*, London: Sage Publications p. 2.

and assessment when there are too many variables or objectivity can not be assured to conduct an investigation quantitatively.

Since a major element of this blueprint is to determine the experience conveyed in the lives of Muslims, qualitative research was the chosen method to employ. Through qualitative methods, the interviewee's subjective viewpoints relating to knowledge, traditions, and praxes can then be studied.[30] There are three mechanisms utilised to accomplish this qualitative research project. The first tool used is interviewing. The second would be a written record of my perceptions of the interviews in my field notes. Further discussion of how I am in involved in the process is found in the section, "Where Do I Fit?" Finally, the analysis which is considered in "Assessing the Data."

### 3.3.1 The Use of Questions

Qualitative research has an arsenal of several different methods available to accomplish the researcher's goals.[31] Within this project, the primary method of data collection is the interview. Conversation is seen as the primary mode of communication between people and the interview is an extension of conversation.[32] Steinar Kvale shared a list of common complaints against interviews. These include that interviews are not scientific, (using neither testing nor scientific method). They are too subjective, not trustworthy, or reliable, or generalizable, or valid, too reliant on the interviewer, and not quantitive.[33] The issue of the science is dealt with by defining what is meant by science, Kvale defines it as, "…*the methodological production of new, systematic knowledge*."[34] If that is is the goal of scientific research and qualitative research fulfills that goal, then qualitative research must be an adequate method. I discuss the issues of trustworthiness, reliability, generalizability, and validity in the section, "Trustworthiness."

Questions were presented in a semi-structured format.[35] This allows the freedom to follow avenues of discussion relating to their answers. Kvale defines this "…*as an*

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[30] Flick, *An Introduction to Qualitative Research*, p. 6.

[31] Among those methods available are interviews, surveys, questionnaires, case studies, and audio and video recordings.

[32] Kvale, *Interviews*, p. 5.

[33] Kvale, *Interviews*, pp. 284-290.

[34] Italics in original.

[35] See Appendix 2.

*interview whose purpose is to obtain descriptions of the life world of the interviewee with respect to interpreting the meaning of the described phenomena*."[36] The questions themselves were related to the greater themes of *fiqh al-'aqalliyyat* such as "integration/segregation/assimilation," "*fiqh*/*sharī'ah*," and "*da'wah*." However, the questions were designed to lead the interviewees in a particular direction. The questions related directly to minority jurisprudence. They do not merely expose "…preexisting meanings, but supports the interviewees in developing their meanings throughout the course of the interview."[37] Therefore, the answers are given through their constructed experience and understanding of the practice of Islam and ultimately how they frame *fiqh*.

In an effort not to influence answers, the responders are only told that this is research for a doctoral degree without discussing the scope of research. *Fiqh al-'aqalliyyat* is specifically not mentioned in any question to avoid using words or phrases that may not be understood. This also allows for a broad range of answers relating to themes of *fiqh*. There is an attempt to use open questions relating to "feelings," and "opinions," "how," and "why."[38]

During the course of the interview process there were certain respondents that stood out from the others. This was often due to content and/or eloquence. Therefore, there were interviewees that were written about more often in the analysis than others. This is not an unusual occurance in research. Charlotte Aull Davies, Senior Lecturer from the University of Wales, Swansea, affirmed:

> …key informants, individuals who for various reasons are either very effective at relating cultural practices or simply more willing than most to take the time to do so… In many studies, a single key informant may be so important to the conduct of the research that their contribution is clearly predominant in the analysis …[39]

While I chose particular voices to express a thought more than others, it does not mean that those other voices were excluded. Within the statistical information all interviews are represented, even if the absence of some would indicate either their lack of agreement or abstinence of broaching that specific subject matter. This means that several respondents have a more pronounced presence throughout this thesis.

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[36] Kvale, *Interviews*, pp. 5-6. Italics in original.

[37] Kvale, *Interviews*, p. 226.

[38] Sharan B. Merriam and Elizabeth J. Tisdell 2016 Qualitative Research A Guide to Design and Implementation San Francisco, CA: Jossey-Bass, pp. 117-122.

[39] Charlotte Aull Davies, 2008 *Reflexive Ethnography. A Guide to Researching Selves and Others*, London: Routledge, p. 71, 79

The interview questions were used in order to collect data. However, data is derived from the shared experiences of personalities and as such represents what they are willing to reveal of their selves to the interviewer. Therefore the next section, "Data Collection" is more about the people that were interviewed, than the documents that was accumulated throught the process.

### 3.4 Data Collection

There are between seven and ten thousand Muslims in the greater Jacksonville area from various backgrounds and ethnicities.[40] There were a total of twenty-five Muslims interviewed. The names have been changed and the population is large enough to assure anonymity. Furthermore, they were given traditional Western names to accent their experience of the United States as they negotiate what it means to be Muslim. This is an effort to remove stereotypes, and the possibility of guessing one's ethnicity. This is not meant to lessen their Muslim identities or ethnic origin, but to create a sense of confidentiality.[41] All participants were living in Jacksonville, Florida at the time of the interview, and at least 18 years old.[42]

The interviewees were from various national and cultural backgrounds. They came from Azerbaijan, Bosnia, Egypt, India, Iraq, Kyrgyzstan, Nigeria, Pakistan, Palestine, Philippine, Syria, Turkey, and the United States. Of those interviewed, three were born in the US, and of those, two were second generation Americans. There were two who were converts, one was from a Catholic background, and the other considered her American family areligious. Three arrived to the US at a point where they could possibly be considered 1.5 generation.[43]

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[40] Waqas Khan 2014 'Guest column: Jacksonville's Muslim community is proud, patriotic' *jacksonville.com* Available at: http://jacksonville.com/business/columnists/2014-08-29/story/guest-column-jacksonvilles-muslim-community-proud-patriotic Accessed 17.10.2016.

and:

Anon 2000 'Total Muslims Population, Metropolitan Regions 2000' Available at: http://mumford.albany.edu/census/BlackWhite/muslimsortlists/muslim-sort.htm Accessed 17.10.2016.

[41] John W. Cresswell, and J. David Cresswell, 2018 *Research Design Qualitative, Quantitative and Mixed Methods Approaches*, Thousand Oaks, CA: Sage, pp. 95-96.

[42] See Appendix 1.

[43] First generation immigrants leave country of origin somewhere between adolescence to adulthood, while 1.5 generation are those who leave pre-adolescence. Children born in the host country are considered second generation.

It should be noted, that there are differences between the generations. As Robin Cohen succinctly illuminated, "as with all overseas communities, second or third generations became culturally localized and began to drop away old habits associated with the past."[44] The first generation may feel tied to their previous homeland, emotionally, culturally, and even spiritually. With each succeeding generation those ties have a tendency to become less and less. For the most part, I have not separated the information according to the generations. While there were some exceptions, there did not seem to be much of a generational shift in overall thoughts regarding the subjects covered. With eighteen of the twenty-five being first generation, they may have a lion's share of the voice. Yet, in my opinion, there is a great enough variation in the responses to share commonalities and differences between the represented generations, even if a particular generation is not highlighted. Where those generational differences are more pronounced in their replies, I will make that distinction. No one interviewed was third generation.

The youngest respondent was eighteen years old, the oldest was sixty six with the average age of the respondents being thirty seven years. They also represented a diverse group of professions: artist, babysitting, business operations, electrical engineer, finance, food service, information technology (IT), insurance, medical assistant, pharmacist, real-estate agent, retired from business, software engineer, student, teacher, and trucking. The largest representation of employment of the respondents were from the IT sector.

In some sense, it was more difficult to get respondents than I originally expected. While there has been some success with the "snowball" approach, it seemed that the further from the initial source the potential respondent was the more likely it would come to a dead end.[45] I found three "gatekeepers" who assisted me in finding other interviewees, of whom I am most grateful. The next section, identitifies several problem areas in gathering sources.

### 3.4.1 Realms of Difficulty

When doing research among individuals, one cannot help but be affected. Even though I realised this from the beginning, the research affect me far more than I anticipated. An

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[44] Robin Cohen 2008 *Global Diasporas, An Introduction*, London: Routledge, p. 88

[45] Loraine Blaxter and Christina Hughes and Malcolm Tight 2002 *How to Research* second edition Buckingham: Open University Press p. 163.

aspect of doing research with a religious group that sees evangelism as part of their religious duty is that the interviewer may be seen as a prospective convert. The first interview I conducted was with Adam. I left the interview disappointed thinking that he spent most of his time attempting to convert me. It was only afterwards, when I listened to the interview that I realised that he had given me some worthwhile information.

A similar but far more intense event occurred during Mark's interview. While Adam's interview was held outside in a relaxed atmosphere near a lake, Mark's interview was conducted inside a mosque, which I believe was a contributing factor. Within a short time I felt that I was not going to get anything of significance from Mark. Most of his answers were standard responses. Consequently, it was the shortest interview. Once I stopped recording and was gathering my things to leave, Mark exclaimed, "You don't understand. I'm trying to save you. I'm trying to save you!"

Once Adam came to understand that I was not interested in conversion, he was no longer willing to talk to me. It is difficult to relate the various feelings that were going through my mind. I was sad, of course, because I hoped to develop a relationship for further interaction. There was anger and a feeling of being used… which on retrospect was odd, considering I was using him for research. There was also a confusion created by a sense of value in one's possible conversion, but not perhaps, in that of a fellow human being. Jessica Moberg has previously identified issues pertaining to being targeted for conversion and research.[46]

Initially, there were some troubles getting women to interview. The men that I interviewed would ask if I spoke to any women yet, and then would advise that I get interviews from women. After acknowledging that I certainly would like to converse to women as well, many of the men said that they would see what they could do. After the first year of research, I still had not conducted an interview with a Muslima.

The first breakthrough was when I was able to converse with Linda. The next step forward happened during one of the *ʿīd* celebrations, where I was able to connect with Opal. She was also instrumental in assisting me with other interviews.

Though, not specifically in the realm of this research, I feel that I must include the following. Since the events of 9/11, there is a well-documented level of mistrust among

[46] Jessica Moberg, 2013 Piety, Intimacy and Mobility: A Case Study of Charismatic Christianity in Present-day Stockholm Huddinge, Sweden: Södertörns högskola.

the American host society towards the Muslim American community.[47] There also grew a Muslim American community suspicion of the American society due to media, fear of retaliation and Islamophobia. Initially there didn't seem to be any issues regarding 9/11, which occurred sixteen years or more before starting the research. However, the wariness that 9/11 fostered can still be realised whenever another potential threat reveals itself.

On March fifteenth, 2019, there were two mosques attacked during Friday prayers in New Zealand.[48] Though, I sent condolences to all my contacts immediately afterwards, no one would respond to my texts. The following day Ian[49] sent a text, stating, "…a lot of Muslims are scared to talk to you. They think you are some kind of spy. Lol." He was explaining that he was trying to get other Muslims involved in my research, yet he was being unfruitful. It would be July before I could get another interview, and by the time the *ʿīd* came, things seemed to return to normal.

A final difficulty was due to the Covid-19 pandemic which had an impact throughout the year 2020 onwards. While I did manage to secure an online interview in August, it was extremely problematic to make more contacts and schedule further interviews. During the designing stage of the research I had initially planned to conduct forty interviews, the pandemic made that number unlikely. After talking with my academic supervisor, it was determined that twenty-five respondents was sufficient as an information saturation point had been met. Furthermore, due to Covid it became problematic to attempt follow-up interviews. Though zoom was an option, it was not ideal, and contact with others was extremely limited.

### 3.4.2 Ethical Considerations

Before any interview began, I asked for permission to record. After initiating the recording, the interview process was explained, including the purpose and which university would confer the degree. Also, they were told that they would remain anonymous and that their names would be changed, if I were to quote them. We did not

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[47] Aaron W. Hughes 2012 "The Study of Islam Before and After September 11: A Provocation" *Method and Theory in the Study of Religion 24,* Brill, p. 316.

[48] Mackenzie Samet 2019 "New Zealand mosque attacks: The Tragedy in pictures," *New York Post,* Available at: https://nypost.com/2019/03/15/new-zealand-mosque-attacks-the-tragedy-in-pictures/ Accessed: 20.03.20.

[49] See Appendix 1.

proceed until there was verbal permission to use the interview. A simple nod of the head was not sufficient to warrant permission.

The interviewees had permission to skip any question they determined objectionable, or to end the interview at any time if they chose. Afterwards, I asked them if there were any questions that they wanted to ask me. This gave them an opportunity to provide feedback with the interviewer. The interviews were recording using a mobile phone and then transferred later to my computer. Once the interviews were transcribed, the phone recordings were deleted.

## 3.5 Trustworthiness

Within qualitative research there can be concerns regarding the trustworthiness of the data gathered. According to Michael Stausberg and Steven Engler this is examined through "reliability, validity and generalizability." They define the term, "reliability" as the "consistency or stability of data." "Validity" exhibits that the data "accurately reflects … the concepts it was designed to reflect." Finally, "generalizability" refers to the data being relevant to more than the person/s in a particular study.[50] However there are other ideas that gauge trustworthiness within the sphere of constructivism, they are credibility, authenticity, confirmability and transferability.[51] In this section I will compare Stausberg and Engler's definitions of trustworthiness with those of constructive theory and then explain how it is relevant to this research.

### 3.5.1 Reliability – Confirmability

Stausberg and Engler determine reliability through questions such as, would the data change over time, or with a different sub-group, and would other researchers come to the same conclusions?[52] These questions could prove that there is a consistency of data. Though the gathered data will not change over the course of time, it is possible for the same questions to be asked to the same participants and the answers could change at a

[50] Michael Stausberg and Steven Engler "Introduction Research Methods in the Study of Religion/s" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, pp. 7-8.

[51] Stausberg and Engler "Introduction," p. 9.

[52] Stausberg and Engler "Introduction," pp. 7-8.

later date. Religious ideology is not static, and changes over the course of time within individuals and institutions. Likewise, depending how one classifies "sub-groups," whether by religious ideas, ethnicity or other factors, a variation in answers from those groups are to be expected.

Questions such as, "Would other researchers come to the same conclusions?" makes sense in a positivist/scientific/mathematical research dynamic where the data is always going to lead a researcher to the same answer. That is not necessarily the case in qualitative research. This question ignores the interpretive nature of qualitative research and the lens of a constructive reality through which another researcher examines the same data.

On the other hand, within a constructive theory paradigm, consistency will not always be maintained. Reliablity asks questions regarding the consistency between the conclusions of researchers, and a similar idea is found in the constructive theory's use of "confirmability," and at the same time acknowledging the subjective view of constructive theory. Confirmability provides another scholar information that would adequately prove that the conclusions were warranted in the study. Through the use of raw data, any personal notes regarding analysis and processes, and other information employed to develop the original conclusion, an independent researcher should be able to corraborate the findings.[53]

In order to facilitate confirmability, I have kept the original recordings of the interviews, alongside the accompanying transcriptions in individual files on the computer. Furthermore, I have made notes on my impressions of each interviewee, and of subsequent contact. Coding can be followed through my use of NVIVO and the hard copies of transcriptions, which have been highlighted. The utilisation of any supplementary materials are also footnoted within this thesis.

### 3.5.2 Validity – Credibility/Authenticity

Just as reliability is assessed through questions, Stausberg and Engler propose questions that answer questions concerning "validity." For example, it is possible to ask whether the data acquired and methods of data collection are germane for the study and applicable elsewhere? Another relevant question would be, whether the conclusions are still sound

[53] Karin Klenke 2008 Qualitative Research in the Study of Leadership, Bingley: Emerald Group Publishing Limited, p. 38.

when exercising other theoretical criteria or can the findings be universally applied across social settings?[54]

The method to determine trustworthiness by way of "validity" suffers the same weakness as reliability, mainly that qualitative work is highly subjective. Both questions assume a comprehensive application of any conclusions beyond the limits that are set in the study. In a sense, the boundaries of the application frames the validation of the study.The wider the application beyond the study, the greater the validation.

Conversely, this study is looking at highly individualised, lived realities within the context of their Islamic faith in Jacksonville, Florida. Within this framework there already are established limits. The first, "Islamic faith" insinuates that assuming application beyond anyone that is not Muslim could not possibly be valid. The second, "Jacksonville, Florida" sets a physical boundary of application. One cannot presume that just because something could be true in one location, it is likewise to be true in another location. Finally, "individualised" experiences and opinions may not always be shared within the same families, communities or ethnic groups.

The concept of "validity" closely relates to the constructivist paradigm of credibility or authenticity. Credibility is claimed by answering three questions. First, is the data presented in a way that are appropriate to the claims made? Second, is the data given a proper context from which it is derived? Finally, does the data represent the whole and are deviations also examined?[55] Essentially, pertinent data must be correctly quoted from the interviews and given suitable context, so that the quotes directly relate to the assertions made by the author.

According to Patrick Shannon and Elyse Hambacher, authenticity "…is unique to qualitative inquiry and has no parallel in the positivistic paradigm."[56] At the same time as being crucial, it is often difficult to pin down. Among the several ways to assess authenticity, fairness is the one that is emphasised in this study.[57] In the context of qualitative research this is defined as being able to show "several different perspectives

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[54] Stausberg and Engler "Introduction Research Methods in the Study of Religion/s" pp. 7-8.

[55] David Silverman 2014 *Interpreting Qualitative Data*, London: Sage Publications Ltd., p. 79.

[56] Patrick Shannon and Elyse Hambacher 2014 "Authenticity in Constructivist Inquiry: Assessing an Elusive Construct." in *The Qualitative Report*, Volume 19.

[57] Other definitions of authenticity not used in this study include:

a) ontological authenticity – assessing the participants awareness of social complexity.
b) educative authenticity – assessing the participants awareness of other viewpoints.
c) catalytic authenticity – assessed by the participants actions based on the study.
d) tactical authenticity – assessed by whether there has been a change of authority due to the study.

and depth of understanding that fairly represent these perspectives."[58] Due to the various ethnic and cultural backgrounds of those interviewed, there is not a uniform standpoint on many issues relating to Islam. The multiplicity of ideas that these individuals represent must be offered in this thesis, not only when they stand in agreement, but also when there are differences of opinions and practice. This would give a "fair" depiction of the views and an "authentic" illustration of the available data. Both credibility and authenticity work together to provide trustworthiness.

### 3.5.3 Generalizability– Transferability

In this last example of trustworthiness, Stausberg and Engler continue to expound definitions in terms of questions asked. For them, generalizability answers the question, whether the representative illustration is relevant to wider groups or other cases and how can these be appropriate to the the greater study of religion? It is preferred for research to be more than a "micro-study."[59] In other words, if the depiction is only justifiable in the sole case presented, then there can not be a common application that could cross religious demarcations or even be valid within the entire religious paradigm that the informant claims to be a part.

Reliability, validity and generalizability are nuances of the same assessment process. Bottom line they are all asking, to what degree is this relevant beyond a particular case, group or research project? Similarly, the constructivist use of confirmability, credibility, authenticity, and transferability do no completely abandon those ideas, but adapt them for greater subjectivity and in the process redefine their use.

Simon Dyson and Brian Brown explain that transferability within "…constructivist research usually aims to explore situated patterns within particular cases, rather than producing externally valid generalizations."[60] While a specific example may not necessarily be pertinent beyond the given example, the example could represent a pattern which may be reasonably applied elsewhere. When assessing the data of this research, description, comparison, and evaluation will be used and part of the evaluation process involves looking for archetypal patterns that may be applicable elsewhere.

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[58] Shannon and Hambacher "Authenticity in Constructivist Inquiry."

[59] Stausberg and Engler "Introduction Research Methods in the Study of Religion/s" pp. 7-8.

[60] Simon Dyson and Brian Brown 2006 *Social Theory and Applied Health Research* Maidenhead: Open University Press p. 174.

### 3.6 Assessing the Data

Even as the interviews were conducted, they were being assessed as to what might be useful for the study, and to where the information may fit within the project. This is why according to Douglas Ezzy, data analysis begins with the process of collecting data.[61] Afterward, the interviews were transcribed in one of two ways. The first ten interviews were listened to repeatedly and painstakingly transcribed as they were heard, from beginning to end. It could take me a week to transcribe an hour interview. A friend introduced me to www.temi.com, which does audio to text conversion, which I used for the first several interviews. However, temi.com could not handle the size of the audio files, therefore the majority of the work was accomplished through https://otter.ai as a transcription service. The text still required extensive editing as I listened to the interview recording to make the necessary changes. However, a typical interview can be properly transcribed in a day, reducing transcription time significantly.

One aspect of transcription involves the use of inserted clarifying words. I attempted to transcribe the interview, as much as possible, using the words and phrases as was spoken by the respondent. While this may not provide a perfect lingual experience, it does give the wording as given, by the interviewee. Anything more becomes an element of interpretation. In this fashion all elements of my interpretation are clearly seen. Any use of clarifying words will be in brackets, [as an example], but are deliberately kept to a minimum.

Likewise, there was not just one way that information was coded. At times, I could get overarching themes through the use of NVIVO. Categories were created with the purpose of getting the "intended construct."[62] Therefore, "selective coding" was the most beneficial way of creating categories that could be used in "sufficiently significant ways…"[63] According to Steven Engler, it's "…given that different coding schemes will result in different theories."[64] Even though Engler was speaking in light of 'grounded

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[61] Douglas Ezzy, 2002 *Qualitative Analysis Practice and Innovation* London: Routledge.

[62] Chad Nelson and Robert H. Woods, Jr. "Content Analysis" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, p. 113.

[63] Steven Engler, "Grounded Theory" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, p. 259.

[64] Engler, "Grounded Theory" p. 266.

theory," it's valid that different coding will produce different results. Therefore, I coded according to information that may be relevant to integration and *fiqh al-'aqalliyyāt*. When it came to scouring the interviews for relevant portions to include, I often found that it was easier to simply print a hard copy and work with a highlighter and a pen. I then kept the printed interviews in a 3-ring binder for access.

Once the interviews are transcribed and coded there is further analysis that must be done. There are three elements to analysis that will be used. The first is description, the second is comparison, and finally evaluation.[65]

### 3.6.1 Description, Comparison and Evaluation

Generally, qualitative methods are more concerned with descriptions.[66] Stausberg further explains that phenomenology requires thick descriptions to explain devotees' religious ideas, worldview, implications of what those ideas represent, and the uniqueness of their particular religion.[67] Jeppe Sinding Jensen emphasizes that a contextual description can highlight "… semantic structures, narrative logic or in history and society."[68] Jensen further expounds that this could "…refer to underlying structures and mechanisms at various theoretical levels…" Considering that religion is often concerned with what Jensen designated the "unobservable," they are dependent upon descriptions for intention and meaning.[69]

The use of description can never be fully realised, as it always presents a partial depiction no matter how thick the description may be. However, the "… variability of discourse itself is an indicator of the constructed nature of social life."[70] As far as possible, description is used in this research to gain understanding on possible inconsistencies in

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[65] Mohammad Hashas, 2013 'On the Idea of European Islam, Voice of Perpetual Modernity' LUISS University of Rome, Italy.

[66] Stausberg and Engler "Introduction" p. 7.

[67] Michael Stausberg "Comparison" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge p. 30.

[68] Jeppe Sinding Jensen "Epistemology" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, p.44.

[69] Jensen "Epistemology" p. 50.

[70] Titus Hjelm "Discourse Analysis" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, p. 135.

interpretations, and to provide adequate information to verify its significance.[71] As the researcher, it is important to give a thick enough description by which I can then make a comparison with an individual's practice, integration and *fiqh al-'aqalliyyāt* to test the theory with a constructed reality.[72] Additionally, thick descriptions work alongside phenomenological methodology to impart structures and patterns to subjective experiences for further analysis.[73]

After descriptions are given they are then compared. Comparison is connected with coding, from which the various categories are derived. These categories operate as a "third term" to shape the basis of relationship between two or more items being compared. The phenomena discussed are then specified whether they are alike or different in relation to the particular category discussed and then further explained.[74]

It has been argued that researchers use comparative "likenesses" more than "differences." Therefore, the use of likeness can easily increase the volume of information filling a category, while ignoring the diversity found within religion.[75] However, if used correctly, comparison can be used to diminish reductionism and essentialism and multiply areas of diversity.[76] Michael Stausberg indicates that "…every theory of religion is based on tacit comparisons since it must be able to distinguish religion from non-religion, affairs interpreted as religious from those interpreted differently."[77]

The results of the descriptions of the interviewees' integration experiences are then compared to *fiqh*. Within this study, *fiqh al-'aqalliyyāt* would be considered an "ideal-type." This is not a critique of minority *fiqh*, but an understanding of integration and the role it may play in that process. Comparison is an important aspect of analysis as "…it remains for research to comparatively establish the extent to which reality matches up to the ideal-type."[78] According to Stausberg, even though ideal-types do not actually exist, a comparison can still be made with them. This works well in the discussion of *fiqh al-*

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[71] Graham Harvey, "Field Research Participant Observation" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, p. 223.

[72] Harvey, "Field Research Participant Observation," p. 237.

[73]Spickard "Phenomenology" p. 335.

[74] Michael Stausberg "Comparison" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, pp. 21, 29-30.

[75] Stausberg "Comparison" p. 27.

[76] Stausberg "Comparison" p. 29.

[77] Stausberg "Comparison" p. 24.

[78] Stausberg "Comparison" p. 26.

*'aqalliyyāt* that may or may not have a true representation in reality as scholarship theorises possible.

The process of writing description and making categorical comparisons of data collected from the primary sources should create assertions. These contentions require, "…rational justifications for the assertion of this or that sentence in the course of moving towards that goal, and the evaluation and reevaluation of such justifications is in terms of their contribution to the achievement of that goal."[79] In other words, the practice of evaluating claims should confirm one's arguments. Description, comparison and evaluation are elements of analysis, which direct lines of reasoning towards the conclusion.

### 3.7 Where Do I Fit?

In consideration of the participants, it seems as though it would be appropriate to include myself as the author of this thesis. Questions of interpretation are being asked and to some extent answered. I am in a sense interpreting the interpretation of another and I have to acknowledge that there will most likely be some unintentional bias in my interpretation.

There has been much discussion on the insider/outsider dynamic. Advocates for either being an insider, or of being a strict bracketeer have made their cases known and have come in and out of vogue.[80] However, Graham Harvey sees the matter differently. He explains, "Issues of belonging and difference, performing and identifying, are complex and all degrees along the 'insider/outsider' continuum can establish both bridges and barriers."[81] It would seem by his statement that everyone is at times an outsider and other times an insider. There are many variables, depending on the perspectives of both the researcher and the researched. There are certainly ways to reduce the effects of being an outsider.

Where do I stand on the continuum? I am not a Muslim, but a Christian, middle-aged, white male. Therefore, speaking to Muslims, I could be seen as a complete outsider.

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[79] Alasdair Macintyre 2006 The Tasks of Philosophy Selected Essays, Volume 1 Cambridge: Cambridge University Press pp.65-66.

[80] Thomas M. Kersen 2016 "Insider/Outsider: The Unique Nature of the Sociological Perspective and Practice" *Journal of Applied Social Science Vol. 10(20,* Sage, Available at: https://journals.sagepub.com/doi/pdf/10.1177/1936724415626961 Accessed: 20.02.2020.

[81] Harvey, "Field Research Participant Observation," p. 226.

However, I did live in Jordan for ten years, I have some understanding of Middle Eastern culture and Islam, and rudimentary Arabic. Along the continuum, there can be a tension that allows for flexibility. One could potentially be both outsider and insider depending on the situation. Towards the insider scale, there is relatability and an element of trust. Yet towards the outsider scale one may be permitted to ask questions that a true insider would not be permitted.[82] Furthermore, the validity of a non-insider researching a particular people is expressed by Ingvile Sælid Gilhus, who avers, "Cultural insiders may also be blind to the obvious, for the simple reason that it is obvious to them. Comparative and crosscultural perspectives might counteract this type of cultural blindness."[83] Within the insider/outsider continuum, I can be somewhat confident of being a suitable researcher.

Being aware of my own potential Christian bias and attempting to keep an academic integrity has at times been difficult. This was acutely felt when I asked Wendy, When reading the Qur'an "…how do you know what to apply to you and say this is for me as opposed to this is for this is not important or this is not relevant?" She began to cry and admitted:

> So, I'm not pray is wrong. I must pray five times. I'm not pray. I honest with myself before I'm honest with you. I am wrong. Every time I'm crying. I say this wrong maybe I'm die now. If I'm die I know I go to hell. Not… Because pray is… Even I know that, but I don't know what inside to me… You understand? Sorry This wrong for me.

I offered no point of view, I let her continue until she was ready for the next question. Even as I write this, her reply haunts me, and is further exasperated by the fact that I did not provide an evangelistic response. Yet at the same time, I believe that the character of the interviewee's response would have been tainted had I presented myself outside of an academic reaction. Her willingness to share such an intimate side of herself was verification that I had taken the correct path.

I have to add, that I do care about the people with whom I talk, and I believe that they perceive that. In those rare times when barriers did arise, they seemed to diminish as we got to know one another. It was my desire that they should have a voice within this project. I realise that I choose what questions were asked and thereby lead the direction of the discussions. Furthermore, I set the boundaries of comparison, between the textual and qualitative elements, and the final analysis is also mine. The actual snippets of the

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[82] Qualitative Research in Action.

[83] Ingvile Sælid Gilhus "Hermeneutics" in Michael Stausberg and Steven Engler (eds.) 2011 *The Routledge Handbook of Research Methods in the Study of Religion* Abingdon: Routledge, p. 282.

interviews, which are chosen as evidence, are at my discretion. As I began my research journey, I had hoped to be able to highlight, what integration means to Muslims in an American context, but as research designer, interviewer and writer, ultimately that voice is mine.

### 3.8 Conclusion

The chapter began by looking at the methodological approach of this research through the differences between social constructionism and social constructivism. The main distinction is that in social constructionism reality is built through the interaction of individuals and communities. On the other hand, social constructivism states that reality is based primarily in the mind of the one experiencing it. However, due to the similarities of reality creation they can be combined together as "constructive theory."

The subjective nature of this research is addressed through phenomenology. There are several directions that phenomenology has advanced. As the history of Husserl, Heidegger's and Gadamer's understanding of phenomenology unfolded, it was determined that the best use of phenomenology for the gap in the study of the *fiqh al-'aqalliyyat* and the daily experience of Muslims would be hermeneutic phenomenology. This would be an interpretive understanding of Muslim experiences as they were relayed, from both the perspective of the interviewee and the interviewer. This is further investigated through the cyclic use of introspection and reinterpretation.

The overall design of this research is qualitative through the use of semi-structured interview questions. Also explored was the idea of "leading questions." The interviewer is as much a part of the research as those being interviewed and because of this, the interviewer guides topics of conversation in a way the justifies the study.

The scope of the research comprises Sunni Muslims within Jacksonville, Florida. While other Muslims were not deliberately excluded, they did not avail themselves. The respondents were gathered through a "snowball" approach. There were several obstacles that had to be overcome. First, my own shyness, which often prevented me from reaching out when opportunities presented themselves. Second, were the times that Muslims attempted to convert me instead of answering the given questions. Finally, was the ability to get women to interview. While many of the Muslims seemed to believe that it would be beneficial to have women interviewees, there were few who would actually offer to assist in getting women interviewees comparatively.

After briefly discussing ethical consideration involved with this kind of study, idea relating to the trustworthiness of research were considered. In other words, how can one be sure that the research was true or valid? While the usual options were by formulating "reliability," "validity," and "generalizability," due to the constructive nature of the research there were four alternatives offered. First, it was determined that "confirmability" would preferred over reliability. Second, was actually a two-part system of "credibility" and "authenticity" over "validity." Finally, "transferability" was determined to be a better option than "generalizability."

Evaluating the trustworthiness of the research naturally led to how the data would be assessed. This will be accomplished through the manifold methods of description, comparison and evaluation. After giving a "thick" description of the experience (or phenomena) of the interviewee it will then be compared to *fiqh al-'aqalliyyāt* to determine similarities and differences. Then it shall be evaluated by making assertions and appraising the claims made.

The final section acknowledges that the researcher is not separate from the research, but is an active part of it. While not a complete insider, I am not a complete outsider as well, and instead fall somewhere with a spectrum where insider is at one end and outsider at the other. Just as those that are researched have an interpretation, likewise the researcher interprets that interpretation in a spiral of analysis.

Within every methodology there may be some controversies. There are three controversies highlighted in this chapter that I would like to end with. First, is a discussion as to what is reality. It is possible to get bogged down in this question alone. Volumes have been written on the subject. Suffice it to say, that ultimately, this methodology is not about reality, but a perceived reality. It doesn't matter whether what the interviewee posits a "real" picture of their religious experience. What is important is that it is real to them.

Secondly, this methodology is highly subjective and therefore interpretive. The interviewees have their unique understandings and interpretations. It is my belief that it is impossible to eliminate the person from the experience. They are all part of the whole. If one should examine this from a positivist or an empirical phenomenological point of view, they will find it lacking. However, if one looks at those from an interpretationalist lens and evaluates them, I believe them to be a worthy study.

I spent quite a bit of time in the section on trustworthiness. It seems to be a question that comes up quite often. How do I know whether the data I have is trustworthy? The constructive nature of the research requires a non-traditional mode of trustworthiness assessment. While traditionally, three methods of assuring trustworthiness are sufficient,

I offer four. I believe that, despite the fact, that there may be some researchers who may not be comfortable with a constructive theory trustworthiness evaluation, that they will still find it adequate.

This methodology should exhibit a suitable "road map" as to how the research is conducted, evaluated, and assessed. Therefore, the gap between the scholars who have ascertained the needs of minority Muslims, and the Muslims who actually practice their faith will be bridged. While my interpretation, may not be the only one that this methodology can produce, that is its greatest strength. The following chapter provides the necessary background to understand *fiqh al-'aqalliyyāt*.

## Chapter 4: Understanding the Fiqh

### 4.1 Introduction

> As a Muslim-American, when growing up, a sense of finding who you are, a sense of identity loss. That can be very troubling for a person, to anyone. We have a certain culture and a certain way, while everyone else surrounding us is different. So, integration is finding a balance between two, and actually figuring out who you really are.
>
> - David[84]

In the first chapter, the foundation of the thesis was laid. After a brief discussion of the Muslims in the United States and the reasoning behind the research in Jacksonville, research questions were raised. The methodology was then presented to offer the philosophical foundations of this thesis. In the fourth chapter we will be gaining a greater understanding of *fiqh al-'aqalliyyāt* to build on Taha Jabir al-Alwani's and Yusuf al-Qaradawi's concepts of integration.

Though many Muslims may be aware of some of the concepts of *fiqh al-'aqalliyyāt*, they may not necessarily know the name of the *fiqh* or how it is applied. Therefore, this chapter describes several of the ideas which have guided this *fiqh* and sets it apart from others. During the course of the thesis, this chapter is the background to understand the basis of minority *fiqh* as a lens, from which practice and integration into the American society may be examined.

The creation of *fiqh al-'aqalliyyāt* begins with the story of al-Alwani from the United States and also al-Qaradawi from a European context. The purpose of minority *fiqh* according to Taha Jabir al-Alwani is to assist Muslims integrating in a non-Islamic polity and to ease their difficulties which they face living outside of *dār al-islām*. Several discussion points for minority *fiqh* are raised. The first of these include what constitutes permissible immigration and integration, and how this has been factored into the current debate. The various elements of minority *fiqh* which are used for deriving *sharī'ah* are expounded. There is call for a renewal of *ijtihād* comprising traditional sources with an additional strong emphasis on *maqāṣid al-sharī'ah* (purposes or aims of *sharī'ah*), *taysīr* (making *fiqh* easy), and *'urf* (regional customs). Before the conclusion, three previous rulings based on the fiqh are discussed, comparing them with the elements of the *fiqh.*

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[84] See Appendix 1.

## 4.2 Founders of Minority Fiqh

The ideas surrounding *fiqh al-'aqalliyyāt* were created by two Muslim scholars who approached the subject from different perspectives. Even though both scholars arrived at similar conclusions, the first to broach the subject was Taha Jabir al-Alwani who wrote on behalf of his North American observations. While the second, Yusuf al-Qaradawi, considered a co-founder of *fiqh al-'aqalliyyāt*, came from the European context. Even though, al-Qaradawi thought about the issues regarding the *fiqh*, it was al-Alwani who first framed the phrase *fiqh al-'aqalliyyāt* in 1994. Al-Alwani published his thoughts in an online article, '*Nazarat Ta'asisiyya fi Fiqh al-Aqalliyyat* ("Foundational Views in *Fiqh al-Aqalliyya"*)' in 2001.[85] After discussing al-Alwani's role in producing the *fiqh*, al-Qaradawi will be considered.

### 4.2.1 Taha Jabir al-Alwani (1935 – 2016)

As a graduate of Al-Azhar University, Taha Jabir al-Alwani taught in his native nation of Iraq and later in Saudi Arabia. In 1983 he decided to immigrate to the United States and moved to Virginia. Afterwards, he became president of the Fiqh Council of North America and was one of the founding members of the International Institute of Islamic Thought (IIIT). It was during his time in the United States that al-Alwani began to assess the need for the Muslim community to integrate further with the greater American society. For al-Alwani, this would provide a platform for Muslims to have a greater voice in the American forum.[86] Furthermore, it came to al-Alwani's attention that Muslims living in a non-Islamic society may have extra hardships when practicing their faith.[87] He decided that there should be a way that the hardships should be addressed.

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[85] Shammai Fishman, 2006 'Fiqh al-Aqalliyyat: A Legal Theory for Muslim Minorities' Washington D.C.: Hudson Institute, Inc. p. 2.

Fishman's transliteration and translation.

[86] Said Fares Hassan, 2013 *Fiqh al-Aqalliyyāt: History, Development, and Progress* New York, NY: Palgrave Macmillan.

[87] Taha Jabir Al-Alwani 2003 *Towards a Fiqh for Minorities: Some Basic Reflections* Herndon, Virginia: The International Institute of Islamic Thought, Available at: https://www.academia.edu/7121199/Towards_A_Fiqh_For_Minorities_Some_Basic_Reflections_Taha_Jabir_Al_Alwani.

In order to further his agenda, al-Alwani gathered twenty-eight questions regarding issues that Muslims had due to living the United States, and sent them to the Islamic Fiqh Academy in Saudi Arabia. It was al-Alwani's view that the answers to the questions, (*fatāwā*), that were given were the same traditionalist answers that were always presented.[88] Later Alwani stated that Muslim minorities need "…to develop their identity shaped by the traditions, laws, and environment of their country of residence."[89] This would be accomplished by creating an "indigenous fiqh."[90]

Because Islam is a world-wide religion (*'ālamiyyat al-islām*), al-Alwani theorized that it was crucial for there to be an answer that is suitable for minority Muslims wherever they are located. Added to this was the rationale that the true purposes or intentions of *sharī'ah*, (*maqāṣid al-sharī'ah*), should be a guiding principle of forming juristic decisions.[91] The integration of Muslims into their local societies and at the same time ease their difficulties could be achieved through the expression of new *fiqh* for minorities, (*fiqh al-'aqallyyāt*). *Fiqh* is often translated as "jurisprudence" and is the process by which *sharī'ah* is derived thorugh the interpretation of the sources.

### 4.2.2 Yusuf al-Qaradawi (1926 – present)

Even before al-Alwani coined the phrase *fiqh al-'aqalliyyāt*, the Egyptian, Yusuf al-Qaradawi was having similar thoughts about the Muslims living as minorities in Europe. He began his process as he wrote a series of books on Islam for both Muslim and non-Muslim Europeans. After travelling to Switzerland to attend a conference that underlined issues regarding Muslim integration into the Western host societies, he began answering questions concerning Muslims living in Western context.[92]

The European Council for Fatwa Research (ECFR) was co-founded by al-Qaradawi in 1997, and he became it's first president. Initially established in London, however due to al-Qaradawi's ties to the Muslim Brotherhood and past writings concerning Israel, the

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[88] Hassan *Fiqh al-Aqalliyyāt.*

[89] Jasser Auda (ed) 2016 *Rethinking Islamic Law for Minorities: Towards a Western-Muslim Identity*, Available at: http://www.jasserauda.net/new/pdf/kamil_fiqh_ alaqalliyaat.pdf.

[90] Said Fares Ahmed Hassan, 2011 *Reaching from Within: Establishing a new Islamic Jurisprudence for Muslim Minorities in the West (The Discourse of Fiqh al-Aqalliyyāt)* University of California, Ann Arbor, MI: ProQuest p. 187.

[91] Fishman, 'Fiqh al-Aqalliyyat.'

[92] Hassan *Fiqh al-Aqalliyyāt.*

ECFR had to move to Dublin, Ireland. The ECFR became a major advocate of *fiqh al-'aqalliyyāt* and has issued a number of *fatāwā* (juridical decisions) based upon the *fiqh*.[93] In this respect, the ECFR has expanded the use of minority *fiqh* beyond what has been accomplished in the United States.

Al-Qaradawi not only understood Islam to have a universal scope as al-Alwani emphasised, but a universal message as well. It was his opinion that Muslims must have a viable method to relate that message to non-Muslims, calling them to Islam (*da'wah*). In order to facilitate this, he suggested that Muslims positively contribute to the majority society. This would benefit everyone (*maṣlaḥah*), both Muslims and non-Muslims.[94]

Al-Qaradawi was a proponent of a "*wasaṭiyyah*," (moderation), approach to Islamic philosophy, which is held in close proximity to *fiqh al-'aqalliyyāt*. To al-Alwani, *wasaṭiyyah* meant the middle ground found between dogmatism and modernism. While for al-Qaradawi it does not ignore the *taqlīd*, but acknowledges the realities of living in modern society. Fazrihan Bin Mohamed Duriat shared that the application of the *wasaṭiyyah* method "…ensures that Muslims have good manners and integrity to maintain peace with the non-Muslim society."[95] Furthermore, the *Journal of Journalistic Studies* explained that *wasaṭiyyah* has a broad spectrum of definitions, including "justice (*'adl*)… straightness, straightforwardness, impartiality, fairness, equitableness, probity, honesty, uprightess equitable composition."[96]

Prior to the nineteenth century, Muslims predominately lived in lands that were controlled by Muslim authorities, with few exceptions. This was mainly due to concerns about Muslims' safety, and their ability to practice their faith. However, in the modern era where there is a proliferation of travel and migration, there have been questions regarding a Muslim's permissibility to live beyond traditional territories ruled by Islamic law. The initial tone for the debate on minority *fiqh* has centred on immigration policy. The next section will investigate whether Muslims are permitted to be minorities according to *sharī'ah*.

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[93] Alexandre Vasconcelos Caeiro, 2011 'Fatwas for European Muslims: The Minority Fiqh Project and the Integration of Islam in Europe', Utrecht University.

[94] Fishman, 'Fiqh al-Aqalliyyat.'

[95] Fazrihan Bin Mohamed Duriat, 2015 *Fiqh Aqalliyyat & Maqasid As-Shariah – Case Study of Singapore*, Singapore Management University.

[96] Nurhaya Muchtar and Basyouni Ibrahim Hamada, and Thomas Hanitzsch, with Ashraf Galal, Masduki, and Mohammad Sahid Ullah 2017 'Journalism and Islamic Worldview Journalistic roles in Muslim-majority countries' Journalism Studies.

### 4.3 Immigration Considerations

Traditionally, the world was seen by Muslims as divided between the house of Islam, (*dār al-Islām*) and the rest of the world, designated as the House of War, (*dār al-Ḥarb*). Muslims living beyond the borders of *dār al-islām* were deemed travellers or traders, who conducted business on a temporary basis. Converts were also expected to emigrate within Muslim ruled territories.[97]

Today, using the term *dār al-ḥarb* is being challenged due to its negative overtones. There have been many suggestions for other options, including *dār al-ijābah* (the house of compliance), for *dār al-islām* and *dār al-kufr* (house of the infidel) to replace *dār al-Ḥarb*. Likewise, these have not shed their negative insinuations. Muslim scholars continue to suggest other alternatives. For example, al-Alwani uses *dār al-da'wah*, (the House of Invitation [to Islam]).[98] Similarly, Tariq Ramadan uses *dār al-shahādah*, (the House of Testimony).[99] Much like al-Qaradawi and al-Alwani, Ramadan sees land that is not yet under Islam as an opportunity to spread the message of Islam. However, finding creative ways to categorise non-Islamic lands is not a new phenomenon. In the 9th Century (CE), *dār al-ahd* (Land of Treaty), was considered viable for lands that Islamic territories were not engaged in war.[100] On the other hand, Jasser Auda believes that the issue has always been the safety of Muslims and that justice should be maintained. As long as safety and justice prevail, the *dār al-'adl* (House of Justice) is an apt title.[101]

The demarcation between the two lands were due a number of factors among them, safety, security and the ability to freely practice their faith, and freedom to raise their children in the faith. Traditionally, the Hanbali School of Islamic Jurisprudence was concerned that Muslims might contribute to the wealth and military might of a society in opposition to the ideas of Islam. While the Maliki School of Jurisprudence did not think

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[97] Hassan, *Fiqh al-Aqalliyyāt.*

[98] Al-Alwani, *Towards a Fiqh for Minorities*.

[99] Mohammed Hashas, 2013 'On the Idea of European Islam, Voice of Perpetual Modernity' LUISS University of Rome, Italy p. 179.

[100] Hashas, 'On the Idea of European Islam,' p. 210.

[101] Auda, *Rethinking Islamic Law for Minorities.*

it wise for Muslims to be under the influence of non-Islamic law. Regardless, there was a strong reluctance to allow Muslims to dwell among non-Muslims.[102]

Even though there have been centuries of Islamic tradition that divided nations by those which were controlled by Islamic authority and those that were not, there were still Muslims who lived in non-Islamic lands. There has been a desire of Islamic scholars to remove the stigma of unfavorable designations toward those non-Islamic domains, and to create a society that is mutually beneficial. The concern for safety may have some validity, however are these worries still sound in the modern, Western, secular state? The question that must then be answered is, when is it permissible for Muslims to live beyond the *dār al-islām*?

### 4.3.1 Permission to Immigrate

Even though there were some Muslims already living in the United States well before the late 19th century, there was often a tendency to assimilate into the American society by the third generation, in some cases losing their faith.[103] As more Muslims arrived over the course of the next century, they desired to maintain their uniqueness apart from the greater society, and yet at the same time contribute to the society.[104] In order to facilitate the desire of Western Muslims' need to be part of society while not letting go of their faith, Muslim scholars assessed the need for a proper *sharī'ah* framework.

In 1994, the IIIT sent questions to the Islamic Fiqh Academy based in Virginia concerning "…naturalization, marriage, bringing up children, work, selling mosque lands, food, and taking usurious loans."[105] The Islamic Fiqh Academy responded with five circumstances that would make immigration to non-Islamic territories permissible. First, it can not be because of disbelief or in order to strengthen those who are not Muslim. Second, the immigration should be legal, and have a legitimate purpose such as education or employment. Third, it is permitted to immigrate due to persecution in order to protect the family from injustices. Fourth, it cannot be solely for tourism or entertainment

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[102] Hassan, *Fiqh al-Aqalliyyāt.*

[103] Sharon McIrvin Abu-Laban, 1989 'The Coexistence of Cohorts: Identity and Adaptation Among Arab-American Muslims' *Arab Studies Quarterly* 11/2/3:45–63.

[104] Abu-Laban, 1989 'The Coexistence of Cohorts,' pp. 52-53.

[105] Hassan *Fiqh al-Aqalliyyāt* p. 98.

purposes. Finally, they must have the ability to practice their faith, keep their identity and culture, and children must be raised according to Islamic principles.[106]

The decision of the Islamic Fiqh Academy has been considered weak because it was not based on other legal authorities or juristic schools. However, there were also others who gave opinions on emigration. For example, Sheikh Manna al-Qattan[107] (d. 1999), stating that it was permissible to emigrate if forced by necessity and not voluntary. He further qualified permission to emigrate by declaring that it could not happen for love, should not work for unbelievers (unless indispensable), must be free to practice the faith, and to work legally. Another qualification provided by 'Abdel-'Aziz al-Siddiq al-Ghamari[108] (d. 1961) was to emigrate to Europe for the purpose of "…spreading Islam among non-Muslims and to the convey the message of monotheism in the world…"[109]

Jasser Auda's ideas are founded on the *dār al-islām*/*dār al-ḥarb* debate. He recategorises realms into a spectrum of five. The first, *ahkām al-islām*, is territory under a Muslim government and authority of law. The second, Auda refers to as *istīlā'* and he defines it as a place that is not Islamic, but has a Muslim ruler. The third, *al-amn* is a land of security, where reasonable peace and safety can be maintained. The fourth includes territories where there are no restrictions on public acts of worship, including the *adhān*. The fifth is the *dār al-'adl*, the abode of Justice, which Auda explains is the true expression of Islam. He bases his thoughts on the idea that *dār al-islām* is equated with security and *dār al-ḥarb* is insecurity.[110]

Despite the challenges or working within the traditional Islamic framwork, there has been Islamic jurists who have decided that it is permissible for Muslims to live beyond the borders of *dār al-islām*. There has not been an agreed upon standard by any of the jurists. While some believe it should only be allowed for the sake of maintaining the necessities of life, others think that *da'wah* is also a valid reason. The following section concerns the debate of Muslims living in a non-Islamic nation is, and to what degree do the Muslims segregate or integrate?

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[106] Hassan *Fiqh al-Aqalliyyāt* p. 127.

[107] Author of a number of books and *tafasīr.*

[108] A Sufi practitioner, from Morocco. He studied both the Maliki school and Shafi'i schools of jurisprudence.

[109] Hassan *Fiqh al-Aqalliyyāt.*

[110] Auda *Rethinking Islamic Law for Minorities.*

### 4.3.2 To Segregate or Integrate?

While there have been Muslims who have successfully integrated within the societies in which they live, some fear that they could completely assimilate and in the process lose their religious and cultural distinction. Should that happen, it could be understood that they lose their voice in society thereby not fulfilling their criteria for immigrating to a non-Muslim polity. There is not a single policy that is cleary understood and enforced between the various Muslim factions and ethnicities, which further exasperates the issue.

Integration itself is a topic of considerable debate. Even though the idea of "integration without assimilation" has been a proverb of those in support of *fiqh al-'aqalliyyāt*, there are other Muslims who do not believe that the Muslim community should integrate.[111] After travelling throughout the US, Sayyid Qutb[112] (d. 1966) returned to Egypt and decided that minority Muslims should separate themselves from society. Likewise, M. Ali Kettani[113] (d. 2001) believed that if there was a sharp divide between Muslims and non-Muslims by creating a completely separate community, this would be a safeguard against assimilation.[114]

A salafi doctrine that has had a lot of influence into the debate of integration is *al-walā' wa-al-bara'*, (loyalty and disavowal). This is defined as promoting absolute "loyalty" to the Muslim *ummah* and "disavowal" towards the unbeliever. *Al-walā' wa-al-barā'* dictates that Muslims should not socialise, befriend, collaborate, nor greet non-Muslims, even detesting them. Not everyone understands the practice to be taken to this extreme. For al-Qaradawi, "disavowal" is relegated for the enemies of Muslims, not to all non-Muslims.[115]

The exception to the rule of separation is for the purpose of *da'wah*. Al-Qaradawi moved beyond the confines of *al-walā' wa-al-barā'* to promote being kind to non-

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[111] Alexandre Vasconcelos Caeiro, 2011 'Fatwas for European Muslims: The Minority Fiqh Project and the Integration of Islam in Europe', Utrecht University, p. 211.

[112] An influential, Egyptian author of many books on Islam, an Islamist who joined the Brotherhood. He was eventually arrested and sentenced to death for a conspiracy to assassinate the President of Egypt.

[113] Author of *Muslim Minorities in the World Today* and was the Chairman of the Electrical Engineering Department of the College of Petroleum and Minerals in Dhahran, Saudi Arabia.

[114] Yvonne Yazbeck Haddad, 2011 *Becoming American? The Forging of Arab and Muslim Identity in Pluralist America* Waco, TX: Baylor University Press.

[115] Uriya Shavit, 2014 'Can Muslims Befriend Non-Muslims? Debating al-walāʾ wa-al-barāʾ (Loyalty and Disavowal) in Theory and Practice' *Islam and Christian–Muslim Relations* 25/1:67–88.

Muslims so that it "…would gradually bring Europeans and Americans into the fold of Islam"[116] Al-Alwani believes that "…the whole earth belongs to Allah, and Islam is the religion of God. Therefore, every country is either the land of Islam or will be in the future."[117] Haddad states that Qutb "…later modified his views and taught that residence in the United States provides opportunity for delivering the saving message of Islam to America."[118] Souheil Ghannouchi, president of the Muslim American Society, proposed "... as Muslims, we are obligated to reach out and must be civically engaged."[119] Maher Hathout, president of the Islamic Center of Southern California, taught Muslim children of immigrants living in America would become American. The only solution was to not remain separated but to learn about the American society to be apologetically involved in the defence of Islam.[120] Salam al-Marayati, President of the Muslim Public Affairs council, asserts, "The choice is not between isolation and assimilation, but must be engagement with the society, …"[121] Likewise Ismail al-Faruqi, cofounder of the International Institute of Islamic thought and the Association of Muslim Social Scientists, thought that the "… message could elevate American society."[122]

Both al-Alwani and al-Qaradawi expect the minority Muslim community to engage and integrate into non-Muslim societies. However, their prospect of integration does not allow for any assimilation. There must remain a religio-cultural distinction between the surrounding society and the Muslim community. Even though there are various permissible reasons for immigration, integration comes with the purpose of *da'wah* for al-Qaradawi, and for al-Alwani to maintain their identities and to create responsible citizens.[123] According to Dina Taha, they are more concerned with "…how they should integrate and what the necessary conditions required are for a positive integration that is beneficial for the Muslim and his community."[124] The following section will explore the various facets of minority *fiqh* that are used to create a juridical decision.

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[116] Shavit, 'Can Muslims Befriend Non-Muslims?' p. 79.

[117] Hassan, *Fiqh al-Aqalliyyāt* p. 105.

[118] Haddad, *Becoming American?* p. 27.

[119] Souheil Ghannouchi, 2012 *Muslim American Renaissance Project* Bloomington, IN USA: Xlibris, p. 109.

[120] Haddad, *Becoming American?* p. 35.

[121] Haddad, *Becoming American?* p. 36.

[122] Haddad, *Becoming American?* p. 53.

[123] Al-Alwani, *Towards a Fiqh for Minorities*, p. 34.

[124] Taha, Dina M 2012 'Muslim Minorities in the West: Between *FIQH* of Minorities and Integration', American University in Cairo, p. 34.

### 4.4 Elements of Fiqh Al-'Aqalliyyāt

There are four main elements to Minority *fiqh* when considering making a *sharī'ah* decision.[125] The first, and feasibly the most expounded, is a renewed obligation to the process of *ijtihād*. Mohammad Hashim Kamali, Doctor of Comparative Law from the University of London and currently the Senior Fellow for the International Institute of Advanced Islamic Studies in Malaysia, explains that, "The principal objective of *uṣūl al-fiqh*[126] is to regulate *ijtihād* and to guide the jurist in his effort at deducing the law from its sources."[127] The other elements beyond *ijtihād*, include *maqāṣid al-sharī'ah* (The intentions or purposes of *sharī'ah*), *taysīr* (Making *fiqh* easy), and *'urf* (Customs), which act as filters in which the sources of *ijtihād*, (the Qur'an, *ḥadīth*/*sunnah*, *qiyās* and *ijmā'*), are examined.

#### 4.4.1 Ijtihād

The word, "*ijtihād*" is often directly translated as "endeavour" or "self-exertion" and is derived from the same root letters, j-h-d, as "*jihād*."[128] According to Bernard Weiss, *ijtihād* roughly relates to 'interpretation' of Islamic Law.[129] Though the understanding of *sharī'ah* is developed by the process of *ijtihād*, it is believed that God initially created *sharī'ah* and the jurists are simply uncovering what God has been previously set in place.

The work by al-Alwani, *Ijtihad*, published in 1993, predates his ideas for *fiqh al-'aqalliyyāt*. He writes, "Muslim scholars ought to be concerned with developing a new

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[125] Al-Alwani states in *Towards a Fiqh for Minorities*, "As for sources other than the Qur'an and the Sunnah, known as secondary or minor sources and estimated to be around forty-seven in number, there is no universal agreement…"

[126] *Uṣūl al-fiqh* are the 'principles of Islamic jurisprudence' in other words, the sources and how are they used.

[127] Mohammad Hashim Kamali, 1996 'Methodological Issues in Islamic Jurisprudence' *Arab Law Quarterly* 11/1:3–33, p. 6.

[128] Ilias Bantekas, 2009 'The Disunity of Islamic Criminal Law and the Modern Role of Ijtihad' *International Criminal Law Review* 9:651–665.

[129] Bernard Weiss, 1978 'Interpretation in Islamic Law: The Theory of Ijtihād' *The American Journal of Comparative Law* 26/2:199–212, p. 200.

approach capable of restoring Islamic consciousness into Muslim society."[130] Additionally, he brings up the *dār al-islām*/*dār al-ḥarb* debate:

> Concepts such as dār al Islam and dār al ḥārb [sic] are plainly anachronistic. Millions of Muslims have willingly or unwillingly emigrated from their motherland the traditional dār al Islam, to settle in the Western non-Muslim countries – traditionally dār al ḥarb – while hundreds of thousands of Muslim children are being born in non-Muslim countries every year.[131]

At this point al-Alwani is clearly thinking that new Islamic approaches are needed. Moreover, there are questions regarding Muslims living in non-Islamic territories. From these ideas the theory of *fiqh al-'aqalliyyāt* is eventually developed.

According the al-Qaradawi, there are two ways to approach *ijtihād*, creative *ijtihād* and selective *ijtihād*, (*takhayyur*). Creative *ijtihād* is the traditional approach to *sharī'ah* interpretation and is used to develop new judgments that have not been examined or answered. The second, selective *ijtihād* uses previous rulings in a new fashion. [132]

#### 4.4.1.1 Creative Ijtihād

In order to exercise creative *ijtihād*, the questions are examined by following a set of three criteria. The first is to search for existing solutions that have already been deduced for the posed question. The second is to evaluate them to find the best resolution after collecting as many rulings as possible. Once all avenues of research have been thoroughly explored and there does not seem to be a viable solution, then finally creative *ijtihād* can be utilised.[133]

Due to the issues that modernity brings to minority Muslims, there is a call to return to the practice of *ijtihād*. According to al-Alwani, *ijtihād* implies that "…teachings, ideas and judgments should not be taken at face value, nor adhered to blindly but ought to be scrutinized and understood within a proper perspective."[134] Likewise, It would appear that Tahar Mahdi, Professor of Islamic Sciences in Paris, agrees with al-Alwani when he

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[130] Ṭāhā Jābir al 'Alwānī 1993 *Ijtihad* Herndon, VA: International Institute of Islamic Thought, p. 25.

[131] al 'Alwānī *Ijtihad*, p. 28.

[132] Dina M Taha, 2012 'Muslim Minorities in the West: Between *FIQH* of Minorities and Integration', American University in Cairo.

[133] MMM Rafeek, 2012 'Fiqh al-Aqalliyyāt (Jurisprudence for Minorities) and the Problems of Contemporary Muslim Minorities of Britain from the Perspective of Islamic Jurisprudence' University of Portsmouth Available at: http://eprints.port.

[134] Ṭāhā Jābir al'Alwānī, 1993 *Ijtihad* Herndon, VA USA: International Institute of Islamic Thought, p. 6.

says quite strongly, "No one has the right to impose on us *fatwā* issued for another era and another people."[135] He adds that ignorance of Western life will create a faulty *fatwā*.

Traditionally *ijtihād* uses four sources to arrive to a conclusion. The sources which the '*ulamā',* (Islamic scholarship), consider for *ijtihād* are the Qur'an, *ḥadīth*/*sunnah*, *qiyās* and *ijmā'*.[136] *Uṣūl al fiqh* (methodology of Islamic jurisprudence) bifurcates into *shar'* (law) and *'aql* (intellect). *Shar'* was built upon the Qur'an, (which has pre-eminence), and the *ḥadīth*, (a written collection of the oral traditions of Muhammad or his companions). While *'aql* was concerned with *qiyās* or interpretive analogy and a consensus of the '*ulamā'* known as *ijmā'*.

*Ijtihād* is a strict process of interpretation. In order to be qualified as a part of the *'ulamā'* which can practice *ijtihād*, one must be well versed in Qur'anic studies and have a firm grasp of the nuances of Arabic. This, Weiss states, is the reason the jurists' authority is not derived from personal qualification but '…validly derived from the textual sources …' Furthermore, according to Kamali, there are six elements of interpretation, (he refers to this as legislation), of the Qur'an, (see section, 5.2.3 Traditional or Personal?). The *ḥadīth* are similarly analysed and classified according to their trustworthiness.[137]

It has been said, in the fourth century (A.H. or 913-1009 C.E.), the *mujtahidīn* ('*ulamā'* that decide the *ijtihād*) 'closed the gates' to further *ijtihād*.[138] This was done partly to conserve unity between the Islamic dynasties and scholars and to protect the *ummah* from deviations. Muslims continue to follow the rulings of the *mujtahidīn* (*taqlīd*) regarding Islamic law. Usually, today one who issues a ruling (*fatwā*) is not considered a *mujtahid*, but rather a *muqallid,* who is confined by the *taqlīd*.[139] Once the four Islamic schools were established there has been very little change in the *taqlīd* until the 19th century C.E. At that time, the Muslim World found that they lagged behind Europe's

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[135] Tahar Mahdi, 'The rights of Minorities and Their Aims: The Rights of Citizenship' in Jasser Auda (ed.) 'Rethinking Islamic Law for Minorities: Towards a Western-Muslim Identity' Available at: http://www.jasserauda.net/new/pdf/kamil_fiqh_alaqalliyaat.pdf Accessed 13.6.2016.

[136] Tauseef Ahmad Parray, 2012 'The Legal Methodology of "Fiqh al-Aqalliyyat" and its Critics: An Analytical Study' *Journal of Muslim Minority Affairs* 32/1:88–107, p. 92.

[137] Mohammad Hashim Kamali, 2003 *Principles of Islamic Jurisprudence*, Cambridge: The Islamic Texts Society.

[138] Mohammad Hashim Kamali, 1996 'Methodological Issues in Islamic Jurisprudence' *Arab Law Quarterly* 11/1:3–33, p. 6.

[139] Norman Anderson, 1990 *Islam in the Modern World A Christian Perspective* Leicester: Apollos, p. 53.

wealth, military might and achievements and many Muslims wondered if the root problem was due to the lack of a modern *ijtihād.*[140]

Despite the traditional view of the "gates of *ijtihād*" being closed, there are challengers to that concept. Souheil Ghannouchi,[141] believes that closing the door to *ijtihād* was a mistake. He shares that Islam is meant to be relevant and transformative, instead it has become, '…frozen and outdated.'[142] Wael B. Hallaq, Professor of Humanities at Columbia University, avers that, "It is our common, but rather inaccurate, belief that during the first three centuries of Islam, the highest and final stage of legal thought had been reached." He postulates that *ijtihād* has been continually occurring.[143] Ilias Bantekas, Professor of International Law and Arbitration at Hamad bin Khalifa University, seems to agree, yet as he assesses the situation he adds, that they "…curtailed it almost to a vanishing point."[144] Both Hallaq and Bantekas share that today there is a place for *ijtihād* in the modern formation of *sharī'ah*. Bantekas compares that time of Islamic history to that of Europe's Dark ages.

However, to Ali Albarghouthi, Director of the Institute for Muslim Research and Progress, the debate on the validity of modern *ijtihād* essentially revolves around who has a claim to Muslim authority over these matters.[145] Bantekas would appear to agree. He writes:

> Islam does not speak with one voice globally and so the existence of Islamic law as a legal system under the terms identified above is not easy to substantiate. Islamic law and Islamic criminal law in particular are undergoing a process of fragmentation that varies from country to country. This result is also attested by Islamic scholars who argue that the Qur'ān and the Ḥadīth are insufficient to deal with the exigencies of daily life and much prominence is given to the jurisprudence of local courts and their exposition of legal principles.[146]

Because there is no central American Islamic authority on religion, many minority Muslims living as immigrants may still receive their direction from their lands of origin.[147]

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[140] Ali Albarghouthi, 2011 'Authority and Representation in North America: The Ijtihad Criteria and the Construction of New Religious Authority' *Journal of Islamic Law and Culture* 13:18, p. 26.

[141] Assistant Professor of Physician Assistant Studies at GW School of Medicine and Health Sciences

[142] Ghannouchi, 2012 *Muslim American Renaissance,* pp. 215-220.

[143] Wael B. Hallaq, 1984 "Was the Gates of Ijtihad Closed" *International Journal of Middle East Studies*, Vol. 16, No 1 Cambridge: Cambridge University Press.

[144] Bantekas, 'The Disunity of Islamic Criminal Law.'

[145] Albarghouthi, 'Authority and Representation in North America,' p. 26.

[146] Bantekas, 'The Disunity of Islamic Criminal Law', p. 655.

[147] Karen Leonard, 2013 'Organizing Communities: Institutions, Networks, Groups' in Juliane Hammer& Omid Safi, eds. 2013 *The Cambridge Companion to American Islam* New York, NY: Cambridge University Press, p. 176.

From the booklet, *Towards a Fiqh for Minorities*, al-Alwani claims that Islam does not have a place for priests, clergy or *'ulamā'* who would exercise control over the sources of religious knowledge and their interpretation. This is further punctuated by contrasting the afore mentioned religious élite with the rest of society which could, if they chose, study, analyse or interpret those sources, presumably for themselves. In al-Alwani's assessment, authoritarian control has been tried, but has failed for two reasons. Firstly, the general public rejects the notion of religious leaders exercising the responsibility and authority of interpretation over them. Secondly, the intelligentsia likewise does not support it. Al-Alwani ends his provocative paragraph by stating, "The Qur'an is available to all and no one can monopolize or control access to it. Every reader of the Qur'an can learn the basics of Islam from it directly."[148]

There are two points that should be made here. First, it appears that within the "Public Awareness of The Shari'ah" section of the "Introduction," there may be a confusion between the general public and the individual Muslim. While al-Alwani seems to be talking about the Muslims in the widest sense, using, "Muslim society." Secondly, al-Alwani's comments regarding the sources and the "interpretation of religious dogma" seems to be a nod to *ijtihād*. Indeed, al-Alwani later clearly identifies the role of *ijtihād* within *fiqh al-'aqalliyyāt*:

> It is exercised within the established rules of ijtihad, or those of interpretative analysis. What we aim to do is deploy the techniques and tools of ijtihad in a way that is compatible with our time and the new explosion in knowledge, the sciences and means of learning, and restore the role of Shari'ah in modern life. [149]

A question is then raised: does al-Alwani propose allowing individuals to make personal decisions on *sharī'ah*? This has opened a debate among many Muslim scholars concerning whether reopening *ijtihād* could have negative consequences as individuals interpret *sharī'ah* for themselves, and thereby causing confusion or a possible factioning of Islam to occur, (see section 5.5.1, Ijtihād).

Selective *ijtihād* does not entirely leave the *taqlīd*, but seeks alternative ways to keep the *taqlīd* applicable in modern life. This is considered more acceptable and in line with creating a *fatwā* instead of creating something new. Otherwise, it may be accused of being an "innovation" to Islam, or modernist approach to issues, which is frowned upon by traditionalists.

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[148] Al-Alwani, *Towards a Fiqh for Minorities*, p. xvi.

[149] Al-Alwani, *Towards a Fiqh for Minorities,* p. 12.

#### 4.4.1.2 Selective Ijtihād

There are four schools of Sunni Islamic Jurisprudence, each of them has its own *taqlīd*. Selective *ijtihād* involves engineering from the various juridical schools. The four schools, (*madhhab*, *madhāhib* pl.), of Sunni jurisprudence are the *Ḥanafī*, the *Mālikī*, the *Shāfi'ī*, and the *Ḥanbalī*. The Ḥanafī School is prominent throughout the Levant, Turkey, Balkans and Central Asia and parts of Egypt. The influence of the Mālikī School is felt across North Africa. The *Shāfi'ī* School will be found in Eastern Africa, Yemen, Indonesia, and parts of Egypt, Iraq and Eastern Turkey. Finally, the Ḥanbalī School is strongest in the Arabian Peninsula.

There are two methods of using selective *ijtihād* (*takhayyur*) to reach a decision. The first method is to switch between the judgments of the four schools of Islamic law to arrive at an appropriate decision. This has been referred to as 'surfing' between the schools.[150] This allows for changes in circumstances without completely discarding the *taqlīd*. For example, if the jurist ascribed to the *Ḥanifiyya madhhab*, but there was not an available *Ḥanafī* ruling for the question, however the *Shāfi'ī madhhab* had already made the subject a part of their *taqlīd*. Then the jurist could use the *Shāfi'ī* ruling.

While the first method takes rulings from other juridical schools, it leaves them as is, completely unaltered. The second method involves combining the rulings of several schools to generate a new result that may have not been the intent of either decision.[151] By amalgamating parts of two or more judgments together, a new ruling is created that answers an undiscussed issue. This is referred to as *talfīq* or "piecing together."[152] Between the two techniques for selective *ijtihād,* the first method, "surfing" is the preferred choice, due to the fact that it does not completely tear apart previous rulings and reassemble them in a new format. However, considering Creative or Selective *ijtihād*, it seems that al-Qaradawi, al-Alwani and Ramadan all agree that *takhayyur* is a useful tool as it remains within a known Islamic paradigm.[153]

Allowing the process of *ijtihād* provides the means to arrive at a juridical decision as new situations arise. Though for the most part there is nothing new in the procedure,

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[150] Okan Dogan, 2015 'Rethinking Islamic Jurisprudence for Muslim Minorities in the West', University of Texas, p. 38.

[151] Dogan, 'Rethinking Islamic Jurisprudence,' pp. 39, 41.

[152] Caeiro, 'Fatwas for European Muslims.'

[153] Dogan, 'Rethinking Islamic Jurisprudence,' pp. 41-42.

within *fiqh al-'aqalliyyāt* there are three other elements that factor into the juristic method. The first to be discussed is *maqāṣid al-sharī'ah* and the relationship with *maṣlaḥah*.

### 4.4.2 Maqāṣid al-Sharī'ah

So that *sharī'ah* may be determined, *fiqh al-'aqalliyyāt* utilizes *maqāṣid al-sharī'ah*, *taysīr* and *'urf* through a system of *ijtihād.* According to Auda, the word, '*maqāṣid*' can be defined as, "a purpose, objective, principle, intent, goal, end."[154] Therefore, *maqāṣid al-sharī'ah* are the true purposes, objectives, principles, intents, goals or ends of *sharī'ah*. The Mālikī jurist, Al-Qarafi (1228 - 1285) specified that a *maqāṣid al-sharī'ah* "…is not valid unless it leads to the fulfilment of some good (maṣlaḥah) or the avoidance of some mischief."[155] *Maṣlaḥah* is defined as "public interest, benefit, well-being and welfare" and the concept is so interrelated with *maqāṣid al-sharī'ah* that they are often used interchangeably.[156]

Concerning *maqāṣid al-sharī'ah*, Islamic scholars are not always in agreement as to what constitutes the list of *maqāṣid*. Apparently, there is a general agreement between the jurists that *maṣlaḥah* is a major component, however they often include other concepts as well. Auda compiled a list of several scholars and their views of *maqāṣid al-sharī'ah* as follows: [157]

- al-Tahir ibn Ashur (d. 1907) - Orderliness and Freedom
- Rashid Rida's (d. 1935) - Reason, Reform, and Women's rights.
- Mohammad al-Ghazaly (d.1996) - Justice, and Freedom.
- Al-Alwani (d. 2016) - Oneness of God (*tawhīd*), Purification of the soul, and developing civilisation.

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[154] Jasser Auda, Maqāṣid Al-Sharī'ah: A Beginner's Guide, London: The International Institute of Islamic Thought

[155] Jasser Auda, 2008 *Maqasid Al-Shariah as Philosophy of Islamic Law A Systems Approach* Herndon, VA: The International Institute of Islamic Thought.

[156] Dogan, 'Rethinking Islamic Jurisprudence,' p. 44.

[157] Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law.*

- Al-Qaradawi - Preserving the faith, Human dignity, Rights, Moral values, Good families, and a Cooperative world.

Kamali added Compassion, and Educating the individual to the list.[158] This makes the list of possible subjects relating to *maqāṣid al-sharī'ah* as seventeen, and it is possible that other scholars would imagine more.

During a conference at the International Institute of Islamic Thought in 2009, Robert Crane, (Deputy Director for Planning of the US National Security Council under President Nixon and a convert to Islam), shared his description of *maqāṣid al-sharī'ah*. He classified *maqāṣid al-sharī'ah* into four "Spiritual Principles" and four "Social Principles." For America, Crane references *maqāṣid* as 'rights' and further categorizes the *maqāṣid* into 'Spiritual Principles' and 'Social Principles.' The four spiritual principles are duty to worship God, the duty to respect people, the duty to respect creation, and the duty to respect community. The four Social Principles are respect for private property and financial institutions, respect political self-determination, respect of thought through speech, and publications, and respect human dignity and gender equity.[159]

One of the foremost scholars of *maqāṣid al-sharī'ah* is Muhammad al-Tahir Ibn Ashur. He specified that there are three methods of deriving *maqāṣid al-sharī'ah* from the Qur'an. The first is by stipulating the known causes of a command, or to gather a common theme from various Qur'anic texts to extrapolate the *maqāṣid* from them. The second method uses texts of the Qur'an where they are obviously stated. The final is accomplished by examining *aḥādīth* that share the same ideas, and by the traditions as understood by Muhammad's companions.[160]

Within *maqāṣid al-sharī'ah* there is an appeal to "…justice, moderation and the avoidance of excess," according to Musfir bin Ali al-Qahtani. Furthermore, he supposes, "The causes of religious extremism… are a lack of correct understanding of Islamic legal texts, and ignorance of the objectives of the Shari'ah..."[161] If "moderation and the avoidance of excess" is a building block of the *maqāṣid*, then the *wasaṭiyyah* approach can be seen through the *maqāṣid*. There is a debate between the various juridical schools

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[158] Mohammad Hashim Kamali, 2008 *Shari'ah Law An Introduction* Oxford: Oneworld Publications.

[159] Crane, 'Maqasid al Shari'ah' p. 6.

[160] Muhammad al-Tahir Ibn Ashur, 2006 *Treatise on Maqāṣid al-Shari'ah* Herndon, VA: The International Institute of Islamic Thought.

[161] Musfir bin Ali al-Qahtani, 2015 *Understanding Maqāṣid al-Sharī'ah a Contemporary Perspective* Herndon, VA: The International Institute of Islamic Thought, p. 102.

as to what extent *maqāṣid al-sharī'ah* should be used in determining *sharī'ah*.[162] Despite the debate, it appears that most agree with *maqāṣid al-sharī'ah*'s connection to *maṣlaḥah*.

#### 4.4.2.1 Maṣlaḥah – The Public Good

*Maṣlaḥah* has been one of the cornerstones that rulings based on minority *fiqh* have been built. Though *maṣlaḥah* is "the public good or welfare," according to Islamic philosopher and jurist, Abu Hamid al-Ghazali (d.1111), it should be understood to be specifically associated for the greater community and not about the individual. He also espoused that *maṣlaḥah* must have a real-life purpose that it cannot be just a hypothetical situation. Moreover, it cannot be inconsistent with *sharī'ah*.[163] Therefore, since *maṣlaḥah* is concerned primarily about the public or the communities' welfare over an individual, it is possible that an individual may suffer loss for the common good of the community. Even though *maṣlaḥah* upholds the best for the society, it is not without debate.

Not all juridical schools operate from the same concept of *maṣlaḥah.* The word *"maslahah*," is derived from the same three-letter root as *istiṣlāḥ* which has been implemented by the Maliki School. *Istislāh* can be defined as "unrestricted public interest," according to Kamali. However, The Hanafi School prefers *istiḥsān* more than *maṣlaḥah*. *Istiḥsān* is a method of utilising a juristic preference over an analogy (*qiyās*), whenever a ruling may cause undue hardships or objectionable results. Both the Hanbali and Shafi'i Schools are partial to *istiṣḥāb* and reject *istiṣlāḥ* or *istiḥsān*. *Istiṣḥāb* dictates that all things are permissible and everyone is without legal responsibility unless a law is proved to the contrary.[164] According to the doctrine of *istiṣḥāb* all prevailing judgments would remain enforced as long as the circumstances remain the same. However, in the context of minority Muslims, the circumstances have changed, and thus the rulings could be altered.

There are three divisions of *maṣlaḥah* usually listed according to priority. The first, *ḍarūriyyāt* (necessities) are the five building blocks considered to be crucial for the survival of humanity. The *ḍarūriyyāt* are life, faith, intellect, lineage and property. These could be seen as Islamic rights and interference with the five *ḍarūriyyāt* has the potential

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[162] Kamali, *Shari'ah Law An Introduction.*

[163] Siraj Sait, & Lim, Hilary 2006 *Land, Law and Islam: Property and Human Rights in the Muslim World* London: Zed Books.

[164] Kamali, *Shari'ah Law An Introduction.*

to change what would normally be prohibited and make it permissible.[165] Also, the ECFR ruled that if there is a need that causes a hardship, it may be classified as a necessity.[166] Nevertheless, this is meant to be only a temporary measure for the sole purpose of establishing a permanent Muslim presence.[167]

The second part of *maṣlaḥah*, is the *ḥājiyyāt*, and can be translated as "needs." *Ḥājiyyāt* have a lower priority than *ḍarūriyyāt*. The *ḥājiyyāt* are those things whose "…neglect leads to hardship but not to total disruption of normal life."[168] While these particular hardships do not pose a threat to survival, for the sake of *maṣlaḥah*, it is possible to remove them.[169] These are considered non-emergency situations that may allow one to make the most of a non-ideal situation. For example, allowing the sick not to fast during the month of Ramadan.[170]

The third and final section of *maṣlaḥah* are the *taḥsīniyyāt*. These are defined as 'improvements, embellishments or desires and luxuries.' *Taḥsīniyyāt* could be described as endeavouring to be the best in all the facets of life. As an example, it would be preferable to be clean for Friday prayers and to abstain from eating garlic, which would more pleasant for others.[171] These would also include doing more than what is required, such as giving more than the usual *zakat* or performing extra prayers. Out of the three categories of *maṣlaḥah*, *taḥsīniyyāt* is the least important.

There is a long history of making decisions based on *maṣlaḥah*, however since the 1980's the use of *maṣlaḥah* has accelerated. It was Abu Ishaq al-Shatibi (d. 1388), an Andalusian imam from the Maliki School of thought, who first began using *maṣlaḥah* as part of the decision process and not just as a religious ideology.[172] There have also been juristic decisions made when there is not a text available from the Qur'an or *ḥadīth*, this is known as "*maṣlaḥah mursalah*." If a question is presented without an available text

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[165] Mohammad Abu Hurayra, 2015 'Achievement of Maqasid-al-Shari'ah in Islamic Banking: An Evaluation of Islami Bank Bangladesh Limited' *Global Journal of Computer Science and Technology: A Hardward & Computation* Volume 15 Issue 1.

[166] Uriya Shavit, 2012 'The Wasaṭī and Salafī Approaches to the Religious Law of Muslim Minorities' *Islamic Law and Society* 19, pp. 416-457.

[167] Taha, 'Muslim Minorities in the West.'

[168] Kamali, *Shari'ah Law An Introduction.*

[169] Abu Hurayra, 'Achievement of Maqasid-al-Shari'ah in Islamic Banking.'

[170] Raya Petaling Jl. and Mendo Barat, and Bangka Belitung 2018 'Maqāṣid Al-Shariah in the Contemporary Islamic Legal Discourse: Perspective of Jasser Auda' *Jurnal Penelitian Sosial Keagamaan* Vol. 26 No.2.

[171] Abu Hurayra, 'Achievement of Maqasid-al-Shari'ah in Islamic Banking.'

[172] Imam is the person leading the prayers in the mosque.

useful for the answer, a decision can then be based on *maṣlaḥah*. Likewise, ‘Abd al-Wahhab Kallaf (d. 1956), communicated that in a *sharī‘ah* ruling that did not consider public interest, may not be applicable for the next generation. Sudanese politician Hassan Turabi (d. 2016) explained that during times of extreme hardship, then it is possible to expand rulings beyond the Qur’anic text.[173]

Whenever the ECFR uses *takhayyur* as a tool in the decision-making process, the rulings are justified through *ḍarūriyyāt*. Furthermore, it is ECFR’s practice that the principles of *maqāṣid al-sharī‘ah* should not be violated. Though much has been written on *maṣlaḥah*, there is not as much volume dedicated to *taysīr*, the next facet of decision-making that will be examined.

### 4.4.3 Taysīr

*Taysīr* can be explained by using the words, “facilitation, leniency, and making easy,” but these definitions do not convey the whole meaning. It’s better understood as a principle within *sharī‘ah*, that if there are two possible solutions, then the easier, less strict, path is taken. This is a legal method of deliberation, which according to al-Qaradawi, embodies the true spirit of Islam. However, in his view, *taysīr* is subject to abuse, therefore al-Qaradawi advised that it should only be applied when necessary. Furthermore, in his opinion *taysīr* is meant to be only a temporary measure until circumstances return to normal.[174] It is not absolutely clear what “normal” means, in context of minority *fiqh* it implies that it is valid until such time that the Muslim community no longer operates in a minority status. Once the Muslim Community becomes the majority, what seems to be expected is that *taḥsīniyyāt* would come into full effect.

Mahdi explains that the concept of *taysīr* comes directly from the Qur’an. Since the Qur’an relays, “God does not wish difficulty for you, but He wishes to purify you, to perfect his charity to you,” (Qur’an 5:6). Also, “God wishes you to have ease, not difficulty,” (Qur’an 2:185). Finally, “God wishes to lighten your burden, for humankind has been created weak,” (Qur’an 4:28). Mahdi interprets this to mean that *taysīr* is a valid juristic tenet. Mahdi adds that this can also be seen through Muhammad’s criticism of

[173] Parray, ‘The Legal Methodology of “Fiqh al-Aqalliyyat” and its Critics.’

[174] Caeiro, ‘Fatwas for European Muslims.’

long prayers saying, "Whoever leads the prayers should lighten them."[175] This is presumably for the sake of those who had to participate along with the one leading the prayer. A shorter prayer, may alleviate the desire to leave before prayers are completed, or perhaps simply prevent minds from wondering during prayer time.

Though *taysīr* is a widely accepted Islamic legal tool, for al-Qaradawi there is a greater purpose for its use. This he sums up in the proverb, "*al-taysīr fī al-fatwā wa al-tabshīr fī al-da'wa*," (facilitation in the issuance of rulings and propagation through proselytizing).[176] *Taysīr* becomes a tool to fulfil al-Qaradawi's desire to see Muslims present the message of the Qur'an. It is also considered a matter of practicality, because not all Muslims are at the same level of commitment or spirituality. In particular, it is useful in a Muslim minority setting, because as minorities, Muslims are often in a position of weakness. Al-Qaradawi's clarifies this by making comparisons between a traveller and a resident, or someone who is sick to another who is healthy.[177] Due to the traveller's temporary situation, allowances are made. Likewise, the same is true for the one who is sick. It seems that al-Qaradawi is using this comparison to explain that Muslims will not always need *taysīr*, because even Muslims in a minority setting will not always be in the minority, but at some time in the future would grow to become the majority.

There have been controversies surrounding the use of *taysīr*. Some Muslim scholars have noted that there seems to be some inconsistencies with al-Qaradawi's pronounced limited use of *taysīr* compared to the abundant use in ECFR rulings. Furthermore, al-Qaradawi was quoted as saying, "Muslims are in dire need for facilitation…" (or *taysīr*).[178] This seems to suggest that there are not enough rulings where *taysīr* is utilized. On one hand al-Qaradawi suggests setting parameters around *taysīr*, on the other hand he infers that it should be used more often. This has caused confusion for those attempting to follow the methodology of application. The final section of minority *fiqh* methodology that will be examined is *'urf*.

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[175] Mahdi, 'The rights of Minorities and Their Aims.'

[176] Dogan, 'Rethinking Islamic Jurisprudence.'

[177] Parray, 'The Legal Methodology of "Fiqh al-Aqalliyyat" and its Critics.'

[178] Caeiro, 'Fatwas for European Muslims.'

### 4.4.4 'Urf

Two nuanced terms that often overlap and are closely related are *'urf* and *'ādah*, and they are often substituted for each other even by Muslim scholars. *'Urf* is defined as the general custom of a people, while *'ādah* refers to the specific tradition or usage. The scope of *'urf* is greater, than *'ādah*.[179] Islamic scholar and Professor, Mohammad Arkoun (d. 2010), clarifies the definition further by sharing that *'urf* is an anthropological term that incorporates, "…customs, laws, institutions, beliefs, rituals and cultural values that constitute the identity of each ethno-linguistic group."[180] It is his contention that these are not to be ignored and can be somewhat integrated into *sharī'ah*.

There are a number of reasons for which *'urf* has been used as a source of law when determining *sharī'ah*. First, it is applied as a principle of "being beneficial and removing harm." There is often a strong emotional connection to local customs that may be difficult to change. This is of primary importance concerning *mu'āmalāt* (interactions of people), however it has very limited use in dictating worship or ethical practices. Second, Muhammad did not reject all the customs of the people during his time, instead Islam was ensconced within a renewed, valid expression of the customs of the time.[181] Third, all national laws are created according to the customs of the people that enforce those laws.[182] Kamali advocates that this proves the adaptability of *sharī'ah*, and informs another principle which imparts "…formulae for finding solutions to problems as they arise."[183] In his vision *sharī'ah* works around and through local customs which do not directly violate *sharī'ah.*

Within minority *fiqh*, Mahdi expounds that "…time, space, and circumstances…"[184] should be contemplated before making a decision regarding *sharī'ah*. He argues that the process of integrating with the broader society's culture, actually reveals Islamic values. This would also affirm al-Qaradawi's ideas of allowing a

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[179] Hafiz Abdul Ghani, 2011 ''Urf -o-Ādah (custom and Usage as a Source of Islamic law' *American International Journal of Contemporary Research* Vol. 1 No.2.

[180] Mohammed Arkoun, 2003 'Rethinking Islam Today' *The Annals of the American Academy of Political and Social Science* 588:18–39.

[181] Ghani, ''Urf -o-Ādah (custom and Usage as a Source of Islamic law.'

[182] Parray, 'The Legal Methodology of "Fiqh al-Aqalliyyat" and its Critics.'

[183] Kamali, *Shari'ah Law An Introduction.*

[184] Mahdi, 'The rights of Minorities and Their Aims.'

process of Islamisation to occur for the purpose of demonstrating *da'wah* through a localized, combining of customs and Islamic practices.[185]

Through *fiqh al-'aqalliyyāt*, the method of *ijtihād* is refined through a rigorous process with the elements of *maqāṣid al-sharī'ah*, *taysīr* and *'urf.* While not ignoring the purposes of *sharī'ah*, jurists attempt to make *fiqh* accessible and consider local customs to frame a decision pertaining to *sharī'ah*. Now that the various elements that are used in creating a decision in minority *fiqh* have been examined, the next section will establish three examples of how juristic rulings that have handled those elements.

### 4.5 Examples of Rulings Based On Fiqh Al-'Aqalliyyāt

Examples of *fiqh al-'aqalliyyāt* rulings from the European Council for Fatwa and Research (ECFR) will be used, as opposed to those of the Assembly of Muslim Jurists in America (AMJA) for two reasons. First, despite claiming they are following a moderate course, the AMJA released a paper regarding the dangers of *fiqh al-'aqalliyyāt*. Second, the AMJA claim that they will not be subject to the duality that minority *fiqh* creates.[186] It appears as though there are no organisations in the US that extensively use minority *fiqh*, (which seems to be typical). Therefore, the ECFR rulings will be used as representational illustrations.

The ECFR has issued a number of *fatāwā* that correspond to the questions raised by minority Muslims. *Fatāwā* are answers given by *'ulamā'* in response to questions that Muslims raise regarding the proper practice of the faith. Though several of the matters specifically involve Muslims living in the United States, they have had a profound effect on others outside the US.

This section will look at three subjects that have had rulings based on minority *fiqh*. The first decision considers the permissibility of Muslims serving in the US military to fight against other Muslim nations. The second involves Muslim women who are married to non-believing men. The third probes the answers related to minority Muslims who wish to purchase a home using interest-bearing loans. These three examples describe how *fiqh al-'aqalliyyāt* can be applied politically, socially and economically.

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[185] Julianne Hazen, 2011 'Contemporary Islamic Sufism in America: The Philosophy and Practices of the Alami Tariqa in Waterport, New York' SOAS, University of London.

[186] Caeiro, 'Fatwas for European Muslims' pp. 97-98, 128, 135.

### 4.5.1 Muslims in the US Military

The Islamic historian, Basheer Nafi relayed the story of Captain Muhammad Abdur-Rashid's question to al-Alwani. It seemed apparent to Captain Abdur-Rashid of the United States Army that after September 11th, 2001, (now known as "9/11"), the US military was likely to strike back against Muslim nations. Therefore, the Captain sent a question to al-Alwani, who was at that time Chairman of the Fiqh Council of North America. Captain Abdur-Rashid wanted to be advised on "…the permissibility of the participation of Muslim military personnel in the US armed forces in the war operations and its related efforts in Afghanistan and elsewhere in other Muslim countries."[187]

Al-Alwani sought the assistance of al-Qaradawi regarding the Captain's question, and the ECFR deliberated the topic. In order for this particular *fatwā* to be valid, Ghannouchi stated that the *'ulamā'* should "… have first-hand knowledge and understanding of the American context."[188] To allow for this critique, al-Alwani acted as the American representative. This would confirm that the *fatwā* issued by a European body was germane.

The ECFR released a *fatwā* which began with a condemnation of terrorism. Terrorism was defined as the killing of non-combatants without a justifiable reason. As evidence, Qur'an 5:32 was quoted, where it states, "…We ordained unto the Children of Israel that if anyone killed a human being— unless it be in punishment for murder or for spreading mischief on earth— it would be as though he killed all of humanity…" As part of the *fatwā*, they further suggested that this is the message which must be conveyed to the Muslim serviceman's superior officer.

The *fatwā* continued by expounding that terrorism is considered *ḥirāba*, (waging war against society) and as such the terrorists and those that support them should be put to death. To prevent the destruction of lives and property, it was deemed prudent to punish all those involved. As a word or caution a *ḥadīth* was added, which according to Bukhāri,[189] indicated that if two Muslims are fighting and one dies, they both end in hell. This was because they would both desire to kill the other. Although the *ḥadīth* was meant

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[187] Basheer M Nafi, 2004 'Fatwā and War: On the Allegiance of the American Muslim Soldiers in the Aftermath of September 11' *Islamic Law and Society* 11/1:78–116.

[188] Ghannouchi, *Muslim American Renaissance*.

[189] A collection of *ḥadīth* written by Imam al-Bukhari, considered authentic by Sunnis.

as a warning, the *fatwā* declared that this may not be relevant to the modern military as a result of the duties of citizenship, which must be performed out of allegiance to the nation. If a Muslim were to resign, this would bring reproach to himself and the entire Muslim community in the country. The intentions of other Muslim servicemen would also be called into question. The purpose of Muslim servicemen is to fight for truth and against falsehood, to protect the innocent and bring to justice the guilty. If one keeps to those principles he/she cannot be held responsible for the consequences of the war.

Towards the end of the *fatwā,* it is asserted that in the case of fighting against other Muslims, it is preferable for Muslims in the military to request work in the back lines or relief if possible. However, if the request for rear guard duty would bring doubts as to loyalty or otherwise cause harm to other Muslims, then it is not permissible. The *fatwā* was signed by Yusuf al-Qaradawi as Chairman, Judge Tariq al-Bishri. Dr. Muhammad S. al-'Awa, Dr. Haytham al-Khayyat, and Mr. Fahmi Huwaidi.

Nafi makes several other observations regarding this *fatwā*. First, the *fatwā* did not address the safety or the ability of Muslims in America to practice their faith. The second is that conceptually there has been a paradigm shift from allegiance to a particular ruler to that of citizenship. Third, if the American military action could not be justified, then American Muslims could not participate in the war. Fourth, the goal of the *fatwā* was primarily to be a platform to legitimize Muslims in the broader society as minorities in a non-Islamic environment.[190]

As the US prepared for war after 9/11, Muslims serving in the US military desired to know whether it was permissible to participate in the upcoming combat. After some deliberation, the ECFR gave permission to be part of the military action with some stipulations. Throughout the Islamic world it was a controversial decision despite those qualified conditions. The ECFR's decision pertaining to the following subject, "women who are married to non-Muslims," created an equally contentious reaction.

### 4.5.2 Women Married to Non-Muslims

According to a *ḥadīth*, Muhammad stated that half of religion is marriage.[191] Marriage is conducted differently with various expectations, dependent on the religion of the couple.

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[190] Nafi, 'Fatwā and War.'

[191] Juliane Hammer, 2015 'Marriage in American Muslim Communities' *Religion Compass* 9/2:35–44.

Within *sharī'ah*, a marriage is typically contracted to recognize the expectations and duties of both the man and woman who are getting married. The conditions are agreed upon prior to becoming husband and wife.[192]

There has been an assortment of rulings made available in the *taqlīd* with regard to a woman who converts to Islam and the viability of continuing in a non-Islamic marriage. Some pronouncements dictate that she should immediately leave her husband on the day of her conversion. However, others allow a three-month period of waiting, (*al-'iddah*). This is to assure that she is not pregnant, however she is still required to leave after the baby's delivery. Yet another ruling maintains the marriage is still legitimate as long as the convert remains in the non-Islamic land, and the marriage has not been annulled. This verdict comes with strict restrictions, though she may stay married to him, she may not have sexual relations with him. However, if he converts to Islam, then they may again participate in sexual activity.[193]

The ECFR agreed to ponder the question, what happens to the marriage of a married woman who converts to Islam whenever her husband retains his non-Islamic religion? The question was framed as '…women in this situation verily wish to embrace Islam, but this forced separation from their husbands and the consecutive family breakdown constitute obstacles in the way of their conversion."[194] Even though this has been previously answered by the *taqlīd*, it added an extra dimension to the question, which warranted the ECFR's attention.

The judgment the ECFR provided sanctioned the marriage after the wife converted, however she may divorce her husband, at her own discretion. There are terms that must be met, which allow her to remain with her husband. First, the marriage cannot impact the faith of her or their children, and they must be free to practice their religion. Second, she must have a legitimate belief that her husband may convert to Islam at some time in the future. Third, the children are required to be raised as Muslims by their mother.[195]

It is important to note that due to the many opinions that the *taqlīd* offered, al-Qaradawi understood that there was no *ijmā'* (consensus) on this subject. So, for him, this

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[192] Imani Jaafar-Mohammad and Charlie Lehman 2011 "Women's Rights in Islam Regarding Marriage and Divorce" *Journal of Law and Practice* Vol. 4 Article 3 Available at: https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1020&context=lawandpractice Accessed: 22.02.2022, pp. 3, 4.

[193] Zahalka, *Shari'a in the Modern Era.*

[194] Caeiro, 'Fatwas for European Muslims.'

[195] Caeiro, 'Fatwas for European Muslims.'

meant that there was space for negotiation. To construct the ruling, al-Qaradawi utilised *takhayyur*, fashioning the decision from various verdicts.[196] He primarily cited an *ḥadīth* that told of Muhammad's daughter Zainab, who was married to a non-Muslim. She asked her father to host her unbelieving husband. Muhammad acquiesced, though Zainab was instructed to have no further intercourse with him. After Zainab's husband converted six years later, Muhammad agreed to allow Zainab and her husband to recommence marital relations, without a change in the marriage contract. Employing this example, al-Qaradawi, understood that the Muslim woman has the choice to remain hopeful of conversion of her husband or to leave and marry another.[197] The ECFR reluctantly agreed to adopt al-Qaradawi's position with 8 members supporting his decision and 3 opposed.

The majority of the decision was based on the concept of *maṣlaḥah.* For example, the well-being of the wife and children was taken into consideration. If a newly converted wife was forced to divorce it may convince her to leave the faith. Even if that were not the case, it could cause hardships for the entire family and potentially harm the children. Likewise, *taysīr* was instrumental in formulating the decision. In the two possibilities whereby the first is to preserve the family, and the second is to have the Muslim wife leave her non-believing spouse, it is less burdensome for the wife and children to remain.[198] Furthermore, this allows for the opportunity for the husband to convert, alleviates fear, and satisfies expectations for *da'wah*.[199] This was also the first instance when *'urf* was cited within an ECFR ruling.[200]

Many of the traditional judgments (*taqlīd*) have been exercised in an attempt to preserve the Islamic family. In the case of the un-believing husband, it was a matter of safeguarding them from outside influence. While preserving the Muslim family is a central theme of many of the rulings of the *taqlīd*, these are being re-examined in light of the contemporary Muslim family using minority *fiqh*. It is precisely the security concerns and financial pressures that Muslim families find themselves, which provided the orientation for the ECFR's ruling on mortgages containing interest-bearing loans.

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[196] Dogan, 'Rethinking Islamic Jurisprudence.'

[197] Zahalka, *Shari'a in the Modern Era.*

[198] Taha, 'Muslim Minorities in the West.'

[199] Zahalka, *Shari'a in the Modern Era.*

[200] Caeiro, 'Fatwas for European Muslims.'

### 4.5.3 Purchasing a Home with Interest Bearing Loans

The Qur'an and the *Sunnah* both express that usury (*ribā*) is forbidden (*ḥarām*) within Islam. While usury has been defined as financial gain without compensation, this has been extended to include paying or receiving interest in banking and personal loans.[201] This prohibits current Muslims from receiving an interest-bearing loan to purchase either a business or a home.[202] Therefore, unless a Muslim can personally underwrite the entire cost of a property, they are essentially removed from the house market. There has been a criticism that Islamic religious leaders in the West continued to defer towards the *taqlīd* on the subject, causing apprehension among the individuals who are affected by the dogma.[203]

Four founding members of the ECFR, al-Arabi al-Bishri, Ahmad Jaballah, Tahar Mahdi and Unis Qurqah, brought up the issue of interest-bearing loans in 1997. During that time al-Bishri conducted research in France regarding the difficulties of Muslim households attempting to attain house ownership. He discovered that only 10.68% of Muslims owned their homes, compared to 56% of the population as a whole. Of those Muslims who resided in homes, 55.7% of Muslims were living in small-scale houses, (often considered inadequate), compared to 11.5% of the general population.[204]

The ECFR's response was overseen by al-Bishri. He based his deliberation on previous decisions by Ibn al-Qayyim (d. 1350) and Abd al-Rizaq al-Sanhuri (d. 1971).[205] The first decision by Al-Qayyim said that there were two types of interest, explicit and hidden. This provided the necessary leeway to construct further judgment. The other ruling by al-Sanhuri indicated that the purpose of the prohibition against interest was to protect the disadvantaged against exploitation. The ECFR reasoned, if the ban on interest was not protecting the needy, but adding to their difficulties, then there must be an allowance made.[206] Al-Bishri also noted that there was little difference between a fixed-rate mortgage, where the borrower makes monthly loan payments, and a contracted buy-

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[201] Taha, 'Muslim Minorities in the West.'

[202] Shavit, 'The Wasaṭī and Salafī Approaches to the Religious Law of Muslim Minorities.'

[203] Caeiro, 'Fatwas for European Muslims.'

[204] Zahalka, *Shari'a in the Modern Era.*

[205] Ibn al-Qayyim was a Hanbali theologian, and Abd al-Rizaq al-Sunhuri was a legal scholar known for revising the Egyptian civil code using *sharī'ah* and other sources as a reference.

[206] Zahalka, *Shari'a in the Modern Era.*

back program from an Islamic bank, where the purchaser pays the loan cost plus an additional fee allocated for the length of the loan.[207]

The ECFR proposal suggested that they were to follow, as much as possible, the earlier guidelines against any use or involvement in interest-bearing loans. However, there were allowances made if the Muslim purchasing a home had insufficient funds, there were no option for Islamic banking, a bank was not willing to provide an alternative, and all other options are exhausted, then an interest-bearing loan would be permitted.[208] Other prerequisites include, firstly the home is to be used for the buyer's family main dwelling. Secondly, the buyer cannot own or purchase a second house, or rental property with interest.[209] Mortgages for the sake of commercial properties are still forbidden under this ruling.

Al-Bishri argued that house ownership was necessary from the standpoint of defending the faith of children. This meant that owning a home would be considered a *ḍarūrah* under *maṣlaḥah*, which protects the family and safeguards the religion.[210] A further recommendation advised that purchasing a home near a mosque or Islamic school would be preferred. Another benefit cited was that house ownership would preserve an Islamic identity and create a space from which *da'wah* could be performed.[211] Therefore, *Maṣlaḥah* then supplanted the hardships that renting created by living in a small a space, the possibility of eviction, or paying money without receiving any ownership in return.[212] *Takhayyur* was engaged by combining various rulings of *ribā* and relating them to a scale, comparing the worst sin of *ribā* at one end and not being able to preserve the religion at the other.[213] Likewise, *taysīr* is employed through the preference of benefits of ownership over the hardships of renting.

Each of the ECFR's rulings did not come without controversy. For example, in the case of a Muslim Woman married to a Non-Muslim, there was an 18 to 4 split. It became so contentious, that Fu'ad al-Barazi and two others resigned from ECFR for failure to

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[207] Caeiro, 'Fatwas for European Muslims.'

[208] Zahalka, *Shari'a in the Modern Era.*

[209] Dogan, 'Rethinking Islamic Jurisprudence.'

[210] Caeiro, 'Fatwas for European Muslims.'

[211] Shavit, 'The Wasaṭī and Salafī Approaches to the Religious Law of Muslim Minorities.'

[212] Zahalka, *Shari'a in the Modern Era.*

[213] Taha, 'Muslim Minorities in the West.'
and Dogan, 'Rethinking Islamic Jurisprudence.'

publish the dissenting opinions, though the other two returned.[214] Each of these examples of the ECFR's verdicts relying on *fiqh al-'aqalliyyāt* can be utilized to benefit the minority Muslim living in the West politically, socially and economically.

### 4.6 Conclusion

Taha Jabir al-Alwani and Yusuf al-Qaradawi came to the conclusion that *fiqh al-'aqalliyyāt* was needed within a short time of each other. However, they both came from different contexts and made different assumptions regarding the purpose of the *fiqh*. For al-Alwani, it was about integration and the easing of restrictions to facilitate American Muslims living in a non-Islamic enviromnent. On the other hand, al-Qaradawi's European emphasis was to be able to expedite the Muslim's ability to perform *da'wah*.

One of the first subjects the *fiqh* raised was the permissibility of Muslims to live in non-Islamic territories. There has been a traditional stigma that had long held against Muslims that lived beyond *dār al-islām* by traditionalist Muslims. If Muslims were not to be seen as second class citizens by the nations in which they were living, then there must be a change in the the way they see themselves through this aspect of *sharī'ah*. This could alter how Muslims see themselves, and as al-Alwani explained "…develop their identity."**[215]** This would give them a platform for belonging as both citizens of a modern state and as part of the larger Muslim network. Removing the need to leave the West, or to assimilate into the West.

This chapter was meant to only be a broad overview of *fiqh al-'aqalliyyāt* without getting into too much detail. However, in order to answer the inquiry regarding "Does the application of *fiqh al-'aqalliyyāt*…" one must have a clear understanding regarding the function of this particular *fiqh*. Initially, within this chapter the theory of the *fiqh* through *ijtihād* had to be explained. In order to accomplish the goals of integration there had to be a method of examining the claims made regarding *sharī'ah*, and to alleviate hardships the Muslims face living amongst non-Muslims. Within *fiqh al-'aqalliyyāt,* this would be accomplished through a renewed practice of *ijtihād*. Within this version of *ijtihād* there is a conscious attempt of remaining true to the original purposes of *sharī'ah* (*maqāṣid al-sharī'ah*), at the same time deliberate what is best for the community (*maṣlaḥah*), while

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[214] Caeiro, 'Fatwas for European Muslims.'

[215] Auda, *Rethinking Islamic Law for Minorities.*

considering the surrounding cultural climate (*'urf*), and bearing in mind alternate practices which may accomplish the same goal (*taysīr*). While both the *taqlīd* and *fiqh al-'aqalliyyāt* may use all of these same elements, minority *fiqh* has raised them in a place of eminence that has not been previously experienced.

In order to gain a greater comprehension of how the *fiqh* would be applied in practice, three examples of the ECFR's use of *fiqh al-'aqalliyyāt* in the *fatāwā* which they presented. First, permission was given for Muslims in a non-Islamic military to go to war against other Muslims if it were required. In the second, ceded permission reluctantly for women converts to Islam to remain married to their unbelieving spouses. The third example entailed granting permission for Muslims to purchase a home with interest if there were no alternatives. These were shown to be representational and conditional allowances in three spheres of life: political, social and financial.

Islam may be seen as a spectrum of ideologies. From one end, traditionalists reinforce the necessity to follow the *taqlīd*. At the other end of the spectrum are the 'Modernists', who many believe desire to blend in and be accepted by the West. Towards the middle of the spectrum would be the "*wasaṭiyyah*" approach promoted by al-Qaradawi and al-Alwani. They hope to see a renewed sense of purpose in *da'wah*. In order to make *da'wah* palatable to the West there must be integration, however without assimilation.

Another aspect of minority *fiqh* is the diminishing influence of the concept of *dār al-islām* and *dār al-ḥarb*. In *dār al-islām,* transactions between Muslim and non-Muslim are allowed. This would presumably reduce antipathy and opposition. As long as both sides remain polarised there is no room for Muslim immigration and connection to the West. For the migrating Muslim there must be a third or middle option between the two houses.

The founders of *fiqh al-'aqalliyyāt*, al-Alwanī and al-Qaradāwī, believe that *fiqh al-'aqalliyyāt* is needed to allow Islam to reach out to the unbeliever. This is done by holding onto the philosophy that formed the *taqlīd* and stretching those forms without transgressing into Modernism.[216] The *taqlīd* has seemed binding for many Muslims, however the new *fiqh* has brought flexibility.

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[216] Bantekas proposes a spectrum from Traditionalism to Modernism with a sense of moderation in the middle. He indicates that Modernism is connected to Westernisation.

Bantekas, 'The Disunity of Islamic Criminal Law' pp. 662-663.

*Fiqh al-'aqalliyyāt* is meant to be a temporary measure only to be used whenever Muslims are in the minority. One could ask, what should happen if the balance changes and Muslims are no longer in the minority but become the majority? How are cultural allowances removed and the *taqlīd* enforced? Who makes the pronouncement to terminate minority *fiqh* and how is the new Muslim majority transitioned into a more vigorous *sharī'ah*?

*Fiqh al-'aqalliyyāt* could be an effective tool to assist the minority Muslim confined in Islam. While Islam has always espoused a missional ideology, it has suffered under a desire to remain untouched by outside influences. This could be a boon for Islam and create a platform that could make Islam favourable for a Western audience. It could also be the permission needed to grant Muslims the self-determination to become more American in form.

This chapter may seem to create more questions than it answers. Its purpose was to create a common point of reference, and an origin for further discussion. This will serve as the basis in which to compare the primary sources, which consists of interviews with Muslim residents of Jacksonville.. The next chapter, 'Interpreting *Sharī'ah*' explores how a selection of Muslims in Jacksonville construe *sharī'ah* for themselves. This is investigated through their understanding of the Qur'an, the *ḥadīth*, and the *madhāhib*. Finally, their lived expressions of *sharī'ah* is compared to aspects of minority *fiqh*.

# Chapter 5: Interpreting *Sharī'ah*

## 5.1 Introduction

> So I don't think… I don't know much about it, but I don't see that they apply sharī'ah right and the people generally, not just in Islamic World, skipped so many basic stuff.
>
> - Kevin[1]

In the preceding chapter featuring methodology, three various aspects of analysis are presented, which are description, comparison and evaluation particularly from a constructionist theory paradigm. With the methodological framework established, chapter 5 begins the first of three chapters dealing with the analysis. In this section, theory and respondent's experience will be described and directly compared, with a following evaluation.

As previously mentioned in "Chapter 4: Understanding the Fiqh," according to Taha Jabiri al-Alwani and Yusuf al-Qaradawi, *fiqh al-'aqalliyyāt* is the juristic basis in *sharī'ah* that allows Muslim minorities to adopt an Islamic identity that takes into account the surrounding, prevailing social realities.[2] Furthermore, al-Qaradawi desires that the Muslim community be a benefit to the nations in which Muslims inhabit. This would provide a forum where Muslims could openly share their faith and practice.[3] Therefore this chapter will evaluate, how Muslims in Jacksonville seem to interpret *sharī'ah/fiqh* practices as a foundation for integration. "Interpret" in the sense of this chapter always refers to a hermeneutic phenomenology, (see Chapter 3, Methodology), and should never be associated with *ijtihād* unless specified.

With a PhD in Islamic Theology from the University of Chicago, Mustafa Cerić returned to his native Bosnia where he became the "Supreme Authority" of Islam for Bosnia.[4] Though speaking of the European Muslim experience, Cerić exclaims, "I believe

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[1] See Appendix 1.

[2] Taha Jabir al-Alwani, 'Islamic Law for Minorities: Historical Context and Essential Questions' in Jasser Auda (ed.) 'Rethinking Islamic Law for Minorities: Towards a Western-Muslim Identity' Available at: http://www.jasserauda.net/new/pdf/kamil_fiqh_alaqalliyaat.pdf Accessed 13.6.2016.

[3] Mohamad Azmi Bin Haji Mohamad 2014 'European Islam and Reform: A Comparative Study of the Theologies of Yusuf al-Qaradawi and Tariq Ramadan', University of Birmingham Available at: http://etheses.bham.ac.uk/5082/1/HajiMohamad15PhD.pdf Accessed: 16.11.2016, pp. 64, 141.

[4] Anon, 'Dr. Mustafa Ceric´' Available at: http://www.sunnah.org/history/Scholars/dr_mustafa_ceric.htm Accessed 26.9.2018.

that it is now time that we… offer a genuine and, if I may say an alternative interpretation of Islam that will lead us to a cultural creativity…"[5] This creates questions of how individual Muslims are interpreting the sources to arrive at a comprehensible *sharī'ah*.

From the perspective of an Islamic scholar or imam, the *taqlīd* represented the proper interpretation of *sharī'ah*, therefore adherence to its rulings would create an expected social norm. However, this thesis engages the interviews of ordinary Muslims without official religious position or authority, living in Jacksonville, Florida, to discuss how they interpret *sharī'ah* in their lives. Individual views of the sources, the Qur'an and the *ḥadīth* and of the Juridical schools will be examined in an attempt to answer questions of modern *sharī'ah* interpretation. While previous research has dealt with various Muslim minority rulings and the Islamic scholarship surrounding it, there has been little activity in finding how the 'person-on-the-street' approaches the subjects which concerns *fiqh al-'aqalliyyāt*.[6]

Beginning with the Qur'an, this chapter looks at three important foundations which Muslims may interpret in order to reveal *sharī'ah*. Within the section on the Qur'an, the interviewees' responses are examined to determine methods and ideas in their search for meaning. Furthermore, the use of *tafsīr* to assist in interpretation, and whether a traditional or personal approach are assessed. Following the Qur'an, the chapter considers the informants' flexible interpretation of the *aḥādīth*, and those who have reservations as to their place in *sharī'ah* interpretation. Third, opposing views as to the Islamic schools of jurisprudence (*madhāhib*) and the *taqlīd*'s function in the lives of the respondents are discussed.

## 5.2 The Qur'an

In order to facilitate an understanding of how the interviewed Muslims interpret the Qur'an, the traditional (*taqlīd*/*ijtihād*) approach to the Qur'an will be compared to the respondents' hermeneutical understanding. The Qur'an is the Holy Book of Islam and is the first source of *sharī'ah*. *Sharī'ah* should govern how Muslims conduct themselves in

[5] Cerić, Mustafa 'Towards a European-Islamic Identity' in Jasser Auda (Ed.) *Rethinking Islamic Law for Minorities: Towards a Western-Muslim Identity* Available at: http://www.jasserauda.net/new/pdf/kamil_fiqh_alaqalliyaat.pdf Accessed 13.6.2016.

[6] Iyad Zahalka, 2016 *Shari'a in the Modern Era Muslim Minority Jurisprudence* Cambridge: Cambridge University Press, p. 7.

worship (*'ibādāt*) and in deed (*mu'āmalāt*). This section is an abbreviated account of Qur'anic interpretation according to the participants. This is set in contrast to Islamic scholarship to provide a foundation from which to compare the participants' interpretation. "Interpretation" is not meant to merely imply "translation" of one language to another, but rather refers to an individual's "search of meaning."[7]

### 5.2.1 The Search for Meaning

While discussing personal Qur'anic meaning, four of the interviewees explained that they used an English translation of the Qur'an as they read. Yet, another two used an English *tafsīr*[8] to assist them, and for both of those that used the English *tafsīr*, English was their primary language. Out of the six that use English in their study of Islam, two were native-born Americans, and three were first generation Americans, though none of this first-generation grouping are Arabic speakers.

As an example, David,[9] not one of the six previously mentioned nor an Arabic speaker, explains some of the difficulties he faces while reading the Qur'an. He reads the Qur'an as part of the religious practice of being a Muslim, as an exercise in learning and maintaining the Arabic language. While not fully engaged in the language he says, "I do get a sense of understanding, because I'm actually trying to learn Arabic… If you're reading it for reading sake, there's no point." In other words, if you are reading the Qur'an without understanding it is a futile exercise.

It is a common practice for Muslims who are not native Arabic speakers to read the Qur'an with little or no understanding. It has been noted that in Muslim homes "…children have completed the Qur'an many times, yet they do not understand a single word from it."[10] David likewise explained this practice in his own life, "I read the Qur'an for Qur'an's sake. It's part of the practice." At least for David there was a reason for

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[7] Panagiotis Sakellariou, 2011 'Translation, Interpretation and Intercultural Communication' in *The Journal of Specialised Translation* issue 15, Available at: https://www.jostrans.org/issue15/art_sakellariou.pdf Accessed: 27.9.2018.

[8] For more information regarding *tafsīr* see section 5.2.2

[9] See Appendix 1.

[10] Mohd Aderi Che Noh and Ab Halim Tamuri and Khadijah Abd. Razak and Asmawati Suhid 2014 'The Study of Quranic Teaching and Learning: United Kingdom Experience' in *Mediterranean Journal of Social Sciences* Vol 5 No 16 Available at: https://www.researchgate.net/publication/271104786_The_Study_of_Quranic_Teaching_and_Learning_United_Kingdom_Experience Accessed 27.9.2018.

reading, not for understanding, but for the end result "I was able to read the whole, entire Qur'an. And they, my family had a huge, big celebration there's like... Once you finish reading the Qur'an, that is like a graduation in itself." Despite the apparent inconsistency of his statement that "reading for reading sake" is pointless, David also complied with the custom for the sake of the joy of the family and the commemoration that takes place.

Likewise, Edward,[11] (also not part of the six using English), an American-born Muslim from an Arab background, is very explicit about the problems of non-Arabic speakers wrestling with the Arabic language, "…my dad would make a lot of comments about the Qur'an. How the translations were wrong and his thing was like, 'You have to read it in Arabic and you can't read it in English.'" Though he claims to understand his father's position, Edward further states, "But in practice, if you don't know Arabic and you want to read the Qur'an, you need to be able to read to understand what's going on." To him it is a needless issue of time and effort, "First you got to take, you know, ten years of lessons in Arabic so you can understand it." However there appears to be a tension between accepting that Arabic should not be required and finding a satisfactory outcome. He continued, "…since I've been trying to find a good copy of the Qur'an [*in English*] and I can't find a copy that I can completely vouch for… The translation has, like, errors, which are clearly inaccurate." So, for Edward, reading an English translation is still not a viable option.

For David, reading the Qur'an is also tied to prayer "…there's also for prayer's sake, because if, when we pray… When I pray specifically, I speak in Arabic." Yet, he acknowledges there may be a need for translation. "You can try reading translations, the translation of it and understand it, that's perfectly fine…" This is an allowance for new converts, "but for those who are new to religion, or they're learning …I believe you are allowed to say it in English." David further clarifies his point by including, "God is very forgiving. He's, almost in a sense, he's a little bit liberal because everything is up to your own interpretation."

David is not explicit on what aspects of 'interpretation" he is directly referring. However, through the context of the conversation, I conclude that it is his interpretation of the Qur'an, that he is justifying, without clarification of which methods of interpretation are utilized. My reasoning is as follows: First, though he initially begins talking about God being forgiving in the use of non-Arabic languages, in the following

[11] See Appendix 1.

sentence he highlights how he characterises God, and what that means to him. Second, it seems that his use of "your own interpretation" is not about language, but about God's permissibility, (which he qualifies as "liberal"). Third, the fact that David is considering the use of English as part of one's ritual is an interpretation, that goes against the *taqlīd* standard. In this sense he could be justifying his stance, which he understands to be his own interpretation.

Martin Stokhof, of the Institute for Logic, Language and Computation, declared that, "Meaning somehow must be specified independently of, and prior to, interpretation."[12] While that may seem to be a common-sense statement, never-the-less it is possible that one can assume an interpretational role without a proper understanding of meaning. While David states that his understanding of Qur'anic Arabic is lacking, he reads without understanding, and believes that God accepts his interpretation of the Qur'an (and thereby presumably Islamic practices which he believes is substantiated by the Qur'an). Yet, he relies primarily on second-hand information from what he learns from the internet or his parents. It seems plausible considering the common practice of reading without understanding that many Muslims share, that there is little interpretation, but rather an assimilation of information gathered from other informants. However, there seems to be a belief that there is a Qur'anic foundation and ultimately a personal interpretation of the Qur'an vicariously.

Abdullah Saeed is the Director for the Centre for the Study of Contemporary Islam at the University of Melbourne. He contends that presently there are three different methods of interpretation relating to the Qur'an: exegesis (*tafsīr*), law (*fiqh*) and a "contextualist" approach, which he states is more "flexible."[13] He further classifies some interpreters as 'textualists', those that adhere to literal words of the Qur'an without a socio-historic context. There are also semi-textualists who are often neo-revivalists that apply modern idioms to their apologetic methodology. Finally, he explains that contextualists "…emphasize the socio-historical context of the ethico-legal content of the Qur'an and of its subsequent interpretations."[14]

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[12]Martin Stokhof 2001 "Meaning, Interpretation and Semantics" Available at: https://www.researchgate.net/publication/266983173_Meaning_interpretation_and_sematics/link/02e7e531dcd62c9772000000/download Accessed: 07.12.2020 p. 6.

[13] Abdullah Saeed, 2006 *Interpreting the Qur'ān: Towards a contemporary approach*, London: Routledge, p. 1.

[14] Saeed *Interpreting the Qur'ān*, p. 3.

Though Saeed may be correct in acknowledging that there are three more-or-less acceptable (though debateable) methods of interpretation, the typical Muslim does not necessarily seem to adhere to any of those methods of interpretation directly, but rather relies on others as examples to follow. However, there seems to be a "Western" attitude of individuality of the Western Muslim concerning their perception of independent interpretation. Despite other Muslims being their source of knowledge, an individual's faith is still their personal faith, separate from that source, and not part of a collective mindset. While not necessarily an interpretation based on *tafsīr* or *fiqh*, there is still space for Saeed's contextualist approach to interpretation, based on the respondents' present socio-historical realities.

In David's case, though he primarily gets his information from his mother, who in turn gets her information from "…so many different shaykhs." He complains that "…the rules are a bit too extreme." Instead he insists that, "That's not really how it should be. It should be open-ended… because it's always a sense of ethics and morality. When to come how to…it's like, 'How well do you, what works the best.'" David's interpretation of ethics and morality is no longer solely informed from his parents, but is also partially shaped from an American/Jacksonville context where he grew up. In other words, acknowledging that there are holes in his understanding, he finds meaning, not only in what could be reliable sources of parents and shaykhs, but in his particular situation as well.

This section highlighted one issue of interpretation, finding meaning as the basis of interpretation. Without meaning, there can be no interpretation. In the above example, contextualisation is the medium used to find meaning. In the following section, the search for meaning continues in the discussion of the use of *tafsīr*s.

### 5.2.2 The Use of Tafsīr

Qur'anic exegesis, known as '*tafsīr*' is an Arabic word defined as, 'to explain or expound.' *Tafsīr* is a systematic Qur'anic study for the purpose of "discovering its meaning and implication."[15] According to Asyaf Hj Ab Rahman, Firdaus Khairi Abdul

[15] Asyraf Hj Ab Rahman, and Firdaus Khairi Abdul Kadir, and Fadzli Adam 2017 'The Development of Tasir from the Time of Prophet Muhammad (PBUH) Down to Ibn Kathir' in *Medwell Journals* Available

Kadir and Fadzli Adam,[16] contemporary *tafsīr*s have one of five orientations. They have a methodology that uses one or a combination of Salafi Orientation, Scientific Orientation, Rational Orientation, Sociological Orientation, and Movement Orientation. The Salafi Orientation emphasises overcoming social and economic Western influence through the Qur'an's direction for humanity. The Scientific Orientation uses modern science as a governing truth to Qur'anic interpretation.[17] Among the many names for the Rational Orientation are *tafsīr bi-al-ijtihād*,[18] *tafsīr bi-al-ra'yi*,[19] *tafsīr bi-al-dirāyah*[20] and *tafsīr bi-al-'aql*.[21] The Rational Orientation uses informed opinion as the basis of its exposition.[22] The Sociological Orientation interprets the Qur'an via social problems that emerge.[23] The Movement Orientation is created to inspire a renewed course of action.[24] Furthermore, there is often a contemporary stress in the use of the Qur'an to interpret the Qur'an and the idea that, "There is one and only one correct reading of the Quran for modern interpreters."[25]

Eleven of the respondents claimed that they owned *tafsīr*s, and another three (who made no assertion to presently own one), shared that they used to use them, but no longer need to do so. Furthermore, only eight of the eleven use them presently, (seven, of which, are non-Arabic speakers). However, only three of those interviewed assured me that they do not use *tafsīr*s in any capacity, though one of them was also part of the group who did so at some time.

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at: http://docsdrive.com/pdfs/medwelljournals/sscience/2017/1184-1190.pdf Accessed 28.9.2018 p. 1185.

[16] Both Asyraf Hj Ab Rahman and Firdaus Khair are from the Centre for Fundamental and Liberal Education at the University Malaysia Terengganu. Fadzli Adam is from the Institute for Islamic Products and Civilization at the University Sutan Zainal Abidin.

[17] Asyraf HJ. Ab. Rahman, and Wan Ibrahim Wan Ahmad, and Nooraihan Ali 2011 'Fi Zilal al-Qur'an: Sayyid Qutb's Contemporary Commentary on the Quran' in *International Journal of Business and Social Science* Vol. 2 No. 12 Available at: http://ijbssnet.com/journals/Vol._2_No._12;_July_2011/31.pdf Accessed 28.9.2018, p. 282.

[18] Arabic phrase meaning "the explanation by *ijtihād*" (comparing the four sources).

[19] Arabic phrase meaning "the explanation by opinion."

[20] Arabic phrase meaning "the explanation by expertise/knowledge."

[21] Arabic phrase meaning, "the explanation by intellect/reason."

[22] Muhammad Sofyan, and Muhammad Arifin, and Supardi and Milhan 2015 'The Development of Qur'anic Interpretation in the Era of Reformation in Indonesia' in *IOSR Journal of Humanities and Social Science* Vol. 20 Issue 6, Ver. II Available at: http://www.iosrjournals.org/iosr-jhss/papers/Vol20-issue6/Version-2/B020620816.pdf Accessed 29.9.2018, p. 9.

[23] Sofyan, and Arifin, and Supardi and Milhan 'The Development of Qur'anic Interpretation', pp. 9-10.

[24] Rahman, and Ahmad, and Ali 'Fi Zilal al-Qur'an', p. 286.

[25] Rahman, and Kadir, and Adam 'The Development of Tafsir' p. 1185.

There is an element of expertise needed to properly interpret the Qur'an, according to Felix, (a member of the seven mentioned in the paragraph above), "…there are some verses that you, if you take them out of the contexts and practice them you will be in trouble." Felix further describes his process of interpretation as having elements of context, knowing the story behind a particular *sūrah*, and of course linguistic challenges. He maintains, that there are, "…annotated translations that helps you understand why it says it like that in here. Why this verse is talking about this and that, you know. So, it's much easier for us."

There are "…some of the verses, of course, very controversial verses has been used by some the media outlets," Felix explained the need for vigilance. This required some additional "…digging on those verses." In the end he stated that, "I'm glad I did, cause it's apparently, people are lying very easily. Trying to give a wrong message very easily, you know." However, he did not share which were the divisive verses, whose position was being disputed, or what is the message presented (right or wrong).

It may be important to note that Felix is confident that there is sufficient help in annotated translations or *tafsīr*s. He is also assured that there are a number of other scholars available on YouTube that can also aid his interpretation. When asked which scholars he follows, he mentions by name Fethullah Gülen (1941- present),[26] Nouman Ali Khan (1978 - present),[27] and a former student of Gülen's living in New Jersey. Felix seems confident that due to this network he will, "…never take a verse out of context and interpret it or apply it to my life." Specifically, it is his opinion that as long as he adheres to teaching that is not taken out of context, then Felix will never erringly misuse the Qur'an by wrong interpretation or application.

Similarly, John[28] uses a *tafsīr* as a reference for the things he did not understand in the Qur'an. He explained that the *tafsīr*, "…is like an interpretation of the Holy Qur'an and then it goes page by page and then it tends to explain what actually that means and what context." For him context of certain Qur'anic passages were important in order to understand the relevance in his circumstance.

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[26] Gülen is the Sufi, Turkish founder of the *Hizmet* movement. He presently lives in the United States and is being sought by the Turkish government for a failed coup attempt.

[27] Khan was born in Germany and grew up in Pakistan. After coming to the United States, he created the Bayyinah Institute for Arabic and Quranic Studies in Euless, Texas.

[28] See Appendix 1.

Though *tafsīrs* may be a useful tool for many Muslims, few Muslims seem to avail themselves to the extra study. Ian[29] explained, "We have *tafsīr*, but I don't really read it, because it's a bigger book than Qur'an. It's more work." Likewise, when asked about a *tafsīr*, Henry[30] claimed, "I think we have a big one at the house. We bought it in Iraq." Henry seemed unfamiliar with the actual volume, this insinuates that although they may possess a *tafsīr* it is seldom consulted. While he did not explicitly declare the reasoning behind the lack of the extra-reading, it seems, that like Ian, that they rationalised, there was little reason to create extra work for religious purposes. If the Qur'an is already meant to be read to fulfill religious duties, and the ability to rely on others for social, cultural, and cues for religious duties to ensure their practicing success, then to further study a *tafsīr* can seem redundant.

An interesting dimension to the discussion occurred, when asked whether they used a *tafsīr*, two of the respondents mentioned a person. For example, Tammy[31] proudly proclaimed, "I also, like, mainly asked my dad, my step-dad… I like to better get the people that are like doing the *tafsīr*." It seems that in her opinion that knowledgable people are equivalent to a *tafsīr*. She develops it further, "They're also scholars," (those who write *tafsīr*s), "but I have also a scholar at home. So, I might as well take advantage of that and ask him questions." Additionally, she states that this gives her an advantage to have an ongoing debate with her step-dad, to gain further clarity.

In the search for meaning, thus far, it appears that many Muslims want to know the Qur'an, even if they cannot directly understand the text. However, Islamic scholars have provided *tafsīr*s in order to help foster comprehension for others. Despite that, few avail themselves of the extra reading/study required and therefore rely on following others. There also seems to be a trend of desiring to make Islam a personal experience that will be explored in the next section.

### 5.2.3 Traditional or Personal?

There can be a disconnect between what is considered the proper way to interpret the Qur'an from an Islamic scholar standpoint and the non-academic Muslim. This is highlighted by the Professor of International Law and Arbitration at Brunel University

[29] See Appendix 1.

[30] See Appendix 1.

[31] See Appendix 1.

Law School, Ilias Bantekas, when he described Islamic law as "…undergoing a process of fragmentation that varies from country to country. This result is also attested by Islamic scholars who argue that the Qur'ān and the *ḥadīth* are insufficient to deal with the exigencies of daily life…"[32] Bantekas seems to support Saeed's recognition that many Muslims have a contextualist approach to interpreting the Qur'an, which could make it personal or non-traditional.

Fourteen of the twenty-five interviewees directly answered the question, "Would you consider yourself a traditionalist or a modernist?" Seven of them attested that they were modernist, while only one admitted to being a traditionalist. Three claimed to be both modernist and traditionalist depending on the situation, and another two said they were neither. After a lengthy explanation one claimed to be "somewhere in between," but later added, "if you were to ask me where I find myself, more modern." One interviewee did not know how to answer the question.

As an example of how a personal approach to interpreting the Qur'an is justified, Adam[33] has a completely different response concerning his interpretation. When asked what methods he uses to interpret the Qur'an, he initially reacted with, "Ha, there's no method!" However, as he thought about it, he went deeper:

> My methods? It's like, how would you describe… Listen to this. And let's take a *Ayat* from the Holy Qur'an right now. It says, God's like, "I give you, your understanding in whichever way you form." He's like, "All of you," He's like, "You're going to be gaining a different method of understanding." He's like, "Now, what am I going to do with you?" He like, [Sic] "What do I do with you? I show you everything that I need to show you until your heart settles and until you find your peace." He's like, "And that's enough for you."

To Adam, it seems that God provides the innate equipment necessary to interpret the Qur'an. He elucidates, that this is acknowledged in two ways. First, there is an internal dialogue that is reinforced by a peaceful core. He further states, "Because you yourself can bear witness for everything. Deep down inside we all know, we all know. Now, when I, when I find my peace to the point where I say it's enough and it's enough and I can fall asleep like a baby…" The second is by way of happiness and satisfaction, which comes by seeking and finding knowledge, which ultimately leads to peace.

It appears that Adam has an intuitive, if it feels right, then it must be right attitude, concerning his faith. However, he never explains how that would be presented in practice or belief. Adam regularly attends the mosque and is not cavalier in his approach to prayer

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[32] Ilias Bantekas, 2009 'The Disunity of Islamic Criminal Law and the Modern Role of Ijtihad' *International Criminal Law Review* 9:651–665 p. 655.

[33] See Appendix 1.

or the keeping of Ramadan. Perhaps, he is silent about things that do not readily conform to the expectations of others. It is also possible that others hold similar viewpoints, as Adam, so that they would not seem aberrant.

Much like Adam, Charles[34] says that the entire Qur'an can be summed up in one *ayah*. "I always say that one it says, 'Truly by the remembrance of God, hearts will find peace.'" After explaining that it is impossible to translate the word, "peace" he explains that "…your heart will find the true meaning of tranquillity, the peace, everything, the state of tranquillity only by remembering God." "Remembering God" is central to Charles' faith. He continues, "Which is *dhikr*, you know."[35] Like Adam, Charles is looking for an inward peace to guide him through an existential journey.

However, within Qur'anic interpretive constructs there is range of Islamically acceptable possibilities. From a legal (*fiqh*) standpoint Kamali explains the six traditional means by which the Qur'an is interpreted. He actually uses the word legislation in lieu of interpretations, as he is using the Qur'an to derive *sharī'ah*.[36] First is by way of "The Definitive and the Speculative." The Definitive[37] are those things that are clearly defined with only one possible interpretation. The Speculative[38] refers to verses of the Qur'an open to *ijtihād*. Second, Brevity and Detail[39] refers to the greater details relating to a subject that is written within the Qur'an, the less open that subject is to interpretation. The fewer details, the greater amount of interpretation permitted. Third, the Five Values contains the spectrum of obligatory (*wājib*), commendable (*mandūb*), permissible (*ḥalāl*), reprehensible (*makrūh*) or prohibited (*ḥarām*). Fourth, Ratiocination[40] or causation is a search for the cause and effect of an action. Fifth, Inimitability[41] for Muslim scholars has four parts: style, narration, prophetic, and reform. Sixth, Occasions of Revelation[42] regards the circumstances surrounding certain sections of the Qur'an.[43]

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[34] See Appendix 1.

[35] *Dhikr* is an Arabic word meaning to mention or remind. Used by Sufis to repeat words or phrases to bring about oneness with god.

[36] Kamali 2003 *Principles of Islamic Jurisprudence*, p. 2.

[37] Arabic, *qat'i.*

[38] Arabic, *zhanni.*

[39] Arabic, *al-ijmāl wa-al-tafṣīl*.

[40] Arabic, *ta'līl*.

[41] Arabic, *i'jāz*.

[42] Arabic, *asbāb al-nuzūl*.

[43] Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 27-55.

Qur'an interpretation then from the traditional point of view is an exacting procedure that requires an in-depth knowledge and understanding of those processes. For the typical lay Muslim, interpreting the Qur'an to create a personalised *sharī'ah* would often be beyond his/her scope of expertise. However, due to a desire to connect more fully with one's faith, a Muslim may find alternative ways for interpretation, based on their personal understanding of the Qur'an relevant to the times and customs of the nation in which they live. This would cause the fragmentation that Bantekas alludes to, and combined with a difficulty of understanding Qur'anic Arabic, would likewise explain his statement that the Qur'an and *ḥadīth* are not sufficient.

Bantekas' statement is further highlighted in Gary's[44] perspective. Gary maintains that he is a Muslim, but admits that he seldom attends mosque, except to occasionally pray, or meet a friend. He explains that there is a problem in the mosque because "…down here they got the Indians that are interpreting the Qur'an a little bit differently." He explains that they bring in scholars from one part of the country and others, "…say something different sometimes from somewhere else in the world." This results in "You know there are a lot of interpretations of this and that. This is a problem. Down here people get confused. They get really confused down here." Gary finds that due to what he sees as various interpretations of the Qur'an based on Islamic scholars from diverse parts of the world, it can be bewildering. It is his affirmation that interpreting the Qur'an a little bit differently causes others to "get really confused." He stressed this by making the statement twice in a row, suggesting that for him it was a serious issue.

Edward initially states that he has a personal interpretation of the Qur'an. "Usually, I have tried to determine what it is based on the Qur'an and the best thing that I could see." Then he at once reconsiders and adds. "If I could not tell what it was, then I would ask my dad, I would ask somebody else." He shares that on bigger issues he really should find educated sources, but he does not explain what would constitute an educated source for him beyond his father. "It's not, you know, it's not really right to just be inventing answers yourself. So, ah so, that's important to listen to others."

As was stated in chapter 4, Islamic jurists believe that God created *sharī'ah* and that the scholars are simply revealing what God has already decreed.[45] Therefore, there is a reluctance among many Muslims to assert something outside the accepted norm. Creating a ruling that utilizes unacceptable means or produces objectionable results is

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[44] See Appendix 1.

[45] Chapter 2, section on *Ijtihād.*

often referred to as "innovation." When Edward shared that it's not right to invent answers, it appears that it is the innovation that he is trying to avoid. Edward seems torn between a desire for interpretational individuality and a press for conformity.

In a question of the sources, for David and others, the Qur'an has the pre-eminence. David explains that "…for me, I say that, Islam, the Qur'an holds ultimate law." Edward concurs, "…the Qur'an, Shia, Sunni everybody agrees that the Qur'an is the Qur'an. Nobody has any disagreement over that." However, Edward does not share how they interpret the Qur'an differently either individually or corporately. While the Qur'an may have prominence it is not the only voice in the formation of *sharī'ah* or the need for interpretation. The responses concerning the *aḥādīth* will likewise be examined.

## 5.3 The Ḥadīth and the Sunnah

The traditional use of the Qur'an was briefly explained to offer a comparative reference for how the selected Muslims use the Qur'an, likewise, the *ḥadīth* will also be considered. Often used interchangeably, the *ḥadīth* or the *sunnah* are the second source of *sharī'ah*. The difference is that that *Sunna*h refers to the actual practices of Muhammad, while the *ḥadīth* are the written traditions that contain those practices. While the Qur'an is considered the undisputed, Holy Scripture of the Islamic faith, the same cannot be said of the *ḥadīth*. Consequently, there are more complicated processes of interpretation for Muslim scholars. The *ḥadīth* are generally made up of two parts, the chain of transmission,[46] which names the persons who related the tradition in succession, and the tradition.[47]

### 5.3.1 Malleable Interpretation

While the Qur'an is said to be the "ultimate law," the same cannot be said for the *ḥadīth*. Though the *aḥādīth* are considered a source and a useful tool for deriving *sharī'ah*, they are not in the same category of sacred writing/scripture to Muslims as the Qur'an. Mohammad Hashim Kamali explains it this way, the Qur'an and the *sunnah* are

[46] Arabic, *isnād*.

[47] Arabic, *matn*.

"distinguished."[48] This signifies that despite the fact that the *sunnah* carries sacred information it is never to be considered canonical at the same level of the Qur'an. They are separate entities. Which leads to the next point, the Qur'an has priority over the *ḥadīth*.[49] Therefore, the *Sunnah* is subordinate to the Qur'an. As a source, the *ḥadīth* and/or *sunnah* should, first, confirm the Qur'an. Second, it may be employed as a clarification of the Qur'an. Third, when the Qur'an makes no reference to a subject, the *Sunnah* may be used to make a ruling.[50] Due to the oral nature of the *aḥādīth*, there are further difficulties inherent in interpretation and trustworthiness.

There is an accepted procedure of categorisation of the *ḥadīth*. Kamali explains the means of interpreting the *sunnah* by *fiqh*. First, he states that the *sunnah* by virtue of carrying the sayings, acts and teachings of Muhammad gives them "Proof-Value".[51] This authenticity can be divided into the realms of "definitive"[52] or "preferable conjecture"[53] Second, the classification and value of the *ḥadīth* is calculated. They are sorted either by subject matter or by the chain of transmission. The subject is further divided into "verbal"[54] that contain the sayings of Muhammad, "actual" which are the deeds of Muhammad, or what was "tacitly approved"[55] of by Muhammad. All of them can also be partitioned into either "non-legal" or "legal." Non-legal[56] includes the everyday conduct of Muhammad and can only explain what is "permissible." The "legal" are those that have a feature of *sharī'ah*. These are arranged by Muhammad's capacity of Prophet, Head of State, or as Judge. [57]

Nine of the interviewees made a positive statement that they do study the *ḥadīth*. Yet only four of those nine suggested that the *ḥadīth* are necessary, (only one of them actually making that assertion). However, three others emphatically asserted that the *ḥadīth* cause problems within the mosque. Two of the three argued, this was due to a

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[48] Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 77-78.

[49] Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 78-81.

[50] Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 81-87.

[51] Arabic, *Ḥujjiyyah* meaning evidence.

[52] Arabic, *Qat'i* – The same meaning as the Quranic classification of "definitive."

[53] Arabic, *al-zhann al-rājih*.

[54] Arabic, *qawli*.

[55] Arabic, *taqrīri*.

[56] Arabic, *ghayr tashri'iyyah*.

[57] Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 63-77.

faulty methodology surrounding the *hadīth*, while the third surmised it was due to erroneous interpretations.

Despite what is accepted interpretation, Benjamin has a way of explaining his view of a particular *ḥadīth*. As an example, he recalls, "There's a *ḥadīth*, clear *ḥadīth* saying of Prophet Muhammad, peace be upon him, 'Anybody who sells, who buys, who transports'… right? 'Who profits out of…' you know, 'alcohol is cursed'… you know." Afterwards Benjamin rhetorically asks, "What does this mean?" He immediately answers his own question with, "You shouldn't take it as a literal. Just stay away from this, right? In any possible way."

There are exceptions to Benjamin's rule of "Just stay away." He expounded, "I read an opinion, that because of the circumstances you're in, you're not consuming yourself and you don't want other people to consume, but it's their choice to consume. For your survival you kind of offer them…" He applied these conditions to friends that bought a petrol station and needed to sell alcohol. Here Benjamin expands the idea from survival to profitability. Though he states that he wouldn't judge them for selling alcohol, he adds, "I would probably struggle a lot. I would probably… Maybe I would change, but now I think, I would struggle a lot."

In Benjamin's assessment, even though according to the *ḥadīth* there is a curse set upon anyone who sells, buys or transports alcohol, a provision is made for the contrary. There are two ways that he validates his interpretation. First, his statement that one should not take it as literal, opens the *aḥādīth* to personal interpretation. He does not explain in what capacity the *aḥādīth* should be understood. However, due to his pronouncement that he would struggle a lot if he was in the same situation, suggests that the *aḥādīth* should still be taken very seriously. Second, he added "In any possible way." Initially, I believed he was referring to a "way" as selling, buying or transporting, meaning stay away from all potential venues of alcohol distribution and consumption. However, due to his flexibility in his friend's petrol station business, I'm inclined to believe that the "possible" refers to the possibility and perhaps the impossibility of staying away from alcohol. In other words, if you are able to stay away, then do so, but if it is not possible there are allowances that can be made.

Likewise, in a similar situation relating to interest and his own livelihood, Benjamin indicates how he copes with the issue of interest or *ribā*. He explains:

> I am facilitating for other people to get a to loan... but I look at it this way... I help people to find a space for their business needs. If they have cash, they buy cash. If they do not have the cash, they do the financing, you know, they apply for a loan. Well, this is, doesn't really concern me much, because I help them with their actual important, big part. I find them a space, you know, to completely fit their list. But if they want to buy, I find them a space to buy. Then I don't really get

> involved. I can help them. I can connect with people. But it's totally their choice to choose their way.

A well-known aspect of *sharī'ah* is that Muslims are forbidden to be involved in interest. Yet Benjamin is willing to facilitate a loan for the purchase of business property for several reasons. First, like the selling alcohol, it becomes an issue of making a living. Second, the loan is not for himself, nor is he forcing anyway to take the loan. Third, it is important to them and their business. Finally, it is a way for him to connect with people. It seems that the relationship formed in the deal, holds a high value for Benjamin and is worth the infraction of *sharī'ah*.

The prohibition on *ribā* is based on verses from the Qur'an and various *ḥadīth*.[58] Therefore, it is a strongly held aspect of *sharī'ah* and had seldom been debated before the advent of *fiqh al-'aqalliyyāt*. Previous rulings made by the ECFR concerning *ribā* utilising minority *fiqh* was discussed at length in chapter 4. However, there is a point that has long been considered traditional *fiqh*, which Abu Ishaq al-Shatibi (d. 1388) wrote much about as an Andalusian Muslim which had a profound influence on the development of *fiqh al-'aqalliyyat* centuries later.[59] Tauseef Ahmad Parray[60] considering al-Shatibi's contribution wrote:

> Regarding questions related to God, *'ibadat*, humans should look to the Qur'an or the Sunnah for answers, but regarding the relationship between humans *mu'amalat*, humans should look for the best public solution. Since societies change, al-Shatibi thought that the mu'amalat part of the Islamic Law also needed to change.[61]

The significance of Shatibi's contribution is readily seen in the change of society which caused Benjamin to reassess *sharī'ah* in his American setting. In this case, it could seem that the best "public solution" for all who are involved would be to help in developing a loan, thus creating an interest-carrying situation. This new location also gives Benjamin the ability to "not judge" his fellow Muslim who sells alcohol, even if the situation would make him uncomfortable.

I believe it is also noteworthy to comment that the original ECFR ruling did not allow interest bearing loans for commercial purposes, (Chapter 4). Yet, Benjamin was

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[58] Makram Ghatas Ishak 2019 *Everyday Practices and Shari'ah Interpretations The Dynamics of Shari'ah Interpretations in the Life of Muslims in Belgium* Thesis Middlesex University available at: http://eprints.mdx.ac.uk/27295/ accessed: 30.04.2020, pp. 75-76, 183.

[59] Alexandre Vasconcelos Caeiro, 2011 'Fatwas for European Muslims: The Minority Fiqh Project and the Integration of Islam in Europe', Utrecht University.

[60] Tauseef Ahmad Parray is at the Department of Islamic Studies in Aligarh Muslims University in India.

[61] Tauseef Ahmad Parray, 2012 'The Legal Methodology of "Fiqh al-Aqalliyyat" and its Critics: An Analytical Study' *Journal of Muslim Minority Affairs* 32/1:88–107, p. 96.

willing to move beyond the ECFR ruling to include business loans for his afore mentioned reasons. It is not clear whether he knew or understood specifically the ECFR's ruling on interest. However, he did understand that there were rulings involving interest. Benjamin earlier explained his awareness of the issue:

> I have heard different opinions about it… In America, if you want to buy a house you have to get a mortgage. A mortgage means you're going to get a note with interest, right? So, um, that's number one. If you own a business, you know, you can take a business loan, or you… credit cards, (those kind of things). What is the, you know, *fiqh*? What is the Islamic jurisprudence says, right now?

Despite knowing traditional views of alcohol and *ribā*, Benjamin was willing to look beyond the *taqlīd* to find other rulings to assist him in the US context. This suggests a willingness to take a far greater malleable approach to *sharī'ah*, than might be expected.

In many ways Benjamin could be seen as a model Muslim. He regularly attends mosque, assists in group *iftār*s and is actively engaged in interfaith events. There is a strong possibility that if the discrepancy between the ECFR ruling on *ribā* and his business practice was pointed out to Benjamin, he would be mortified. He already explained how he was conflicted in a justifiable selling of alcohol. How much more would he "struggle" against a ruling that did not justify *ribā* in commercial loans. Though, Benjamin still has a fervent reliance on *aḥādīth*, there are others who do not share in Benjamin's traditional slant.

### 5.3.2 A Lack of Trust

Even though traditionally the *aḥādīth* were a major source in deriving *sharī'ah*, there seems to be a faction that has less confidence in the *aḥādīth*. There is also a growing minority of "Qur'an only" Muslims, Qur'anists who insist that the Qur'an is sufficient in and of itself. This comes from the phrase, "*Tafsīr al-Qur'an bi-al-Qur'an*," meaning the interpretation of the Qur'an by the Qur'an.[62] Qur'anists call for a rejection of the *aḥādīth* and other sources for their own interpretation of *sharī'ah*. While not all those with doubts concerning the *aḥādīth* are Qur'anists, they often have a tendency toward Qur'anist ideology. Within the scope of this thesis, there were five interviewees, (20%), who were willing to share that they only trusted the Qur'an. Only one of which was actually first generation. The others were second or 1.5 generation.

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[62] Mansoor Moaddel, 2005 *Islamic Modernism, Nationalism and Fundamentalism Episode and* Discourse Chicago, IL.; University of Chicago Press, p. 63.

As an example of the reasoning behind the *aḥādīth* debate, Edward appears to have some strong reactions towards the *aḥādīth*. He shared that, "when I was little was, so most of the divisions that Muslims come from the *ḥadīth*." The reason for the disagreements, according to Edward is, "…that at least one third of the *ḥadīth* out there are false. They're just made up. People just wrote them. And there's no real way to verify which *ḥadīth* is true or not."

Edward postulates that the very premise of the *ḥadīth* is flawed. His problem is with the method of authentication by use of the *isnād*[63] of the *ḥadīth*. Traditions are passed on through a continuous string of people "…who were solid and believable. And so, so you can have, and you have *ḥadīth*, which have, like, a string of twenty people. And it's like, ok this is good *ḥadīth* because all these twenty people are good people." In comparing himself with his father, Edward states, "So, my dad's thing was… does this *ḥadīth* fit what the Qur'an says. And if it does not, if it contradicts something in the Qur'an then it cannot be true… I of course, have to take it a different, a step further…" He states that the concept of the *isnād*[64] is "the craziest thing ever" and further calls it illogical. He compares it to the children's game of telephone where information is transferred from one to another to see what changes have been made. At the end of the line, "How can you tell that this even a *ḥadīth*?"

While it is widely accepted that there are unreliable *aḥādīth*, Muslims scholars traditionally, have attempted to identify them and classify them accordingly. This is accomplished, Kamali writes, that the chain of transmission can be classified as "continuous,"[65] "well-known,"[66] "solitary,"[67] "hurried,"[68] "perplexing,"[69] and

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[63] The chain of transmission of the tradition.

[64] Within the interview Edward actually uses the word "*matn*," However, through context of his conversation, it is obvious he is referencing the *isnād* and the change has been made accordingly.

[65] Arabic, *mutawātir*.

Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 93-95.

[66] Arabic, *mashhur*.

Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 95-96.

[67] Arabic, *ahad*.

Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 96-108.

[68] Arabic, *mursal*.

Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 108-110.

[69] Arabic, *mu'ḍal*.

Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 96-108.

"broken."[70] In a "continuous" transmission, all the narrators that passed on the tradition are viable and can be properly traced back to the tradition. The "well-known" means that there are one or two reporters in the chain, however, the tradition became widely known within the first two generations after the death of Muhammad. A "solitary" line of transmission has only one reporter. These first three categories are seen as viable *ḥadīth*, while the next three are at least suspect. "Hurried" transmissions are those that are missing the link to Muhammad's direct observer. "Perplexing" transmissions are missing a single link in the reported chain. While all "hurried" transmissions may be "perplexing," not all perplexing can be "hurried." When two consecutive links are missing it is said to be "broken." There are some *ḥadīth* that have been distorted or forged.[71]

Despite Edward's reluctance to accept the *aḥādīth*, he is quick to point out that measuring the *ḥadīth* according to the Qur'an is still a valid way of corroboration. It is far more important to him that no one else's faith or Islamic practice be disrupted by his own convictions concerning the *ḥadīth*. A prominent feature of classifying the *aḥādīth* is by verifying the *isnād*. Even though there is much scholarly work devoted to substantiation there is still a mistrust, whether in the methodology or the scholarship. In Edward's case it seems his scepticism lies in the methodology of using the *isnād* as part of the verifying process.

There seems to be a gap between Edward's private side of faith, where following the *aḥādīth* might seem "crazy," between the apparent recant where he affirms the *ḥadīth* supports the Qur'an. However, his concern for the faith of others, I believe is only a partial explanation. It seems that many Muslims understand the limits of what is acceptable Islamic dogma. To divulge anything beyond those boundaries, even if heartfelt, can be a difficult process for many Muslims. It can often appear as though, they are saying opposing statements at the same time, when in reality it is the struggle between personal conviction and public expectational dogma.

Regarding the *ḥadīth*, Adam says, "…you hear a lot of them through fellow Muslim brothers and sister, a lot imams. Many, many people talk about them. I know a good amount…" At this point in the conversation it seems that he agrees with Edward on the subject of the splits that the *ḥadīth* may cause. Adam continues, "I've seen many misunderstanding through people, you know." He reasons, "People jump to so many

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[70] Arabic, *munqaṭi'*.

Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 96-108.

[71] Kamali 2003 *Principles of Islamic Jurisprudence*, pp. 87-92.

conclusions." To Adam, this is a product of poorly executed exegesis on the part of the non-scholarly Muslim.

This is further elucidated as Adam gives two instances why he believes this is so. First, "They don't understand how rich a sentence is." It seems that he supposes the issue to be interpretation or possibly their ability for comprehension. He qualifies his answer, "If me and you are here in this time and place within this context. Right, context… yea, but there's a lot of good *ḥadīth*." While not explaining much further, Adam realises that much like Benjamin's reinterpretation of the *aḥādīth* concerning the sale of alcohol, there is an element of time and place in interpreting the *ḥadīth*. Therefore, the second, "context," appears to be connected to the first in relation to interpretive measures. To what extent the "divisions" (Edward) or "misunderstandings" (Adam) occur was not expressed by either person.

While it is possible for a Muslim to have misgivings about the *aḥādīth*, it is not very likely that they will or can be totally left out of the interpretation equation. There are centuries of invested scholarship devoted to using them as an interpretive source alongside the Qur'an. It is Ayman Ibrahim's understanding that "For traditionalists, it is unthinkable to throw away thousands of received (and revered) traditions about Muhammad, as classical understandings of religion will ultimately collapse."[72] It is Ibrahim's assessment that due to the clarification that the *aḥādīth* provide, "Islam as we know it today, cannot exist without Muhammad's hadiths and Sunna…"[73] Perhaps, overstated, but if the Qur'an became the only source for *sharī'ah* it is also not clear what form *sharī'ah* would take, and what interpretive methods would be permissible.

In the search for *sharī'ah* interpretation, this chapter has looked at traditional, and some non-traditional approaches to the issue. Thus far, various views of the Qur'an and the *aḥādīth* have been examined. In the next section, perspectives that Muslims have regarding *madhhab*s or the traditional Islamic schools of jurisprudence will be surveyed and analysed.

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[72] Ayman S. Ibrahim, 2020 *A Concise Guide to the Quran Answering Thirty Critical Questions Grand* Rapids, MI: Baker Academic .

[73] Ibrahim, *A Concise Guide to the Quran.*

## 5.4 Islamic Schools of Jurisprudence

While it is generally agreed by Muslims that the essential elements of Islam do not change, there is no standardisation of *sharī'ah* between the four juridical schools. `Within modern Islamic practice there are four different Sunni juridical schools (*madhhab* sing., *madhāhib* pl.) of Islamic thought concerning *sharī'ah*.[74] Once the juridical schools were created, the settled questions of *sharī'ah*, known as *taqlīd*, became the traditionalist approach. Each juridical school derived their own *taqlīd* and Muslims were expected to follow a particular juridical school as a basis for '*ibādāt* and *mu'āmalāt*. This was accomplished in the fourth century and it was said that the 'gates of ijtihad were closed.' However, Islamic scholars such as Wael B. Hallaq are questioning those notions, (see chapter 4).[75]

### 5.4.1 Following the Madhhab

Other than a particular religious leader that a Muslim follows, perhaps the largest contribution to the interpretive voice is the *madhhab*. According to Abdal Hakim Murad, the juridical schools were established to "…protect the *Sharī'a* from the danger of innovation and distortion…"[76] Because not every Muslim can be an Islamic scholar, synthesis of sources, meanings, and *sharī'ah* are established through the *madhhab* and reinforced through community involvement with the practices associated with the same *madhhab*. For this reason, adherents to a particular *madhhab* tend to be from the same part of the world. Furthermore, if a person converts to Islam, traditionally they are expected to join a *madhhab* and stay with that particular interpretation of *sharī'ah.*

When asked about *madhāhib*, ten of the respondents claimed that they were Hanafi. Two others claimed that they follow their respective *madhhab*, but failed to identify which *madhhab* explicitly, and another three did not know to which *madhhab* they belonged. Six decided that they did not follow a specific *madhhab*, and four did not

[75] Wael B. Hallaq, 2011 'Was the Gate of Ijtihad Closed?' in International Journal of Middle East Studies, Vol. 16, No. 1 (Mar., 1984) Cambridge University Press, pp. 3-41.

[76] Abdal Hakim Murad 1999 *Understanding the Four Madhhabs* London: Muslim Academic Trust, p. 9.

mention *madhhab* in any fashion. Of the four that did not mention *madhhab*, two of them were converts to Islam from another faith, (both were the only converts interviewed).

Benjamin related the centrality of his Hanafi background, "I try to do the best of my ability to follow the *Hanafi madhhab* to… all the way." He goes on to explain that he has no issues with the other *madhhabs*, "… but, I have problems with people who don't believe in traditional *madhhab* and even deny the four *madhhab*s and they say, 'You can do, can live in just your own interpretation of the Qur'an.'"

Adam is a good friend of Benjamin's, but does not follow a *madhhab*. When asked how he negotiates the way of Islam he said, "Now who do I trust most, more than anybody? I go straight to God, right?" After assuring me that he does follow a structure, he qualifies his comments with, "I do, I follow a scripture. I follow God's Holy Qur'an as a scripture." He again notes that he does not trust another's understanding of scripture.

If Adam does not follow a *madhhab* or trust in someone else's interpretation, what method for interpretation is used? He shares that, "You know, we all know as human nature, they say it's the instinct, it's the gut feeling. You know, things of that nature …whatever feels the best." Because of the varying and perhaps contradicting opinions and thoughts it is best not to "jump to many conclusions" until such time that "…I get the understanding." He seems to say that the responsibility and therefore the final authority rest with him.

David would seem to agree with Adam when he says, "Here, you sort of… Everything is in Jacksonville, everything is for your own interpretation. Because every person has their own culture." He adds that primarily the reason for this is the confusion caused from peoples of various cultures in Islamic practice at the same mosque. He also believes that he has a Qur'anic mandate to self-interpret. Though scholars may have slightly different positions David goes on to mention, "but like for me I say, 'It's always for your own interpretation.' Even in the Qur'an it says, 'Everything is your own interpretation.'"

When asked, "Do you follow a *madhhab*?" David reiterates his position of self-interpretation and continues his reasoning, "Because you can have conflicts of which one to follow… Especially like a non-believer that, well not a non-believer, someone who's not a Muslim, that you follow someone or a *madhhab* you can sort of push them away a little bit." It is David's contention, that variations between *madhhab*s cause disputes among the Muslims, which could turn away non-Muslims or potential believers.

Like Benjamin, Charles is also a *Hanafi*. When asked about the way he follows *sharī'ah* he states, "I am a *Hanafi*, my wife is not, but I am." He proudly shares that,

"Look at the other three *madhhabs*, *Hanafi* is the most liberal one, you know." However, in the midst of answering a question relating to where the Muslim community and non-Muslim community cannot freely participate with the other, he further relates, "You know my wife wears a *ḥijāb*." He then mentions her Asian background, and explains that, "She's not a *Hanafi*. She's actually *Hanbali*, it's the most radical part." As if to catch himself he adds, "… But no, she's a good person." Even though Charles sets his liberal self in opposition to his wife's radical Hanbalism, he sincerely believes that they peacefully coexist together. He presented the differences as, "…a toolbox of many things..." where the real differences lie in the ability to eat shellfish or not, (where the *Hanafi*s are not permitted). Charles' response shows a socio-ideological divide between the *Hanafi* and *Hanbali madhāhib*, even if they can mutually live together.

When asked about a *madhhab*, Edward's response ties together thoughts concerning the Qur'an, *ḥadīth* and the *madhāhib.* He explains that he does not follow a *madhhab*. Instead he would, '…just try to go by what the Qur'an says and what makes most sense in the context of the *ḥadīth*." He reasons that, "I don't blindly follow things. Maybe I'm different from other people in that, that I don't blindly... I don't like to say, 'Ok, this is because this person, so-and-so said that should be done.'" Yet immediately states that he "Actually got decisions from my dad because my dad" Later Edward shares that, "… the labels have different meanings to different people and also in many cases convey, convey a desire to follow a particular, you know, train track which might not be accurate." It appears that on some level, Edward considers those that follow a *madhhab* blindly trundle down a track that others have laid. However, he is willing to follow his father's advice.

It is Murad's contention that due to Western influences individual interpretation is fuelled by egos where they are taught to "…'think for themselves' and to challenge established authority..."[77] This, according to Murad, is an affront to common sense and Islamic responsibility. However, it is also interesting to note that Muslims of differing *madhhab*s are often living in the same community in the West. For many, this may be the first time that they have had relationships and thereby an influx of other ideas relating to *sharī'ah*.

The Western Muslim the environmental, religio-culture-scape has changed. While in the old divide between *dār al-islām* and *dār al-ḥarb*, and a further segregation of regional *madhhab*s, it was easy for all to maintain, without question, the traditions that a

[77] Murad, *Understanding the Four Madhhabs* p. 13.

particular *madhhab* would warrant. From a constructionist point of view, considering that those divisions are done away with in the West, it should not be surprising then that this opens the way to new perceptions of reality and where there are new possible ways of interpreting *sharī'ah* that may challenge traditional ideas.

### 5.5 Through the Lens of Fiqh al-'Aqalliyyāt

The means in which the participants interpreted *sharī'ah* were varied, often deviating from traditional approaches. Among the responses, there were no simple "orthodox" answers. While the participants may have been conservative/traditional in some aspects, in others they could be considered liberal/modern. In this section, I wish to examine their responses through the lens of *fiqh al-'aqalliyyāt*, making the comparison between experience/practice.

According to Saeed, "Contextualists are found among those Fazlur Rahman called neo-modernist as well as *Ijtihādī*s, the so-called 'progressive' Muslims and more generally 'liberal' Muslim thinkers today."[78] Al-Alwani's original vision of *fiqh al-'aqalliyyat* is deeply rooted in the concept of *ijtihād*. He claims, "What we aim to do is deploy the techniques and tools of *ijtihad* in a way that is compatible with our time and the new explosion in knowledge, the sciences and means of learning and restore the role of Shari'ah in modern life."[79] A contextualist and a *fiqh al-'aqalliyyāt* approach to interpretation can seem to be one and the same as both are associated with a desire to invigorate *ijtihād* into the Islamic community. There are four key aspects of *fiqh al-'aqalliyyāt* considered, which are *ijtihād*, *maṣlaḥah*, *taysīr*, and *'urf*. The following sections will examine the afore mentioned responses to the inquiries in light of those elements.

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[78] Saeed *Interpreting the Qur'ān*, p. 3.

[79] Taha Jabir AlAlwani, 2010 *Towards A Fiqh For Minorities: Some Basic Reflections* London: The International Institute of Islamic Thought Available at: https://www.academia.edu/7121199/Towards_A_Fiqh_For_Minorities_Some_Basic_Reflections_Taha_Jabir_Al_Alwani Accessed 13.6.2016 pg. 12.

### 5.5.1 Ijtihād

An abbreviated quick definition of *ijtihād* is "…the intellect work of scholars or jurists to infer a ruling from the primary sources of shari'ah."[80] In that sense, *ijtihād* as defining *sharī'ah* for the mode of personal worship (*'ibādāt*) and interactions with people (*mu'amalāt*), cannot be performed by individuals who would not usually be considered scholars. However, that does not indicate that non-scholarly individuals do not have a personal interpretation of what *sharī'ah* means for them.

Only twelve out of the twenty-five participants considered themselves followers of a particular Juridical school of thought. Even if they acknowledged the *madhhab* in their background, it was not often understood as being significant. Out of those who stated the identity of their place in a traditional *madhhab*, all were *Hanafi*. Research Chair in Islamic Studies and Intercultural Dialogue, Ihsan Yilmaz believes that the idea of not following a *madhhab* springs from a post-modernist emphasis on individuality.[81] This could produce what Yilmaz defines as micro-*mujtahids*, everyone interpreting *sharī'ah* by their own means. Perhaps, Yilmaz's use of "micro-*mujtahid*" is meant to be a rhetorical insult, pushing the concept to an extreme. However, it appears that many of the Muslims interviewed are trying to discover what *sharī'ah* means for them in their situation.

For example, while talking about the Qur'an, Adam said, "you yourself can bear witness for everything." Likewise, when mentioning any affiliation with a *madhhab* he stated, "…whose understanding of the Holy Qur'an am I going to truly respect? Nobodies but mine. Um, take your opinions on certain verses and certain… right? But, until, until I get the understanding." It is his own judgments that concern his practice. He believes that he is accountable to God alone, becoming, as Yilmaz explained, a micro-*mujtahid*. For Yilmaz this would become chaos, but for Adam it is liberating.

The debate in which individual Muslims' role in *ijtihād* compared to the *ijmā's* has already been addressed in the literature review, especially considering Al-Alwani's tacit position on the subject. For some scholars, as Yilmaz, an individual's assumption of interpretation over the *taqlīd* is linked to *fiqh al-'aqalliyyāt*. However, even though we have seen how several respondents have moved away from following the *taqlīd* to attempt

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[80] Fazrihan Bin Mohamed Duriat, 2015 *Fiqh Aqalliyyat & Maqasid As-Shariah – Case Study of Singapore* Singapore Management University.

[81] Yilmaz, Ihsan 'Micro-*Mujahids* and Implementation of *Fiqh al-'Aqalliyāt*' in Jasser Auda (Ed.) *Rethinking Islamic Law for Minorities: Towards a Western-Muslim Identity* Available at: http://www.jasserauda.net/new/pdf/kamil_fiqh_alaqalliyaat.pdf Accessed 13.6.2016Footnote text.

to interpret the Qur'an for themselves, there are two things which seem to question a link between an individual's decision to interpret *sharī'ah* for themselves and minority fiqh. First, there seems to be an almost total lack of understanding of *fiqh* for the average, non-scholarly Muslim, certainly not in the area of *fiqh al-'aqalliyyāt*. Second, interpreting *sharī'ah* for themselves seems to come from a sincere desire to establish an Islam in the context relevant to their daily needs, rather than propping ideologies/traditions that seem thousands of miles removed from their situation. While, they are attempting to come to an understanding of *sharī'ah*, that does not qualify as *ijtihād.*

### 5.5.2 Maṣlaḥah

Andrew March describes *maṣlaḥah* as "…considerations of universal communal welfare or public interest."[82] This may require putting aside personal advantages, beliefs for the benefits of the larger Islamic community. *Maṣlaḥah* may also create allowances that would not under normal circumstances, be tolerated.

Edward's experiences may be a particularly useful illustration in two ways. First, Edward insinuated that his first impulse is to interpret the Qur'an for himself, on the other hand he realises that this is inconsistent with Islamic practice. Second, that even though he personally rejects the normative use of the *ḥadīth*, and admitted, "I'm willing to buck tradition if it's reasonable and not something un-, you know, against Islam in some way." However, at the same time he explained "…you don't want to, like, you don't want to disrupt any unnecessary." He didn't want his own thoughts on the subject to be a problem for anyone else. In this case, *maṣlaḥah* tempers his immediate actions.

On the other hand, Benjamin's encounters with *aḥādīth* practices opens up additional possibilities for himself and his friends. By using interpretative allowances his friends are permitted to sell alcohol at a petrol station, while normally it would not be permissible. Even though Benjamin felt uncomfortable with the idea of personally selling alcohol, he seemed at ease with helping businesses acquire mortgages, for it benefitted the company and himself.

[82] Andrew F. March, 2009 'Sources of Moral Obligation to non-Muslims in the "Jurisprudence of Muslim Minorities" (*Fiqh al-aqalliyyāt*) Discourse' in *Islamic Law and Society* 34-94 Available at: https://www.jstor.org/stable/40377980?seq=1#page_scan_tab_contents Accessed 28.09.2018.

Due to being one of the foundational concepts of *fiqh al-'aqalliyyāt*, how respondents address their experience with *maṣlaḥah* will be the subject of an expanded treament in 'Chapter 6: Maqāṣid al-Sharī'ah.'

### 5.5.3 Taysīr

According to Shammai Fisherman, *taysīr* simply means 'making fiqh easy.' He explains that, "When confronted with a choice between strictness and leniency, al-Qaradawi calls for the latter…"[83] This is different from the traditional view that promotes the more austere option on a 'just-in-case' basis.

There seemed to be a clash of traditional expectations with cultural reality for several of the participants. This is particularly true with the reading of the Qur'an. Both David and Edward looked for reading options and in both cases their hands seemed to be tied to a script that can seem foreign to them. However, in both instances they believed there could be a potential second option. For David there was an answer to new converts that did not speak or comprehend Arabic. They could use English because God is "forgiving" and "liberal." This was in juxtaposition to the normally accepted practice of praying and reading scripture in Arabic. Likewise, Edward was searching for an English translation of the Qur'an where he could find satisfaction. Even though he felt that he did not exactly find what he was searching, he did not give up his investigation.

There are traditional expectations regarding the reading of the Qur'an and prayer. The more stringent selection would be to recite and read the Qur'an and pray in Arabic. However, if one does not know how to read or comprehend Arabic, the easier option would be to use the language from which they are familiar. For David and Edward, the *sharī'ah* directive to read the Qur'an and to pray is greater than the tradition of only using Arabic. Therefore, the application of *taysīr* is permissible for David and Edward, making the easier choice viable.

### 5.5.4 'Urf

Within the scope of anthropology are "…the sum of customs, laws, institutions, beliefs, rituals, and cultural values which constitute the identity of each ethno-linguistic group.

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[83] Fishman, 'Fiqh a-Aqalliyyat: A Legal Theory for Muslim Minorities' pg. 10.

This level of tradition has been partially integrated by the Shari'a under the name of *'urf*…"[84] *Fiqh al-'aqalliyyāt* regards the culture of the host nation and the times in which they are living in constructing a *sharī'ah* decision.

Answers relating to some kind of context appeared to feature in several of the responses. Felix declared that he will "…never take a verse out of context and interpret it or apply it to my life." I do not believe he is saying that he will not ever interpret a verse or apply it to his life, rather he will not misinterpret it and erringly apply it to his life. Previously, Felix stated that "There's a context, there is a story behind it before the verse or the *sūrah* or the story within that *sūrah*." Felix acknowledges that there is a story behind the verse which cannot be removed from the interpretation. Furthermore, Felix couched 'context' in terms of how to "apply it to my life," which seems that it is in connection to his present experience. There is a historical-cultural deliberation that Felix understands that he must be able to traverse in order to have a proper interpretation.

At the same time, Adam's realisation that both "time and place" are relevant for a proper interpretation of *aḥādīth*, and thereby an interpretation of *sharī'ah*. There is the possibility that a decision on *sharī'ah* will change '…from time to time and from place to another, which is a core characteristic in the *fiqh* of minorities."[85] *'Urf* takes into account relevant characteristics of culture, both location of the Muslim community and how the sources position and understanding changes with time and then derives its verdict.

The context of the Islamic community's time and place, '*urf*, is very relevant to constructive theories. Assuming that the customs of people change over the course of time, *'urf* would seem to assist in enabing *sharī'ah* to respond to changing realities. Though, for many traditionalists the change may come reluctantly. Likewise, customs vary from place to place, meaning that *sharī'ah* would not be absolutely uniform throughout all of *dār al-islām*. The differences which Muslims have experientially of *sharī'ah* may be far more varied than many Muslims would acknowledge.

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[84] Mohammed Arkoun, 2003 'Rethinking Islam Today' *The Annals of the American Academy of Political and Social Science* 588:18–39 Available at: http://www.jstor.org/stable/1049852 Accessed 2.5.2016.

[85] Dina M Taha, 2012 'Muslim Minorities in the West: Between *FIQH* of Minorities and Integration', American University in Cairo, p.18.

## 5.6 Conclusion

This chapter briefly regarded the means which are used for interpreting *sharī'ah* through the sources of Qur'an and the *aḥādīth*, further investigation was made regarding the Islamic schools of jurisprudence. Initially, David presented the fact that he read the Qur'an even if he did not understand its contents. In a similar fashion, Edward explained that he was looking for other non-Arabic Qur'ans for people who could not read Arabic. One method that Muslims can commonly use to gather greater understanding of the Qur'an is by following along with a *tafsīr*. Muslims such as Felix and John regularly use one, however Henry shared that using a *tafsīr* just produces more needless work. The section on the Qur'an ended with a search whether Muslims prefer a traditional or a personal approach to interpreting the Qur'an. There were two views that were expressed regarding Qur'anic interpretation. First, Adam exclaimed that God provided him with an internal sense based on peace and happiness. Second, Edward admitted he needed others to complement his understanding.

It was determined that many of the Muslims interviewed may not have a high regard for the *aḥādīth*. This result is that there may be a dismissal of threads of *sharī'ah* that are assumed to be derived from the *aḥādīth*. As an example, Benjamin's stated views were that the *aḥādīth* should not be taken literally. Also, Edward's admission that he did not trust the *aḥādīth* were compared with Qur'anists who believe that the Qur'an should be the one and only source to determine *sharī'ah*.

Equally, there were disparities between actual beliefs/practices and whether the Muslims interviewed followed a particular Islamic school of jurisprudence or *madhhab*. While there has traditionally been an expectation that a Muslim would closely follow a *madhhab*'s ruling, there are other Muslims who do not believe that it is a requirement. Benjamin and Adam were polar opposites in this spectrum, where Benjamin stated that it is every Muslim's duty to follow a *madhhab* however, Adam tried to follow his faith intuitively. David shared that they were irrelevant, because everyone is free to follow their own interpretation. Another dichotomy is illustrated between Adam and David's views and those of Charles. For Adam and David, *madhhab*s cause unnecessary disputes between Muslims, yet Charles (using his family as an example), explained that various schools of jurisprudence can coexist peacefully.

In the final section, a comparison was made concerning the respondents answers through the lens of *fiqh al-'aqalliyyāt*. The four major aspects of the *fiqh* were examined: *ijtihād*, *maṣlaḥah*, *taysīr* and *'urf*. The debate whether individual interpretation was a

viable option for Muslims was discussed in the section, *Ijtihād*. Allowances made in *sharī'ah* for the greater good of the community, was briefly discussed in *maṣlaḥah*. The expression of *taysīr* could be seen in the expansion of attempting to use non-Arabic Qur'ans. Lastly, the respondents' statements concerning 'time,' 'space' and 'context' and their application in *'urf*'s role was reviewed in the interpretive process.

There are three things that I believe may be important from this chapter in consideration of Whether there are similarities to *fiqh al-'aqalliyyāt* in the Muslim community's practice, and its role in integration. First, none of the participants directly mentioned *fiqh al-'aqalliyyāt*, minority *fiqh* or any version directly. However, threads of *fiqh al-'aqalliyyāt* seem to run throughout the participants answers. Benjamin even commented, "That I believe in full integration, but not in assimilation." Which resembles the *fiqh al-'aqalliyyāt* catch-phrase, "Integration without assimilation."[86]

The fact that there are snippets of minority *fiqh* in the reasonings of the Muslims of Jacksonville should not be entirely surprising. Many of the respondents explained that they often look online for answers regarding *sharī'ah*. Considering that *fiqh al-'aqalliyyāt* deliberately endeavours to answer questions that Muslims living as a minority may have, it would seem natural that there would be some that would come across those rulings. Furthermore, due to the greater diversity of the Muslim community, coming from various nations, and Islamic schools of jurisprudence, it could seem appropriate to question long held traditions in search of new paradigm of interpretation.

Secondly, when the respondents were asked about *madhhab*s there were very few indications that anyone closely followed or even understood them. Over half claimed to have no discernible affiliation with an Islamic juridical school, even though all but one person agreed that *sharī'ah* is a necessary part of the Islamic life. Neither was there any consensus among them how *sharī'ah* should be determined.

While the disconnect many Muslims have from the *madhhab*s would initially seem to indicate that there is breaking down of the *taqlīd* system of interpretation, this may not be the case. This may be evidenced in a resilient convention of following others, (whether religious leaders, parents, or friends), in order to determine the correct procedures regarding *'ibādāt* and *mu'āmalāt*. Though there may be personal disagreements on a particular facet of *sharī'ah*, they are often kept to themselves in favour of being a part of

[86] Taha, 'Muslim Minorities in the West', p. 33.

the greater community. In effect, this causes a well engrained *taqlīd* to persist, even if many prefer an individualistic approach to interpretation.

Finally, though I do not wish to overstate this position, the environment, (which has been previously referred to as 'time' and 'space'), seems to be influencing various lines of reasoning in *sharī'ah* interpretation. It is in consideration of the environment that constructive theories, and *fiqh al-'aqalliyyāt* seem to meet. When interpreting *sharī'ah*, many Muslims have concern about technology, ease of travel, and credit and home purchasing issues that were not prevalent during the formation of the *taqlīd*. Likewise, due to the blurred lines of *dār al-islām* and *dār al-ḥarb*, usually considered outdated concepts, means that there are cultural issues relevant for the respondents to address.

Issues of individuality and its place in the Muslim community seem to be coming to the forefront. There seems to be some familiarity with some of the concepts of *fiqh al-'aqalliyyāt* brought about by a growing individualism. Even though many stated that they were not wanting American culture to affect their faith, it appears to me, there is one facet of American culture that seems to have become a part of the make-up of the Islamic way of life – individuality. Each person's perspective was very different from the next, with little overlap. Furthermore, most respondents seemed to argue that an individual interpretation of *sharī'ah* was a correct and reasonable result for their present context for their faith.

This chapter answered the question as to how Muslims in Jacksonville might be interpreting *sharī'ah* in their community. If the Muslims of Jacksonville were totally bound to the *taqlīd*, then there would be little doubt that *fiqh al-'aqalliyyāt* would then have had no influence on their practice. However, that has not been the case, many are raising issues that affect their lives in the United States. In the next chapter, *maqāṣid al-sharī'ah* which is al-Alwani's second foundation of minority *fiqh* is discussed at length.

# Chapter 6: Maqāṣid al-Sharī'ah

## 6.1 Introduction

> Islam said everyone must help each other and also help a non-Muslim. Even [if] I found one non-Muslims, I must help him or I help her, this Islam said that. But the people here don't understand the Islam, the real Islam.
>
> - Zack[1]

There were evidences for both traditional (*taqlīd*) and non-traditional approaches to interpretive methods in Chapter 5. As we explored the responses of the interviewees, it was determined that everyone seemed to have some personal interpretation of *sharī'ah*. Furthermore, it seemed as though *fiqh al-'aqalliyyāt* had been an influence in some of those replies. This chapter will build upon Muslim experience of integration as it pertains to al-Alwani's second foundation of *fiqh al-'aqalliyyāt*, which is *maqāṣid al-sharī'ah*.

Four authors, (Moh. Wahib, Sabri Samin, Barsihannor, and Muhammad Shuhufi), Professors from Alauddin State Islamic University of Makassar of Indonesia writing about the founders and development of *fiqh al-'aqalliyyāt* stated:

> It can be understood that al-Alwani, the initiator of this fiqh of minorities, had a deep knowledge of *maqasid al-shari'a*, before proposing and supporting the idea of fiqh of minorities. With his deep understanding of *maqasid al-shari'a*, he could develop it into the theory and concept of fiqh of minorities that he initiated in the North American continent.[2]

There appears to be resurgence among Islamic literature for *maqāṣid al-sharī'ah* and its usefulness to apply real-world solutions to problems and meeting the requirements of *sharī'ah*. Many Muslims living as a minority have a desire to stay true to their faith and at the same time be a part of the local society. With *sharī'ah* being regularly featured as news items,[3] Muslims are often afraid to voice their concerns around *sharī'ah* and its obligations.

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[1] See Appendix 1.

[2] Moh. Wahib, Sabri Samin, Barsihannor, and Muhammad Shuhufi 2020 "The Position of Maqasid Al-Shari'a on Fiqh of Minorities" *Jurnal Diskursus Islam* Vol 8 Available: http://journal.uin-alauddin.ac.id/index.php/diskursus_islam/article/download/12532/pdf Accessed: 05.04.2021.

[3] The Independent, The Guardian, and the New York Times have pages on their websites dedicated to *sharī'ah* law.

According to Mohammad Hashim Kamali, "The principal objective of *uṣūl al-fiqh*[4] is to regulate *ijtihād* and to guide the jurist in his effort at deducing the law from its sources."[5] As previously stated in Chapter 4, *fiqh al-'aqalliyyāt* adds the scheme of using *maṣlaḥah*, *taysīr* and *'urf*[6] alongside *ijtihād* to interpret *sharī'ah*.[7] *Fiqh al-'aqalliyyāt* was originally established on al-Alwani's ideas of a globalised Islam (*'ālamiyyat al-islām*) and the intentions of Islamic law (*maqāṣid al-sharī'ah*).[8] It was created to answer questions of integration, and for the need of Western Muslims so they could apply *sharī'ah* to their lives.[9] It has since expanded beyond the Western context to minority Muslims everywhere.

This chapter will examine the research's findings of the interviewees' responses regarding *maqāṣid al-sharī'ah*, through the lens of *fiqh al-'aqalliyyāt*. This will begin with a preliminary inventory of the various *maqāṣid* as listed by Jasser Auda. Then this chapter attempts to answer the following questions: In what fashion are these concepts applied in a non-Muslim societal context? Does the application of *maqāṣid al-sharī'ah* assist Muslim's living in the West towards further integration?

After discussing the purpose of *sharī'ah*, *maṣlaḥah*'s relationship to the *maqāṣid* is explored through individualism and collectivism, community, and what it means to "give back." Before the conclusion, several *maqāṣid* from Auda's list, which the respondents revealed, will be considered. Among those are orderliness, freedom, women's rights, justice, developing civilisation, and preserving the faith.

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[4] *Uṣūl al-fiqh* are the 'principles of Islamic jurisprudence' in other words, the sources and how are they used.

[5] Mohammad Hashim Kamali 2003 *Principles of Islamic Jurisprudence*, Cambridge: The Islamic Texts Society, pg. 4.

[6] *Maslaha* is defined as 'public interest,' *taysīr* is 'making fiqh easy,' and '*urf* is 'cultural practice.'

[7] Shammai Fisherman 2006 'Fiqh a-Aqalliyyat: A Legal Theory for Muslim Minorities' Available at: https://hudson.org/content/researchattachments/attachment/1148/20061018_monographfishman2.pdf Accessed 24.10.2016.

[8] Fisherman, 2006 'Fiqh a-Aqalliyyat: p. 2.

[9] Louay M. Safi, 'The Creative Mission of Muslim Minorities in the West' in Jasser Auda (ed.) 'Rethinking Islamic Law for Minorities: Towards a Western-Muslim Identity' Available at: http://www.jasserauda.net/new/pdf/kamil_fiqh_alaqalliyaat.pdf Accessed 13.6.2016.

## 6.2 Distinguishing Maqāṣid al-Sharī'ah

'*Maqāṣid*' has been defined by Jasser Auda as "…a purpose, intent, goal, end…"[10] Quoting Al-Qarafi, Auda goes on to say that a purpose, "…is not valid unless it leads to the fulfillment of some good (maṣlaḥah) or the avoidance of some mischief."[11] The aims and purposes of *sharī'ah* then becomes tied to *maṣlaḥah* and according to Kamali, are often used interchangeably.[12] Beyond just *fiqh al-'aqalliyyāt*, *maqāṣid al-sharī'ah* is the basis of several types of *fiqh* including *fiqh al-wāqi'*[13] and *al-awlawiyāt*.[14]

However, Islamic scholars, while incorporating *maṣlaḥah*, move beyond *maṣlaḥah* as the sole fulfilment of the purposes of *sharī'ah*. Auda states that al-Tahir ibn Ashur's (d. 1907) view includes orderliness and freedom. Rashid Rida's (d. 1935) ideas add reason, reform, and women's rights. Mohammad al-Ghazaly (d.1996) attached justice, and freedom. Al-Alwani (d. 2016) inserted the oneness of God, purification of the soul, and developing civilisation. Finally, Auda shares that Qaradawi expanded the definition to embrace, preserving the faith, human dignity, rights, moral values, good families, and a cooperative world.[15] Kamali also contends that compassion, and educating the individual are parts of the *maqāṣid al-sharī'ah*.[16]

Concerning the *maqāṣid al-sharī'ah*, for many of the Muslims in Jacksonville, there seems to be a disconnection between their lived experience and the scholarship surrounding it. For example, when asked what is the purpose of *sharī'ah*, many of the respondents went to a sometimes prolonged definition of *sharī'ah*, forgetting the actual question, and bypassing the purpose altogether. Those that simply defined *sharī'ah*, gave one of three answers. First and not surprisingly, the definition used the most often for *sharī'ah* is "Islamic law." Nine of the interviewees gave a definition as their answer. For

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[10] Jasser Auda, 2008 *Maqasid Al-Shariah as Philosophy of Islamic Law A Systems Approach*, Herndon, VA: The International Institute of Islamic Thought, p. 2.

[11] Auda, 2008 *Maqasid Al-Shariah as Philosophy of Islamic*, p. 2.

[12] Mohummad Hasim Kamali, 2008 *Maqāṣid Al-Sharī'ah Made Simple* Herndon, VA: The International Institute of Islamic Thought, p. 3.

[13] *Fiqh al-wāqi'* is the *fiqh* of reality or current affairs.

*Fiqh al-awlawiyāt* is the *fiqh* of Priorities, which assesses the importance of issues, so that minor details do not subvert *maṣlaḥah* in order to achieve the maximum results.

[14] Muhammad Abuelezz, 2011 'A survey of American Imams: Duties, Qualifications and Challenges a Quantitative and Religious Analysis' University of Georgia, Available at: https://getd.libs.uga.edu/pdfs/abuelezz_muhammad_201108_ma.pdf Accessed 18.7.2016, p. 95.

[15] Auda, 2008 *Maqasid Al-Shariah as Philosophy of Islamic*, p. 6-8.

[16] Kamali, *Maqāṣid Al-Sharī'ah Made Simple*, p. 2.

example, Linda[17] stated that, "*sharī'ah*, like constitution, these are like the laws that govern America. *Sharī'ah* and constitution are synonymous to me. Meaning they have the same purpose." Vance[18] mirrored Linda's thoughts that, "*Sharī'ah* means law, like procedures, we have constitution." He went on to affirm that it's a "kind of Islamic constitution."

For many non-Muslim Americans, equating any other law with the US Constitution, could be alarming, "constructing the menace of Islam and Sharia in opposition to the Constitution and American values."[19] However, I believe that both Linda, and Vance, (as far as I know, they have had no dealings with each other), are not saying that *sharī'ah*, in this case, is to supplant the American constitution, but rather they have the same purposes. Linda and Vance were attempting to use words that they thought I would understand, to assuage any fears and to convey the following: First, just as The US Constitution is the supreme law of the land, *sharī'ah* is the supreme law of the faith of Islam. Second, *sharī'ah* should not be a frightening concept, because all Americans and Muslims have a shared understanding of law. Edward explained *sharī'ah* as "the rules and application of the religion." He further stated that it has "been completely distorted" and "everybody completely misunderstands." While initially the conversations may have appeared to be uncomfortable for the respondents, however they seemed to be relieved to have an opportunity to correct the biases.

Two respondents referred to the second definition as being on the "straight path," or the "right path." For Henry,[20] the right path is established by "rules from the Qur'an in real life." Henry was not explicit concerning the qualifications of the "rules from the Qur'an," however it seems that by virtue of being "real life," that a couple of assumptions can be made. Primarily, due to possessing a "real" attribute, (much like *maṣlaḥah*, see chapter 4, section Maṣlaḥah – The Public Good), *sharī'ah* does not involve hypothetical situations. Therefore, secondarily, they are answers to specific questions regarding conduct in religion and with people taken from one's "life" experience.

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[17] See Appendix 1.

[18] See Appendix 1.

[19] Haj Yazdiha 2014 "Law as Movement Strategy: How the Islamophobia Movement Institutionalizes Fear through Legislation" *Social Movement Studies* Vol. 13, No 2 Available at: https://www.researchgate.net/profile/Hajar-Yazdiha/publication/263613919_Law_as_Movement_Strategy_How_the_Islamophobia_Movement_Institutionalizes_Fear_Through_Legislation/links/57d19db008ae0c0081e05055/Law-as-Movement-Strategy-How-the-Islamophobia-Movement-Institutionalizes-Fear-Through-Legislation.pdf Accessed: 2.04.2021, p. 270.

[20] See Appendix 1.

A "path" and a "way" can have very similar definitions. Therefore, when Gary,[21] and Rick[22] and Rose[23] used the phrase "a way of life," they may have had many of the same ideas in mind as Henry and Ian, who both referred to the "path." Rick and Rose were interviewed together. Though Rick used the term, "a way of life," Rose added another dimension when she stated, "So, the forest has the law, *sharī'ah* forest. Everywhere has the law." For Rose, it appears that natural or scientific law is also a part of *sharī'ah*.

These definitions do not necessarily describe the purposes of *sharī'ah*, or *maqāṣid al-sharī'ah*. There were at least some respondents who did give a direct answer. When asked, Adam[24] proclaimed that "He's," (presumably God), "preparing us." After a lengthy account of culture and its place in Islamic law, David[25] shared "…trying to create sort of a society, rules of law." Ian claimed that "*sharī'ah* is supposed to be all about Justice." John,[26] Neal[27] and Vance had comparable responses involving the deterrence that *sharī'ah* provides. Though John also added, "To make you a better person. To punish you in a way, you know, not to do the same mistake." It seems that from John's point of view, even the punitive aspects of *sharī'ah* was ultimately designed to make someone a better person, to prevent further missteps by an individual.

Shortly after Rick defined *sharī'ah*, he stated that, "The purpose of Islam is to preserve the human life." Even though he uses "Islam" instead of "*sharī'ah*," (as it was mentioned during the next subject of the interview), I believe Rick was still processing the purpose of *sharī'ah* when it was mentioned. Finally, Wendy's[28] answer was, "…to know right or wrong." In total, the respondents provided seven different answers to the question as to what is the purpose of *sharī'ah*. Other than those previously mentioned, there were no other overlapping answers.

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[21] See Appendix 1.

[22] See Appendix 1.

[23] See Appendix 1.

[24] See Appendix 1.

[25] See Appendix 1.

[26] See Appendix 1.

[27] See Appendix 1.

[28] See Appendix 1.

While addressing the International Institute of Islamic Thought, Robert Crane[29] stated that *maqāṣid al-sharī'ah* comes from "ultimate truth."[30] When defining *maqāṣid*, Crane refers to the scholar Abu Ishaq al-Shatibi (d. 1388), who taught that *maqāṣid al-sharī'ah* was part of the "knowledge of certainty." As previously stated in Chapter 4, the four Spiritual Principles are duties to worship God, and to respect people, creation and community. While his four Social Principles are respect for private property and financial institutions, political self-determination, and thought, and speech and publications, and finally human dignity and gender equity.[31] I surmise that by his "duty to worship God" he means in the traditional sense of performing the five pillars. What is not clear is what is meant by the duty to "respect, people, creation and community." In what sense is this respect expressed? Though he makes a difference between the "spiritual" and the "social," there is no mention of a systematic priority system, if one should come into conflict with the other. How would he balance his duty to worship God, with a Western sense of gender equity, not only of men/women roles in society but also the changing definitions of genders? Much of which, is left undefined.

While the importance of *maqāṣid al-sharī'ah* is debated among the *madhāhib*,[32] Musfir bin Ali al-Qahtani believes that in *maqāṣid al-sharī'ah* there is call to "…justice, moderation and avoidance of excess."[33] He argues that proper use of *maqāṣid al-sharī'ah* prevents Islamic law from becoming either too lenient or overly austere.[34] In his view, this would create temperance in relation in the formation of *fatāwā*, and likewise would limit "religious extremism."[35] Qahtani calls terrorists, "Fanatics" who justify their actions through jurisprudence. He continues by declaring "acts that destabilize society, violate its security and terrorize either Muslims or non-Muslims with whom Muslims have a non-

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[29] See chapter 2, section on "Maqasid al-Sharī'ah."

[30] Robert D. Crane, 2013 'Maqasid al Shari'ah: A Strategy to Rehabilitate Religion in America,' Available at: http://waqfacademy.org/wp-content/uploads/2013/03/Dr.-Robert-D.-Crane-RDC.-Date.-Maqasid-al-Shari%C3%86ah.-Place.-Pub.pdf Accessed 11.06.2019, p. 5.

[31] Robert D Crane, 2013 "Maqasid al Shari'ah: A Strategy to Rehabilitate Religion in America," Available at: http://waqfacademy.org/wp-content/uploads/2013/03/Dr.-Robert-D.-Crane-RDC.-Date.-Maqasid-al-Shari%C3%86ah.-Place.-Pub.pdf.

[32] Arabic, *madhhab*- Juridical school, *madhāhib* (pl).

[33] al-Qahtani, Musfir bin Ali 2015 *Understanding Maqāṣid al-Sharī'ah a Contemporary Perspective* Herndon, VA: The International Institute of Islamic Thought, p. 4.

[34] al-Qahtani, *Understanding Maqāṣid al-Sharī'ah*, pp. 35-49.

[35] Al-Qatani's 3rd chapter of *Maqāṣid al-Sharī'ah* is titled, "Goals Awareness and the Crisis of Religious Extremism" while he does not define religious extremism, the chapter examines what he believes are the principle causes of Islamic extremism.

aggression pact are crimes against humanity that clearly oppose the overall goal of the Shari'ah."[36]

There are three ways of deriving the *maqāṣid* according to Muhammad al-Tahir Ibn Ashur. The first process is to examine what lies behind text. There are two ways to accomplish this, in his opinion. The first is refined from the known causes of a command or provision. The second is to examine texts that have a common element or subject and deduce *maqāṣid* from them. The second technique comes from the apparent texts of the Qur'an, which leaves no doubt. Like the first, the third method also has two approaches. The first refers to traditions witnessed and accepted jointly by Muhammad's Companions. The second, *maqāṣid* is developed by examining traditions that share themes.[37]

In this section, *maqāṣid al-sharī'ah* was defined by scholars and compared to the respondents' understanding. Its development was also broadened by Crane, Qahtani, and Ashur in their descriptions of not only how the *maqāṣid* are derived, but the results of applying them as part of the *sharī'ah* process. In the following section, *maṣlaḥah* will be examined in light of the experience of the respondents' sense of community and their lives in Jacksonville.

### 6.3 What is "The Community?"

As *maṣlaḥah* is connected to *maqāṣid al-sharī'ah*, so is community intertwined with *maṣlaḥah*. This is inherent in the definition of that which is for the "public good" or what is best for the community. Therefore, when Benjamin stated that it was "all about the community," he simply echoed the long-held definition of *maṣlaḥah*.

The definition of community can often be elusive and indefinite. There is a growing debate as to its suitability as a workable concept within the social sciences. Those against the idea suggest that modernization has caused social fragmentation and no longer supports a traditional community.[38] Even though the concept is heavily nuanced, this

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[36] al-Qahtani, *Understanding Maqāṣid al-Sharī'ah*, p. 96.

[37] Muhammad al-Tahir Ibn Ashur, 2006 *Treatise on Maqāṣid al-Shari'ah* Herndon, VA: The International Institute of Islamic Thought.

[38] Terri Mannarini, and Angela Fedi 2009 "Multiple Senses of Community: The Experience and Meaning of Community" *Journal of Community Psychology*, Vol. 37 No. 2, pp. 211-212.

section will show how Muslims in Jacksonville understand the community that surrounds them as individuals.

John G. Bruhn[39] (d. 2019) had an extensive academic background in Medical Sociology, with his Ph.D. from Yale University. He has been part of the faculty of the University of Oklahoma Health Sciences Center and an Associate Dean at the University of Texas Medical Branch, Galveston. In attempting to define community, Bruhn has identified several factors for consideration. First, community is a relationship between a group of people. Second, the relationship is confined within a spatial orientation, (geographical or cyberspace). Third, as a relationship, they are more than casual due to the group possessing "…some common goals, values, and, perhaps a way of life that reinforces each other, creates positive feelings, and results in a degree of mutual commitment and responsibility."[40] Fourth, even though there are community variants, there is also an implication of prolonged fellowship and belonging. Finally, it is the members who choose whether to be associated a particular community or not.

As for the respondents, how do they conceptualise community? With which community do they feel they belong? Nineteen of the twenty-five interviewees refered to "community" in various contexts. The largest, single use of "community" referred to the Muslim community, mentioned by twelve different people. For ten there is a nationalistic, descriptive, element to their community. For example, when referring to the local Muslim population, two of the respondents used the "American-Muslim community." The use of "American" specifies that they were not speaking of the Muslim community in the homelands, and creating a space for themselves in the United States. Others that were stipulated directly were the "Turkish community," "Nigerian community," and the "Bosnian community." However, other communities were also mentioned. Talking about various communities, Wendy began to explain "all the community… like: Morocco, Palestinian, Egypt, Syrian, Iraqi, so every community stay in the mosque." Wendy spoke as though many national, individual communities come together as being part of the mosque experience at The Islamic Center of North Florida (ICNF).

Throughout the interviews, there were other explicit communities referenced. Among these, were differentiated Muslim communities such as, the "St. John's Bluff community," which refers to a particular mosque, the ICNF located on the street, St.

[39] John Bruin, faculty of the University of Oklahoma Health Sciences Center and an Associate Dean at the University of Texas Medical Branch, Galveston.

[40] John G. Bruhn 2011 *The Sociology of Community Connections* New York, NY: Springer, pp.12-13.

John's Bluff. Beyond a community established at a mosque, (alluded to in seven different interviews), communities were further distinguished by ethnicity or nation of origin. Furthermore, she, (like many others), identified what she believed was her community of belonging when she said, "We live in community, Arabic or Muslim." Wendy's evaluation of many communities being a part of a larger mosque community is confirmed by Edward[41] who stated, "… in the *masjid*. I know that various communities are trying to do that and multiple people are making efforts." What is highlighted here is the fact that the Muslim community in Jacksonville, is diverse, made up of various communities.

Outside of the Muslim peoples, the "broader" or "greater" "Jacksonville community" was the second largest citation with eight interviewees mentioning it. Gary's use of the "local community" as a substitute for Jacksonville is noteworthy. He asked, "What is the local community? I mean, what would you say about them?" By using the term "them," Gary is separating himself from the Jacksonville society. From the Muslim's perspective who are living in Jacksonville, Gary asks a valid question that should be answered. What is the local community as far as the Muslim population is concerned? Do they feel they are only a part of the various national/ethnic communities that make up the mosque, or are they part of the "diverse community"[42] that makes up the totality of Jacksonville?

In explaining a social constructionist approach to belonging, Abigail Klassen wrote, "…belonging to one category rather than another can change with context."[43] In other words people can belong to a multiplicity of communities that switch at any particular moment based on the context that requires one to belong. Additionally, Marek Pawlak and Elżbieta M. Goździak further complicate community by stating that "…belonging often involves a 'struggle for new attachments', which change over the course of migration journey/s and shift depending on structural condition of the host society."[44] This implies that a person searches for more communities to belong beyond their current

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[41] See Appendix 1.

[42] Spoken of by Kevin about many peoples who shared his work environment.

[43] Abigail Klassen 2016 "Social Constructionism and the Possibility of Emancipation" Dissertation Graduate Program in Philosophy York University Toronto, Canada Available at: https://yorkspace.library.yorku.ca/xmlui/bitstream/handle/10315/32789/Abigail_Klassen_Dissertation.pdf?sequence=2&isAllowed=y Accessed: 30.01.2020 p. 85.

[44] Marek Pawlak and Elżbieta M. Goździak 2019 "Multiple belongings: transnational mobility, social class, and gendered identities among Polish migrants in Norway" *Journal for the Study of Race, Nation and Culture* file:///Users/matthewreifsnider/Downloads/PawlakGozdziakMultiplebelongingsSI.pdf Accessed: 16.04.2021 p. 2.

positionality. Therefore, the whole sense of community is ever developing and changing to meet a sense of belonging for an individual.

This can be seen in how the Muslims of Jacksonville describe their community. One of the best examples of belonging to multiple communities was as Neal described the process that is required for the Muslim community to integrate into the wider society. He explained that he would "…try to educate the community that helping others, being part of the community is not a crime." Within one sentence he used the word "community" twice. The first, he presumably used "community" to designate the Muslim community, and the second was actually the Jacksonville community. So that it could easily have been said, "…try to educate the [Muslim] community that helping others, being part of the [Jacksonville] community is not a crime." The only clue to its meaning is by context. In which community did he belong? In Neal's narrative, using an observer point of view of the two communities, he could affirm and belong to both.

Neal's statement of the two communities also underlines the confusion that Muslims may experience in attempting to align living realities with traditional doctrines. Many Muslims are taught that within Islam there exists the *ummah*, a worldwide community of believers as an ideological community which stresses unity.[45] From the shared goals, values and way of life standpoint which Bruhn mentions, as long as the Muslims live in a closed community where everyone possesses the same cultural norm, the *ummah* can seem an obvious certainty. However, when removed from that place of cultural isolation, how does that affect one's sense of community?

Not every Muslim is satisfied with the condition of community as lived in the United States. The struggle with community can be clearly seen in Zack's responses. He begins to explain, "The Muslims here [are from] different, different countries, like, from Pakistan, and from India, and from… but in Egypt, all of them Egyptian. So, these different cultures, the Muslim here is different cultures. Well, different cultures." Initially, there did not seem anything unusual about his statement, but he continually returned to his thoughts regarding culture. As Zack speaks, he processes and questions his surroundings, "Here in Egypt and Saudi Arabia, any country that is the Islam: One. okay, but different cultures? Yeah." Finally, Zack announced his ideological understanding:

[45] C.T.R. Hewer 2016 "What is the Ummah?" Available at: https://www.reonline.org.uk/wp-content/uploads/2019/05/4-1-B-1.pdf Accessed: 20.04.2021.

> It should be… if all of them understand the Islam, no culture. Islam [is] my culture… The Islam stuff is cultural. The Islam, yeah. If even from Egypt, from Pakistan, from Saudi Arabia, from Greece, from any country, if anybody Muslim, it should be one culture.

For Zack, who was trained as an imam (though not fulfilling that role in the US), the clash between culture, peoples and the concept of the *ummah* appeared to have caused him great consternation. It appeared, that while he lived in Egypt, the uniformity of culture and religion confirmed his understanding of an *ummah*, as a bloc, with complete solidarity. His experience has been in contrast with his expectation. He describes the problem, "Muslim here is not help anybody else. Nobody helps *Muslimīn*." He further relates:

> The Muslim, nobody, nobody help us. The Muslim everyone help like if you from same country, not country, if you're from same area in the country. We from Egypt we found somebody from Egypt, but we from Cairo, somebody from other city like, Menouf, other city. Don't help anybody from Cairo, help only from his city. This problem here. The Muslim nobody help here.

Zack qualifies the issues he is having by sharing "But this problem is not in Islam. This problem in the peoples." At a local level, for Muslims living in the United States, Muslims are not living up to his standards of the his *ummah*. When Zack required assistance, he looked for someone from Egypt and felt that the other person would not help him because they were not from the same Egyptian city. This confrontation has shifted his place of worship, "I don't go to the mosque no more… I never go to the *masjid* here… I don't like the people here." Zack no longer attends mosque, because it is his understanding that Muslims in Jacksonville do not live according to his ideal *ummah*, and therefore do not live up to his expectation of the practice of *maṣlaḥah* either.

While during the course of the interviews, most of the Muslims alluded to community in terms of the Muslim community, however code-switching,[46] by defining community as either the Muslim community or the society of Jacksonville was not unusual. This belonging to a community is important to the discussion of the application of *maṣlaḥah*. Since *maṣlaḥah* is working toward the public/community welfare, if beneficial actions taken by Muslims solely affect the Muslim community, then that could be seen as the totality of their belonging. However, if philanthropic actions are taken outside of a Muslim context, that also shows belonging beyond ethnic/pre-immigration national boundaries. Due to the code-switching, it is not startling that *maṣlaḥah* would be seen in the wider context, affecting both Muslim and non-Muslim.

[46] Code-switching is usually defined by using two or more languages in a single sentence/paragraph structure. I am using the term to mean the use of several different definitions of the same word in a sentence/paragraph structure.

### 6.3.1 Individualism/Collectivism

Chapter 4 previously stated that *maṣlaḥah* should be understood to be specifically associated for the greater community and not about the individual. How is the tension between individualism and collectivism resolved as Muslims live in an American context?

When asked, "What is the biggest issue Muslims face in understanding each other?" Benjamin[47] stated, "We need more tolerance, more understanding, more cooperation with each other. I believe in a strong idea of working together for the common good." To further clarify he was asked a leading question, "Are you talking about *maṣlaḥah*?" He responded to the direct question of *maṣlaḥah* as follows:

> Yea, *maṣlaḥah*… With all other villages who work together shoulder-to-shoulder for the common good… So, what is the role of the mosque? It's to bring people together, right? Create a safe space where people can come and worship, right? Create a safe place where people can come and learn about their own religion. Create a place where people can come and network, right? And make friends and so forth. And have someplace over the holidays…

Just before he ends his statement on *maṣlaḥah*, Benjamin emphasizes, "It's not about me, him and Ahmad, Muhammad, right? It's not about, you know… It's all about the community. So, why don't we set aside our own differences, our own personal, you know…" It appeared as if Benjamin lamented an individualistic expression over that of the community or collectivist paradigm as he continued, "Let's sacrifice a little bit for each other. That's what I mean when I say, 'Common good.'"

There can be a tension trying to straddle individualism and collectivism cultures for Muslims living in the West, which Benjamin seemed to acknowledge. According to an article jointly published by Anu Realo, Eva Ceulemans (from the University of Leuven, Belgium), and Kati Koido and Jüri Allik (from the University of Tartu, Estonia), there are many definitions and attributes of individualism that are varied due to the "…various subforms that manifest themselves predominantly in one particular area of social relations or in relations with a specific target group."[48] They have coalesced them into three archetypes. The first, "Autonomy" is defined as a "…person's capacity for independent thinking, judgment, and survival… an autonomous and largely independent agent without

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[47] See Appendix 1.

[48] Anu Realo, Kati Koido, Eva Ceulemans, and Jüri Allik 2002, "Three Components of Individualism" *European Journal of Personality* Available at: https://ppw.kuleuven.be/okp/_pdf/Realo2002TCOI.pdf Accessed: 01.10.2020, p. 164.

references to other people, groups, or institutions. It also means that priority is given to one's own aims, decisions, and choices."[49] The second component, "Mature self-responsibility" is defined by one's accepting responsibility for his/her actions. As part of their definition, Realo, Ceulemans, Koido and Allik affirm that the "…result of this acceptance is confidence in one's abilities."[50] The third is "Uniqueness" which is a self-awareness of being different from others, one of a kind.[51]

Realo, Ceulemans, Koido and Allik refute the common understanding of individualism and collectivism as being a binary construct. Instead, their findings suggested that "…potentialities for both individualism and altruism may be present in each person:"[52] This can change based on the relationship (family, friends, government), that is emphasized at any particular moment.

However, a corresponding example from the Islamic perspective on individualism and collectivism was presented by Mohammed Borhandden Musah, lecturer at the Universiti Sans Islam Malaysia (USIM). He penned that "Individualism and collectivism from [an] Islamic viewpoint are not two opposite concepts but are two intertwined precepts complementing and enhancing each other."[53] According to Musah, this is in sharp contrast with Western views of individualism and collectivism where individualism is built in the context of capitalism, and collectivism is constructed through communism. He defines individualism in Islam by using seven elements that include: 1) Creating a link with Allah/God regularly. 2) Emotional stability and balance through God consciousness. 3) Being patient through hardships. 4) Flexibility when facing reality. 5) Being optimistic and avoiding despair. 6) Uniqueness of Muslim personality. 7) Socialisation in line with Islamic education and values. These seven elements are further tempered with accountability.[54] Musah shares his understanding of five traits of collectivism from an Islamic perspective, which he describes as: 1) Self-discovering

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[49] Realo, Koido, Ceulemans, and Allik 2002, "Three Components of Individualism" p. 167.

[50] Realo, Koido, Ceulemans, and Allik 2002, "Three Components of Individualism" p. 167-168.

[51] Realo, Koido, Ceulemans, and Allik 2002, "Three Components of Individualism" p. 168.

[52] Realo, Koido, Ceulemans, and Allik 2002, "Three Components of Individualism," p. 179.

[53] Mohammed Borhandden Musah 2011 "The Culture of Individualism and Collectivism in Balancing Accountability and Innovation in Education: An Islamic Perspective" OIDA International Journal of Sustainable Development Available at: https://www.academia.edu/5490549/THE_CULTURE_OF_INDIVIDUALISM_AND_COLLECTIVISM_IN_BALANCING_ACCOUNTABILITY_AND_INNOVATION_IN_EDUCATION_AN_ISLAMIC_PERSPECTIVE Accessed: 01.10.2020, p. 69.

The [an] was added for clarification.

[54] Musah 2011 "The Culture of Individualism and Collectivism," pp. 71-72.

through interaction with others for acceptable social and ethical guidelines. 2) Correcting deviation through the afore mentioned process. 3) Balancing contrasting desires. 4) Optimism practiced through the sense of belonging. 5) Gaining credible experience from a group dynamic.[55]

There seems to be some confusion to Musah's approach to individualism and collectivism. While he mentions that, "Individualism from [an] Islamic perspective consists of salient traits of which self-building is one and accountability before Allah (God) is the other."[56] In his first point of connecting with God regularly, Musah fails to explain how this is individualism. Even though an individual may accomplish this, it could be as part of the wider Islamic community, attending mosque and receiving religious instruction. Likewise, his second point relating to emotional stability is not about individualism, but what he expects would be the result of maintaining his first point. His third point of Patience is explained through education, which could also be an aspect of trained, (or enforced) social expectations, in other words collectivism.

I would like to especially highlight Musah's seventh point, which is Socialisation. Here, Musah describes "sacrifice," "Muslim communities and their social values," and "mutual cooperation."[57] This reminds me of Benjamin's opinion that individuals need to sacrifice for the sake of the community, which could be taken as *maṣlaḥah*, but is far removed from individualism. It seems that Musah does not see a difference between an individual or an individual's action and individualism. It is possible for an individual to do something as part of a collectivist action, collectivism is made of many individuals performing in a collective manner. Therefore, an individual acting as part of a collectivist society is not acting as an individualist, but as a collectivist. If, however, it is Musah's conception that a characteristic behaviour of an individual is always individualism, then this would explain how he understands that individualism and collectivism are interwoven in an Islamic context. However, Musah's initial quote that states that individualism and collectivism are intertwined, would agree with Realo, Koido, Ceulemans and Allik's assessment of how individuals may see themselves in a pull towards either individualism or collectivism at the same time.

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[55] Musah 2011 "The Culture of Individualism and Collectivism," pp. 73-74.

[56] Musah 2011 "The Culture of Individualism and Collectivism," p. 71.
The [an] was added for clarification.

[57] Musah 2011 "The Culture of Individualism and Collectivism," p. 73-74.

Nehaluddin Ahmad of the Sultan Ali Islamic University in Brunei writing specifically on collectivism stated, "The whole foundation of altruism and empathy is based on striking a harmonious balance between the self interest and the welfare of the community to which one belongs."[58] For Ahmad this foundation extends to the entire social, political, religious and spiritual framework of Islam. In his view, the alternative is a collapsing religious life that substitutes economics for religion, nationalism for God, and enlightenment for faith. Ahmad stresses that collectivism is for the general welfare of society and concludes that:

> …we should always believe in the universal ideal of the unity of humankind and human brotherhood. This ideal would serve as an excellent philosophical framework for the societal pursuit of the common good and social symbiosis in a pluralistic world through the progressive realizations of mutual acquaintance and understanding and mutual cooperation.[59]

Both Ahmad and Benjamin seem to be concerned with a growing realization of individualism developing in the Muslim community. However, their understandings of the causes of individualism are not the same. Ahmad talks about the loss of collectivism through substitutional ideologies, while for Benjamin it seems the reduction of the mosque as being the foci of the community. If the loss of collectivism is a result of competing ideologies, then it is understandable Benjamin's concern that Muslim individualism may triumph over the common good. However, if Benjamin sees it as Ahmad understood, that it is altruism that holds society together, he could see a self-serving attitude as a breakdown in the Muslim community. Furthermore, that breakdown would not allow Ahmad's "understanding and mutual cooperation" to extend beyond the Muslim community, (which could be described as their own interests), into the wider American society. *Maṣlaḥah*, in this sense, becomes the foundation for which the Muslim community could interrelate with others beyond the insider group, but first must be realised within their own community.

The next section examines the ways the Muslims in Jacksonville, attempt to employ *maṣlaḥah* within the greater Jacksonville community. Concerning *maṣlaḥah*, this becomes an important building block towards integration. The discussion of integration in the following chapter examines other elements that affect the way Muslims perceive integration in Jacksonville.

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[58] Nehaluddin Ahmad, 2011 "The Concept of Collectivism in Relation to Islamic and Contemporary Jurisprudence" *The Open Law Journal* Available at: https://benthamopen.com/contents/pdf/TOLAWJ/TOLAWJ-4-15.pdf Accessed: 01.10.2020, p. 18.

[59] Ahmad, 2011 "The Concept of Collectivism," pp. 19-20.

### 6.3.2 Giving Back

It seems as though there are Muslims in Jacksonville, who are reassessing their position of community. Within that process, there is a defining and redefining of their place in society. This creates a fluid space, where one can belong to several communities at the same time, flowing into one and out of another as needed in a particular context. This can also be seen in relation to the use of *maṣlaḥah*, where the public welfare is considered.

Th. Emil Homerin (d. 2020), professor of Religion at the University of Rochester describes altruism in Islam by stating, "…hospitality in Islam, albeit in moderation, remains a prominent feature of Islam – based, in large part, on traditions of the prophet Muhammad… Likewise, in many passages, the Qur'an "exhorts Muslims to feed the hungry and spend (nafaqa) on those in need."[60] He further explains that giving the *zakat* was designed to be an instrument of philanthropy.

What is missing from Homerin's descriptions of Islamic altruism are actions for the benefit of those outside of Islam, non-Muslims. Paul Vallely writes on ethics, religion and international development and a visiting professor in public ethics at University of Chester. Vallely explains the importance of altruism in the Islamic community, "Philanthropy is part of the glue which holds Muslims and the Islamic community together. Muslims are linked to each other through their obligations to God… which reinforce Muslim identity and deepen the sense of the solidarity of the global Muslim community, the *umma*."[61] It appears to be both Homerin's and Vallely's view of Islamic philanthropy, as far as Muslims are concerned, is relegated to the Muslim community. While that may be largely true in a traditionalist understanding, it is not the sole experience of many of the Muslims in Jacksonville.

Three of the respondents referred to "giving back" as part of their community experience. For example, in describing integration, Felix explains that it is being "…in constant communication with the community. Not only with the Muslim community, but also non-Muslim community, or non-Turkish community. And it means giving back to

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[60] Th. Emil Homerin "Altruism in Islam" In Jackob Neusner, and Bruce Chilton (eds.) 2005, *Altruism in World Religions* Washington D.C.: Georgetown University Press, pp. 69-70.

Nafaqa – Arabic word for the financial support that a man must provide for his ex-wife after a divorce in accordance to the marriage agreement.

[61] Paul Vallely 2020 *Philanthropy from Aristotle to Zucherberg*, London: Bloomsbury Continuum, p. 38.

the community…" Felix didn't expressly dictate which community that he is "giving back" to, however there are two reasons I believe that he directly referencing the Jacksonville community. First, the answer is in response to a question on integration. Felix finishes his thoughts by declaring, "You know, just basically giving back to community. That's what I understand from integration." Second, due to the juxtaposition between the Muslim and Turkish communities with the non-Muslim community. Felix, by beginning his statement with "not only with the Muslim community, but also the non-Muslim community," he is being inclusive rather than exclusive. Even if "giving back" is traditionally consigned to the Muslim community, Felix is choosing to expand that directive to include others beyond his faith.

Benjamin uses the same phrasing, "giving back to the community." Likewise, Neal mentions, "You have to give back…" The question then arises, in what manner are Muslims in Jacksonville attempting to "give back" to the surrounding society? There are several methods of giving back that have been provided. Felix suggested assisting teachers in schools, "Being part of the PTO."[62] It would seem that for Felix's being involved in educational issues parentally, would contribute to a better educational environment and thereby a better society.

Both Benjamin and Neal add that they have worked alongside HabiJax,[63] as part of Habitat for Humanity, in order to help build homes for the disenfranchised. (see chapter 7) Neal particularly, got the youth involved, and even though he mentioned that he would like to expand their involvement, there were not enough volunteers. However, Neal explained he did manage to have at least two sessions with HabiJax, where the youth spent time painting the premises.

According to Benjamin, another way of giving back is to be engaged politically. He expresses a common American idea, "If you feel like, you know, something's wrong instead of sitting and complaining, you know, if you think you're suitable and can give back to the community and you think you're the right person you can… Why not?" One's sense of "civic duty" can be a motivation for running for an elective office.[64] Benjamin

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[62] Parent Teacher Organisation – Made up of both school teachers and parents of students to work together to provide a favourable atmosphere for learning and growth.

[63] Habitat for Humanity Jacksonville, "HabiJax is one of the largest non-profit affordable housing builders in Duval County and is considered to be one of the most successful Habitat for Humanity affiliates in the United States, having provided homeownership opportunities and other housing services to over 2,300 families." Available at: https://habijax.org/about/ Accessed: 14.08.20.

[64] Jennifer L. Lawless and Richard L. Fox 2010 *It Still Takes A Candidate, Why Women Don't Run for Office* Cambridge: Cambridge University Press, p. 64.

states that it is a matter of giving back, which by his definition is being "contributing citizens, not only consuming citizens." In this way, being involved in the political process gives back to the community, contributing to the electoral process.

Neal and Linda pointed out the Muslim American Social Services (MASS), which offers a medical clinic as part of the Muslim people's effort to give back. The MASS website expounds that their purpose is to provide:

> …free, volunteer-based care management to the uninsured population of Duval County. By collaborating with local healthcare institutions, We Care clinics, and other faith-based organizations, our work improves public health, lowers healthcare costs and reduces the burden of non-emergency care and the treatment of acute and chronic diseases placed on local hospital emergency rooms.[65]

Linda explains the benefit by saying, "It's for people who don't have insurance and are impoverished under the poverty line." Neal further remarked that there is no religious affiliation required to be assisted by MASS. It is his evaluation that, "It's a primary care clinic, but 80% is non-Muslim." Neal declares that this means that "…they are helping the community to become more healthy."

The Muslims that mentioned these examples of altruism, answered in terms of integration. Homerin ends his article by quoting David Konstan who explained, "altruism is not, in the first instance, a question about behavior but about the interpretation of behavior."[66] The deed of "giving back" is a matter of interpretation, not only for those Muslims who are attempting to give back, but also for those who are on the receiving side. For this reason, the perception of *maṣlaḥah* is subjective and relates to both constructive theory and integration, which will be further explored in the following chapter.

In the next section we will look at some of the other views of *maqāṣid al-sharī'ah* as related through the list provided by Auda. Not all of the *maqāṣid* from Auda's list were mentioned by the Muslims interviewed in Jacksonville. Therefore, only those discussed either directly or insinuated will be examined.

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[65] "Welcome to MASS Clinic" Muslim American Social Services Homepage, Available at: https://massclinic.org/ Accessed: 05.05.2021.

[66] Homerin "Altruism in Islam" p. 85.

## 6.4 Other Views of Maqāṣid among the Respondents

There is a wide range of replies that can be inferred in a general sense of *maqāṣid al-sharī'ah*. It was already stated that Auda catalogued sixteen various purposes or higher intentions of *sharī'ah* in his list of the *maqāṣid*. However, from Auda's list of *maqāṣid al-sharī'ah*, only twelve were referenced in the interviews. Within the interviews, there are only snippets of information that actually refer to the various *maqāṣid al-sharī'ah* directly. At other times the responses are distilled from other answers of unrelated questions. There was ample evidence of *maṣlaḥah* from the respondents. No one mentioned all of the *maqāṣid* categories, neither were any single *maqāṣid* type stated in every interview. Therefore, it cannot be said that any one's view is the standard for all.

Even though "Educating the individual" was implied more than any of the others, with six of the eleven making a reference to education, this will not be surveyed further in this thesis. There is no universality, only opinions offered by a wide scope of individuals that may not be shared by anyone else. Therefore, only six of the *maqāṣid* from the list will be considered, which are Orderliness, Freedom, Women's Rights, Justice, Developing Civilisation, and Preserving the Faith.

### 6.4.1 Orderliness

Auda referred to Professor at the School of Business and Professor of Peace and Conflict Studies at the University of California, Berkeley, Charles West Churchman, who listed among the characteristics of a system as, "It is embedded in an environment."[67] Following Churchman's connection with system and environment, Auda pointed out, "… that order, regularity and non-randomness are 'naturally' preferable to lack of order, irregularity and randomness, and that orderliness makes the world good, interesting and attractive to the system theorist."[68] This cosmology is more than just a theoretical model, but "regularity and non-randomness" is his definition of orderliness.

Writing on orderliness from a Shia perspective, Ibrahim Amini shared, "Every part is having a particular position and function, that if it is placed in another place or does not perform its function, its job would remain incomplete and the intended aim would not

[67] Auda, *Maqasid Al-Shariah*, p. 36.

[68] Auda, *Maqasid Al-Shariah*, p. 37.

be realized."[69] Coming from various vantage points, I believe that both Auda and Amini would agree that systematic orderliness or orderliness in relation to position and function ultimately comes from God.

Adam seemed to verbalize that the use of drugs and alcohol resulted in a state of confusion that upended natural orderliness. He said, "Alcohol never has a good result in the end… many of those things are putting a lot of time to waste, and they're causing… filthy and dirty environments and a rough challenging environment." This is in opposition to the orderliness from which in his opinion "beautiful people" and "beautiful scenery" flourishes. This creates a lack of order within the environment, thus upsetting the system and orderliness. Therefore, for Adam it would appear that a justifiable ban on alcohol and drug use would be warranted under a structure of *maqāṣid al-sharī'ah* for the purpose of maintaining orderliness in this respect.

### 6.4.2 Freedom

Freedom is talked about extensively as *maqāṣid al-sharī'ah*. Ibn Ashur explains that freedom, (*ḥurriyah* in Arabic), has two meanings. The first is the opposite of slavery and the second is the ability to act without interference. He also clarifies this further, adding freedom of beliefs and the freedom of expression.[70] Though an article on the website, *Mercy to Mankind* seems to agree with Ibn Ashur it expands the concept to include freedom of opinion, freedom of travel, freedom of residence, freedom of ownership, freedom of work, freedom of education, and political freedom.[71]

Adam unites submission to the will of God, with freedom and then includes that God, "…blessed you with your choices that you get to make." To Adam, this appears to be the natural result of being a Muslim. However, John spoke of *sharī'ah* as being problematic it terms of limiting freedom as well. He gave the example, "…in many countries that have *sharī'ah*, for example, the music is forbidden." It seems that this results in an imposition of their beliefs on other people, in his view. He believes that

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[69] Ayatullah Ibrahim Amini, 'Orderliness and Coordination in the World.' Available at: https://www.al-islam.org/knowing-god-ayatullah-ibrahim-amini/orderliness-and-coordination-world Accessed 14.06.2019.

[70] Ibn Ashur, *Treatise on Maqāṣid al-Shari'ah,* pp.154-155, 160-161.

[71] Anon, 2011 'Concept of Freedom in Islam' on *Mercy to Mankind*, Available at: http://www.masjidma.com/2011/02/03/concept-of-freedom-in-islam/ Accessed 14.06.2019.

*sharī'ah* in this sense could only work if everyone felt the same way, otherwise there is no freedom.

John's axiom of 'freedom only if everyone feels the same' may apply within the living experience of Muslims in the United States as well. When asked if there were any restrictions on practicing your faith, Henry initially said, "No, because, I mean, it's got a free country here." Yet, he quickly altered his answer and said that he "…can't do whatever you want." He explained that you cannot wear a traditional *thawb*[72] for fear of reprisals. From his experience, the only time he wore a *thawb* was for a school culture day and it created a panic and caused a security "lock down." He complained, "They didn't do it the whole school year… I mean they saw me, what's the coincidence? They did it one time… Even the teach was looking at me." Trying to confirm, his report, it was discovered that there was a bomb threat that same day. While his wearing a *thawb* was not directly connected to the event, in Henry's mind they are firmly associated and a loss of freedom was the result.

### 6.4.3 Women's Rights

There are "…certain Arab countries and in the West, are developing a contextually-relevant fiqh for women…"[73] declares Samia Maqbool Niazi, an assistant professor of Law at the International Islamic University in Islamabad, Pakistan. She argues that scholars such as al-Qaradawi and al-Alwani are making rulings that change traditional roles for women, and how men and women interrelate. She gives examples such as the permissibility of women to rule a nation, shake a man's hand, to gain employment beyond the household, and in divorce.

Other voices adding to the growing discussion on women's rights and Islamic Feminism are the African-American Amina Wadud, the Egyptian-American Leila Ahmed, Pakistani-American Riffat Hassan, and American law professor Azizah al-Hibri. According to Aysha Hidayatullah, Associate Professor of Islamic Studies in the

[72] A traditional garment worn by Arabian men, usually a white, long sleeved, high collared, one-piece that is ankle length.

[73] Samia Maqbool Niazi, 2016 "Maqasid Al-Shariah and Protection of Women's Rights" in *International Journal of Sciences: Basic and Applied Research* Available at: http://gssrr.org/index.php?journal=JournalOfBasicAndApplied&page=article&op=download&path%5B%5D=5773&path%5B%5D=2936 Accessed 17.06.2019, p. 141.

Department of Theology and Religious Studies at the University of San Francisco, "they signaled the development of a coherent new field of feminist Qur'anic interpretation."[74]

The changing roles for women in America have been noticed by a couple of Muslims in Jacksonville. Linda indicates that where women's rights are not upheld it is because, "I think these things just come from the skewed image of Islam. So, where they take that culture from, like, olden times, and they just think that whatever the culture was, is Islam." However, in comparing life in the US with the old country she was surprised to find that while many women go to mosque in the US, few women attended mosque in her relative's home in Pakistan.

Felix would appear to agree with Linda, when he sees a difference in the way women go to the mosque more in the United States compared with his nation of origin. "Here, you know, women usually go to Friday prayers and *ʿīd* prayers. Which is good you know." According to him, it is due to America being a freer country, causing the thought process to change. When asked how does he feel about the change, he shares, "It's a good change I believe. It's not the change of Islam, but it's the change of the things that you've been doing in an incorrect way, you're now correcting those things in a, in a more, in a society like this."

The purpose of *sharīʿah* as women's rights goes beyond wearing or not wearing the *ḥijāb* or attending mosque. For Sharon, even though Islam allows polygamy, it concerns women's rights. She exclaimed, "It's also giving more, (not freedom), but more rights to woman… In Islam, you know, that the male can marry four wives. Right. But there is a law that if it is allowable, if the male can, you know, support equally, can love equally?" She added that the husband should work to support the family, and "…if the female, if the wife works, the husband doesn't have that right with that money." In her opinion, the husband has responsibility to provide for the family, and if the wife should happen to work and make money, that money is solely for her benefit. Zack likewise shared that the entire reason for having a marriage contract and dowry in Islam is to "…save the rights for women's [sic]."

Regardless of how many in the West may feel, many Muslims seem to believe that they are protecting women's rights, not harming them. The only issue comes when as Linda explained, that culture comes before Islam. It is then, that for many Muslims, (Zack included), women's rights are violated.

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[74] Aysha A. Hidayatullah, 2014 *Feminist Edges of the Qur'an* Oxford: Oxford University Press, p. viii.

### 6.4.4 Justice

Justice seems to be a common theme regarding *sharī'ah*. While it may be difficult to define, Kamali understands that there can be no justice without equality and it "…can hardly be regulated without the guarantee of freedom."[75] Andrew March quotes Rāshid al-Ghannūshī, who asserted, "…justice is the law of God."[76] However, Crane simply defines justice as human rights.[77]

Osman Bakar, Vice Chancellor of the University of Malaysia, states that justice is, "Inseparable from the ideas of order, proportion, harmony, and wholeness,"[78] and "…prevents literalism and legalism."[79] He seems to suggest that if government policies were in agreement with *maqāṣid al-sharī'ah* that it "…would seek to diffuse interreligious tension, and to create in its place a socio-cultural environment which is conducive to interreligious harmony, societal peace, and social justice."[80] Furthermore, he points out shortcomings in past policies that has prevented implementation of his definition of justice.

Ian also thinks "…*sharī'ah* is supposed to be all about justice." He announced further that, "…every country has sort of a *sharī'ah* in it… I think the US has some part of *sharī'ah*, I don't know what percentage, maybe it's like twenty, forty percent, but overall it's not I think. I don't think *sharī'ah* is possible in the United States." It appears that Ian's understanding is that *sharī'ah* is deeply connected to justice, and as all nations have a justice system there is some connection to *sharī'ah* though not complete.

A Muslims' sense of justice becomes a major element of *da'wah* for Charles. He believes that "…*da'wah* should be a representation…" of his life, faith and culture. He

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[75] Mohammad Hashim Kamali 2011 'In Focus *Maqāṣid al-Sharī'ah* and *Ijtihād* as Instruments of Civilisational Renewal: A Methodological Perspective' in *Islam and Civilisational Renewal,* Available at: https://www.icrjournal.org/icr/index.php/icr/issue/view/8/10 Accessed 12.06.2019, pp. 266-267.

[76] Andrew F. March, 2011 'The Maqṣad of Ḥifẓ al-Dīn: Is Liberal Religious Freedom Sufficient for the Sharī'ah?' in *Islam and Civilisational Renewal,* Available at: https://www.icrjournal.org/icr/index.php/icr/issue/view/8/10 Accessed 12.06.2019, p. 359.

[77] Crane, 'Maqasid al Shari'ah' p. 8.

[78] Osman Bakar, 2011 'The place and role of *Maqāṣid al-Sharī'ah* in the *Ummah*'s 21st Century Civilisational Renewal' in *Islam and Civilisational Renewal,* Available at: https://www.icrjournal.org/icr/index.php/icr/issue/view/8/10 Accessed 12.06.2019, p. 294.

[79] Bakar, 2011 'The place and role of *Maqāṣid al-Sharī'ah,*' p. 288.

[80] Osman Bakar, 2011 'Malaysia's Need for an Enlightened National Policy on Interreligious Peace: A Dictated of *Maqāṣidī al-Sharī'ah*' in *Islam and Civilisational Renewal,* Available at: https://www.icrjournal.org/icr/index.php/icr/issue/view/8/10 Accessed 12.06.2019, p. 392.

provides an example that fellow employees may say, "You know what, he's a good guy… Hey you guys are very just are very careful about calibration why you are like that?" Then one could share, "Because our religion dictates that we should be just. This is our religion." However, he never added whether this strategy of *da'wah* works for him.

### 6.4.5 Developing Civilisation

In a discussion of 'civilisation,' Bakar refers to civilisation in terms of an Islamic civilisation.[81] Crane on the other hand states that, "The purpose of every civilization or hadara is to promote peace, prosperity, and freedom for its own members and for all others through compassionate justice."[82] So, for Crane it appears that he sees that the ultimate purpose of civilisation is to perpetuate all that is good in the world. Kamali may agree with Crane when he espouses, "…the *maqāṣid* can provide a promising prospect for the advancement of values and objectives held in common between Islam and other civilisations."[83] It is his understanding that this would create a "peaceful coexistence" based on shared values between civilisations that could overcome hostilities.[84]

While Ibrahim Olatunde Uthman, L.O. Abbas, and Kamil Koyejo Oloso may agree with many of the statements in the above paragraph, they write that, "…the prevailing degrading state of the world is because… they have not fully comprehended the underlying indexes that formed the basis of sustainable development."[85] In their opinion this can be overturned with *maqāṣid* methods of development, which creates a higher standard of life for people, but also takes in account the environment and all animals sharing the planet.[86]

Kamali's view of *maqāṣid* working among opposing civilisations could possibly be seen within interfaith dialogue. He explains that *maqāṣid al-sharī'ah*, "…would make a meaningful contribution toward turning the tide of hostile overtures of the so-called 'clash

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[81] Bakar, 2011 'The place and role of *Maqāṣid al-Sharī'ah,*' pp. 285-286.

[82] Crane, 'Maqasid al Shari'ah,' p. 1.

[83] Kamali 'In Focus *Maqāṣid al-Sharī'ah* and *Ijtihād* as Instruments of Civilisational Renewal,' p. 268.

[84] Kamali 'In Focus *Maqāṣid al-Sharī'ah* and *Ijtihād* as Instruments of Civilisational Renewal,' p. 268.

[85] Ibrahim Olatunde Uthman, and L.O. Abbas and Kamil Koyejo Oloso 2011 'Contributions of Islamic Scholars to Sustainable Human and Environmental Development: Islam Hadhari and Future Development of Muslim Countries' Available at: http://www.inderscience.com/storage/f118713951210642.pdf Accessed: 20.06.2019, p. 18.

[86] Uthman, and Abbas and Oloso 'Contributions of Islamic Scholars', p. 18.

of civilisations' towards peaceful coexistence and engagement, a prospect one hopes to be grounded in commitment to shared values."[87] This would require unearthing and agreeing upon those areas that are mutually beneficial between societies that go beyond a settlement of hostilities. Seeking understanding on cultural, ethical, and social values would be vital to overcome fear and intimidation between societies.

Benjamin has strong support for interfaith dialogue as a way of developing civilisation. He relates that, "I see a lot of interfaith dialogue happening in Jacksonville." This is important to him because he understands, "faith people have more responsibility in making the peace in the community." He spoke proudly that he was part of a Ramadan *iftār* that was held at the Jacksonville Jewish Center. Benjamin seemed to indicate that this is a representational work that could be accomplished through the culmination of dialogue.

A much younger David also talks about peace inherent in Islam, which to him begins with answering the questions, "What is Islam?" He continues, "Why is it peaceful? How did it become peaceful and what do we practice to make it peaceful?" However, his argument breaks down after claiming that they always practice non-violence and never go to war, and in the next sentence begins a discourse on the Islamic rules of war. According to David, in those rules of war is the command not to pillage "because it will bring more war, and more of a divide." He ends his discussion with, "Especially when after you've conquered a country, you can never enforce a rule to say that everyone has to be Muslim." It appears that for David, war can be justified to bring others into the fold of Islam, but ultimately it is the decision of the "conquered" to convert or not. This seems to him a valid method to extend "peace."

Gary on the other hand has a different view of peace. To him it's about "…loving each other, accepting each other…" He explained that Islam is about helping the community, by organising peace, fair trade practices, and building society. For Gary, "Islam is about forgiveness," as opposed to determining what is right or wrong. However, he never explains how forgiveness is expressed.

[87] Kamali 'In Focus *Maqāṣid al-Sharī'ah* and *Ijtihād* as Instruments of Civilisational Renewal,' p. 268.

### 6.4.6 Preserving the Faith

It was previously mentioned that there are five things that Muslims declare are necessary for life. While quoting Abu Hamid al-Ghazali, Asyraf Wajdi Dusuki, and Said Boureraoua said, "The very objective of the sharī'ah is to promote the well-being of the people, which lies in safeguarding their faith (dīn), their lives (nafs), their intellect ('aql), their property (nasl), and their wealth."[88]

March describes the Islamic faith in three levels. The first is faith in the heart, or submission, which is the first pillar of Islam. The second is worship, which is defined as the remaining pillars. The third includes supererogatory prayers, pilgrimages, good works, and charity.[89] He also explains that the faith must be preserved in the individual, society, and in ideology.[90] Azila Ahmad Sarkawi, and Norimah Dali, and Nur Amilin Khazani stated that, "The preservation of faith is the most crucial, that leads people to embrace the presence of Allah…"[91] This is said to be important because it gives life meaning and aids in this life and the life to come.[92]

An interesting use of *maqāṣid al-sharī'ah* towards preserving the faith involves knee and hip replacement surgery. It has been argued that this is a key element of preserving the faith because it is necessary to be able to pray and perform the *ḥajj*.[93] So therefore this is in line with the purposes of *sharī'ah*.

To Edward it would appear that the preservation of the faith has a facet of levelling inherit to it. He gives an example of hand placement during prayer. "Where your hands, for example. That doesn't mean, neglect that or ignore it or… But, but it means, you know

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[88] Asyraf Wajdi Dusuki, and Said Boureraoua 2011 'The Framework of Maqāṣid al-Sharī 'ah and its Implications for Islamic Finance,' in *Islam and Civilisational Renewal,* Available at: https://www.isfin.net/sites/isfin.com/files/the_framework_of_maqas._id_al-shariah_and_its_implication_for_islamic_finance.pdf Accessed 12.06.2019, p. 317.

[89] March, 'The Maqṣad of Ḥifẓ al-Dīn,' pp. 364-365.

[90] March, 'The Maqṣad of Ḥifẓ al-Dīn,' p. 365.

[91] Azila Ahmad Sarkawi, and Alias Abdullah, and Norimah Md. Dali, and Nur Amilin Mohd Khazani 2017 'The Philosophy of Maqasid Al-Shari'ah and its Application in the Built Environment' Available at: http://irep.iium.edu.my/60588/13/60588_The%20philosophy%20of%20Maqasid%20al-Shariah.pdf Accessed: 01.07.2019, p. 216.

[92] Muhtari Aminu-Kano and Atallah FitzGibbon 2014 'An Islamic Perspective on Human Development' Birmingham: Islamic Relief Worldwide Available at: https://jliflc.com/wp-content/uploads/2014/07/Human-Development-v3.pdf Accessed 01.07.2019 p. 14.

[93] Muhammad Aa'zamudden Amad Radzi, and Abdurezak Abdulahi Hashi and Munirah Sha'ban 2018 'An Overview of the Application of Maqasid Al-Shariah into Cartilage Tissue Engineering' Available at: https://journals.iium.edu.my/kom/index.php/imjm/article/download/1013/694/2591 Accessed 21.06.2019, p. 152.

what? We're all praying and if you believe in God at the end of the day. You know this is not going to make a huge difference." While he acknowledges that it is normal for people to "fight and argue" over things, they don't always see the big picture. For him the bottom line is that hand placement isn't something that prevents someone from going to paradise. He shared emphatically that, "It doesn't work like that." Of course, he also claimed that his understanding of practice was not the same as every Muslim.

There are three ways of looking at it, according to Ian. The first is that some mosques try to get as many Muslims to attend and encourage the Muslims by highlighting the willingness of Americans to convert. The second are Muslims who try to convince Muslims to convert to their practice and particular faith. Finally, there are Muslims who are more concerned with preserving their national identity. In Ian's analysis, the last is a strongly held Bosnian view, "They are more concerned about just preserving Islam among Bosnians." They are not interested in other peoples attending their mosque. He justifies the Bosnian slant by comparing the Bosnian Mosque to others nearby. "I think the mosque at St. John's, like, tied to Pakistan, the one in Baymeadows tied to Egypt…the one on Southside tied to Turkey." So, while preserving the faith, may be the most important thing from a scholarship standpoint, it can be secondary to the safeguarding of heritage.

### 6.5 Through the Lens of Fiqh al-'Aqalliyyāt

In chapter 5, section 5.5, this thesis looked at the various ways the respondents interpreted *sharī'ah*, as examined through a minority *fiqh* lens. This was accomplished by comparing the differences between the respondents' traditional/conservative approaches on one hand and what could be determined to be their liberal/modern practice/experience on the other. However, this same approach may not necessarily work when examining the interviewees use of *maqāṣid al-sharī'ah*.

According to Abdul Hameed Badmas Yusuf, Department of Religions University of Ilorin, Nigeria, the historical development of *maqāṣid al-shari'ah* began with the interactions of the companions. These ideas were built on over time, and through various Muslim scholars. However, Yusuf further explains that *maqāṣid al-sharī'ah* "…has assumed an indispensable status through the efforts of al-Shatibi and Ibn Ashur in the

eighth and twentieth centuries, respectively."[94] The use of the *maqāṣid al-sharī'ah* has become one of the the two main pillars, (see chapter 4), from which al-Alwani built his concept of *fiqh al-aqalliyyāt*. Therefore, it seems as though any aspect of the respondents' view *maqaṣīd al-sharī'ah* and its application, could ultimately be considered an element of their understanding or treatment of minority *fiqh*. Despite that, I would like to draw attention to two points of *maqāṣid al-sharī'ah*.

### 6.5.1 Maṣlaḥah Realised

This portion of the thesis will begin to look at how Muslims in Jacksonville responded to questions relating to *maṣlaḥah*. Only one person actually mentioned the term "*maṣlaḥah*," and only after being asked. Therefore, it is not possible to ascertain the comprehension levels of the respondents regarding *maṣlaḥah*. However, there does seem to be a general understanding of the concept and a desire to see a version of *maṣlaḥah* implemented. As previously mentioned, *maṣlaḥah* is often closely linked to the *maqāṣid al-sharī'ah*, (Chapter 4, section Maqāṣid al-Sharī'ah). It has already been suggested that "Al-Alwani strongly encourages the use of *maslaḥa* in juristic verdicts."[95] However, *maṣlaḥah* as a factor in *fiqh al-'aqalliyyāt* is meant to assist in the integration of Muslims within the non-Muslim polity. As such, this does not simply become a scholarly exercise without consideration of the non-academic Muslim. Rather, it seems that the interviewed Muslims contemplate *maṣlaḥah* being "the public good or welfare," as part of the integration experience.

[94] Abdul Hameed Badmas Yusuf 2015 'A Study of Evolution of Maqshid As-Syari'ah as a Legal Theory' *Madania* Vol. 19, No. 1, Available at: https://ejournal.iainbengkulu.ac.id/index.php/madania/article/download/21/21 Accessed: 28.11.2022, p. 12.

[95] Mohammed Umar "Fiqh al-Aqalliyyāt al-Muslima" Available at: https://www.academia.edu/ https://s3.amazonaws.com/academia.edu.documents/57642373/Fiqh_al-Aqalliyyat_al-Muslima.pdf, p. 3.

### 6.5.2 Exceptions

Thus far, various Muslims' thoughts on individualism, community, and "giving back" in relation to *maṣlaḥah* have been explored. In this final section, on *maṣlaḥah*, "exceptions" or "allowances" will be further investigated. Chapter 4 briefly mentions the five necessities of life (*ḍarūriyyāt*), which are life, faith, intellect, lineage and property. Just as the concepts of *maqāṣid al-sharī'ah* and *maṣlaḥah* are often interchanged, so are the *ḍarūriyyāt* and *maṣlaḥah.*

There is a maxim within *fiqh* which states that "necessity makes the forbidden permissible."[96] In the event that necessities/*ḍarūriyyāt* would be compromised while fulfilling *sharī'ah* obligations, it is possible to suspend those obligations. Wael B. Hallaq claims that, "…necessity (ḍarūra), which also, at any rate in Riḍā's[97] view, overrides any other consideration in absence of relevant revealed texts."[98] This means, if Hallaq's view of Rida is correct, should a situation occur, not specified by a text, where harm to one of the factors of *ḍarūrah* is imminent, then preservation of that necessity supersedes other deliberations that might cause the detriment.

As in most cases involving interpretation, there is not a universal acceptance of the meaning of deferring *sharī'ah*. Likewise, it is the same concerning rulings made for exceptions. As an example, Khaled Abou El Fadl proclaimed:

> Some modern writers have argued that shari'a law, not just human interpretation of shari'a law, may be suspended if it is in the public interest to do so (*al-maslaha al-'amma*). Effectively, these writers erroneously equate public interests with individual cases of necessity and treat the two as having the same effect upon shari'a law.[99]

Abou El Fadl goes on to explain that there is a difference between suspending *sharī'ah* rulings based on the *maṣlaḥah* for the community and the necessities of an individual. He argues that the public good cannot override an objective standard of *sharī'ah*, because *sharī'ah* contains "absolute moral values." Therefore, to suspend *sharī'ah* based solely on the public good creates a subjective moral relativism. It is Abou

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[96] David H. Warren 2014 *Debating the Renewal of Islamic Jurisprudence (Tajdīd al-Fiqh)* Thesis University of Manchester Available at: https://www.research.manchester.ac.uk/portal/files/54565530/FULL_TEXT.PDF Accessed: 2.04.21 p. 127.

[97] Refers to Rashid Rida (1865-1935).

[98] Wael B. Hallaq 2009 *Sharī'a Theory, Practice, Transformations* Cambridge: Cambridge University Press, p. 507.

[99] Khaled Abou El Fadl 2013 "Living in the Light of God: Islamic Law and Ethical Obligation" *ABC Religion & Ethics* Available at: https://www.abc.net.au/religion/living-in-the-light-of-god-islamic-law-and-ethical-obligation/10100004 Accessed: 14.05.21.

El Fadl's conclusion, that "…necessity suspends the application of the law in order to preserve a higher value."

While Abou El Fadl's argument is predominately against the use of a general *maṣlaḥah* to justify exceptions, necessities are still viable. For Abou El Fadl, even though necessities may be classified in the same category as *maṣlaḥah*, they stand apart from *maṣlaḥah* on this critical point. The following are examples of how four informants explain the use of exceptions in their personal lives.

An illustration of how exceptions are justified, begins with David's explanation... "One, does it harm another person or discourage another person?" He sees that the "…overall principle is we're a peaceful religion." In his view, this is accomplished through patience and understanding. However, he explains that it does not stop disagreements, but that it should open you to see differing perspectives. Edward would appear to agree with David when he says, "I can say that in the United States, peoples' application of what they think is, you know, acceptable Islam has… people have become a little bit more flexible and more accepting of things."

In the previous chapter, the malleability of *sharī'ah* was discussed. This same flexibility is what permits exceptions. For David his concern is harm or discouragement, and for Edward it creates an "acceptable Islam," (presumably, for both Muslims and non-Muslims). While David does not mention a particular *ḍarūrah*, however if his view of a "peaceful religion" would cause harm any of the aspects of the *ḍarūriyyāt*, then it could be assumed that he would suspend that practice or at the very least modify it.

Because life in a non-Muslim environment adds additional problems, Charles explained, there are allowances. For example, when there is no *ḥalāl* food you are permitted to eat non-*ḥalāl* foods. He claimed that he says to himself, "Well, you know what? I know this is not *ḥalāl* and this beef is not been slaughtered with Islamic principles. It is not kosher in a way. So, but I'm here there is no other alternative. The good oversees the, the benefit oversees the bridging, the rule." Gary similarly used the example of his time as a student in Italy. The university provided free meals that were not *ḥalāl* and Gary could not afford *ḥalāl* food. "So, a lot of people were like, 'What are we going to do?'" Trying to eat very little, he became sick, and realised he had to eat to be able to study. "Shortly after a *shaykh* comes to the mosque, 'It's ok, eat the meat.' There's no other way, otherwise you starve."

Charles applies this same principal to purchasing a home. "You cannot accept interest rate, interest income. So, how do you buy homes here?" Do you have a duffle bag of money and you go to closing office, title office and say, "Here's the half a million

dollars, give me my house." He goes on to explain that in non-Islamic lands it's ok to pay interest. "So, this is to me, it's such a convenience." Felix clarified the struggle with interest, "I didn't feel good, because I didn't have any other choices. I had to use my credit card to live. What I was earning, and paying tuition wasn't enough. So, I didn't have a choice."

I should note at this point, that at least two couples, and another nine individuals that were interviewed are presently purchasing homes with a loan that requires interest. There were at least two others, who claimed that they were planning to buy in the near future. In other words, more than half of the interviewees were using or planning on using interest bearing loans. Out of those remaining, three were pursuing higher education, and therefore were living with their parents.

Due to *maṣlaḥah*, wearing the *ḥijāb* can also be treated in the same lenient fashion. Edward shared that his dad didn't want his sisters and mother to be harassed. Even though the mother wanted to wear the *ḥijāb*, and Edward remembers his dad talking about the importance of wearing the *ḥijāb*, after the first World Trade Center attack his dad said to my mom, "No, you have to take it off." He continues to explain, that there was a time when women were corrected for not wearing a *ḥijāb*. However, "Now you can be sitting in the same group of people and some of them are, you know, not wearing a *ḥijāb* and some are. Nobody's going to say anything even though something is not right."

## 6.6 Conclusion

This chapter begins by making a connection between the purposes, aims, intentions, (*maqāṣid*), of *sharī'ah* to societal benefits, (*maṣlaḥah*). This was further refined by Auda's list of sixteen *maqāṣid*. Then various claims and construction of the *maqāṣid* from the Islamic scholars Auda, al-Qahtani, Ibn Ashur and Crane were explored. Descriptions of *maqāṣid al-sharī'ah* from the interviewees perspective were then presented. However, the respondents usually supplied their personal definition of *sharī'ah*, often forgetting the *maqāṣid*.

In the next section, *maṣlaḥah* is examined as the public good. Beginning with Benjamin's response, individualism and collectivism are discussed. The scholars Musah, and Realo, Koido, Ceulemans, and Allik all seem to agree that individualism and collectivism are strongly intertwined. Ahmad believes there is a balance between the two, but there may be a call to sacrifice for the general welfare of the community. *Maṣlaḥah* is further defined in the interviewees use of community, using the same designations to

talk about several communities at the same time. Several Muslims, (Benjamin, Felix, Linda and Neal), referred to ways to "give back" to the greater Jacksonville community. Finally, the connection between *maṣlaḥah*, *ḍarūriyyāt*, and exceptions to *sharī'ah* are considered from several interview responses. These included Gary's reasonable, "he had to eat," Charles use of interest to purchase a house, and Felix's use of a "credit card to live," and finally Edward's explanation of family members not wearing the *ḥijāb* to avoid harassment.

Within the section, 'Other Views of Maqasid Among the Respondents,' six of the sixteen items on Auda's list are deliberated. Each section begins with a brief explanation of the subject from the standpoint of Islamic scholarship, before relaying the respondents' observations. Before searching for other sources, Auda and Ibn Ashur were considered first, primarily because it was Auda who compiled the list and much of Auda, Kamali, and al-Qahtani's research were ultimately derived from Ibn Ashur. Ibn Ashur's comments on women were not included in the segment on 'Woman's Rights' It appeared that Ibn Ashur took a narrow *taqlīd* approach in his discussion of women. However, considering that his *Treatise on Maqāṣid al-Sharī'ah* was first published in Tunis in 1946, it is not surprising.

The following are a representational response addressed to each of the six subjects. Within 'Orderliness,' Adam explained the importance of drug and alcohol limitation for the sake of the environment. John believes that 'Freedom' can occur in a locality "…only if everyone feels the same" about any issue. Sharon understood *sharī'ah* to protect women's rights by providing equal treatment during polygamy and providing dowry. For Charles, 'Justice' becomes a mode for *da'wah*. Benjamin's, interfaith dialogue is the platform from which people of faith can make "…peace in the community" to promote 'Developing Civilisation.' Finally, in 'Preserving the Faith,' Edward expounds that as long as all the Muslims pray, the differences are "…not going to make a huge difference."

*Sharī'ah* has a Janus characteristic that often seems to be at odds with one another. The first is the 'righteous path' that all Muslims hope to walk. Many Muslims seem to have naïve affection with the idea of *sharī'ah*. However, the other aspect is the 'Islamic Law' that has been deduced through the process of *ijtihād* and the tendency to attempt to codify *sharī'ah*. However, this can seem overly rigid for some Muslims.[100] *Maqāṣid al-sharī'ah* appears to be the cement that can hold the two elements together.

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[100] Rumee Ahmed 2018 *Sharia Compliant: A User's Guide to Hacking Islamic Law* Stanford, CA: Stanford University Press, pp. 5-16.

The duality of *sharī'ah* can be seen from Ian's response, which was previously used in the discussion of 'justice.' When asked directly, "What is the purpose of *fiqh* or *sharī'ah*?" He answered, "…Doesn't *sharī'ah* mean like a 'straight path' or something like that? It's like, how the country should be, how society should be." This illustrates his idyllic understanding of *sharī'ah*. Afterward he refers to justice, then lightly touches on *fiqh* saying, "*Sharī'ah* doesn't have, like, straight set of rules…" However, he then uses as an example of "four witness." He then seems to wrestle with *sharī'ah* concepts mentioning historic prohibition of alcohol, and the war on drugs in the United States. He assessed, "…But you know, that's not going to stop. Then *sharī'ah* can…" (pause) "I have…" (pause) "Then yea, it's not…" (pause). He then changed direction with the afore mentioned, "I think the US has some part of *sharī'ah*… Maybe it's like twenty, forty percent." Though Ian began with a picture-perfect idea of what *sharī'ah* should be… it wasn't long before Islamic law came to the forefront and he could not seem to grapple with the other side of *sharī'ah*'s nature.

*Maqāṣid al-sharī'ah* are vitally connected to *maṣlaḥah*, and does not stay in the intangible realm of potential community benefits. According to Edward, it makes things more flexible and for Felix it is corrective of the misuse of Islamic law and customs. What is not clear at this point is whether al-Alwani's vision of integration can be fully realised only through *maqāṣid al-sharī'ah*. Though several of those interviewed have used the allowances made in *sharī'ah* for their benefit, it often makes them uncomfortable. By using those allowances, they are not only settling for second best, but are making a choice of the lesser evil.

Perhaps one of the greatest strides towards integration is not only via *maṣlaḥah*, but in combination with the way Muslims individually define their community. If the concept of the public good remains within the context of a Muslim sphere of influence as a closed community, then *maqāṣid al-sharī'ah* may have minimal impact. However, if the Muslims living in Jacksonville have truly adopted the surrounding society of Jacksonville as their own community beyond the confines of religious identity, then integration may be occurring.

There seems to be few ways to gauge commitment to community. Perhaps one method would be to see if they are "giving back" to the community. Even though many US citizens may believe that they have a high commitment to their community, many would not do anything to contribute to the general welfare of society other than the obligatory. If one was seen as giving altruistically for the society without recompense, then it could show a level of dedication to the whole. Nevertheless, if one is providing

philanthropy for the sake of *da'wah* as suggested by al-Qaradawi, the benefit may be real, but the question remains, to what degree is the allegiance to society or simply to religious ideology? I believe it is possible to have loyalty to both simultaneously, yet for a religious outsider, the benevolence may appear tainted.

Closely related to *maṣlaḥah* is the idea of "Developing civilisation." There are two definitions to developing civilisation that have been displayed. The first, Bakar's definition which is based solely around increasing Islamic polity. The second, Kamali's, a "…commitment to shared values"[101] still holds a separation of society between Muslim and non-Muslim, but a willingness to seek understanding between the two. What seems to be lacking is working together to obtain a mutual society, where both Muslims and non-Muslims live, work and raise children together. In this regard, the civilisation could be based upon those "shared values," creating an identity that both Muslims and non-Muslims would welcome together.

By looking at *maqāṣid al-sharī'ah*, this chapter began to discover a few possible in-roads toward Muslim integration for those living in Jacksonville. The connection between Muslims' lived experience of integration and minority *fiqh* and will be further explored of the integration themes. In the next chapter the themes of integration are further expounded upon, looking at the challenges, and potential solutions as expressed by Muslims.

[101] Kamali 'In Focus *Maqāṣid al-Sharī'ah* and *Ijtihād* as Instruments of Civilisational Renewal,' p. 268.

# Chapter 7: Integration

## 7.1 Introduction

> Sometimes people don't understand, some times they're aware, they're culturally aware. But sometimes they're not. And so you have to come to terms with, do I do this, or do I do that? So how to do that?
>
> - Tammy[1]

The previous chapter discussed at length Taha Jabir al-Alwani's premise that *maqāṣid al-sharī'ah* could be the means to create and promote integration for Muslims in a non-Islamic polity. This proposition seems to be dependent on a number of factors, foremost is *maṣlaḥah* as public good or welfare, and the response of the Muslim peoples to the greater Jacksonville society. While the previous chapter attempted to bridge the theoretical and praxis divide of *maqāṣid al-sharī'ah* regarding issues of integration, this chapter considers integration concepts, and the impact they may have in the lives of Muslims.

In order to discuss integration in the context of *fiqh al-'aqalliyyāt*, this chapter looks at integration through Muslim theories of integration. By comparing Kazemipur's theories to the responses of Muslim interviewees, this chapter will explore the points of convergence and possible divergence with their experience and *fiqh al-'aqalliyyāt*.

Concepts of integration as a continuum between segregation and assimilation, as well as integration as part of one's body, mind and soul are discussed in the next section. Adjusting Behaviour as an elements of friendship, "othering," and social interaction are presented in the following section. An educational approach to integration is examined through interfaith events, and lingual-cultural learning. Completing Kazemipur's integration model is emotional connection which primarily is surveyed through perceptions of the Muslims' use of "home." The final sections relate to Jan A. Ali's understanding of integration coming through acceptance of ethnicity, cultural traditions and religious values.

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[1] See Appendix 1.

### 7.2 What is meant by Integration?

There seems to be some confusion as to the exact definition of 'integration.' Anthropologists, sociologists, organisations and individuals propose various models of integration. A common understanding of integration is that it lies in the middle of a spectrum between assimilation at one end, to segregation at the other.[2] However, if integration is assessed through an assimilation-integration-segregation spectrum, there are problems associated with the use of a continuum. For example, if one moves from assimilation towards integration, where does integration begin and assimilation end? Furthermore, how can Muslims know if they are on a path of integration or assimilation? As an alternative, Amjad M. Mohammad, Dean at the British Olive Foundation, argues that assimilation, integration, and segregation are not on a spectrum, but rather they are separate, parallel tracks. The integration track begins with no integration and moves steadily forward toward a greater integration. While the assimilation track begins at no assimilation and moves toward greater assimilation. Likewise, the segregation track moves toward greater segregation. For Mohammad, integration maintains a middle ground between assimilation and segregation, but contains elements of both.[3]

On the other hand, Kazemipur removes the spectrum altogether. For Kazemipur, integration can be defined as to where it takes place, "in one's behaviours (body), brain (mind) or heart (soul)."[4] With this system of integration, the "Body" is representational of modifying visible, tactile behaviour in a manner which is more acceptable to the host society. The "Mind" involves a more educational approach, learning language, history, and citizenship requirements. Finally, the "Soul" comprises an emotional connection with the newly adopted society.

The perplexity of integration can be seen in the interviewee's responses. When asked how do they define integration, there were thirty-two different definitions given. Despite a wide variety of answers, three initially claimed that they did not know, (though provided additional answers later), and four never broached the subject or used any derivation of the word. The most frequent answer with eight individuals making the

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[2] Lutz R. Reuter, "Ethnic-Cultural Minorities in Germany: Life Chances, Educational Opportunities, Minority Group Identity and Political Participation" in Russell F. Farnen 2004 [Ed.] *Nationalism, Ethnicity, and Identity Cross National and Comparative Perspectives* New Brunswick, NJ: Transaction Publishers, p. 213.

[3] Amjad M. Mohammed, 2013 Muslims in Non-Muslim Lands A Legal Study With Applications, The Cambridge: Islamic Texts Society, pp. XII-XIV.

[4] Kazemipur, 2014 *The Muslim Question in Canada*, p. 31.

assertion was to be "a part of society." The next was "to work," "help each other," "accept others" with four. "Learning to speak the language," and being a part of the "second generation" each was mentioned by three. One of those stating the second generation was actually part of the first generation. There were twenty-one distinct definitions with a single declaration.

Kazemipur's three categories of integration frees the definition from Amjad Mohammad's specified tracks to a more subjective, (and more in line with a constructive theory), approach to the subject. Therefore, the interviewees' definitions of integration will be compared to Kazemipur's body, mind and soul theory. There is not a universal, standardised definition for integration. So, it is no surprise that among the Muslims of Jacksonville, there is not an agreed understanding of what is considered integration.

### 7.2.1 Adjusting Behaviour

The first aspect of Kazemipur's theory of integration is what he refers to as "the body," or the need to adjust behaviour. Kevin[5] described the "Body" method of integration by giving a lengthy metaphor of a house which embodies the nation. "Imagine this is house, huge house and the people, main people of the house, owners of the house say, 'Hey, come to my house and live. I have a lot of space there, but please, these are rules in my home, you know, obey rules.'" Then he proceeds to list a number of chores that has to be done, cleaning, gardening, and not overusing the shower. This is done for the purpose of leaving "…the place nice for other people who come here and live together nicely by the day."

Six of the respondent's definition of integration dealt with some form of adjusting one's behaviour. For example, it seems to be Kevin's view, that if everyone adheres to the same social cues then conflict will be diminished. However, his analysis lends itself to being entirely one-sided, the primary society itself has no sense of accommodating the new arrivals. Using his analogy, the owners of the house have no responsibility to be good hosts, all responsibility lies in the "guests." Furthermore, "ownership" resides with the majority, and does not allow the minority to ever move into a position of ownership. This generates a paradox where the desire to be integrationist creates a separatist paradigm, where the integrationist is never equal to the majority.

[5] See Appendix 1.

While Kevin speaks in parables, Henry[6] is very open in explaining where he fits in society. When asked, "What does integration mean to you?" Henry responds with "I join in some ways." When asked, "What ways?" He qualifies it by saying, "You know, with my American friends, I'll be doing like American stuff… I mean like surfing, country stuff – mudding, four-wheelers, side-by-side."[7]

Even as Henry expounded the various ways that he joins in with his American friends, he also disclosed as a matter of fact, "I feel like I'm separate." Though Henry has American friends and participates with their "country stuff," he still feels that there is a distance between them. When asked, "What makes you feel separate?" Henry replied, "Religion stuff. Religion stuff… Yea, I'm like… don't do it like the rest of society." To Henry, like many Muslims, Islam is large part of his life, however it is facet of his life that he does not seem to be able to share or discuss with his American friends. Therefore, it could be for Henry a "Body" approach to integration may be contributory, but is not enough. Somewhere there must be a place to freely express one's religious life.

Both Henry and Linda[8] are under 21 years of age, and both mentioned friends in their definitions of integration. Linda declared that: "If you have your mosque, and you have all your life stuff at the mosque like, I pray at the mosque, you eat at mosque. Your friends are people from the mosque. And you never, like, if you never step outside of that, that's like the opposite of integration." She further emphasized friendship by stating "You can, like, go and, like, become friends with people that are not at the mosque."

According to Beverly Fehr, professor of psychology at The University of Winnipeg, "Friendship relationships meet our need for social integration."[9] She argues that friends assist each other by meeting material needs, cognitive needs, and social-emotional needs. In the US, there is a strong tendency towards individualism that is experienced through autonomy and self-sufficiency.[10] Many of the Muslims living in the US come from nations that are considered collectivist and therefore, work and live, not only as

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[6] See Appendix 1.

[7] Mudding – to drive through mud and spin until everyone is covered in mud, particularly for those passengers riding in the back of a jeep, or truck.

Four-wheeler – small all-terrain vehicle.

Side-by-side – utility terrain vehicle or recreational vehicle.

[8] See Appendix 1.

[9] Beverly Fehr, 1996 *Friendship Processes*, Thousand Oaks, CA: Sage Publications, p. 5.

[10] Kendra Cherry, 2020 "Individualistic Cultures and Behavior" *Verywell Mind* Available at: https://www.verywellmind.com/what-are-individualistic-cultures-2795273 Accessed: 13.08.2020.

individuals, but as part of a larger social group. For Muslims, meeting others' material needs is not just a matter of being a part of a family or social group, but also a matter of survival. Meeting others' material needs often runs contrary to the ideas of American personal independence. This has made it difficult for many Americans to fulfil or comprehend the need for this aspect of friendship towards Muslims and immigrants in general.

Fehr further explains that cognitive needs are met by sharing experiences, ideas and even gossip. This becomes "…a frame of reference through which we can interpret the world and find meaning in our experiences."[11] This is extremely important if examined through a constructive theory lens. In other words, Fehr implies that through friendships, how we perceive reality is altered. This is not, of course, a one-way venue. Both sides of the friendship would see reality differently. Therefore, a Muslim, whose family is now living in the West, would have a different perspective than those from the "old country," due to developing friendships beyond the familiar spheres of influence, and a westerner would have preconceptions challenged.

Perhaps the most important aspect of friendship are the social-emotional needs. This is realised "…through the provision of love and esteem."[12] For a friendship to flourish, there is a balance between social connectiveness and self-reliance. Fehr elaborates, "Each person must feel free to pursue his or her own individual interests separate from each other. At the same time, each must feel that the other can be relied on for help and support regardless of the circumstances."[13] For both Linda and Henry, the religious aspects of their life separate them from their non-Muslim friends. However, the fact that they call others "friends" outside of the inner-circle of their faith, implies that those friends can be called upon for "help and support." At the same time, they may partake in religious activities that would otherwise separate them from their friends. This sense of freedom to be involved in those "individual interests" could be seen as tacit support from their friends. Despite this inference, there is no indication of the depth, the degree of reliance expected, nor to what degree their friendships can be taxed.

Twenty-two of those interviewed said that they had non-Muslim friends, with only one person mentioning that he did not. Eleven of those who claimed to have at least one non-Muslim friend provided some sort of narrative context. The other half gave no further

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[11] Fehr, *Friendship Processes*, p. 5.

[12] Fehr, *Friendship Processes*, p. 5.

[13] Fehr, *Friendship Processes*, p. 157.

background and therefore, one was simply to trust their answer. Eighteen of the respondents gave answers regarding Muslim friends, usually multiples of times. While more said that they had non-Muslim friends, that was in response to a direct question, and the answers often seemed forced as an expected outcome. While there is a strong indication that at least eleven, (and possibly twenty-two out of the twenty-five), interviewees have non-Muslim friends, the majority of their friends were Muslim.

Within the context of adjusting behaviour to "fit in" with the surrounding society, it appears that as long as one must make a conscious effort to modify their conduct on behalf of someone else, they cannot truly be integrated. Fitting in seemed to lead younger Muslims toward friendships outside the Muslim community. In order to assist the process of fitting in, ideas revolving around self and others were qualified.

#### 7.2.1.1 Self and Othering

Even though friendships may be formed outside of one' social group, the process of "fitting in" can be difficult. There may be a conscious or sub-conscious feeling of not truly belonging. To further complicate the issue, finding the "us" in social interactions, as opposed to remaining in the "self" and not looking at potential friendships as "others" may seem unnatural. Yet, in order to gain the social reliance and assistance that Fehr alluded was needed for a true sense of friendship, it may require re-evaluating one's positionality. This section will discuss the concerns and consequences of "self" and "othering."

Edward's[14] perspective on integration is explained when he describes how one community, (presumably the Muslim community), interacts with another community (the host society). His view of community to community relationship lends itself to the constructive theories approach, (Ch. 4). Edward states that through interaction, 'You can really overcome prejudice… If you're isolated from other people you just see them as a stereotype." Likewise, Felix[15] shared that integration, "Means not living in your own bubble. It means being in constant communication with the other community."

The relationship between communities and individuals has been discussed at length in other literature, particularly in the discussion of "the other." The division between 'self' and 'the other' can be a complicated process. This can be widely thought of in terms of

[14] See Appendix 1.

[15] See Appendix 1.

the relation of an alike "we" to a contrasting 'they." The "we" – "they" relationship can be described as differences between ethnic, cultural, and social groups.[16] The lines of demarcation between "the self" and "the other" can be very fluid depending on the perspective the self would highlight. Various aspects of an individual's identity can be stressed at different times creating both a "we" and "othering" at the same time. While a group may share in a national identity (we), they can also be opposed to each other in gender, family, religion, political affiliation, financial position, and so forth (other). Likewise, 'the other' becomes 'the self' from the opposing point of view. "There is no Other, but multitudes of others who are all others for different reasons."[17] In other words, everyone is an "other" from multiple perspectives, becoming "we" with some and at the same time being "othered" by those same persons.

According to Marisabel Almer (University of Michigan), "The Self and Other are defined in binary opposition to each other."[18] To be specific, there is a separation between the self and the other based on an opposition to each other. It is not simply opposite positionally, (such as "yes/no" or "hot/cold" etc.), but rather an antagonistic relationship is formed with the other. It is the "self" or the "we" against whatever group or person/s that represents the other. That antagonism can be represented in a form realised from a passive minor exclusion (not we) to open hostility. Lesley Jeffries, professor of English Language and Linguistics at the University of Huddersfield, explains that Jaques Derrida claimed that within a cultural or social opposite there is inequity where one side would be the powerful and the other oppressed.[19] However, this is further clarified as Marissa Sonnis-Bell[20] describes the process of "othering," which is '…often framed within constructs of the dominant self and the minority other…"[21] While one side from an outside perspective may truly be more powerful, from the side of "the self" they perceive themselves as dominant. Minority in this sense, does not always mean that they are fewer

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[16] Marc Augé 2000 *Non-Places Introduction to an Anthropology of Supermodernity*, London: Verso.

[17] Marisabel Almer, "Getting a Ride with Ronny, Tom, and David" in Teresa A. Booker (Ed.) 2016 *Public Space, Public Policy, and Public Understanding of Race and Ethnicity in America* Akron, Ohio: The University of Akron Press.

[18] Almer, "Getting a Ride with Ronny, Tom, and David."

[19] Lesly Jeffries 2010 *Oppositional Discourse: The Construction of Oppositional Meaning* London: Continuum.

[20] Department of Geography, State University of New York in Buffalo, NY.

[21] Marissa Sonnis-Bell "Introduction: Arbitrary Constructions and Real Consequences of the Self and Other" in Marissa Sonnis-Bell, David Elijah Bell and Michelle Ryan [Eds.] 2019 *Strangers, Aliens, Foreigners: The Politics of Othering from Migrants to Corporations* Leiden: Brill, p. 1.

in number or have less power than "we/self," instead the minority is seen as "less" than the dominant, in whatever fashion the "we/self" chooses to measure the opposition.

Edward explains that community to community interaction is the way to overcome prejudice and stereotypes. In context, he is specifically referring to the Muslim community interacting with the non-Muslim surrounding society. Through the process of the two communities coming in contact with each other, a basis of understanding is developed breaking down barriers of bigotry and discrimination. However, simultaneously this could create a paradox. In the comparing of one community to another, an opposition is formed from the us/them paradigm. As pointed out by De Clercq and Thongpapanl of Brock University, Canada and Dimov of the University of Connecticut, "…rather than resolving relationship conflict, social interaction can make it loom bigger and seem intractable."[22] According to the afore-mentioned Derrida and Sonnis-Bell theorems, whichever side is making the comparison would possibly see itself as the dominant and the other as the lesser. This could be religiously, morally, lingually, culturally etc. While many assume that by social interaction, one can gain understanding of one's differences, it can actually highlight those differences, widening the "us" – "them" gap. Yet, how does one get to know the other if there is no interaction? Furthermore, if community to community interaction naturally produces "othering" and thereby opposition, how are prejudice and stereotypes ever overcome?

Within this research, only two out of the twenty-five respondents did not refer to others in any capcacity. Since, 92% of the those interviewed did refer to the other, it shows how common interaction with the "other" is. Even though nineteen of the the interviewees refered to the other as those who shared the same faith, all of the twenty-three spoke of the "other" in their contact with peoples throughout Jacksonville. Among them seven mentioned differences in culture, and race was featured in six replies. Equally, community, and potential conflicts were both brought up five times each, (only one interview featured both). However, answers to the problem represented by the "other" were given as acceptance by seven, and respect by five, (three offered both acceptance and respect).

The "we/self" is a social construction with a multitude of layers. The awareness of the individual "self" or the "we" "…is a product of self-construction that is constantly

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[22] Dirk De Clercq, Narongsak Thanpapanl, and Dimo Dimov 2009 "When Good Conflict Gets Better and Bad Conflict Becomes Worse: The Role of Social Capital in the Conflict-Innovation Relationship" *Journal of the Academy of Marketing Science*, p. 286.

under assessment in our globalized world."[23] It is possible that continual assessment of the "we/self" pushes each side towards the "other" creating "…a hybrid or in-between space in which they appropriate aspects of the "other" culture or reconfigure them from the perspective of the indigenous system of values and aesthetic ethos."[24] It is in the hybrid or in-between space that allows and defines integration.

This section was part of a social theory that defined the basis of social interaction in terms of "self" and "othering." In the next section, various types of social interaction as described by sociologists are expounded. Likewise, the interactions will be illustrated through the lived experiences of Muslims in Jacksonville to further emphasize their relevance in the discussion of integration.

#### 7.2.1.2 Interacting with the Other

It seems obvious that there must be some form of interaction between individuals and communities, as no one is completely independent of the other. Interaction is a "…behavior that is directed towards others, in the sense that each person is aware of how others will probably respond, and is reciprocal, in the sense that each person is conscious of and responsive to the actions and reactions of others."[25] There are four categories of interaction which are, first exchange, second cooperation, third competition and finally conflict. While interaction can be classified into four different categories,[26] the categories can often be blended into one event and at times make it difficult to tell one from the other. For example, in a game of American football there is an "exchange" of money for the professional athletes and the owner of the teams, as well as those who purchased tickets. There is cooperation between teammates in order to defeat (conflict) their opponent in a game of friendly competition.

The first interaction, exchange, "…is a transaction in which one of two individuals – or groups, or societies – does something for the other with the expectation of receiving

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[23] Graciela Pérez Boruszko, "Individual Representations of Bicultural Nature Exiled in Urban Communities" in Teresa A. Booker (Ed.) 2016 *Public Space, Public Policy, and Public Understanding of Race and Ethnicity in America* Akron, Ohio: The University of Akron Press, p. 47.

[24] Ahmad Idrissi Alami, 2013 *Mutual Othering Islam, Modernity, and the Politics of Cross-Cultural Encounters in Pre-Colonial Moroccan and European Travel Writing* Albany, NY: State University of New York Press, p. 71.

[25] John A. Perry, and Erna K. Perry 2012 *Contemporary Society: An Introduction to Social Science* London: Routledge, p.84.

[26] Sometimes a fifth category is mentioned, Accommodation. However, others believe that is simply part of cooperation.

something of equal value in return."[27] Perhaps the most notable exchange among many of the interviewees is education. Benjamin[28] attended the University of Central Florida and hopes to continue his education at the University of North Florida, (UNF). Furthermore, David,[29] Ian,[30] John, Linda, and Tammy[31] all either attend or attended the UNF in Jacksonville. Alice[32] also completed higher education in nursing within the state of Florida, (but not at UNF). Education in the United States is an expensive proposition, and there are expectations. For example, Ian shared, "I came here for school. So basically, I applied for school, I was admitted. And then, you know, I mean, I paid out of my pocket, so it's not like, you know, I was provided with some scholarships. But actually, I came for, like, for education and for my future."

In the case of education, the exchange as an aspect of integration may seem self-evident. Many Muslims come to the US for the sake of education, (which has already been explained), and it is expensive. However, they pay the price not solely for the purpose of education, but as a step for a brighter future for themselves and their families. Education holds the potential for an improved career, and thereby a more enriched lifestyle. For Ian, paying the cost of education is analogous to putting money in a bank.

The second, cooperation "…is a primary social process involving two or more persons or groups working jointly in a common enterprise for a shared goal."[33] There are many examples of cooperation in sports, and business, however an example given by Benjamin involves his brother's marriage. Benjamin's is married to a Christian woman. When asked how does that affect the family dynamic, Benjamin responded:

> I think what really keeps us united and respectful towards each other is that, the fact that my sister-in-law is very respectful of our religion and vice versa. We are also respectful. I always call her during Christmas, congratulate her with Christmas, and Lent and other Christian holidays. And she makes sure she calls us and respects us during our Muslim holidays. Like she cooks for my brother when he's fasting during Ramadan. And she buys him a present during Ramadan, and so forth.

Cooperation is fostered, not just for the married couples, but for the extended family as well. Particularly, within cross-religio/cultural marriages there are expectations on

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[27] John A. Perry, and Erna K. Perry 2012 *Contemporary Society: An Introduction to Social Science* London: Routledge, p.84.

[28] See Appendix 1.

[29] See Appendix 1.

[30] See Appendix 1.

[31] See Appendix 1.

[32] See Appendix 1.

[33] Perry and Perry *Contemporary Society*, p.84.

both sides of the family, which requires cooperation to maintain the marriage and amicability. During the holiday seasons when one side or the other do not celebrate that religious holiday, this can be a difficult time. Respect, which seems, according to Benjamin, to require at least some element of participation on the part of the non-holiday observer. These include well-wishing phone calls during Christian holidays, and preparing *iftār* during Ramadan. Cooperation in Benjamin's family is for the purpose of unity in marriage and among the family.

The third, Competition "…occurs when two or more individuals try to take possession of the same scarce object, whether it be tangible… or intangible."[34] According to Brian,[35] competition was acutely felt in the US work environment. He felt that he always had to do his best, because it came with "…a lot of achievements." Though he did not specify what those achievements were. Interestingly, he tied this sense of competition directly with integration. Brian passionately proclaimed, "When I came here, I want to, like, integrate with these people, I want to understand them, and I want them to understand me." That's when he hit, (as he depicted), a "mine," which was an awareness that for others that there is a Muslim in the workplace.

Brian was understanding that competition was part of an American work ethic and therefore threw himself into that setting to integrate as much as possible. He went on to proclaim, "That was my goal to show them as well, along with like, doing my job and living here." However, it became difficult once it was discovered that he was Muslim. His frustration arose as he defended himself, "Don't be silly, just don't read the newspapers and media, and the people, think about it, read stuff, and then get your own idea." In the next breath, Brian explained, "That was my goal. So, to achieve this goal I should be integrating with them." Competition, was a way of joining into the local culture, and thereby integrating with the hope that there would be a mutual understanding of each other.

Competition is not always friendly and can lead into the fourth social interaction, conflict. This can be defined as "… a hostile struggle between two or more persons or groups for an object or value that each prize. Conflict is also the process in which opposing parties attempt to injure, harm, or destroy one another to achieve a specific goal."[36] According to Sheriff Folarin head of Department of Political Science and

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[34] Perry and Perry *Contemporary Society*, p.84.

[35] See Appendix 1.

[36] Perry and Perry *Contemporary Society*, p.84.

International Relations at Covenant University, Ota, Nigeria, there are various types of conflict. Examples include "man against self," an internal struggle of the mind. Secondly, "man against man" at a personal level, this could be described as anything from a cold attitude to causing physical harm to an individual. Thirdly, "man against society or nature" occurs when one either works against institutions or practices (society) or against a hostile environment. While Folarin includes "family conflict," "inter-group conflict," "intra-state conflict," "inter-state conflict," and "global conflict,"[37] I would like to coalesce these down to intra-group and inter-group conflicts. Therefore, "intra-group" occurs within a group and may include a religious group, political organisation, family and could include civil strife or war. However, "Inter-group" conflict occurs between two factions, between the "us" and "them."

While not all conflicts revolve around war, for many Muslims living in Jacksonville, war seems to at least frame part of their immigration narrative. Each of the interviewed Bosnians[38] described their immigration journey beginning with the Bosnian War. Likewise, recently there has been Iraqis who arrived due to the Iraq War and Syrians who came due to their civil war. As an example, a Bosnian man explained that the war in Bosnia "ruined the whole nation," so they decided to look for somewhere else to go. When asked if he felt accepted by the population of Jacksonville, after a quick answer of "I do," he then responded:

> For the most part… There is definitely, I mean, there is… We all know a lot of stuff that goes on, with the… not just religious wars, historical wars, um, national wars and so forth. And there is people who've lived through things of that nature. Whether they have been tied in through the army or through a church or something of that nature. And they were taught a very biased viewpoint. And they come and they're [grunts/shouts]! And they, you know, and there is people of that nature.

It is interesting to note how he pairs wars (religious, historical and national) with "the army or through a church." It may appear that from the above quote which says, "…they were taught a very biased viewpoint," there is an assumption made that due to being part of the military or church, an individual is institutionally taught a negative bias. However, he qualifies the quote with there are "…people who've lived through things of that nature." In other words, not only were they taught their biases institutionally, but they were learned experientially as well. In this case, war (in whatever form), becomes the

[37]Sheriff F. Folarin, 2015 "Types and Causes of Conflict" Available at: http://eprints.covenantuniversity.edu.ng/3241/1/Folarin%2025.pdf Accessed: 28.10.2020.

[38] Due to the personal nature of this section and the identity of the national origins of the individuals given, I do not include their name here in order to further protect their identity.

schoolmaster, and thereby becomes a lens from which social interaction is seen. This is not to say that it is the only lens, however.

In order to punctuate the Bosnian narrative from another perspective, an American-born Muslim who had no actual experience of war reported that for a long-time "…basically I started out, I'm not telling anybody I'm Muslim." He was extremely careful to hide his religious identity. Yet that could not continue indefinitely, he recalls:

> I had a co-worker of mine who went to Iraq. He was a war veteran in Iraq. I used to train him, so we would take road trips. We spent, you know, a week together in a hotel. And I'm praying five times a day, but I'm being careful not to pray in front of him. And he did not realise I'm Muslim until maybe two months after we knew each other. And he said his first reaction wanted to punch me in the face, his first reaction. But he got over that. He was a war thing, but anyway… I'm trying to be more up front.

It seems that it was this American-Muslim's point of view that his co-worker had been previously trained due to his involvement with the Iraqi Gulf War to think of all Muslims as combatants. Therefore, even outside of the theatre of war, the initial response of the co-worker was to go on the offensive and consider punching his newly formed friend in the face once he discovered he was Muslim. In this case, war became the lens from which the non-Muslim also approached social interaction. The importance of the military and Jacksonville connection cannot be denied. The Northeast Florida region has approximately 75,000 active duty and reserve military, (mostly Navy), and civilians who work in at least three military bases and other military installations. This equates to about 14% of the area's workforce.[39] The influence of the military on Jacksonville's culture and attitude is noticeable.

It is obvious that war is a very negative and extreme element of conflict. However, According to Psychologist Sherrie Campbell, conflict can produce some positive results. She speaks specifically of conflict in the work environment, however these could potentially be applied elsewhere. She lists ten benefits of conflict:[40]

1) Opens eyes to new ideas.

2) Opportunity to verbalize needs.

3) Teaches flexibility

4) Teaches listening skills

5) Teaches patterns of behaviour

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[39] Mark Basch 2017 "Jacksonville and Northeast Florida A Might Military Presence" *Florida Trend* Available at: https://www.floridatrend.com/article/23647/a-mighty-military-presence Accessed: 29.10.2020.

[40] Sherrie Campbell 2016 "The 10 Benefits of Conflict" *Entrepreneur* Available at: https://www.entrepreneur.com/article/279778 Accessed: 29.10.2020.

6) Leads to solutions

7) Practice communication skills

8) Sets limits

9) Practice emotional control

10) Allows for differentiation.

Many of these ten benefits are useful skills when immigrating and attempting to integrate into a new society. Within this list I would like to focus on a select few of the list that Campbell provides that may be relevant. In the discussion of "Opens eyes to new ideas" Campbell writes, "Conflict is an effective vehicle for the generation of new solutions, gaining trust and developing deeper agreements; all of which are great for networking, bonding and establishing successful connections."[41] Flexibility is presented as the ability to adjust one's perspective. Even though conflict may be the initial lens that one uses to build a social construction, flexibility means that it does not have to stay in the realm of conflict. A search for solutions, and effective communication skills allow for peaceful resolutions and perhaps a position to allow friendship to grow.

Adjusting one's behaviour is a visible, external response, especially to those who are close to the one who is making the changes. In the context of integration, according to Kevin, this is best exampled as one follows the rules of a different society. Furthermore, new patterns may be required to forming friendships outside of an ingroup. Despite benefits to friendships and integration, there are challenges due to "othering." Though social interactions may be classified, they are often accomplished without an awareness of the "rules" of interaction within a society. Just as Brian was endeavouring to "fit-in" the workplace through a perceived competition, he was also aware of not "fitting-in" due to being a Muslim, and thereby an outsider. In Brian's case, it may seem as though the "rules" of social interaction were changed due to his religious background.

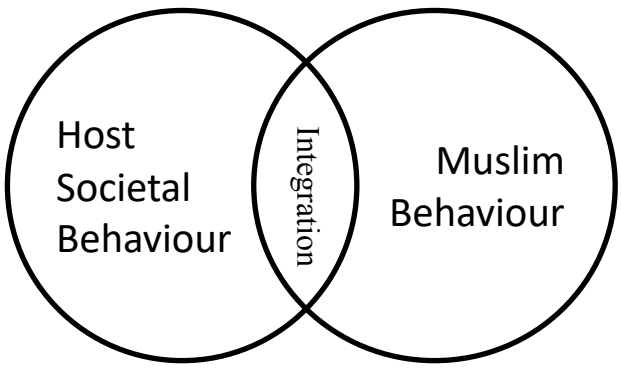


Figure 7.1: Relationship between Behaviour and Integration

[41] Campbell "The 10 Benefits of Conflict."

For the final analysis of Kazemipur's "Body" or behaviour model of integration, figure 7.1 depicts a relationship between the host society's accepted behaviour and that of Muslims who have their own acceptable ethno-religious behaviour. It is in this overlap of suitable behaviour that integration is said to have occurred, (the eye of integration). The greater the overlap, the greater the integration. Once both host and immigrants' behaviour have reached a point of maximum overlap then assimilation is said to have ensued.

It appears that for Kazemipur, and for Muslims following the "Body" model of integration, all accommodation of the other is still the responsibility solely of those who are integrating. The host society seems to have no obligation to assist or to move toward the "other." The next section, "The Mind," portrays another model of integration, where there is potentially greater interaction from the host society.

### 7.2.2 The Educational Approach

As previously stated, Kazemipur's "Mind" integration approach is more academic than activity based. While the "Body" method, was about doing, the "Mind" was about learning and according to Kasemipur it's about learning the language, and history of the host society, and fulfilling citizenship requirements. Furthermore, for Muslims involved in interfaith dialogue there is desire to create a place for themselves and their faith.

Interfaith dialogue has become a major portion of developing the "Mind." Describing the goal of interfaith dialogue Kazemipur expounds, "The underlying assumption is that, through these efforts, it will become obvious to both the majority and minority that they have much more in common than they had initially imagined."[42] Within the explanations of integration among those interviewed, interfaith dialogue seems to be closely associated with other interfaith events. While an interfaith dialogue is primarily concerned with communication/understanding, interfaith events rely on what Benjamin[43] depicts, "…working together for the common good." These interfaith events can fall within that gray area between Kazemipur's "Body" (activities) and that of 'Mind" (learning). Even though interfaith events are participatory actions, the goal of interfaith events and dialogues are essentially the same, to create a common ground between

[42] Kazemipur, *The Muslim Question in Canada*, p. 33.

[43] See Appendix 1.

peoples. For that reason, in this section both events and dialogues are combined, as an interfaith movement, and will only be differentiated if relevant.

#### 7.2.2.1 Interfaith Events

There are a several places that have been proponents for interfaith movements in Jacksonville. Two places that have been briefly presented by the respondents are, first the Atlantic Institute and the second is the University of North Florida's Interfaith Center. According to the Atlantic Institute's website: "Concerned Turkish-Americans in Jacksonville founded the Atlantic Institute to promote interfaith dialogue and eliminate the prejudices and misunderstandings between people and cultures."[44]

Muslims have been involved with several different aspects of the interfaith movement. For example, Benjamin says emphatically that he's a "…strong believer in interfaith dialogue." For him it creates an atmosphere of respect between religious ideologies. He illustrates what success looks like by disclosing:

> We had a sharing Ramadan event. You know, breaking fast. And that sharing Ramadan event was held at the Jewish Jacksonville Center… So, it was a really, really great experience to see American Muslims of Jacksonville, and American Jews of Jacksonville coming together to celebrate their both holidays, you know, completely respectful of each other. They all worshipped there together. They all prayed to God. It was a really, really amazing scene. It was covered on news too.

Andrew Orton of the School of Applied Social Sciences from Durham University, asks several questions to gauge the effectiveness and validity of interfaith dialogue. Among these are: Who is involved and who is missing from the dialogue? What is the dialogue used for? How is diversity understood to affect interfaith dialogue? What conditions enable interfaith dialogue? How are dynamics of participation and representation conducted? What problems may occur within interfaith dialogue and how are they handled? [45]

It has been suggested by Orton that there is a limitation to the effectiveness of interfaith dialogue due to the diversity of faith on both sides of the exchange. Most of his questions are a clarification of who is doing the speaking and to whom. This may be important because, "These did not necessarily include those who carried authority or

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[44] Anon, *Atlantic Institute*, "About Atlantic Jacksonville" Available at: https://theatlanticinstitute.org/about-atlantic-jacksonville Accessed: 13.08.2020.

[45] Andrew Orton, 2016 "Interfaith Dialogue: Seven Key Questions for Theory, Policy and Practice" *Religion, State & Society*, Vol. 44, No 4, Routledge, Available at: https://www.tandfonline.com/doi/pdf/10.1080/09637494.2016.1242886 Accessed: 8.06.2021.

leadership roles within their own particular cultures or communities, thus limiting the mandate of those engaged in the dialogue and the impact of these interfaith activities on the wider religious communities from which they came."[46] This could also be true of the Muslims community in Jacksonville. Which Muslim community among the many, (see chapter 6 "What is the Community"), is the voice of authority in any given interfaith dialogue?

Another question which Orton raised, concerns the purpose of interfaith dialogue. This also adds to the diversity issue, as there may be as many answers as participants to the dialogue. Turan Kayaolu of the School of Interdisciplinary Arts and Sciences, University of Washington Tacoma, argues that Muslims "…use interfaith dialogue to dissuade powerful international and domestic actors from perceiving the Muslim actors as radical and, thus, dangerous. These interfaith initiatives signal the Muslim groups' commitment to a specific — moderate — understanding of Islam."[47] This he postulates is due to the post 9/11 world in which Muslims live in the West.

This could possibly be seen in Charles[48] explanation of his trips back to his nation of birth. When asked if he had ever returned, he elucidated, "So what I did in the last ten years, I have been involved with interfaith and intercultural exchanges with American political figures, faith leaders, um, social entrepreneurs." He then went on to proudly declare that he was able to show them the people, politics and history of the region.

Charles never fully explains the purposes of the interfaith/intercultural exchanges to his nation of origin. Nor does he declare the identity of the political figures, faith leaders, or social entrepreneurs. There are many other possibilities beyond Kayaolu's surmising that such interactions are to prove that Jacksonville's Muslims are on the moderate side. However, due to the fact that political and faith figures are involved, it would seem that allaying one's fears could be on the agenda, and as a representation for the Muslims of Jacksonville as well.

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[46] Orton, 2016 "Interfaith Dialogue, p. 354.

[47] Turan Kayaolu 2015, "Explaining Interfaith Dialogue in the Muslim World" American Political Science Association Available at: https://www.researchgate.net/profile/Turan-Kayaoglu/publication/279218848_Explaining_Interfaith_Dialogue_in_the_Muslim_World/links/55db2ab308aeb38e8a8b4e23/Explaining-Interfaith-Dialogue-in-the-Muslim-World.pdf Accessed 8.06.2021 p. 2.

[48] See Appendix 1.

On the other hand, one of the interviewees[49] explained the reasoning of working alongside the Interfaith Center of UNF. According to their website:

> The Interfaith Center's mission is to engage the UNF campus around religious pluralism, support the religious and non-religious identities of students, and provide distinctive programs and services for students to voice values, engage with others, act together, and lead others to do likewise.[50]

It was further explained that this fulfils the requirement for *da'wah,* though it was explained as if obvious, "I don't stand out there with the Qur'an and say, you know, like those campus preachers… I don't do anything like that. So, it's not even recommended in Islam to do that kind of stuff." While there was an insistence that there was no proselyting nevertheless, the work at the Interfaith Center was considered viable *da'wah*.

There are other places that Muslims were involved in for interfaith events. As explained in the previous chapter, Benjamin relayed, "We went to the Habitat, HabiJax[51] event. It was an interfaith building event. They invited us, you know. We responded. And I think it was a great experience to go out there, to do something, give back to the community." What appears to be a key concept in Benjamin's discourse is the "invitation" and "response" related to the interfaith event. "They *invited*… we *responded*." (Emphasis mine) There are cultural approaches to invitations, and according to Philip Riley, the "…norms are not universal… This provides fertile grounds for misunderstanding…"[52] Therefore, for the Muslim Community to receive an invitation for action, (in what the Muslims perceive to be a Christian organisation), respond in an appropriate manner, and have a successful event is a noteworthy achievement.

This invitation/response is also noted by Sharon[53] who stated, "And, you know, when we also got invited to some Jewish community. So, I mean, we also connected with our interfaith community here. So, it's… it's great." In this case, the event was also mentioned by Neal, who further explained that "…you can eat *ahl al-kitāb*, [people of the book], is the Jews, the Christians." This means that they both could eat the same foods which the Jews or Christians eat, perhaps along side them. Then he seemed pleased as he

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[49] Due to the personal nature of this section of the individuals given, I do not include the name here in order to further protect identity.

[50] Available at: https://www.unf.edu/interfaith-center/ Accessed: 14.08.2020.

[51] Habitat for Humanity Jacksonville, "HabiJax is one of the largest non-profit affordable housing builders in Duval County and is considered to be one of the most successful Habitat for Humanity affiliates in the United States, having provided homeownership opportunities and other housing services to over 2,300 families." Available at: https://habijax.org/about/ Accessed: 14.08.20.

[52] Philip Riley, 2007 *Language, Culture and Identity* London: Athenaeum Press, p. 197.

[53] See Appendix 1.

remembered that they not only went to the Jewish synagogue, but also ate alongside the Jewish community. This seems to be a move towards integration.

Liyakatali Takim, of the University of Denver, quotes Muhammad Ali Ilahi[54] who ties interfaith dialogue, *da'wah* and integration together by saying that non-Muslims,

> …need to be educated to the truth and beauty of Islam in order that the Muslim community be effectively integrated into American life. We need to be educated ourselves, in order that we may distinguish between insulating ourselves from the secular influences of American society and isolating ourselves from the rest of the world. [55]

Ilahi's remarks seems to closely align with al-Alwani's vision of *dār al-da'wah* (house of invitation), and with al-Qaradawi's statement that if "…we would close the door to the call to Islam and its spread throughout the world [Had this been done] then the Islam of old would have been restricted to the Arabian Peninsula and not left it."[56] Ilahi's comments may have been more inclusive than al-Qaradawi's due to Ilahi's recognition that Muslims must also learn from the surrounding society in order to not remain in a state of isolation.

Seven of the respondents proudly remarked that they were part of some interfaith event. By utilising interfaith events, Muslims in Jacksonville, are attempting to change the perception that the wider population has of the Muslims and thereby Islam for the positive. However, in order to be effective communicators, Muslims must learn the local language. The next section will therefore discuss the challenges of learning American English.

#### 7.2.2.2 Language Acquisition

Continuing with Kazemipur's idea of an educational/mind approach to integration this section examines the respondents' answers to gaining the appropriate lingual and cultural skills. Within the context of the United States, English is the primary

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[54] Muhammad Ali Ilahi is from the Islamic House of Wisdom, Dearborn, Michigan. I have used Takim's spelling, but from the website it is Mohammad Ali Elahi.

[55] Liyakatali Takim, 2004 "From Conversion to Conversation: Interfaith Dialogue in Post 9/11 America" *The Muslim World* Vol. 94, Available at: https://onlinelibrary.wiley.com/doi/pdf/10.1111/j.1478-1913.2004.00058.x?casa_token=IsCTC3nAYuYAAAAA%3Av20ndhQT5u2n_blNDsjzIYIZE6mzG5wE8gYRgW81Tm4wCg48PxnFp1BvhMfSD9NzNFMMUFBtVf3cC70S Accessed 8.06.2021, pp. 345-346.

[56] Andrew F. March, 2009 'Sources of Moral Obligation to non-Muslims in the "Jurisprudence of Muslim Minorities" (*Fiqh al-aqalliyyāt*) Discourse' in *Islamic Law and Society* 34-94 Available at: https://www.jstor.org/stable/40377980?seq=1#page_scan_tab_contents Accessed 28.09.2018, p. 71.

cultural/national/governmental language.[57] Therefore, the question, how are Muslims in Jacksonville coping with learning the English language should be relevant.

According to a thesis submitted by Rami Fawwaz Mustafa, there are two ways that Muslims could be looking at learning a second language. The first group is concerned because language is not a neutral medium, but has religio-cultural associations. Therefore, they regard learning English as Westernisation and perhaps a lack of religious commitment. The second appreciates procuring another language as "an empowering tool that will give those who master it access to otherwise unattainable powers and privileges."[58] Turki Alsolami and Nashwa Saaty of King Abdulaziz University of Jeddah, Saudi Arabia, would seem to agree with the second group when they write, "Mastering different languages has many cultural advantages for both individuals and the community. Access to other languages enables people to be more flexible and aware of other cultures and points of view, and people who speak more than one language tend to be more accepting of other ethnic groups and cultures."[59] Despite this, the process of raising children in a society that uses a different language than the home can be problematic for parents.

Felix explains that his children are struggling to keep up with his native language. "Not English, they're perfect in English, That's not a problem. Of course, we want them to be bi-lingual, but it's hard to have them keep that up." Though Felix speaks English well, he desires for his children to continue to speak his own language and even points to himself as a "role-model." This is important to him because "…we want them to be raised as Muslim individuals, but in [this] country of course, it's not easy." At this point Felix points that that it is more difficult in the US. Even though in the other country, children must still be watched, he knows "…they're being raised in a good fashion, good way." After declaring that there really are "advantages and disadvantages" in both nations, Felix sums it up. "Same thing in here it's not a big disadvantage it's harder." What makes it more challenging for Felix is to raise their children as Muslims in a society where other

[57] There is not an official language of the US. Official documents can be acquired for many languages and translators may be requested, if needed. However, there is a cultural bias for the use of English for most social, media and government use.

[58] Rami Fawwaz Mustafa, 2017 "The Impact of Learning English as a Foreign Language on the Identity and Agency of Saudi Women" Available at: https://ore.exeter.ac.uk/repository/bitstream/handle/10871/29657/MustafaR.pdf?sequence=1 Accessed: 15.06.2021 p. 17.

[59] Turki Alsolami and Nashwa Saaty, 2020 "The Spread of English among Saudis in the Era of Globalization: A Friend or Foe?" Available at: https://www.dpublication.com/wp-content/uploads/2020/11/68-6067.pdf Accessed: 15.06.2021, p. 9.

ideologies are so prevalent. Moreover, he seems to associate the children keeping his first language (not Arabic), as rearing them properly as "Muslim individuals."

As Felix clarified, for children raised in the US, the English language is not a problem. Edward who was born and raised in the United States relates a moment from his childhood. Edward was home-schooled and raised bilingual. When he finally met another boy who spoke and understood Arabic, he was so excited to have met another that spoke Arabic. Conversely, the other only wanted "…to come here and speak English. He doesn't want to speak Arabic." At the time, Edward lamented that he was "…mystified, I was a younger teenager, so I was like, 'Why?!'" However, when asked about integration, Edward responded "Being that I'm born and raised in the United States… So for some people integration means that we're talking about… American seated term integration. Meaning that, there are foreigners from other countries and they have to adapt and learn the American ways. And that makes them integrated." He then further elucidates "American ways" by adding, "I correct my classmates on their English. So, I proof… I'm the one who always proofreads everything." In other words, Edward states, "Integration is not… something I find challenging or, or that's really part of the parlance of my own behaviour." In his own assessment, "I'm as integrated as you can get."

As a child, there may have been times of mystification for Edward, as he was torn between Arabic and English. There were added difficulties to find others to practice Arabic. For Felix, there is not only a sense of gain for opportunities that the children may have, but a sense of loss for what they have lost, lingual-religiously. Muslim parents not only find the lingual transition confusing, but so do the children. As he matured, Edward eventually appreciated the foundation in Arabic that he received from his parents and the English which he learned from his life in the US.

Gary[60] offers a different view than the binary that Mustafa presents concerning the attitudes of language learning. Gary complained that many Palestinian children born in the US no longer speak Arabic. He feels that parents are often "…ashamed of being Arab," stemming from a fear of reprisal. This means that many do not try to teach their children Arabic.

Even though Gary's appraisal may be partially correct, particularly during times of heightened tension within US and Muslim relations. That may not be the only reason for language learning. Many Muslims begin the process of learning English before the arrive

[60] See Appendix 1.

to the US. For example, Ian explained the multitude of reasonings behind learning English. Firstly, he admitted, "My reason was to seek job opportunities. That's why… I did not come to America because of cheeseburgers." Economic advantages were high on Ian's list of priorities. Though he said he did not come for American fast food, (representative of American culture). However, later he admits that he blends in with other Americans very easily. Secondly, he shared that he thought, "I'm going to a country that's mostly Christian. As soon as people hear what I have to tell them, you know, they're going to start converting, you know… So, I had to learn the language. Once I learned the language, I started telling people stuff." A motivating factor for Ian to learn English was *da'wah*. Yet, he became disheartened with the results and quit sharing his faith. There are possibly many more reasons for Muslims immigrating to the US to learn English.

Nine of the respondents declared that it would be beneficial for others to speak or learn English, and another four shared that they have previously studied English. However, since the interviews were conducted primarily in English, it could be concluded that they all have studied English at some point, (though perhaps not all of them through structured learning). Interestingly, another three, who were not part of the thirteen previously mentioned, claimed that English was a part of their Islamic practice. In all, nineteen of the interviewees revealed that English has become a major part of their lives in some fashion. However, that does not mean that the English has no bearing in the other six. At least three of the remaining six conducted the interview with an excellent command of the English language.

As far as learning culture is concerned, there are equally a variety of attitudes concerning learning about the American culture. For some, there is a challenge moving through a cultural landscape. Tammy exclaimed, "We grew up in an American culture, mostly Christian. And so, our Islam we hold on to our Islamic values, because that's who our roots are." By saying that, she uses a similar argument concerning language acquisition… Culture holds religious meanings, therefore Muslims moving through a Christian landscape must grasp their Islamic values tighter. Charles succinctly put it this way, "In Islam the culture and the faith are so intertwined." They are so knitted together to where for some Muslims they may not (or should not) be separated. Some believe it impossible. David pronounced, "You're not allowed to adopt other peoples' culture." Yet, after growing up in America, he would be indistinguishable from many of Americans.

Those lines between cultures can be difficult to distinguish particularly for the younger Muslims. Edward proclaimed that, "The younger generation is more integrated or more involved in typical American things or more comfortable in the American culture.

And now there is a push to actually get involved. So, it's moving in that direction, but it's still in the middle. It's a process." Vance would appear to agree when he asserts, "but kids. Now you can see them now get in this culture, they get in their learning everything from their friends." Though Vance maintains that this kind of integration is good, it still has its limits. "Maybe you don't have to practice every day. Like say, you don't have to celebrate a Christmas like Christmas, but still you're living here. You should respect that, two different things." Both Edward and Vance appear to agree that the younger Muslims freely incorporate the American culture with their own faith, but there must be a religious constraint.

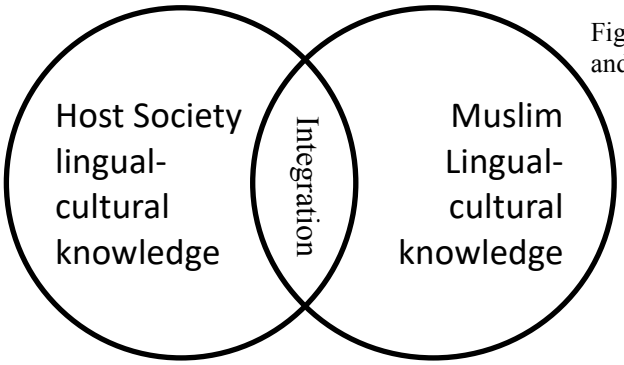


Figure 7.2: Relationship Between Language and Integration

Similar to figure 7.1, figure 7.2 represents the correlation between the host society's own lingual-cultural acumen and that of Muslims'. Just as overlapping behaviours, the greater the language skills and cultural consciousness of the host society which the Muslim utilizes, the greater the integration. As Muslims' acquire, and (more importantly) employ their garnered lingual-cultural abilities, the eye of integration grows.

Learning about the society language and culture is a cornerstone of integration according to Kazemipur. While there may be some reluctance for some of the Muslims living in the United States, the vast majority seem to be willing to take on a new mantle of language and culture understanding relevant to their adopted surroundings. Despite this, there are cultural boundaries which cannot be crossed due the faith practices. The next session involves Kazemipur's final element of integration, the heart.

### 7.2.3 The Heart

In the previous chapter, Muslims' sense of a multiplicity of communities in Jacksonville was established. This was manifested in altruistic acts to benefit not just their immediate family or religious affiliation, but others in the same neighbourhood in which they live, and the surrounding city. While an emotional connection may be inferred by these acts,

they do not necessarily prove the case. Therefore, this section continues to analyse the constructions of an emotional tie to the host society, which Kazemipur refers to as "heart" or "soul," in light of the responses from the interviewees.

For Benjamin, there are many aspects to integration. He stated that integration means, "You feel like you belong to this place, you own this place. When you own, you care for this place. When you care, you just become part of the whole." Within Ben's statement, he implies that there are various facets of integration. First, being part of/contributing to the broader society. To Benjamin it appears that one cannot just be an observer, but a participant in what the surrounding, (outside the Muslim community), has to offer. Furthermore, he connects integration with feeling, belonging and ownership. There is an often-overlooked emotional component to integration. This becomes the impetus to care for the "place."

It should be pointed out that Benjamin's interview was the only one among the 25 conducted that specifically referred to "belonging," to Jacksonville. Most of the respondents spoke of 'belonging" in the sense of where they fit within the Islamic context, (*madhhab*, ethnic or religious affiliation). This is not to say, whether they did or did not feel an awareness of emotional belonging to the greater Jacksonville community, only that it was not discussed.

As far as belonging, there are other ways that belonging were inferred other than using the term, "belonging." For example, four of those interviewed, (Edward, Linda, Tammy and Alice), were born in the US. Despite his father coming from the Middle East, Edward wanted it understood that "I'm from this country and… I don't have any experience of another country." Linda said it this way, "We're Americans too. We need to show up as Americans, then that's when people are going to start acknowledging us and like treating us the same as everyone else." Even those who were not born in the US often wanted me to know how they felt about belonging. Kevin shared that "This is our new country. They opened the arms to us and welcoming us here." By this statement, Kevin appears to have taken ownership of the nation in which he now lives.

There are a number of variables that can affect one's integration and emotional connection to a particular location. Perhaps the most obvious, would be feelings of discrimination which reduces national identification. According to the writing team of Oshrat Hochman (Leibniz Institute for the Social Sciences), Anna Stein (Tel Aviv University & Tür Integrationsprojekte, Augsburg), Noah Lewin-Epstein (Tel Aviv University), and Thomas Wöhler (University of Konstanz) national identification is attachment of the immigrant to the dominant group. Moreover, they also explain that this

"is an important component of immigrants' incorporation into receiving societies…" [61], This, I presume, means whenever there is identification to a country that an emotional attachment to that same nation occurs.

Another aspect of integration is presented by Jamil Al Wekhlan who claims that one's "level of satisfaction" is directly proportionate to their level of integration. The greater the feeling of satisfaction in their own life, the greater the desire to integrate, and be a part of the surrounding society. [62] It is Wekhlan's allegation that one would leave their nation of origin due to a lack of satisfaction. According to research conducted through a grant by the Carnegie Corporation of New York, there has a been a drop in satisfaction by immigrants in the US. However, economic factors may be the primary motivation in that feeling of satisfaction. Despite this, the same report mentions that "Muslim immigrants in America do not feel disaffection with the nation—far from it. If anything, their embrace of the United States and their expressions of patriotism are stronger than those of the other groups."[63]

Not everyone completely agrees with the Carnegie Corporation's research. According to a study conducted by Claire L. Adida, David D. Laitin, and Marie-Anne Valfort comparing Christian and Muslim Arabs in the Detroit area, there was a 20.6% greater feeling of discrimination among the Muslims than the Christians.[64] Furthermore, "on the three elements of integration, Muslims show lower mastery of English language, lower attachment to the United States, and higher attachment to their region of origin."[65] Adida, Laitin, and Valfort assert that this due to an observable " significant and internationally robust disadvantage faced by the Muslims."[66] Therefore, feelings of

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[61] Oshrat Hochman, Anna Stein, Noah Lewin-Epstein and Thomas Wöhler 2017, "Emotional Integration across Immigrant Gereations in Baden-Württemberg, Germany: The Role of Discrimination" Available at: https://people.socsci.tau.ac.il/mu/noah/files/2018/01/Emotional-Integration-across-Immigrant-IM-2017.pdf Accessed: 22.06.2021 p. 2.

[62] Jamil Al Wekhlan 2015 "Acculturation Process of Arab-Muslim Immigrants in the United States" Available at: https://www.researchgate.net/publication/283467414_Acculturation_Process_of_Arab-Muslim_Immigrants_in_the_United_States/link/5bc9c9b3299bf17a1c5ff118/download Accessed: 22.06.2021, p. 92.

[63] Scott Bittle and Jonathan Rochkind, 2010 "A Place to Call Home: What Immigrants Say Now About Life in America" Available at: http://www.publicagenda.org/pages/immigrants Accessed: 25.06.2021, p. 4.

[64] Claire L. Adida, David D. Laitin, and Marie-Anne Valfort, 2016 *Why Muslim Integration Fails in Christian Heritage Societies*, Cambridge, MA: Harvard University Press, pp. 139-140.

[65] Adida, Laitin, and Valfort, 2016 *Why Muslim Integration Fails in Christian Heritage Societies*, p. 145.

[66] Adida, Laitin, and Valfort, 2016 *Why Muslim Integration Fails in Christian Heritage Societies*, p. 147.

discrimination and disadvantage create less patriotism and greater disaffection than other groups within the same locale.

How does one gauge another's emotional attachment to a place of residency? There could possibly be a spectrum of answers ranging from abhorrence to nationalistic patriotism, and every interviewee's response would be somewhere different on the scale. By using an augmented view of Hochman, Stein, Lewin-Epstein, and Wöhler's premise of national identification, the next section will examine the respondents' application to their identification of "home."

#### 7.2.3.1 Where is Home?

Within the context of this research, little was asked concerning how the respondents *feel* about living in the United States or Jacksonville. Questions were mainly directed to issues of *fiqh* and defining integration. Therefore, in an attempt to gauge how the Muslims interviewed are emotionally connected to the US or Jacksonville, this examines their use of the term "home," its' definitions, and perhaps their feelings toward "home."

Only three out of the twenty-five persons interviewed did not mention "home" in any context. Additionally, only four of those who spoke of "home" never treat the word as either America or personal dwelling, and only meant "nation of origin." By and large the greatest number of times that "home" was applied, it referred to one's place of residence specifically. There were several ways that the respondents alluded to their nation of origin outside of the United States. Among those terms were "back home," "homeland," and "home-town," and several times a non-descriptive "home" was used.

It is not surprisingly that code switching[67] in the manipulation of the word "home" is similar to that of the previously discussed "community." For example, when Rick spoke of what has occurred in his life before coming to the US he employs "back home." As he described his education, "Originally, I did my bachelor back home. I did five years, and then I came here." It makes sense that one would use it in a past tense, certainly it was his home at the time. However, he equally referred to his nation of origin as "back home" in the present when he stated, "The government has a lot of restrictions back home." In

[67] Code-switching is usually defined by using two or more languages in a single sentence/paragraph structure. I am using the term to mean the use of several different definitions of the same word in a sentence/paragraph structure.

attempting to portray what he left behind in a not so favourable way, yet he still called it "home."

Many of the Muslims interviewed who came from outside the US, occasionally return to their nation of origin. While none of the American-born used "home" in the sense of a personal national identity, everyone, (except three), born outside of the U.S. has visited their place of birth at least once since coming to the US. However, Linda did use "back home" to describe others' outside her experience familiar national identity. John, (whose quote adorns the beginning of this chapter), completes his discourse after "…call America your home," by continuing, "While you might have, you know, second home if you feel that way." Though he does not emphatically state what that second home could be, he did refer to his "home country," and shared that he goes to a certain ethnic mosque "…just because it feels like home." Much like a multiplicity of communities based upon the context, it is not uncommon for Muslims to have a sense of multiple homes, a residence and a nation of origin.[68]

Interestingly, Gary is the only one of the respondents in this research who solely used the phrase, "back home." Never once did he allude to his home as the residence or his community in the US, rather it only meant his country of origin. I believe there may be a series of reasons for this one anomaly. First, Gary complained that "just being with an Arabian face up here in the United States anywhere, but especially like in the South. It's pretty tough. I mean you get discriminated every day." Within the report written by Scott Bittle and Jonathan Rochkind, they asserted that compared to other immigrants, Muslims "…are less likely to report discrimination and overwhelmingly more likely to say the United States will be their permanent home."[69] The report went on to explain that most Muslims will talk about discrimination as happening to others, but not to themselves. Within the realm of this study that seemed to be standard, except for Gary.

Secondly, there were a couple of personal disappointments that Gary faced, during his time in the US. Among these, despite Gary being a US naturalised citizen his parents were denied entry into the country. He recalled:

> We actually applied for them to get a citizenship, cause I'm a citizen. What happened, they went through all the approval stuff and apparently Trump in March… He just changed the rules in March, where they could put people under revision for as long as it takes now. So, you can put others under

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[68] Mustafa Cakmak 2021 '"Take Me Back to My Homeland Dead or Alive!": The Myth of Return Among London's Turkish-Speaking Community' *Frontiers in Sociology*, Available at: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8022674/ Accessed: 24.06.2021.

[69] Bittle and Rochkind, "A Place to Call Home" p. 4.

revision as long as it takes. They've been under revision since March. Since he put that law, looks like nobody made it.

Gary claimed that he was extremely frustrated due to the naturalization of his parents being met with governmental roadblocks. Also, Gary was previously married to a natural-born American citizen, however, "Cultural difference did not work very well." Their marriage ended in divorce, possibly adding to his dissatisfaction with living in the States.

Finally, Gary claimed, "I'm not the most religious man down there." He further explained that within the Muslim community "…everybody just like watching you. Trying to get you to do this, do that." As if to excuse himself, Gary continued, "The thing is, my busiest day is always Friday. So, I always work every Friday. So, I can't go to mosque on Friday. I mean like, my best business day is Friday." Considering the three factors immediately affecting Gary, (feelings of discrimination, frustration and loneliness due to family members being withheld entry, and being estranged from Muslim community), would account for Gary's overwhelming reflections of "back home."

Another factor in the discussion of creating a "home" was presented by Ian who declared, "I think that because of the technology it's becoming easier and easier to like segregate." He then explained that in the past, "They would lose all the contact with their homeland and stuff. And they have no choice but to integrate." There are now so many ways to keep in contact with the homeland, "But now like I come here but I can still talk to my family… Facebook or Viber or Skype, you know. And then it's easier for people to come here and visit." It is Ian's experience that "people to come here and visit …comes here every six months and leaves and stuff. So then, other people have their grandparents come here during winter." With cable, Ian claims that they even have access to his native nation's television programming.

According to Leila Scannell (Royal Roads University) and Robert Gifford (University of Victoria), there as several factors that contribute to place attachment, which are time, congruence, mobility, ownership, social status, gender, stage of development, sexuality, and personality differences.[70] While this thesis will not discuss all of those factors however, we will briefly mention a few, beginning with "time." Emotional connectiveness to a location occurs '…with accumulated positive interactions, and

[70]Leila Scannell and Robert Gifford 2014 "The Psychology of Place Attachment" Available at: https://www.researchgate.net/publication/279718543_The_psychology_of_place_attachment Accessed: 29.06.2021, p. 278.

memories that accrue after months and years."[71] In other words, there is little instantaneous attachment to a location.

Secondly, the more mobile an individual is the less weak his/her attachment to a location may be. This does not mean that there will be no emotional connection to a new location, but "place elasticity" can occur where a person can seemingly return to a place through various modes of communication.[72] This appears to agree with Ian's assessment that many Muslims have difficulty integrating. Instead, they are perhaps caught in a place mentally, where the homeland has been stretched into the current nation of residence - place elasticity.

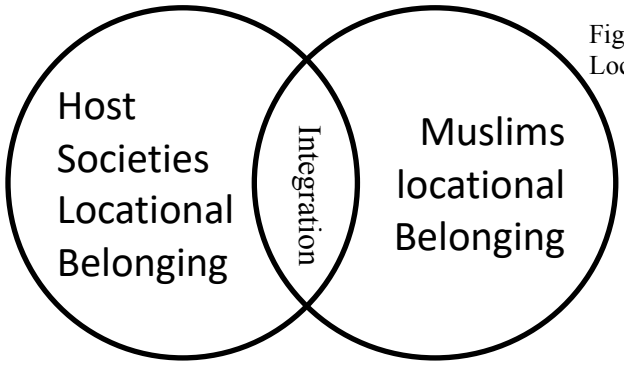


Figure 7.3: Relationship between Locational Belonging and Integration

The locational belonging of the host society is compared to Muslims living within the same locale in figure 7.3. Within this diagram, as Muslims' emotional connection with the place of residence grows, so does the eye of integration. As previously explained, as the eye of integration expands, there will eventually be a point of assimilation. This way a continuum can be seen from no integration (where there is no emotional connection between the site of the host society and the Muslims'), to integration (where overlap begins), and then to assimilation, (at the place of maximum overlap). At assimilation, the emotional relationship to the regional residence would mirror that of the host society's connection.

One last mention of Bittle and Rochkind's previously stated research concerning Muslims in America, "…their embrace of the United States and their expressions of patriotism are stronger than those of the other groups."[73] If that is correct, then there appears to be enough evidence to support that within Kazemipur's definition of soul/ heart that for most Muslims there is an emotional connection to Jacksonville, and their new

[71] Scannell and Gifford "The Psychology of Place Attachment", p. 278.

[72] Scannell and Gifford "The Psychology of Place Attachment", p. 279.

[73] Bittle and Rochkind, "A Place to Call Home" p. 4.

home. The next section will continue the discussion of integration from the perspective of feeling accepted.

### 7.3 Are Muslims Accepted?

Within the discourse on Muslim integration, there is some debate on what Kazemipur describes as "the agent of integration."[74] In other words, the person/s who is/are creating an atmosphere where integration can flourish. Within this argument there are three possible solutions. The first states that the "majority sets the rules and standards by which the minority should abide."[75] Therefore, the responsibility for integration relies on the minorities to comply. The second thought is that minorities have a right to their own unique cultural traditions and values. So, the host society must accommodate the minority or immigrant population, primarily through education of the surrounding society to gain acceptance. The third is a combination of both approaches, allowing the majority to set the rules and making a place for the minority to keep their cultural traditions. This is realised through inter-cultural, and inter-faith dialogues.

There is a strong correlation between being integrated into the greater society and feeling accepted by that society in which one is integrating. Jan A. Ali, a religious sociologist and Senior Lecturer in Islam and Modernity at Western Sydney University, explains that, "Muslim immigrants conceive of "integration" as acceptance by majority society of their ethnicity, cultural traditions and religious values."[76] Therefore, as a starting point to explore whether Muslims are integrating into the wider society, this section will examine whether Muslims in Jacksonville "feel" accepted by the majority society.

Questions relating to whether one feels accepted by the surrounding society is extremely subjective in nature. However, it does address a constructive theory approach to the question, how do they as individuals relate to society around them, and how does other communities relate to their Muslim community? Furthermore, this is asking of them to suppose what the wider community is thinking of them. The answers could show

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[74] Kazemipur, *The Muslim Question in Canada*, pp. 30-32.

[75] Kazemipur, *The Muslim Question in Canada*, p. 31.

[76] Jan A. Ali "Multiculturalism, Muslim Radicalism, and the Problematic of Muslim Integration in Australia" in Erich Kolig and Malcolm Voyce [eds.] 2016 *Muslim Integration Pluralism and Multiculturalism in New Zealand and Australia Lanham*, MD: Lexington Books, p. 159.

acceptance and bias of the surrounding society, likewise it could show what degree of integration that an individual has been able to accomplish.

When asked whether you feel accepted by the Jacksonville society or population to Muslims living in Jacksonville, there was a range of responses. There were twelve respondents who spoke in the affirmative. However, out of the twelve, five gave very short answers without much explanation. John simply said curtly, "Yes sir," ending that line of questioning. It seemed to me that there was an element of fear mixed into the answer, which was not going to be broached. Felix also superficially stated, "Yea," and then explained that his neighbours knew they were Muslim and their behaviour did not "…put me in an uncomfortable situation." However, that really does not answer whether he feels like he is truly accepted by the majority society, only that he has not found himself in an uncomfortable situation by his neighbours.

When presented the same question, Adam,[77] on the other hand, initially said "I do." While he claimed that he was accepted by population of Jacksonville, he then began to reluctantly retract his statement, "For the most part… We all know a lot of stuff that goes on…" The intial "yes" followed by a gradual withdraw of a positive answer was a common occurance with five of the interviewees eventually taking back their previous answer.

Benjamin also has a flip-flopped response, "Generally, yes, but there are challenges." This he brought back to the education that was needed by the general public concerning Islam and then stated, "And it's not necessarily non-Muslims fault, not necessarily, maybe Muslims fault but there's, uh, room for work for all, for all of us." As Benjamin assigns blame he begins by making the statement, "not necessarily non-Muslims fault." It's almost as if he is giving Americans who do not accept Muslims an excuse to harbour feelings against others. He then moves the responsibility for American antipathy to the Muslims themselves. Known as self-orientalising, (initially conceived by Edward Said), it is defined as non-Western peoples "who employ Western values upon themselves..."[78] Perhaps, due to my asking the question, (as an American-born, caucasian, non-Muslim), he felt that he had to soften his answers by taking culpability. The important

[77] See Appendix 1.

[78] Yonca Ipek Cubuk Uzundag 2018 "The Persistence of Orientalism and the Portrayal of the Gulen Movement in the New York Times and in the Wall Street Journal Between 1985 and 2016" *Theses and Dissertations.2396* Available at: https://commons.und.edu/cgi/viewcontent.cgi?article=3397&context=theses Accessed: 30.06.2021 p. 37.

thing seems to be that he is not actually saying who is at fault, but rather there is a greater need for education, which Muslims could promote.

Perhaps there was only one who gave an actual positive response. Kevin replied, "Yeah. Thanks, thanks to God." He claimed that he worked in a place that was "…preparing something for diverse community, where the different cultures, because in order we live, we had a very diverse employees." Working alongsides Christians who attempted to work through cultural issues and hire a diverse workforce, made a vast difference on his understanding of being accepted.

Another common reply for nine of the respondents was to sidestep or alter the question. For example, nineteen year-old Linda suggested that, "Jacksonville is so big. Like, I can't really say for Jacksonville." Then offers that she has little understanding outside of school, the mosque and her friends. Her explanation then revolves around UNF, where she is more comfortable.

Whether there were affirmative or sidestepped answers, they all seem to show an element of self-orientalism which made it seem as if acceptance was an awkward subject to contemplate within this section, we will look at how the informants see that they are accepted according to Ali's categories of acceptance. The rest of this chapter examines how the interviewees percieve that their ethnicities, cultural and religious values affect the way they are or not accepted.

### 7.3.1 Ethnicity

In order to examine whether Muslims' ethnicity is accepted according to Ali's definition of integration, Muslims' ethnicity must be defined. The definition of ethnicity is also a contested expression. According to Timothy Baumann of the University of Missouri, St. Louis, the concept of ethnicity is birthed in the othering of outsiders. However, he points out that there are many variables that relate to ethnicity which include race, class, kinship, age, estate, cast and gender. Ethnicity is distinguished from race by the means of identification. If an outsider group assigns an identity it is racial, while if the group insiders define their own characteristics it is deemed ethnic. Race lends itself to oversimplified stereotypes. Baumann further explains that there are two major thoughts concerning ethnicity. The first are primordalists, who "…believe that ethnicity is a natural

phenomenom with its foundation in family and kinship ties."[79] The second are instrumentalists who state that ethnicity is socially constructed and therefore possible to mix ones heritages and cultures to create a new identity. He concludes by sharing that ethnicity is fashioned through both external and internal social interactions.[80]

Nine of the interviewees admitted that there were various threads of race that ran through their US experience. When asked about Islam in the United States, John declared, "I think it's, you know, the people are being a little bit more hostile towards the Muslims in the States." This he attributed overall to the events of 9/11, however he added, "It also depends, like, when, you know, from where we are coming from. A lot of Muslims coming from let's say, Middle East because, you know, of their colour, skin is different." John seemed to indicate that many issues that Muslims in the US have with the local population is to not necessarily due to religion, but to race. In his own evaluation he stated, "For them, it's a little bit hard to adjust to the, you know, the system, because sometimes they're not accepted." Not all Muslims have acceptance complications due to race. John mentioned that "people that coming from, like, Bosnia and Eastern Europe, we would pass every bit, like, as a white. So, we have a lot of American Friends, and we don't even come to, you know, to point where we discuss actually religion. They mostly, they just assume that we are Christians, as they are." John seems to suggest that there are American assumptions based on a Euro-centricism, of a shared ethnicity, (therefore shared religion), as long as there is mutual racial semblance, which may not necessarily be accurate.

Aneta Piekut and Gill Valentine, from the University of Sheffield, allege that "attitudes towards ethnic minorities is moderated by contextual variables."[81] The first is the amount of perceived ethnic diversity that is found in neighbourhoods. The greater the diversity, the more contact that is made among ethnic minorities, and the more they are accepted.[82] The second relates to a rate of change in diversity. For example, if within a certain neighbourhood a certain ethnic group visibly increased in numbers suddenly, they may become a noticeable, "…change in neighbourhood socioeconomic disadvantage."

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[79] Timothy Baumann 2004 "Defining Ethnicity" *Society for American Archaeology* Available at: https://documents.saa.org/container/docs/default-source/doc-publications/tsar-articles-on-race/baumann2004a.pdf?sfvrsn=fb3bcc2a_2 Accessed: 01.07.2021, pp. 12-13.

[80] Baumann 2004 "Defining Ethnicity", p. 13.

[81] Aneta Piekut and Gill Valentine 2016 "Perceived Diversity and Acceptance of Ethnic Groups in Two Urban Contexts" *European Sociological Review*, Vol. 3, No. 3 Available at: https://academic.oup.com/esr/article/32/3/339/2453403 Accessed 30.06.2021, p. 339.

[82] Piekut and Valentine 2016 "Perceived Diversity and Acceptance of Ethnic Groups," p. 340.

This could also be merely a perception of being disadvantaged. In this case there may be rise in biases.

Linda recounted that when she was in elementary school, in another state that the school had a diversity of pupils, "African-American, Latino, and a lot of Kurdish and Arab people… and there's white people as well." However, for her the experience was pleasant because she found that, "It was not like any race was overpowering, like, the other race." That sense of diversity was similar when she attended Darnell-Cookman High School in Jacksonville. However, that seemed to change for her when she attended UNF:

> Maybe rarely I would see someone of color and it was just like a lot of the people… were white, on campus then, didn't have interactions with Muslim people, because they came from small towns around Florida. So… A lot of them have never even met a Muslim person in real life or they just don't know one in their community or anything. So, there was, it wasn't hostility, but it was this like weird, like, disconnect.

As an illustration, Linda described how during class when she needed a lab partner, and she was always the last person to get someone to agree to be her partner. She then said, that no one was "being outwardly mean or aggressive" however, "It was just this weird thing where just like, I am unknown to them." For her being an "unknown" was a strange phenomenon considering "…there's like so many Muslims around the world and we're pretty present."

Despite the fact that there a millions of Muslims world-wide, Linda described her experience as "disconnected," "weird" (mentioned three times), and "unknown." As long as she was in a diverse ethnic mix, no one group appeared to be more significant than the other. Whenever, the ethnic mix shifted to one being in greater number so did their influence, and her social capital seemed to shift in the opposite direction. Much like self-orientalising, muted group theory (MGT) is based on the idea that society favors the voice, perspective and values of one group over others. While MGT is predominantly concerned about silencing the other, there are various ways to accomplish this beyond language. The dominant group creates and controls systems of socialisation that others must adhere to in order to be accepted. Since the dominant group controls the perception of reality, the others' voices are distorted. Thus, the structures which esteem the dominant, marginalise the other.[83] For Linda this meant that she sat and waited for someone to be willing to sit beside her and feeling disenfranchised in the process.

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[83] Clifford Jackson Hataway, Jr. 2010 "International Organizations and Multicultural Workforces: An Examination of Group Muting and Organizational Culture" Available at: 208

Concerning acceptance, Charles asserts that it all "Depends on your definition of acceptance." Charles connects acceptance alongside issues of integration. He mentioned that he had a good job, drove a nice car and lived in an excellent neighbourhood. As far as he understood, no one has held back his career advancement due to his faith. However, this was further compared to "When you talk about the power structure within the society whether a Muslim is able to reach certain power circles or political positions… I don't think so." It seemed to Charles that local society seems to bestow various levels of acceptance depending on visibility and whether one knows his/her place in that society. While someone could lead a good life, if he/she kept his/her head down and did their job. For those Muslims who standout in politics or perhaps recognizable leaders of commerce, the wider society would find them less agreeable.

As Charles continued his thought, "At least at this environment, in this climate we are in currently. That doesn't mean that I'm pessimistic…" Then he compared Jacksonville culturally to Southern Georgia. Within this relatively short statement there is a whirlwind of Information that is implied. First, what does he mean by environment or climate? Second, what is tacitly understood, when Charles states that he is not pessimistic? Third and perhaps most importantly, what is meant by Jacksonville being a cultural Southern Georgia?

It is my belief that in referring to the "environment, in this climate we are in currently," Charles is speaking about the political situation in the United States. Jayashri Srikantiah, the director of the Immigrant's Rights Clinic and a professor of Law at Stanford Law School, pointed out that President Trump has "…characterized Mexican immigrants as rapists and drug dealers and Muslim immigrants as terrorists and threats to women."[84] This, he argues, made many feel like this was a success for "anti-immigrant, racist and xenophobic rhetoric."[85] President Trump kept his word regarding that anti-immigrant rhetoric, and signed Executive Order No. 13,769 on January 27, 2017, which

https://ir.ua.edu/bitstream/handle/123456789/811/file_1.pdf?sequence=1&isAllowed=y Accessed: 06.07.2021, pp. 27-32.

[84] Jayashri Srikantiah, 2017 "Resistance and Immigrants' Rights," *Stanford Journal of Civil Rights and Civil Liberties* p. 5, Available at: https://www-cdn.law.stanford.edu/wp-content/uploads/2017/02/srikantiah_-_immigrants_rights_2.10.17.pdf Accessed: 08.04.2020.

[85] Srikantiah, "Resistance and Immigrants' Rights" p. 5.

banned people from traveling to the US from Iraq, Iran, Yemen, Syria, Libya, Sudan and Somalia.[86] These six nations are predominately Muslim countries.

How might someone who is Muslim interpret these events? Due to Donald Trump's victory in the 2016 election, and then the "travel ban" from Muslim countries, it could easily be seen as an act of the will of the American people. Therefore, the greater American society are anti-Muslim. At this point, I would like to make a distinction between being anti-Islamic and anti-Muslim for the following reason. While being anti-Islamic could be seen as being against an ideology, anti-Muslim is against the people that follow that ideology. If the situation was reversed, I believe most Christians would refer to the act as being "anti-Christian" and not necessarily "anti-Christianity," meaning for most it would be an attack on them personally, not against the ideology. Likewise, it is natural to assume that Muslims would feel personally afronted by an "anti-Muslim" sentiment generated throughout the US.

There may be fewer ideas more controversial in the United States, than Critical Race Theory (CRT), to the point where Florida has banned the teaching about CRT in its public schools on June 6, 2021.[87] Critical Race theory began as a discourse in the disparity of law and education for the non-white population of the U.S.[88] Within CRT are principles which are: First, racism is normal, and not anomalous behaviour. Second, the systems of society favor people who are white, (not of colour). Third, race is a product of social construction and not of biology. Fourth, racialism is used to the benefit of white majority. Furthermore, no individual is of a single identity and therefore can not be essentialised. Finally, peoples of colour are urged to used storytelling to share their personal experiences of racism.[89]

Despite the debate surrounding Critical Race Theory, it could be used to explain the events surrounding the travel ban, and the feelings of those who are affected by its

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[86] Earl M. Maltz 2018 "The Constitution and the Trump Travel Ban" *Lewis & Clark Law Review*, Forthcoming Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3148137 Accessed: 08.04.2020.

[87] Associated Press, 2021 "Florida Bans 'Critical Race Theory' From its Classrooms" *WTTW* Available at: https://news.wttw.com/2021/06/14/florida-bans-critical-race-theory-its-classrooms Accessed 8.06.2021.

[88] Nicholas Daniel Hartlep, 2009 "Critical Race Theory: An Examination of its Past, Present and Future Implications" University of Wisconsin Available at: https://files.eric.ed.gov/fulltext/ED506735.pdf Accessed: 8.06.2021, pp. 5-6.

[89] Richard Delgado and Jean Stefancic, 2001 *Critical Race Theory: An Introduction*, New York, USA: New York University Press Available at: https://static1.squarespace.com/static/5441df7ee4b02f59465d2869/t/5d8e9fdec6720c0557cf55fa/1569628126531/DELGADO++Critical+Race+Theory.pdf Accessed: 8.06.2021, pp. 7-9.

enforcement. The president, utilising the presidential office and legal structures in a dominant position, created further division between certain ethnic groups, and the host society. Social construction was also a tool used by those in authority to garner support for the ban, declaring those populations to be a security risk. This created a resentment among American-Muslims who believed they were singled out because of where they originated, not on the basis of US protectionism. In other words, the ban did not provide an opportunity for being vetted for emigration to the US, but was based solely on the basis of ethnicity. Also American-Muslim citizens were excluded by legal means to allow visits from family members based on nation of origin.

This leads to the second point, what is meant by Charles declaration that, "Doesn't mean that I'm pessimestic." The fact that he does not say that he is optimistic, most likely signifies that he is not optimistic, but rather he is attempting to not allow the current events to affect him negatively. It seems to me that by using the word "pessimistic," it sounds like someone talking himself out of pessimism, to move towards an optimistic side of the spectrum without achieving that goal.

Though Jacksonville is a city of over a million people it is far from cosmopolitan in attitude. The term "Southern Georgia" has many meanings beyond rural simplicity. The comparison between Southern Georgia and Northern Florida has been made, particularly referring to them as the pejorative, "cracker."[90] Cracker is also closely associated with more widely used, "redneck."[91] Redneck illicits strong stereotypes in the US, where the redneck may have a pick-up truck, fly the confederate flag and to outsiders they are known "…as intolerant, small minded- bigots who hate blacks, Jews, and hippies with equal passion."[92] Therefore, within that stereotype, they are often associated with the Ku Klux Klan. While the stereotype is an over simplified exaggeration, that may have an element of truth, but are "preconceived beliefs about classes of people…sustained because they contain an image."[93] This Southern US/redneck area has a perceived

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[90] Tim Bucuvalas, Peggy A. Bulger, and Stetson Kennedy, 1994 *South Florida Folklife* Jackson, MS: University Press of Mississippi, p. 38.

[91] Steve Otfinoski, 2001 Celebrate the States Georgia Tarrytown, NY: Benchmark Books p. 72.

[92] Huber, Patrick 'A Short History of *Redneck* The Fashioning of a Southern Masculine Identity' in Harry L Watson & Larry J Griffen, [Eds.] 2008 *Southern Cultures The Fifteenth Anniversary Reader* Chapel Hill, NC: University of North Carolina Press, p. 309.

[93] 'Stereotypes' in Charles Reagan Wilson, [Ed.] 2006 *Volume 4 The New Encyclopedia of Southern Culture Myth, Manners, and Memory* Chapel Hill, NC: University of North Carolina Press, p. 171.

"…long legacy of lynchings and racism as part of the region's history."[94] However, many in the region self-identify as a redneck and wear it as a badge of honour. For them it signifies a hard-working poor person, who is patriotic, and a rural/country demeanor.[95]

Though Charles tactfully refered to Southern Georgia, Ian was very forthright about his redneck experience:

> There's still a lots of, like, rednecks in Jacksonville. And they're practically… For example where I work at… most people there don't know I'm Muslim, you know. And there's lots of like rednecks… and a lot of them say, like, terrible things. Like they would say, "Oh we should track Muslims." Or, "We shouldn't let them in the country." Or like, "We should bomb Qatar in the Middle East." You know, they say stuff like that. Like, right now they acting down a petition on Kamala Harris for being… Because she said stuff about APAC, you know. And they would say, "Oh, she's like a Palestinian sympathiser. She should be banned out of this country."

Ian's experience with whom he spoke of as rednecks is primarily at his workplace. Though it would inwardly bother him, he was reluctant to say anything. He relays an event that previously occurred in Virginia, "One of the guys… knew we were Muslims. So, he knew I was Muslim." The Virginian told Ian without reservation that, "I don't mind Muslims that look white." Then Ian further explained the difference race can make, "I had friends from Kashmir, he was telling me, 'It's easy for you,' because even when they look at me, they will not assume right away that I'm Muslim." Much like John, Ian appeared to be somewhat relieved and at the same time horrified that "…because most of us kind of like blonde hair, blue eyes… people do not automatically assume we are Muslims."

Though Muslims such as Ian or John may not look Middle Eastern, they both assert they are Muslim when asked. Usually, they do not react or say anything while the dominant group condemns Muslims, which muted group theory seems to address. For Ian, his experience in Virginia, coupled with his co-labourers in Jacksonville silence him, lest he be found in the wrong group or perhaps face ridicule and resentment by association. In this case, muted group theory has created a subgroup, with an ethnically similar background to the dominant group, but a separate group from Ian's friend from Kashmir, who ethnically "looks" Muslim.

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[94] Mary Patrick George and Dana M. Williams, 2017 "Teaching About Race and Social Action by 'Digging up the Past': The Mary Turner Project" in *Race, Ethnicity And Education* Vol. 21, No 3 Routledge Taylor & Francis Group Available at:

https://www.researchgate.net/publication/317074433_Teaching_about_race_and_social_action_by_%27digging_up_the_past%27_the_Mary_Turner_Project Accessed: 01.04.2020.

[95] Matthew J. Ferrence 2014 *All American Redneck Variations on an Icon from James Fenimore Cooper to the Dixie Chicks* Knoxville, TN: University of Tennessee Press, p. 42-43.

There are some Americans who accept the ethnic changes that occur within the greater Jacksonville community, yet for much of the dominant group there may need to be increased positive social interaction for there to be true acceptance of others along ethnic lines. Perhaps the American-born Edward emphasized the need when he pined, "We have a problem in the United States of race relations, right? And between blacks and whites and other communities, and I mean, that's kind of sad that we have this problem in this day and age." The next division will assess acceptance in light of other cultural traditions.

### 7.3.2 Cultural Tradition

Acceptance of a minority's culture within the dominant society can be a complicated process. It may be impossible to conclusively prove whether a minority's cultural traditions are accepted by the dominant society. However, in this section as Muslims relate their cross-cultural experiences, the question may be answered as to whether it is the Muslims' understanding that their culture is accepted.

According to Mahmoud Eid, negative stereotypes of Muslims are promoted by the Western media, and "…depict Muslims as irrational, uncivilized, backward, threatening, corrupt, oppressive, deviant, exterior to the dominant culture, and uniquely fundamentalist Others." [96] He further states that the United States in particular portray Muslims as "…intolerant, anti-democratic, violent, and terrorists… a male-dominant religion, and women are represented as victims, passive, veiled (thereby oppressed), and exotic/erotic."[97] These images of Muslims would appear to have a negative impact on the dominant society's ability to accept any Muslims' culture. Eid's assessment is substantiated when Gary claims, "Media… Media is the biggest thing that created all these cultural problems. It's the media created all this culture problems. It's not anything else." [sic] This is demonstrated as, "I was watching the Hawaii Five O… every other episode there is an Arabian terrorist. It's like you got either a Yakuza or Arabian terrorist,

[96] Mahmoud Eid, "Perceptions about Muslims in Western Societies," in Mahmoud Eid and Karim H. Karim (Eds.) 2014 Re-Imagining the Other Culture, Media and Western-Muslim Intersections New York, NY: Palgrave Macmillan, p. 100.

[97] Eid, "Perceptions about Muslims in Western Societies," p. 102.

one or the other." Gary shared his frustration as he lamented, "Americans, I don't know why you always go there!"

Likewise, among Muslims interviewed, there were often strong opinions about the negative influence that certain features of American culture may possess. As an example, when asked, Mark admitted that he separates from American culture which is, "The drinking… drinking, adultery, adultery and smoking in all these and being in places that I don't like… Yeah, I cannot go there." Adam seems to agree with Mark's ideas when he considers, "Here especially in Florida, the beaches, the dress codes… Sex is normal, sex at the age of fifteen. Everybody is having sex." He continues, "There's a lot of partying and alcohol. That's also pretty big here in the United States." Then Adam asserts that God did not want drunkenness, staying up till morning, '…to start having sex at such early ages… He doesn't want us to walk around, you know, half naked." For Neal music is an issue, "I used to listen to music, but when I started listening to this music with the kids, listen, I cannot take it because the language is so much… It's not just for Muslims." He also mentioned the lack of child restraint, explaining, that in his native country he, "…could smack them. We all grew up smacking. God, getting smacked. Nowadays you can't do that." [sic] For Adam, Mark and Neal, American culture involved excess drinking, uncontrolled sexual encounters, partying, nakedness, lewd language and undisciplined children.

Ian's impression of American culture is more nuanced. He rationalised, "I guess it just depends how you define American culture. Because I feel like within American culture, there's different cultures. Because there's like, African-American culture there is, Pan-American culture there is, country culture, and pop culture, there's hippies…" Trying to make a comparison between Islamic culture and American culture Ian surmised, "Islamic cultures, we're more like, I would say like, socially conservative, but fiscally liberal." Which meant that as a Muslim, he defies the liberal/conservative binary. Therefore, they may at the same time be accepted and rejected by anyone dependent on the subject matter. He highlights this by sharing, "I guess, against like gay rights, and against abortion, against many of the stuff like, socially we'd agree with conservatives. But then when you talk about economic-wise, should we tax rich more, you know, should we have government health care, then they are liberal on that." Despite the tension between conservatism and liberalism, Ian claims that politically, most vote liberal due to the fact that conservatives have an anti-immigrant bias therefore, "Voting for conservatives would be like shooting ourselves in the foot."

The difficulty in accepting cultural differences is expounded by Korkut Uluç İşisağ assistant professor at Gazi University, "What is considered an appropriate behavior in one culture is frequently inappropriate in another one. Misunderstandings arise when someone uses their meanings to make sense of their reality."[98] This can be seen, not only the American assessment presented by Eid, but also in Mark, Gary, Adam and Neal's ideas. While there may be real life examples of all the stereotypes, that does not indicate that they are the cultural norm. The chosen samples of news and/or experience are filtered through one's group of reality to create a new sense of reality for the other, which is more often inaccurate. This is overcome in four steps of relating to the other, according to İşisağ, beginning with the belief that "my way is the only way," ignoring the other. The next step progresses to, "I know their way, but my way is better." The third step involves using cultural diversity for optimum results as fitting the situation, "My way and their Way." The final step, creates shared meanings, "our way."[99]

It can be difficult for Muslim-Americans to navigate American culture. David reasoning the Muslim-American cultural journey, declared that "…for those who have experienced it, they find a balance. And then they, for them they see as a journey of it, because they see as a gateway to also learn so many different cultures." This journey can be different, dependent on whether one was born within the U.S. or not. David clarified this by saying:

> But for those who actually grew up as a Muslim-American, they're fine… Their family, their parents figured out how to gain that balance between what society believes and what, what society is and what the religion is. So, they just sort of adopted the teachings of their parents and they've already got the balance. So it's not too hard for them.

David explains the difficulties that Muslim-Americans which are not born in the US, confront, "For Muslim-Americans it's hard because we're a melting pot and you can have one perspective on this day and a different perspective another day." Even though he was not born in the US, he begins by declaring, "we're a melting pot," putting himself inside the American narrative. He then attaches the melting pot to a continually changing perspective within the American cultural landscape. David then completes his analysis by saying, "And when I think about it, it's got to be very tough, especially for a Muslim-American. Because you have societal pressure, as much as you try to ignore societal pressure, it's still there." It appears that he believes that there is social pressure to conform

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[98] Korkut Uluç İşisağ, 2010 "The Acceptance and Recognitions of Cultural Diversity in Foreign Language Teaching" Available at: https://dergipark.org.tr/en/download/article-file/73972 Accessed: 16.07.2021, p. 253.

[99] İşisağ, "The Acceptance and Recognitions of Cultural Diversity," p. 253.

to a cultural landscape, that is forever changing and may be filled with mines, which a misstep can leave lasting effects within American-Muslim community.

Tammy describes dealing with non-Muslim friends by saying, "They don't understand the formalities." This is especially true as she understands it in cross-gender friendships. "So, some people… some of my friends. They'll understand. And sometimes they don't. It's weird." She reasons that, "You got to keep a *ḥalāl* to *ḥarām* ratio… Yeah, I guess that's America."

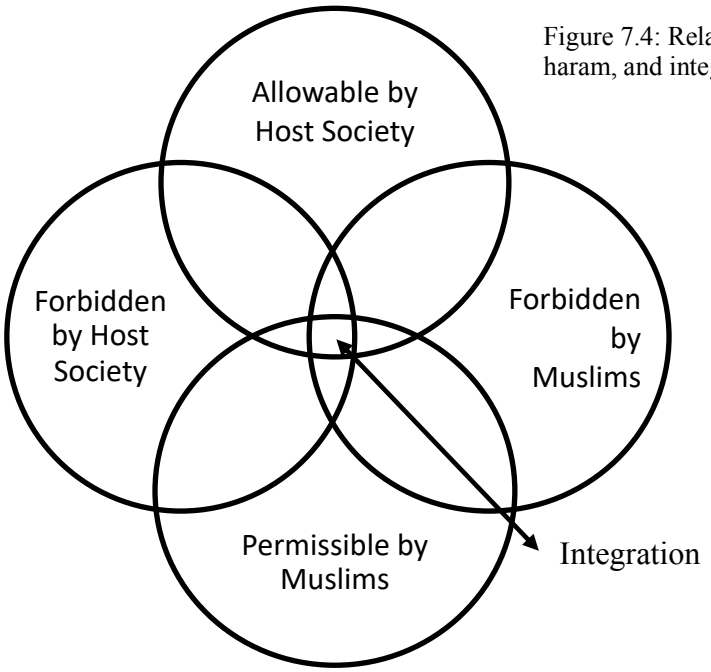


Figure 7.4: Relationship between halāl and haram, and integration

In figure 7.4, there is a relationship portrayed between what is permitted and forbidden by society, and religion which David pronounced as balance, and Tammy labelled as the "*ḥalāl* to *ḥarām* ratio," the permissible to forbidden ratio. Though the term is couched within religious terminology, it could easily be applied to social customs as well. In other words, Tammy seems to be saying that for Muslims living in the United States must continually gauge what is allowable and prohibited by the local society, as well as what is required by their interpretation of Islam. Within that intersection is place that Muslims can comfortably live, which Tammy declared, "That's America."[100]

In this instance, figure 7.4 becomes far more complicated, than the previous figures in this chapter. Here there are two factors to consider, what is forbidden (*ḥarām*), and

[100] Tammy related the concept of the *ḥalāl* to *ḥarām* ratio from various satirical and/or matchmaking websites, for example:
https://muslimratio.com.
https://yourclassymuslimsister.com/2021/01/01/the-halalharam-ratio-what-is-it-how-to-calculate-it.
https://halalguidance.com/halal-haram-ratio-calculator-guide.

what is allowable (*ḥalāl*). By adding a second element, the eye of integration is decreased in size which means, it becomes more difficult for Muslims to integrate into society. Each of these features, are dynamic, that is, they are in a constant state of flux, therefore the eye of integration continually increases or shrinks, nothing is static. Thus, there is more room for error, and there is less sense of accomplishing integration.

Despite the appearance of figure 7.4, the two sets of variables, what is permissible and what is forbidden, do not exactly create a four-part Venn diagram. Rather what is forbidden is overlayed on to what is permissible to create a 3-d representation of two separate diagrams inter-reacting with each other. As more aspects of integration are stacked upon the other, the more complicated traversing the eye of integration becomes.

When it comes to the acceptance of Muslims living in Jacksonville, there are several possibilities. First, is that Muslims and non-Muslims are comfortable with each other. Edward claims that:

> There's a growing community of younger Muslims in Jacksonville who are more comfortable being Muslim, who are, who are kind of trying to have foot in both, one foot in the Islamic community. They're praying, they go to the masjid, they fast… But also they had the other foot clearly in the American culture… They're comfortable in both areas. Ok, so you have that in Jacksonville. That's a good thing.

The second possibility is similar to the first however, a Muslim recognizes the pitfalls of American culture and separates somewhat from American culture to hold on to an Islamic identity. Linda describes it by saying, "It goes back to those saying about how like how I separate myself from American culture and keep my own identity. It's just something that's been ingrained in us by our parents, because they've always said, just be unapologetically Muslim." Linda claims that others say that she is separating from American culture. It is not necessarily that she believes that she is separating herself, but others may feel that she is separating herself, solely because she is adhering to a Muslim identity. She continues, "You don't have to hide your identity, you don't have to feel as though you have to make up for being Muslim or something." She puts the onus of acceptance on the non-Muslims, however she completes her thoughts by declaring "if it's the situation calling for it, and there's no other way out… if you have no other options… But we've just been raised to go the extra mile and even if you feel like there's no other option, it's just a test and then you're going to get through it." The internal debate was almost palpable as she seemed to be saying for a moment that one could blend in if required, but then decided it was merely a spiritual test that can be overcome.

Finally, there are those who may feel completely rejected by some at a particular time and place and yet accepted by others in a different occasion and location. Tammy maintained that as she was growing up there was a fear of being bullied.

> Me, and a couple of us friends, we went to school together. We went to a public school. We were bullied for being Muslim. I don't know how they found out. We didn't hide the fact if you had asked us, you would say but I guess maybe our names or something. And so you may get made fun of.

As Tammy grew up feeling bullied, she wanted to wear a *ḥijāb* and wondered about the viability. However, she decided, that she was being bullied with or without wearing the *ḥijāb* so therefore, she might as well wear it. She explained "That's kind of like hiding my faith again, or like, not being full Muslim."

That wasn't the end of her story, Tammy recalled, "I guess at UNF… the environment there, everybody's so welcoming… but I guess because the college students and like professors, they're very, like open minded and culturally aware, to learning about other people's, like, cultures and faiths." It was then that she felt comfortable enough to wear the *ḥijāb*, "Because it's like, Oh, it's okay, here. I found my environment. So that has to do with integration society." For Tammy, finding her environment is integration.

Every Muslim seems to have multiple feelings of acceptance and rejection. No one seemed to experience totally rejection, claiming that had the freedom to express themselves. However, that freedom was often tempered by external societal pressure often created through media outlets. In attempting to be accepted, many Muslims augment their usual course of actions to fit into what is believed to be expectations. As explained by figure 7.4, as the difficulty of integration increases, so is the possibility of falling into either side of the *ḥalāl* to *ḥarām* ratio, which could cause unintentional tensions between the individual and the Muslim community or the host society. Both David and Tammy seek out a balance between what is acceptable and banned, by their religion and the surrounding society. Finding that balance and being in a place where others are culturally aware is an environment where integration can occur.

### 7.3.3 Religious Values

Beginning with a definition of religious values, this section examines the possibility of Islamic religious values being accepted by the surrounding Jacksonville society in which Muslims live. In its' simplest form, according to Ana Carneiro, Hélder Fernando Pedrosa e Sousa, Maria Alzira Pimenta Dinis, and Ângela Leite,[101] values are the "…guiding

[101] Ana Carneiro and Angela Leite are Faculty of Philosophy and Social Sciences at the Portuguese Catholic University, Rua de Camões. Hélder Fernando Pedrosa e Sousa is from the Department of Mathematics University of Trás-os-Montes and Alto Douro, Quinta de Prados, Vila Real, Portugal. Maria Alzira

principles of life."[102] Additionally, Ekaterina Bobyreva, Marina Zheltukhina, Kristina Korovina, and Maryana Busygina, from Vogograd State Socio-Pedagogical University, claim that religious values are a "…stable belief that a certain model of human behavior or the ultimate goal of a person's existence is the only preferable one from a social and personal point of view, rather than a different manner of behavior or some other ultimate goal of existence"[103] In other words religious values are the principles/beliefs from which a group or person builds their preferred behaviour and purpose of life over any other.

There are differing thoughts as to what constitutes religious values. In Carneiro, Sousa, Dinis, and Leite's research, various values were rated according to their accompanying religion. They found that for Christians, Jews, and Muslims, from a list of values, benevolence, security, conformity and tradition were esteemed, while universalism, power, achievement, hedonism, stimulation and self-direction were largely considered undesirable. Moreover, the three religions assessed priorities via their religion in a similar fashion.[104] On the other hand, Bobyreva, Zheltukhina, Korovina, and Busygina mirrored the values relating to *maṣlaḥah*.[105] They wrote of "values of necessity," (which are *ḍarūriyyāt*), "values of convenience," (which are *ḥājiyyāt*), and finally "values of refinement," (which are *taḥsīniyyāt*).[106] However, they were quick to point out that God, freedom, justice, and knowledge are also basic values.[107] Between the two studies, I believe this is by no means an exhaustive list of values. Since there is also interpretive element to these values may change in the priority position according to individuals and among various ethnicities.

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Pimenta Dinisis from the Environment and Health Research Unit, University Fernando Pessoa, Porto, Portugal.

[102] Ana Carneiro, Hélder Fernando Pedrosa e Sousa, Maria Alzira Pimenta Dinis, and Ângela Leite 2021 "Human Values and Religion: Evidence from the European Social Survey" *Social Sciences* 10: 75 Available at: file:///Users/matthewreifsnider/Downloads/socsci-10-00075-v2.pdf Accessed: 23.07.2ir021, p. 2.

[103] Ekaterina Bobyreva, Marina Zheltukhina, Kristina Korovina, and Maryana Busygina 2019 "Religious Values in Global Communication of Modern Society: Trends in the Development and Transformation." *EDP Sciences* Available at: https://www.shs-conferences.org/articles/shsconf/pdf/2019/10/shsconf_cildiah2019_00021.pdf Accessed: 25.07.2021, p. 1.

[104] Carneiro, Sousa, Dinis, and Leite 2021 "Human Values and Religion," p. 4.

[105] See chapters 2 and 6.

[106] Bobyreva, Zheltukhina, Korovina, and Busygina "Religious Values in Global Communication of Modern Society," p. 3.

[107] Bobyreva, Zheltukhina, Korovina, and Busygina "Religious Values in Global Communication of Modern Society," p. 3.

When it comes to Muslims living in the United States, Benjamin states that "The Muslims usually tend to preserve their religion and culture." Charles also made the claim, "In Islam, as you may know, the culture and the faith are so intertwined." This suggests that if Muslims, as Benjamin avers, attempt to "preserve their religion and culture" and as Charles affirms, that within Islam "culture and faith are so intertwined," then it may reason that many Muslims find it difficult to separate their own faith and culture. Linda explains it like this:

> I would say coming to America you find like, true Islam, like a real Islam. Over there, it's like, just culture. It's all culture I mean, of course, it's an Islamic country. It's a Muslim country. But it's so normalized that like everyone is Muslim that you lose real like Islam. There's so much ingrained with just culture and people's mindsets, it's not Islam at all. And they think it's Islam. Oh, yes, Islam, just because the person is Muslim. So, whatever they're saying must be Islam. So, I find that people who come here and have their communities here, they know the real facts from the holy book.

Likewise, it may be difficult for the host society to tell where the boundaries exist between Islam and culture. Annavittoria Sarli, (of the University of Birmingham), and Giulia Mezzetti, (postdoc with the Catholic University of Milan), expound upon the endeavoured "domestication" of Islam within the United States. In this sense, Islam seems to run contrary to a "secular normality," nor does it follow the "distinctions between private and public, religious and non-religious do not work in the same way for Islam as they do for Christian denominations."[108] In other words, because Muslims are measured by US secularism or by Christian expectations, according to Sarli and Mezzetti, Islam has become the only major religion that has become problematic for American Society.[109]

While writing the experience of Hindus and Christian Koreans born in the US, Sarli and Mezzetti pen that they, "preserve their ethnic traditions by overlapping and combining ethnic and religious rituals together."[110] In that sense, the intertwining of culture and religion as a Muslim experience may not be so far different from adherents of other religions. What may be more surprising, considering Carneiro, Sousa, Dinis, and Leite's list of values. (benevolence, security, conformity, and tradition), and also Bobyreva, Zheltukhina, Korovina, and Busygina's list (life, faith, intellect, lineage, property, God, freedom, justice, and knowledge), may seem to be values which are well-

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[108] Annavittoria Sarli and Giulia Mezzetti "Religion and Integration: Issues from International Literature" in Laura Zanfrini 2020 *Migrants and Religion: Paths, Issues, and Lenses* Boston: Brill Available at: https://brill.com/view/book/edcoll/9789004429604/BP000017.xml Accessed: 28.07.2021, p. 449.

[109] Sarli and Mezzetti "Religion and Integration," p. 456.

[110] Sarli and Mezzetti "Religion and Integration," p. 438.

regarded by many in American society. Yet, there is a strong sense of division between the acceptance of Islamic culture and religious values, and the wider American people.

Perhaps, a major disconnect could be the historio-cultural basis which these values/terms are ensconced. Language, by nature, is interpretive, therefore meanings behind the words can have vastly different ideologies behind them. For example, using the word "freedom" has various shades of connotation. There are many definitions of freedom, according to Jesse Chanley, Jr. and Sharon Chanley,[111] including the idea of "…the absence of coercion and the ability to do as one pleases, within the limits of other person's desires to do as they please."[112] Which means it is possible to do as you wish, until it interferes with another's ability to do as they wish. They further affirm that "…all of the definitions of freedom include limits on behavior…"[113]

However, when Brian compares the relative freedoms that American's seem to have in comparison with Muslims, he explains that "Freedom is awesome. But if, if there is no limit for certain things, it is not freedom." He gives three examples, the first is his new-born baby, "But you know, I got to prevent, you know, I got to protect her. So, if I have to protect her from, you know, a lot of harms, different harms. This is what I'm gonna do. So, I don't think this is not against our freedom..." In order to protect his child, he will set parameters on her freedom. Brian's second example involves girls' participation in sport. "If a man does this sport, it's great. If a girl does it, it's What? No, it's impossible. So, this type of things are horrible." He does acknowledge that, "It doesn't mean that's correct." This is coupled with him admitting, "You know, it's part of our culture" He ultimately relies on what he believes is correct within his cultural understanding, rather than societal pressure. In his own assessment, "Like the freedom parts, I think I will do more on it. I will be more restrictive, or, you know, protective."

The third example Brian uses involves what he infers is woman's place in society. He claims that "They're dependent to their husbands. So, this is awful. They have really bad situations." While declaring that the situation of women being completely dependent on their husbands is a bad situation, he then juxtaposes the Muslim culture with what he perceives of the American condition. "But here, we have extreme freedom here now, you know. Single mom issues we had, I don't… it's not about the freedom, but it's another

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[111] Jesse Chanley, Jr. is from Upper Iowa University and Sharon Chanley is from Arizona State University.

[112] Jesse Chanley, Jr. and Sharon Chanley 2015 "What does Freedom Mean?" Available at: https://www.researchgate.net/publication/278019802_What_does_Freedom_Mean Assessed: 1.08.2021.

[113] Chanley, Jr. and Chanley "What does Freedom Mean?"

problem." After referencing "extreme freedom" Brian mentions "single mom issues," and even though he says, "It's not about the freedom," it appears that in his mind that they are connected. Finally, Brian connects the pieces, "Somehow, we should be in between them, you know what I'm saying? Yes, this girl should be dependent, independent, should be strong, but also should be like, negotiable, you know." While emphasising the virtues of freedom, for Brian, unbridled American freedom is not conducive to a desirable society. The perceived limits of American freedom are not necessarily the same for Muslims living in America.

Values are important in three ways according to Bobyreva, Zheltukhina, Korovina, and Busygina. First, values assist in creating interests, motives and goals. Second, values become a lens from which others' behaviour is assayed. Third, values give meaning to one's life.[114] While it may initially appear that many of the interests, motives and goals for American Muslims and the host society are compatible, there are some notable differences. If the US is concerned with keeping the nation secular, (as suggested by Sarli and Mezzetti), the Muslims are not. On the other hand, if the US wishes to remain a majority Christian, or at least influenced by a common Christian heritage, again the Muslims are not interested in that either. As such, American Muslims' and the surrounding society's values may seem to diverge. This should not be surprising, because as David noted, "If you follow the faith of Judaism or Christianity, they are all open to all cultures. But then there's always going to be that little difference. There's going to be a little bit conflict." As long as everyone is striving to build understanding, be "open to all cultures," if there is "a little bit" of conflict along the way, it is not necessarily a bad thing.

### 7.4 Through the Lens of Fiqh al-'Aqalliyyāt

A key goal of *fiqh al-'aqalliyyāt* has been to allow Muslims living as minorities to function and to integrate into the wider society in which they live. Within this goal's framework, it is accomplished by making "…the lives of Muslims in non-Muslim countries easier and more compatible with the principles of Islam."[115] Therefore a new

[114] Bobyreva, Zheltukhina, Korovina, and Busygina "Religious Values in Global Communication of Modern Society," p. 1.

[115] Abdolmohammad Kazemipur, 2014 *The Muslim Question in Canada: A Story of Segmented Integration*, Vancouver, BC: University of British Columbia Press, p. 41.

system of *fiqh* was created to fill the gaps of knowledge that traditional *fiqh* may have had by taking into account practical aspects of living in a non-Muslim polity.

Perhaps, one of the greatest difficulties in comparing Muslims' experience in integration with minority *fiqh* has been the extreme flexibility of the definition of integration. This was highlighted by Alexandre Caeiro in his thesis, when he commented that '…this project depends, of course, on the way integration is defined – and on who defines it – at any particular juncture."[116] In other words, while al-Alwani and al-Qaradawi are proponents for integration, they fail to explain what integration is, and how a Muslim practicing *fiqh al-'aqalliyyāt* would know when they have achieved integration. Everyone seems to have their own version of integration. In light of the definition of integration which I have presented in this thesis, here are three points where the concepts of minority fiqh and integration may converge or diverge.

First, integration itself has been deemed permissible through minority fiqh (see Chapter 4, section, 4.3.1 Permission of Immigrate). However, the permissibility to immigrate and to integrate is not the same thing as accomplishing integration. It is possible to immigrate and for ghettoization./segregation to occur, (see Chapter 2, section 2.4.1 Definitions). In an endeavour to answer whether Muslim's experience of integration incorporates aspects of *fiqh al-'aqalliyyāt*, there seems to be at least two other factors or concern.

Second, according to Scannell and Gifford, "Those who own their place tend to be more attached."[117] There is some debate as to whether home ownership increases emotional attachment due to the commitment, time, and identity associated with the purchase or whether emotional attachment leads one to purchase a home. Either way, for Muslims to integrate, this makes it seem all the more crucial for home ownership.

By allowing interest bearing loans, home and car ownership become easier, (not the Islamically preferred method). By becoming a home owner, an emotional connection could be strengthened, bolstering Kazemipur's idea of the Soul aspect of integration. Furthermore, car ownership is essential for many businesses as a condition for employment in the United States. With the prospect of a better job due to car ownership and an emotional connection due to home ownership, then a greater level of satisfaction can be achieved. Thereby contributing to the potential fostering of integration.

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[116] Alexandre Caiero 2011 "The Making of the Fatwa, The Production of Islamic Legal Expertise" *Archives de Sciences Sociales des Religions* Éditions de l'EHESS Available at: http://journals.openedition.org/assr/23312 Accessed: 25.10.2019.

[117] Scannell and Gifford "The Psychology of Place Attachment", p. 279.

Third, closely related to the second point, the elasticity that minority *fiqh* brings particularly concerning what is *ḥalāl* and *ḥarām* is a practiced tool used by Muslims to live among non-Muslims. For example, if in the course of social interaction there is nothing strictly permissible to eat, then applying *fiqh al-ʻaqalliyyāt* to the situation, it may be feasible to eat, (again still not desirable). In this instance, social awkwardness could be avoided, which could make Muslim neighbours seem disagreeable. In the process, this increases the size of the eye of integration (see figures 7.1 – 7.4) between permissible and forbidden. This could make the course of navigating the process of integration easier, and perhaps making Muslims more acceptable by the surrounding society.

## 7.5 Conclusion

The chapter begins with several models of integration. The traditional view is that integration is the middle ground on a spectrum from segregation to assimilation. The perspective of Amjad M. Mohammad is that segregation, integration and assimilation are actually three separate parallel tracks. However, Abdolmohammad Kazemipur does not use a spectrum but posits a program of integration, which includes three components, body (behaviour modification), mind (education and learning), and soul (emotional connection).

The first of Kazemipur's elements, behaviour modification, requires the one who wishes to integrate to adjust behaviour to attempt to match expectations of the host society. To assist in accomplishing "fitting in," friendships may be developed between younger Muslims and others outside their faith. As long as Muslims must consciously adjust their behaviour to match another community this, paradoxically, keeps Muslims as being the "other."

One aspect of identity construction is determining the individual's "we/self" as opposed to the "other." An aspect of integrating is to remove the "other" barrier, which requires interacting with the other in order to create a hybrid space that incorporates another's values. Through the four social interactions, (exchange, cooperation, competition, and conflict), behaviour is adjusted so that integration can occur. Figure 7.1 shows a modified model of integration, where an overlap may occur between the host society's behaviour and that of the Muslim. The greater the overlap the greater the integration. If both behaviours completely match then assimilation has occurred.

The second of Kazemipur's model is to educate one's self in order to integrate with the surrounding community. This is a process where education is achieved through interfaith events, where Muslims may learn about society and the prevailing religion of the region and others may learn about Islam, and can lead to *da'wah* opportunities. Furthermore, language and cultural understanding must be acquired to adapt to the host society. Figure 7.2 portrays an overlap of the Muslims' comprehension of the host society's lingua-cultural knowledge. Once again, the greater the overlap, the greater the integration.

The third aspect of Kazemipur's integration template is an emotional connection to the new homeland. A sense of belonging is affected by a number of factors including: discrimination, a level of satisfaction, time, congruence, mobility, home ownership, social status, gender, stage of development, sexuality, and personality differences. Figure 7.3 represents a Muslim's consciousness of locational belonging in comparison with that of the host society. As the "eye of integration" grows, so does integration.

While Kazemipur places the onus of integration on the immigrant or non-majority person/community, Jan A. Ali states that in order for integration to occur there must be an acceptance by the majority in ethnicity, cultural traditions, and religious values. There were three responses given as to whether they were accepted by the majority. Firstly, there was a positive response. Secondly, after an initial positive, seeing themselves through a self-orientalising lens it then became a negative reaction. Thirdly, some simply sidestepped the question.

One of the areas, where many sidestepped questions involved discrimination and racism. Many were quick to tell stories, and point to other Muslims who have experienced racism, but rarely admitted they had gone through it. At some level, it seemed that most did not feel accepted ethnically by the greater Jacksonville community at some time. This was also true concerning cultural traditions, where Muslims have felt attacked in media and by politics. This could be explained more thoroughly through the use of Critical Race Theory.

Figure 7.4 describes what Tammy described as the *ḥalāl* to *haram* ratio, what is permissible to what is forbidden. This works in all aspects of society and religion equally. Trying to find that balance between the two is what has been described as being for some, "America."

The chapter ends with an explanation of diverging values between Muslims living in Jacksonville and the surrounding population. There are similarities and differences of

religious values that have been noted. However, even the similarities may be ascribed different meanings between Muslims, Christians, and secularists.

This long chapter attempts to build a picture of the difficulties that must be overcome for a minority group to work towards integration alongside another society. Therefore, there are two things that I believe should be remembered from this chapter. First, Kazemipur's Body, Mind and Soul ideas are an improvement on the intricacies of integration, with many of the interviewee's responses seem to fit within his categories of integration. However, they are extremely one-sided with all the emphasis on those who wish to integrate. Therefore, within the figures 7.1 – 7.4 I suggested an alternative view of integration using simple diagrams. Each diagram includes elements from both the host society and the person/group who desires to integrate. While, initially this too may seem extremely basic, each figure is not independent of the others. Instead they are stacked, one upon the other, making the eye of integration more difficult to attain, and as previously explained, each circle is dynamic, changing, adding some facets and deleting others. Neither is each stack uniform as suggested by the figures. It is possible that as the various elements are stacked, the eyes of integration do not fall in an orderly pattern at the centre of the increasingly complicated diagram. All this is to explain how messy and complicated the task of integration could be.

Second, even though *fiqh al-'aqalliyyāt* may assist in integration it cannot be the only factor. There are areas that *fiqh al-'aqalliyyāt* has no control or ability to assist in integration. Ultimately, one's level of integration can only go as far as the host society is willing to accept and adapt for the arrivals. In a limited way, *fiqh al-'aqalliyyāt* may seem to alter some cultural traditions and religious values, it can do nothing about perceived ethnicity. Furthermore, minority Muslims will always be Islamic no matter in what fashion the religion is interpreted, so many from the majority society will consider them outsiders. Therefore, it may be difficult for some non-Muslims to accept cultural values from others that do not have the same faith or religious heritage.

# Chapter 8: Conclusion

## 8.1 Introduction

> To accept that you are part of this society, to contribute to society, to work for society, of course for your family as well. To accept other people, to call America your home.
>
> - John[1]

The introduction chapter explained that this research explores the correlation between *fiqh al-'aqalliyyāt* and minority Muslims' integration into the wider society as theorised by Taha Jabir al-Alwani and Yusuf al-Qaradawi. The thesis can essentially be divided into two segments. The first section, chapters 1-4, provide the necessary theoretical contexts of the research. This framework comprises of an overview (Chapter 1, Introduction), writings and arguments relating to the thesis (Chapter 2, Literature Review), methodological considerations (Chapter 3, Methodology), and background/meaning of *fiqh al-'aqalliyyāt* (Chapter 4, Understanding the *Fiqh*).

The second segment, which include the data chapters, expounds the answers of the interviewees as they relate to minority *fiqh*. The three data chapters examine their understanding of Islamic law (Chapter 5, Interpreting Sharī'ah), the purposes and reasoning surrounding Islamic law (Chapter 6, Maqāṣid al-Sharī'ah), and Muslim issues concerning social integration into a non-Muslim society (Chapter 7, Integration), which are all examined through the lens of *fiqh al-'aqalliyyāt*. This thesis is coalesced into the final chapter (Chapter 8, Conclusion), where the definitive thoughts are relayed.

The following section will begin with a summary of the research and findings in an attempt to answer the research question. Afterwards, the contribution to knowledge that this thesis provides will be discussed. Finally, recommendations of possible future research will be conceptualised, before the last parting thoughts are expressed.

## 8.2 Summary

Both Taha Jabir al-Alwani and Yusuf al-Qaradawi alleged that *fiqh al-'aqalliyyāt* would be conducive for Muslims to facilitate an easier integration within non-Muslim societies. The purpose for al-Alwani was to ease living conditions and to provide a voice for

[1] See Appendix 1.

Muslims, while al-Qaradawi stressed the ability to perform *da'wah*. This task was begun by rethinking concepts of *dār al-islām* and *dār al-ḥarb* so that minority Muslims would not have to emigrate from the West, and also be permitted to keep their Islamic identity without assimilating.

Within *fiqh al-'aqalliyyāt* a methodological outline was established upon a principle of *ijtihād*, based upon the purposes of *sharī'ah* (*maqāṣid al-sharī'ah*), culture (*'urf*) and public welfare (*maṣlaḥah*). This creates an allowance to find alternative practices of *sharī'ah* that provides the same results (*taysīr*). Furthermore, this fashioned a more flexible *fiqh* which could provide political, social and financial solutions for issues confronting minority Muslims.

When initially conceived, *fiqh al-'aqalliyyāt* was meant to be only a temporary solution for the difficulties faced by Muslim minorities. However, by creating new avenues of observing Islam within a traditional structure, the possibility arose of reducing bias and opposition from members of the host society. This was accomplished by attempting to work within a self-proclaimed *wasaṭiyyah* or middle way, which builds upon traditional structures taking culture and the times into consideration without breaching into modernism.

It was determined that there are many methods Muslims use to interpret *sharī'ah* from the sources. One of the problems that had to be overcome were the numbers of Muslims who do not understand Arabic sufficiently to read the Qur'an. Therefore, they employ various techniques to determine *sharī'ah*, which includes the use of *tafsīr*, following familial expectations, and even following one's intuition or inner peace. However, most Muslims seem to require the aid of another person to determine if they are following what they believe to be a correct path.

All Muslims appear to agree that the Qur'an should have a position of pre-eminence among the *sharī'ah* sources. However, there is disparity on how the other sources should be received. For many, there is a general distrust for the *aḥādīth*, so they do not take them literally or even dismiss them entirely, relying solely on the Qur'an. Likewise, despite a customary expectation to obey rulings from a specific *madhhab*, many of the Muslims interviewed indicated that they were no longer relevant or that they could coexist and therefore any differences were inconsequential.

There is an ongoing debate by some Islamic scholars as to the viability of individual, non-academic Muslims preferring their personal interpretation over the *taqlīd*, thus creating a micro-*mujtahid*. While this debate is found in the *fiqh al-'aqalliyyāt*, the respondents made individual interpretations of *sharī'ah* without much knowledge of

minority *fiqh*. For the interpreter of *sharī'ah* it was more important to have a faith that seemed relevant to them personally within the context of their respective time and space. At the same time, individual interpretations were often tempered for the sake of the overall community in order to preclude disruption, or problems with others. One way that *taysīr*, (making *fiqh* easy), has been realised is through reading Qur'ans that have been translated into English.

No one in the course of this study directly mentioned *fiqh al-'aqalliyyāt*, even though many of the answers given related directly to minority *fiqh*, including a reference to integration without assimilation. This could be due to a couple of reasons. First, the respondents could have looked for answers to their personal queries online, and *fiqh al-'aqalliyyāt* is designed to answer the questions that minority Muslims would have. Muslim diversity has also contributed to questioning previous practices and searching for new examples of interpretation. Second, the minority Muslims are living through and describing that which Islamic intellectuals have previously addressed.

While many respondents did not seem to have a direct connection to a *madhhab* or a consensus on *sharī'ah*, personal interpretations were often set aside for the community. Instead, following others for direction in *'ibādāt* and *mu'āmalāt* seemed to be the preferred modus operandi. This has effectively allowed *taqlīd* to continue in some form, even if it is not desired by some.

The environment, represented by time and space, is having an effect upon *sharī'ah* interpretation, and is where most notably constructive theories intersect *fiqh al-'aqalliyyāt*. Cultural issues of technology, travel, and credit are having an influence on the way individual Muslims are interpreting *sharī'ah*. To further complicate things there seems to a growing sense of individuality especially among the younger Muslims. Although, many shared that they did not want American culture to impact their faith, American individuality in a personal opinion of interpretation seems to have had an influence and is further explored in *maqāṣid al-sharī'ah*.

There is a strong connection for Muslims between the purposes (*maqāṣid*) of *sharī'ah* and the public welfare (*maṣlaḥah*). Many of the respondents did not explain what they believed *maqāṣid* were, but rather defined *sharī'ah* in its place. In the framework of *maṣlaḥah*, the Muslim's view of community was found to be both specific, (for example, the Muslim community or the Turkish community), but also defined generally, as in the greater Jacksonville community. Therefore, Muslims could do works of altruism, (which they referred to as a process to "give back" to the community), for the Jacksonville community based upon principles of *maṣlaḥah*. Respondents have also made

exceptions to *sharī'ah* established on *ḍarūriyyāt* (necessities) such as the ability to eat non-*ḥalāl* food, purchase a home, the use of credit to survive, and the avoidance of persecution.

Not all elements of *maqāṣid al-sharī'ah* were noted by the interviewees. However, among the one mentioned were: orderliness, freedom, protecting women's rights, justice, developing civilisation and preserving the faith. Within the understanding of many Muslims interviewed there is a tension that exists between the duality of *sharī'ah* being the idealised righteous path on one hand, and an attempted controversial, codified Islamic law on the other.

*Maqāsid al-sharī'ah* and its connection with *maṣlaḥah* has real world applications particularly for the benefit of the community. However, when applied to oneself to make allowances in *sharī'ah* that would not be available otherwise, it appears that many Muslims become uncomfortable with the situation. At the same time when applied to works of altruism outside of their religious community to surrounding society it seems to be relished. One can have loyalty to several communities simultaneously, (for example religious, social, and political), without one undermining the other. In this manner, integration may be occurring amongst the Muslims in Jacksonville.

There were several models of integration discussed in this thesis. The first was as a spectrum from segregation towards integration before arriving at assimilation. The second, proposed by Amjad M. Mohammad was that segregation, integration, and assimilation were three separate but parallel tracks. The final model discussed was presented by Abdolmohammad Kazemipur who viewed integration as a process of body (behaviour modification), mind (education/learning), and soul (emotional connection), and was the basis of my discussion of Muslim integration.

The framework of Kazemipur's "body" approach surveyed friendships, othering, and types of social interaction that were relevant to Muslims attempting to mirror host society behaviour. The section relating to the "mind" presented educational opportunities that were formed through interfaith events, and the linguistic-cultural understanding needed for integration. The "soul" examined locational belonging through the lens of the elements that affected what Muslim's referred to as "home." Modifying one's behaviour, language and cultural acquisition, and an emotional connection to the new homeland may create various overlapping layers of manners, knowledge, and locational belonging between that of a Muslim and that of the host society which produces an interstice where integration could occur.

According to Jan A. Ali, in order for integration to occur there also must be an acceptance on the part of the host society in consideration of another's ethnicity, cultural traditions and religious values. Even though direct questions were often sidestepped, most interviewees knew of some sort of discrimination or racism that has occurred to Muslims. Therefore, most Muslims interviewed did not feel accepted by one or more of Ali's three points, and furthermore they felt attacked via the media or politics.

As a concept to build upon, the idea of the *ḥalāl* to *ḥarām* ratio describes what is Islamic, (or permissible), compared to what is non-Islamic. With that in mind, several Venn diagrams were presented as an alternative perspective of integration, where one side represents the host society and the other side Muslims. Areas that overlap, (the eye of integration), would be potential spaces that allow for integration. Numerous elements of integration are stacked one upon the other, and none are static, but are ever changing. This would suggest that integration is a difficult and disordered process, that can produce confusing outcomes for the host society and the one integrating concurrently.

There are three concepts that have been brought forward. The first is that *fiqh al-'aqalliyyāt* may provide some flexibility to allow for increasing the size of the eye of integration. Second, an emotional bond with the new homeland may also be strengthened by home and car purchases by way of *fiqh al-'aqalliyyāt* by permitting interest-bearing loans. Finally, integration has two sides of an equation, both the Muslim integrating and the society in which the integration occurs. Minority *fiqh* may assist the Muslim, but has no control over the other variable.

## 8.3 The Questions Revisited

In this section, the questions raised in the first chapter, 'Introduction,' will be discussed. The results of the research that was conducted and recorded in the data chapters (5-7) will provide the basis of the conclusion made.

The main research question was, "How and to what extent does the application of *fiqh al-'aqalliyyāt* to the selected Muslim population enable them to move from segregation to integration in Jacksonville?" This is actually a two-part question, where the first part asks about the extent and the fashion of *fiqh al-'aqalliyyāt*'s influence on the Muslims interviewed. The second part suggests a spectrum of segregation and integration and whether that influence has caused movement along that spectrum for the Muslim populace.

Previously, *fiqh al-'aqalliyyāt* was defined as minority Muslim jurisprudence, specifically as outlined by al-Alwani. The discussion related to the main question begins in chapter 5 by stating that adhering to the rulings of the *taqlīd* would indicate an "expected social norm."[2] If the respondents kept to the *taqlīd* then *fiqh al-'aqalliyyāt* would have had no influence. On the other hand, just because the *taqlīd* was not preserved perfectly does not necessarily point to the authority of minority *fiqh* in effect. Despite that, there was sufficient evidence to suggest that many respondents were aware of some of the practices/rulings that contribute to *fiqh al-'aqalliyyāt*.

A brief survey of non-*taqlīd* practices or ideas presented by the respondents include:

- Not reading the Qur'an in Arabic.
- Personal interpretations of the Qur'an.
- Time/space contextual considerations.
- The selling of alcohol.
- Paying for interest bearing loans.
- Qur'an only interpretations.
- Lack of *madhhab* understanding.

Even though no one revealed any recognition of *fiqh al-'aqalliyyāt*, there often appeared to be similar elements of minority *fiqh* found in the respondents' answers. A prime example was Benjamin's statement, "I believe in full integration, but not in assimilation," (compare with section 2.3.2, To Segregate or Integrate). However, in the methodology it was said that according to constructive theories "…reality is created through the fabric of social interaction between individuals and communities." Therefore, it was not certain whether those interviewed actually knew of *fiqh al-'aqalliyyāt* or performed various elements of minority *fiqh* due to a shift of their perceived reality as their community reached into the surrounding society, contributing to the previously mentioned time/space considerations.

Though it may seem that through Benjamin's declaration there is a direct connection to the *fiqh*, he could have arrived to his conclusions independently. Additionally, *fiqh al-'aqalliyyāt*'s ideologies may have filtered their way into the practices of Muslims of Jacksonville in at least two ways. First, as a result of Muslim cultural diversity found within the same mosque there were compounding questions regarding interpretations of *sharī'ah*, and integration. Second, there is an eruption of

[2] See the Introduction of chapter 5.

information available on the internet as Muslims attempt to discover the answer to those questions. Therefore, the rulings presented in *fiqh al-'aqalliyyāt* (related to things such as alcohol, or interest), seem to be widespread within the Muslim community of Jacksonville, and corresponds to individual Muslim's reinterpretation of *sharī'ah*, and integration.

The second part of the question essentially asks, does *fiqh al-'aqalliyyāt*'s influence actually cause movement along a segregation to integration spectrum for the Jacksonvillian Muslims? There are a number of factors to consider. First, four of the Muslims interviewed were born and raised in the United States, and at least three arrived at an age that they could be considered a 1.5 generation immigrant[3] to the US. Consequently, it should not be surprising when their answers appeared to be associated with minority *fiqh*. In this sense, elements of *fiqh al-'aqalliyyāt* are tools for those Muslims who are born in the US, arrived at a young age, or have converted, (and therefore fully integrated into the American society), are not alienated from the rest of the Muslim community.

### 8.3.1 Sub-Question #1

Following the main research question, a set of sub-questions were asked beginning with, "how are the interviewed Muslims applying *sharī'ah* to their lives?" Initially, this came from a predisposed Western-centric viewpoint. Fortunately, however, it also provides the basis to determine the second part of the question, "Does minority fiqh seem to have an influence on their practice and to what extent?" It was stated in chapter 5, the section 'The Qur'an' that, "*Sharī'ah* should govern how Muslims conduct themselves in worship (*'ibādāt*) and in deed (*mu'āmalāt*)." Commencing with worship this segment will simultaneously answer both parts of the question.

For Muslims the centrality of prayer in worship is fundamental and one of the five pillars of Islam. How Muslims interpret *sharī'ah* then decides every aspect of how prayer is conducted. Therefore, from the interviews, I make the following observations:

- Not all Muslims pray five times a day, despite fear of not doing so. (Chapter 3 Methodology, section 'Where do I fit?').

[3] First generation immigrants leave country of origin somewhere between adolescence to adulthood, while 1.5 generation are those who leave pre-adolescence. Children born in the host country are considered second generation.

- Reading the Qur'an can be considered prayer. (Chapter 5: Interpreting *Sharī'ah*, section 'The Search for Meaning').
- Some offer prayers in English. (Chapter 5: Interpreting *Sharī'ah* section 'Taysīr').
- Women go to mosque prayers more frequently in the US than in homeland. (Chapter 6: Maqāṣid al-Sharī'ah, section 'Women's Rights').
- There is a relaxing of some the outward forms. (Chapter 6: Maqāṣid al-Sharī'ah, section 'Preserving the Faith').
- Willingness to share in prayers beyond Muslim community. (Chapter 7: Integration, section 'Interfaith Events')

From these observations, I hold the following simple hypothesis, there is not a one "correct" way that prayer is accomplished, (particularly, during travel situations), though many Muslims would promote there is. It would seem that as far as worship is concerned, the greater influence would be constructivist in origin rather than of minority *fiqh*. In other words, the environment and others nearby are the greater influence, which determines the expressed reality of practice.

Regarding *mu'āmalāt*, deeds have been traditionally concerned with how Muslim relate to one another. This was because there was the *dār al-islām/dār al-ḥarb* divide, where even Muslim converts were expected to emigrate toward Islamic territories, (see chapter 4: Understanding the Fiqh, section 'Immigration Considerations'). A part of *fiqh al-'aqalliyyāt* was removing that segregation and to focus instead integration. Therefore, how Muslims conduct themselves among non-Muslims has become a matter of discussion beyond a form of segregation, even though Muslims already lived outside the range of *dār al-islām*.

It was determined that one aspect of Muslim integration into the surrounding society was creating friendships beyond the Islamic religious circles, (see Chapter 7: Integration, section 'Adjusting Behaviour'). In this respect all of those interviewed claimed they had non-Muslim friends, and some have relatives who have married outside of the Islamic faith. Furthermore, when it came to community, many identified themselves beyond the Muslims community to the wider Jacksonville community as well.

Muslims were already living, making friends, buying homes, and working in non-Islamic lands, (essentially integrating). However, through minority *fiqh*, juridical decisions are made that impacts the lives of minority Muslims which imparts an authoritative permission to be an active part of the non-Islamic society. It seems that many Muslims recognise the decisions based on *fiqh al-'aqalliyyāt*, especially those involving

*ribā*, travelling prayers, or the eating of non-*ḥalāl* foods, even if they don't understand *fiqh al-'aqalliyyāt*. So that, *fiqh al-'aqalliyyāt* is a scholarly consideration of the present, lived realities of minority Muslims.

### 8.3.2 Sub-Question #2

The next sub-question asks, "How does the individual's interpretation of *sharī'ah* compare with the traditionalist understanding the *sharī'ah*?" This is simply a request for a contrast between the *taqlīd* approach and the way Muslims in Jacksonville interpreted *sharī'ah*. Therefore, I offer the following figure 8.1:

Figure 8.1: Comparison between Taqlīd and Individual Interpretation

| | **Taqlīd** | **individual Muslims of Jacksonville** |
|---|---|---|
| **Language** | Qur'an read in Arabic | Qur'an read in understood language |
| **Ijtihād** | *Ijtihād* closed; no individual interpretation | Individual interpretation |
| **Sources** | *Sharī 'ah* understood through several sources | Some use only Qur'an |
| **Truth** | Qur'anic revelation | Experiential through "understanding," and "peace" |
| **Interpretation** | Single interpretation for each *madhhab* | Many interpretations based on individual understanding |
| **Ḥadīth** | One of the sources, though each must be classified | Distrust in *ḥadīth*, "not to be taken literally" |
| **Madhhab** | Everyone expected to follow *madhhab*'s ruling | Few understood their madhhab; reluctance to follow other's rulings |

Within Figure 8.1 several differences between the traditional/*taqlīd* expectations and those that participated in the interviews are highlighted. The left side of the graph includes, language, *ijtihād*, the sources, truth, interpretation, *ḥadīth*, and *madhhab.* These subjects are representational and not to be considered the only differences. Even though the graph does not exhibit any similarities which may exist, it does not mean to deny the existence of resemblances.

It should also be emphasised that the statements are not representative of all Muslims living in Jacksonville. For example, for those following the *taqlīd*'s expectations, the Qur'an must be read in Arabic. However, several of the Muslims pointed out that they do not understand Arabic, and it is even more difficult for a convert. While the two, (*taqlīd* and individual interpretation), seem to be at polar opposites, there are cross-overs. For instance, Muslims who cannot read or understand Arabic are expected

to learn the language, and allowances are made in the meantime. There were also Muslims interviewed who did speak, read, and understand Arabic. So, for the right side of the graph, Individual Muslims of Jacksonville, are answers which illuminate that the *taqlīd* does not always have the final say for the beliefs and practices of Muslims living in Jacksonville. There was not a single, standard answer from the respondents.

### 8.3.3 Sub-Question #3

The final sub-question written from the outset of this thesis is, "How is the range of segregation to integration realised among the selected Muslim populations of Jacksonville?" There are two ways that this question could be read. The first implies that Muslims in Jacksonville, may be found on a spectrum from segregation to integration. Therefore, the question asks: Where on that spectrum would they be found? This interpretation of the question assumes that the Muslims of Jacksonville, are a monolith when it comes to issues of integration. It was determined in Chapter 3, Data Collection that the Muslims of Jacksonville represent many different ethnicities, backgrounds (traditional and national), and life experiences. Therefore, one could expect that the Muslims would be found anywhere along such a spectrum depending on many factors.

Second, it could also be understood to mean, how far along the spectrum the Muslims moved, (the range), from segregation towards integration? In this instance the phrase, "range of segregation to integration" has an assumption of segregation as a starting place as Muslims work towards integration. This is also not a reasonable supposition, as not all Muslim desire integration and furthermore, there are some who feel as though they are fully integrated for as long as they can remember. Furthermore, by what scale would that range be measured? Therefore, even though I kept that question in the first chapter, I wish to change it at this point, to highlight a point of personal growth. I offer in its place, "How is the process of integration realised among the selected Muslim populations of Jacksonville?"

Without rehashing the entirety of this thesis, examination of the process of integration will begin with using the English language which has previously been featured, both in Chapter 5, Search for Meaning and Chapter 7, Language Acquisition. The desire for English to be acceptable in '*ibādāt* can be seen in David's and Edward's responses. David wishes to be able to pray in English, while Edward hopes to find an English compatible Qur'an. Felix also complained that his children are not capable of keeping up their native language, and have turned toward English as the primary method

of communication. This suggests that as the next generation matures, there will be a greater appeal to conduct themselves, (*mu'āmalāt*), using English as their point of reference.

A couple of allowances have been made in order to facilitate working in the non-Islamic environment, and interacting with the surrounding society. In chapter 5, Malleable Interpretation, the selling/buying of alcoholic beverages can provide employment possibilities at grocery stores, restaurants, bars and petrol stations. Likewise, by using interest bearing loans, business can be purchased and sold, adding real estate and insurance prospects. In chapter 6, Exceptions, it is possible for Muslims to eat *ḥarām* foods, or for Muslim women not to wear a *ḥijāb* if necessary. Despite the additional freedoms afforded to Muslims in the US to live, and conduct business beyond traditional means, Muslims may feel uneasy of those choices.

There were also indications of changing attitudes and identities among the Muslims interviewed. It was stated in Chapter 6, What is "The Community?", that Muslims are creating a space for themselves as they use hyphenated definitions for their community, for example "American-Muslim." There can be multiple dimensions of identity and belonging such as code switching the definition of community between the Muslim community and Jacksonville society. It was determined in section, 6.3.3. that this created a new sense of *maṣlaḥah* where Muslims could "give back" to the greater Jacksonville community.

Most of Muslims interviewed, shared that they had non-Muslim friends, which signifies that they are not living in an Islamic bubble (Chapter 7, Self and Othering). To promote social interaction and ideas, many have become involved with interfaith events. The United States has become home for most of those interviewed, and all discussed some frustration with the process of integration in some fashion.

Within this section there are only a few of the positive examples of integration, it was by no means considered exhaustive, there were challenges as well. There was fear of being perceived in a bad light, particularly while traveling or by their non-Muslim neighbours. Many gave examples of racially/religiously charged prejudices (for example, see chapter 7, Ethnicity). Nevertheless, they were also eager to overcome those prejudices as well, and become a part of the greater Jacksonville community.

## 8.4 Contribution

This study's contribution to knowledge can be summed up in three areas: in *fiqh al-'aqalliyyāt*, integration theory, and concerning the Muslims of Jacksonville, Florida, all of which have been presented beforehand. The problem statement in the first paragraph of Chapter 1: Introduction began with a quote from Iyad Zahalka's book, *Shari'a in the Modern Era*, which stated that there were a few studies concerning rulings which, "…does not examine the applicability of fiqh al-aqalliyyāt for diverse Muslim minorities."[4]

This research, from the standpoint of *fiqh al-'aqalliyyāt*, does not involve *ijtihād*, the sources, or threads of reasonings that create rulings for answers which are then applied to questions related to minority Muslim issues. As Zahalka alluded, the research in this respect has been accomplished, even if there are many places that the same research could be undertaken. Instead, this thesis asks, whether there are similarities between the theoretical minority fiqh and the interpretations and practices of the interviewed Muslims' integration experience? Even though al-Alwani and al-Qaradawi theoretically connected minority *fiqh* to integration, there has been little qualitative research to support that connection, (see Chapter 3: Methodology, section, The Drawing Board). This was further, supported by the research sub-questions, which were answered directly before this section. In this way, the gap between theory and integration was spanned. This thesis contributes to the discussion of *fiqh al-'aqalliyyāt* in its objective to analyse how and if any elements of minority jurisprudence appear among the respondents within their American context.

The second area of contribution is in the realm of integration. As commented in the summary, and in both the literature review and in Chapter 7: Integration, there were several models of integration surveyed. The prominent theory of a segregation to integration spectrum was quickly dismissed, but difficult not to reference on occasion. Then there is Mohammad's view of separate, parallel tracks of assimilation, integration and segregation. However, due to little or no cross-over between the three tracks Mohammad's model was also found to be wanting. On the other hand, Kazemipur's body, mind, and soul, approach (immigrant centred), and Ali's ethnicity, cultural traditions, and religious values (host-society centred), were ideas from which this thesis was built. This

[4] Iyad Zahalka, 2016 *Shari'a in the Modern Era Muslim Minority Jurisprudence* Cambridge: Cambridge University Press, p. 7.

allowed for a different model of integration where various elements of social integration, from both the sides of the equation (religio-cultural framework and the dominant society), could come together. I refer to this model as the "*ḥalāl* to *ḥarām* ratio," based on Tammy's interview. In this model, corresponding aspects of social integration are compared for similarities and differences. The similarities allow (*ḥalāl*) for integration, while the differences (*ḥarām*) are impediments to integration. Using a Venn-diagram as a guiding picture, the areas of resemblance and disparity, layered one on top of the other, creating an 'eye of integration' where integration could occur.

The third area of contribution is due to the research based in Jacksonville, Florida where no previous studies related to minority *fiqh*, encompassing rulings or its applicability had occurred. There are at least eight mosques in the greater Jacksonville area: Al-Zahra Islamic Center, Baymeadows Islamic Center, Islamic Center of Northeast Florida, Islamic Center of Orange Park, Islamic Community of Bosnia, Jacksonville Masjid of al-Islam, Masjid Muhammed, and Temple Dome Mosque. Yet there is little research or literature related to the Muslims of Jacksonville. There are citations of the Muslim American Social Services, several incidents of Islamophobia, and a highly publicised account of the First Baptist Church, (see Chapter 2, section American Cities and their Muslim Residents). However, there is no information available on Jacksonville and *fiqh al-'aqalliyyāt*, or Muslim integration and their relationship with the wider Jacksonville community. The actual number of Muslims in Jacksonville is matter of contention, (estimated between seven and ten thousand), and yet has been, for the most part, unrenowned. This study contributes not only to minority fiqh and integration, but to general knowledge of Muslims in Jacksonville as well.

The focus of this study being conducted in Jacksonville has some benefits as well as some negatives. As an advantage, the Muslims of Jacksonville are very diverse, (see chapter 6 section, What is the Community). Therefore, as Zahalka stated, an avenue for research would be the application of minority *fiqh* for diverse Muslim minorities. Jacksonville has a great Muslim diversity in a relatively small area, and at the same time those Muslims often attend the same mosque. Even though the given answers were relevant to Jacksonville and its Muslim population, it does not necessarily imply a universal answer for all minority Muslims everywhere. Nevertheless, using constructivist theory, the trustworthiness of the data follows the credibility guidelines.

## 8.5 The Potential of Future Research

As this thesis draws to a close, the question could be posed, what is conceivably the next project that this thesis could support? Due to the qualitative nature of this research, there are several thoughts for potential research that could be done in the future. I offer three possible opportunities of research that could be accomplished.

Firstly, similar research to this thesis could be done, but with a comparative element. For example, a qualitative study regarding *fiqh al-'aqalliyyāt*, and integration with a side by side comparison between minority Muslims from various national locations (such as: various European countries, Canada, and/or the United States), or even between cities in those locations. The diversity of Muslims with assorted national cultural backgrounds would also make it possible to appraise integration issues and solutions among various Muslim people groups present at a local level.

Secondly, it appears that this thesis may only be valid for minority Muslims from a Western majority world perspective. The question, "does *fiqh al-'aqalliyyāt* have the same kind of impact for minority Muslims in a non-Western context?" and if so, "What are the concerns and rulings that allow (or disallow) integration into the surrounding society?" This could theoretically be more important than from a Western standpoint, to assess whether there are far reaching implications of minority *fiqh* on a minority Muslim population regardless of their location.

Thirdly, a prospective research setting, which would involve a great many methodological changes than this thesis, could possibly be a quantified approach. By numericising and graphing a list of potential Muslim and non-Muslim sociological/cultural factors along an X-Y axis, a relationship between Muslim and non-Muslim social characteristics may be revealed. This could possibly show the *ḥalāl* to *haram* ratio in a measurable format to increase hypothetical avenues of integration and cooperation. Furthermore, this could be done for various locations and peoples. For example, for Muslims living as minorities among non-Muslim people groups (such as Muslims in Great Britain and France), and for non-Muslim minorities living among Muslim nations.

## 8.6 Final Thoughts

The process of integration is extremely complicated, with a host of variables or obstacles that must be navigated. While *fiqh al-'aqalliyyāt* strives to make several of the obstacles to integration smaller, but does not remove them entirely. It has been mentioned several times that integration is a two-sided process, from both the one who desires to integrate and the one with whom they are integrating. Minority *fiqh* does not really alter the other side. On the other hand, perhaps the "mind" aspect of Kazemipur's integration model has the most influence on the host society with interfaith events. However, even those events usually keep the Muslims in the realm of the religious "Other."

This thesis primarily concerns integration of Muslim minorities into a non-Islamic society, and the way *fiqh al-'aqalliyyāt* may assist in their effort. It was previously explained that both those who are attempting to integrate, and the host society work together to accomplish the goal of integration. Therefore, I offer three possible ways that the host society could assist in the integration. First, a "buddy program" could be implemented that would pair a person or family with an immigrant. This could potentially allow for friendship building, and mutual understanding. Second, while there are English as a Second Language (ESL) programs available, the program is often overseen by a volunteer staff, and underfunded. Ideally, greater funds would be made available, not only for the program, but also for the student who is taking time (sometimes out of their work schedule), to learn. Finally, though difficult to impose, it is possible for the government and local civil authorities, [for example, in the US the Federal Communications Commission (FCC)], to improve guidelines in media to provide a more nuanced image of Islam and Muslims and other minorities.

When I, as a researcher, embarked on this journey, I knew that I wanted to research Muslims and integration, attempting to see the issue from a Muslim perspective. At that time, I knew little about *sharī'ah* and nothing of *fiqh*, despite my ten years in the Middle East. It is not ever easy being in the minority, always trying to gauge the thoughts and feelings of those in the dominant position. Perhaps, this is a way to attempt to bring some understanding of the confusing processes of integration to those who are willing to appreciate a world full of "others."

## GLOSSARY

| Arabic word | | Definition |
|---|---|---|
| ʻĀdah | - | A specific tradition or custom of a people. |
| Adhān | - | The prayer call. |
| ʻAdl | - | Justice, fairness, equity. Indicates a proper sense of rewards and punishments as a consequence of actions. |
| Ahad | - | Solitary. Used in this case, as a categorisation of the ḥadīth. |
| Aḥkām al-islām | - | The rulings of Islam. Ahkam is used of rulings derived from *fiqh*. In this instance, refers to territories under a government and authority of law. (Hukm sing.) |
| ʻĀlamiyyat al-islām | - | Islam as a world-wide religion or the universality of Islam. The phrase carries the idea that Islam is meant for the entire world. |
| Al-Amn | - | The faithful, honest or trustworthy one. Used of a land where Muslims can live in peace and safety. |
| Al-Awlawiyāt | - | Refers to the fiqh of priorities. The deciding of which issues have the priority in a proper heirarchy. |
| Al-zhann al-rājih | - | Preferable Conjecture/opinion. Used as a division of the ḥadīth. |
| ʻAql | - | Intellect, reason, rationality or intelligence. |
| Asbāb al-Nuzūl | - | Occasions of Revelation. The historical context of Qur'anic revelations. |
| Dār al-ʻadl | - | House/Abode of Justice. (see ʻAdl) |
| Dār al-ahd | - | House/Abode of Treaty/Truce. A place that has an agreed peace with Islamic territories. |
| Dār al-daʻwah | - | House/Abode of Invitation. Non-Islamic territorities where the invitation to become a Muslim is emphasised. |
| Dār al-ḥarb | - | House/Abode of War. Traditionally used of a non-Islamic territory, where the security for/by Muslims is not maintained. |
| Dār al-ijābah | - | House/Abode of Compliance. Used in relation to Dar al-Islam, as those who have conformed to the Islamic norm. |
| Dār al-islām | - | House/Abode of Islam. Traditionally used of a location where Muslims rule and Islam is the majority religion. |

Dār al-kufr - House/Abode of the Infidels/Disbelief. Interchangeable with Dar al-Ḥarb. Some claim this refers to open hostility to Muslims or Islam.

Dār al-Shahādah - House/Abode of Testimony. Same as Dar al-Da‘wa as a safe place to witness for Islam

Ḍarūrah - Necessities. Allows a mitigation so that a Muslims may preserve one of the five human necessities. (pl. Ḍarūriyyāt)

Da‘wah - Invitation or Call. Proselytizing or inviting others to submit to Allah.

Dhikr - Mention or Remind. A prayer of repitition, particularly the names of Allah, practiced by Sufis to worship and achieve spiritual unity with Allah.

Fatwā - A non-binding ruling on sharī‘ah made by a qualified authority. (pl. Fatāwā)

Fiqh - Islamic jurisprudence is the understanding or philosophy of the practice of Islamic law through the interpretation of the sources of *sharī‘ah*.

Fiqh al-‘Aqalliyyāt - A doctrine which claims that a new sharī‘ah legal framework is required to assist Minority Muslims, also known as minority jurisprudence or minority *fiqh*.

Fiqh al-wāqi‘ - Fiqh of reality or current affairs. Judgment based with a grasp on reality of current events, politics and enemies.

Ghayr tashri’iyyah - Non-legal. An aspect of Muhammad’s life that is not related to sharī‘ah.

Ḥadīth - Traditions that have been passed down that contain sayings or practices of Muhammad. (pl. Ahādīth)

Ḥājah - Needs. That which could lead to hardships, but is not a complete disruption to life. (pl. Ḥājiyyāt)

Ḥajj . - Pilgrimmage. A religious trip to Mecca that Muslims should perform at least once in a lifetime as part of the five pillars of Islam.

Ḥalāl - Permissible. That which is allowed to be performed or be eaten according to Islamic law.

Ḥarām - Forbidden. That which is not allowed to be performed or be eaten according to Islamic law

Ḥijāb - Headscarf worn by Muslim women to cover the hair in order to maintain modesty.

Ḥujjiyyah - Evidence or proof value. For example, *ḥadīth* can be evidence for a Qur’anic ruling.

Ḥurriyah - Freedom

‘Ibādāt - Service or servitude. correct practice.

‘Iddah - The time of waiting a woman must keep after the divorce or death of her husband before remarriage. (Generally, three lunar months).

Iftār - Breakfast. Particularly, the meal at the end of the day during Ramadan.

I‘jāz - Inimitability. The belief that the quality of the Qur’an is miraculous and can not be found in human speech.

Ijmā’ - Consensus. An agreement of the Muslim community or religious scholars.

Al-Ijmāl wa-al-Tafṣīl - Brevity and detail. The view that the all of *uṣūl al-fiqh is found within the Qur’an and requires exposition.*

Ijtihād - Endeavor or exertion. The interpretation of Islamic law through the sources.

Isnād - A list of transmission of a *ḥadīth* from Muhammad until it was recorded.

Istiḥsān - To consider something good. Juristic preference, usually restricted to decisions that cannot be reached by other means.

Istīlā’ - A territory that is not under Islamic government or rule of law, but has Muslim ruler.

Istiṣḥāb - Continuity. The prevailing ruling remains in effect until there are obvious changes is circumstances or evidence.

Istiṣlāḥ - Deem proper. If there is no direct answer, then to do what is right or proper.

Madhhab - Islamic juridical school of Law. There are four main Sunni schools: Hanafi, Maliki, Shafi‘i and Hanbali. (pl. Madhāhib)

Makrūh - Reprehensible. A disliked, or offensive act.

Mandūb - Commendable. Recommended, favoured or virtuous actions

Maqāṣid al-Sharī‘ah - The purposes, objectives, or aims of sharī‘ah. Often debated but may include: orderliness, freedom, reason, reform, women’s rights, justice, and freedom, the oneness of God, purification of the soul, developing civilisation, preserving the faith, human dignity, rights, moral values, good families, and a cooperative world, compassion, and educating the individual.

Mashhūr - Well known. A *ḥadīth* with three or more narrators, but not considered *mutawātir*.

Maṣlaḥah - Public interest or benefit. Usually related to the preservation of: religion, life, intellect, offspring, or property.

Maṣlaḥah murṣalah - Public interest. Identified by no textual basis for the public benefit.

Matn - Text. The actual written tradition of the *ḥadīth*, where the other part the *isnād* is the transmission of the text.

Mu'āmalāt - Transactions or dealings. All acts that are not part of worship and includes all law related to family, commercial, civil, and bodily harm.

Mu'ḍal - Perplexing. A category of *ḥadīth* where two or more narrators in an *isnād* is missing.

Mujtahid - An authority on Islamic law, who are authorised to perform ijtihād. (pl. Mujtahidīn)

Munqaṭi' - Broken. A weak *ḥadīth* where the *isnād* transmission is not completely connected.

Muqallid - One who follows the taqlīd.

Mursal - Sent or transmitted. *Ḥadīth* which claims a companion says "the Prophet says…"

Mutawātir - Continuous or successive. A *ḥadīth* which is considered unquestionably true.

Qat'i - Definitive. Concerning the Qur'an or the *ḥadīth* where there is only one possible interpretation.

Qawli - Verbal. *Ḥadīth* which are the words of Muhammad, as opposed to his actions.

Qiyās - The process of deductive analogy. Using answers of that the Qur'an directly answers in a similar fashion for another comparable application.

Ribā - Interest or usury. Muslims are forbidden to collect or spend monies on financial interest

Shar' - The law of Islam as one of the branches of uṣūl al-fiqh.

Sharī'ah - From the "way" or "path." Often used interchangeably with Islamic law. Sharī'ah is seen as God's perfect law, as opposed to fiqh which human understanding attempting to discern that law.

Sunnah - Muhammad's example in worship and life. Often used for jurisprudence

Sura - A chapter of the Qur'an

Tafsīr - A commentary on the Qur'an to provide an explanation, context or interpretation.

Tafsīr bi-al-'aql - Commentary by Reason/Intellect.

Tafsīr bi-al-dirāyah - Commentary by Expertise/Knowledge.

Tafsīr bi-al-ijtihād - Commentary by *ijtihād*, by comparison of the sources.

Tafsīr bi-al-ra'yi - Commentary by Opinion.

Taḥsīn - Improve, Enhance, Enrich. An aspect of sharī'ah that beautifies, simplifies or adds comfort (pl. Taḥsīniyyāt)

Tajdīd - Renewal. Revivalise, reform or purify society in an Islamic context

Takhayyur - For a ruling from a person from a *madhhab* to opt for another *madhhab*'s ruling.

Talfīq - Amalgamation/Piecing together. Taking various rulings from different madhhab's and combining them into something new.

Ta'līl - Ratiocination/Cause and effect. The ratio of law and its value and purpose.

Taqlīd - Often translated as "tradition." Refers to conforming to one particular madhhab's ruling on *sharī'ah*, (to the exclusion of other *madhhab*s).

Taqrīri - Tacitly approved. Ḥadīth which do not refer to the speech or actions of Muhammad, but his affirmation of someone else.

Taysīr - Ease or facillitation. If there are two possible pracitices in sharī'ah, there is an allowance for the easier option, particularly used if there is an unreasonable hardship involved.

Thawb - A traditional, long tunic for men, usually in white, with long sleeves

'Ulamā' - Muslims scholars who have an expertise in Islamic law and theology

Ummah - World-wide community of Muslims.

'Urf - Customs of a society, especially as compatible with sharī'ah.

Uṣūl al-fiqh - The roots or basis of *fiqh*. The study and interpretation of the sources of Islamic law.

Wājib - Obligatory. An act that if not completed is sinful, (such as prayer).

Al-walā wa-al-bara' - Loyalty and disavowal. Complete allegiance to the Islamic ummah and avoidance of all persons and things non-Islamic.

Wasaṭiyyah - Moderation. A self-determined approach to Islam that is midway between Modernist and Traditionalist.

Zhanni - Speculative. Refers to verses in the Qur'an where there is uncertainty to its meaning.

## APPENDICES

### Appendix 1:

Participant Interview Information:

| No. | Name | Place | Date | length |
|---|---|---|---|---|
| 1 | Adam | Park at Gate Pkwy Starbucks | 16.04.2018 | 1:06:08 |
| 2 | Benjamin | Duncan Donuts/ Philip's Hwy | 17.04.2018 | 1:09:39 |
| 3 | Charles | Starbucks/Avenues | 22.04.2018 | 1:09:11 |
| 4 | David | Starbucks/Avenues | 28.05.2018 | 1:35:56 |
| 5 | Edward | University of North Florida | 30.06.2018 | 1:34:04 |
| 6 | Felix | Cultural Center | 19.06.2018 | 0:50:41 |
| 7 | Gary | Panara Bread/ Regency | 05.08.2018 | 1:26:06 |
| 8 | Henry | Regency Square Mall | 24.02.2019 | 0:54:45 |
| 9 | Ian | His home | 11.03.2019 | 0:56:34 |
| 10 | John | Coffee Grinder/Baymeadows | 13.03.2019 | 0:46:48 |
| 11 | Kevin | Bosnian Mosque | 19.03.2019 | 2:42:10 |
| 12 | Linda | University of North Florida | 24.07.2019 | 1:28:02 |
| 13 | Mark | ICNF | 14.08.2019 | 0:42:30 |
| 14 | Neal | Books-a-Million | 17.08.2019 | 1:26:41 |
| 15 | Opal | Cultural Center | 20.08.2019 | 0:57:53 |
| 16 | Pam | Jacksonville Public Library | 25.09.2019 | 1:02:44 |
| 17-18 | Rick and Rose | Starbucks/St. John's Center | 11.10.2019 | 1:05:18 |
| 19 | Sharon | Jacksonville Public Library | 14.10.2019 | 0:57:50 |
| 20 | Tammy | Jacksonville Public Library | 07.12.2019 | 1:22:33 |
| 21 | Vance | His home | 12.12.2019 | 1:09:10 |
| 22 | Wendy | Jacksonville Public Library | 31.01.2020 | 1:33:55 |
| 23 | Zack | Books-a-Million | 15.02.2020 | 0:45:27 |
| 24 | Alice | Regency Square Mall | 28.02.2020 | 0:51:41 |
| 25 | Brian | Zoom | 15.08.2020 | 1:11:30 |

**Appendix 2:**

**Questions asked of participants (maybe representational):**

**Baseline:**

1) Name:

2) Age:

3) Occupation:

4) Education:

5) How long have you been in the United States?

6) Nation of Origin

**Integration/Segregation:**

1) How has being in America affected the practice of Islam?

2) How does it compare to the country you're from?

3) How do any differences make you feel?

4) Do you have many non-Muslim friends/relatives? How does that affect you?

5) Do you feel accepted by the local society? How does that affect you?

6) What does integration mean to you?

7) How is it permissible for Muslims to live in non-Muslim territory?

8) Any restrictions on practicing your faith/openly Muslim?

9) How has living in the United States affected your children?

10) What's the line of division between Muslims and non-Muslims that should not be crossed?

11) How do you participate in the non-Muslim society around you?

12) How do you make a distinction between American culture and your practice of Islam?

13) How do you negotiate Dar al-Ḥarb/Dar al-Islam?

14) In the mosque how is it working with peoples from various backgrounds? What caused the issues? How were they overcome?

## Sharī'a/Fiqh:

1) What juridical school/madhhab do you follow?

2) Would you say you are a Traditionalist? Modernist? other?

3) If not a traditionalist, what ways do your practices/beliefs diverge from traditionalism?

4) What is the purpose of sharia/fiqh?

5) Have you or anyone you known sought for a fatwa? If so, what was the question and what were the results?

6) Ever been confronted with two ways to do something in Islam? Which way did you choose and why?

7) What system of banking do you use?

8) Do you notice differences in American Muslims fiqh? Is there a tendency to work together on issues or to do things their own way? Any new ideas?

9) Do you eat strictly halāl foods?

## Da'wah

1) Have you tried to do da'wah? If yes, what were the results?

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