

The Concept of Coexistence in Islamic Primary Sources

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An Analytical Examination

By

Ali Shehata Abdou Selim

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PREFACE

Muslims' coexistence in non-Muslim lands remains an urgent issue of theological research, to which Islamic conferences and councils in recent years, particularly the European Council for Fatwa and Research, have contributed important Islamic teachings. These have made it, to an extent, better understood.

This epistemological research is specifically centred on Muslims' coexistence in Ireland. This research fundamentally embraces the study of Islamic theology and Muslims' discourse, which gives rise to a number of research questions. The main question addressed is that of whether Muslims should live in non-Muslim lands. This prompts the philosophical question of a Muslim's right to the acquisition of local citizenship. There is a wide range of jurists' opinions on the latter, which indicates the paramount importance of considering the context in which each of these opinions originated.

The definition of the term citizenship and the rights and responsibilities that emanate from it have led to important discourses among Muslim and non-Muslim scholars. The teaching of the Qur'an and other Islamic texts, such as the rights to world lands by Adam and Eve, are discussed in this regard, along with the concept of *Muwatanah* signifying the action of belonging to *Watan* (home land) and confirming the reciprocal rights and responsibilities between human beings and the *Watan* wherein they reside.

Scholars of the concept of the legality and illegality of holding citizenship of a non-Muslim land are reviewed and the consequences of their writings are explored for an interpretation of civic duties and responsibilities.

The theological concepts of *Wala'* and *Bara'*, which are of paramount importance in the philosophical development of the arguments of Muslims' coexistence in non-Muslim lands, are explored, inclusive of the well-being of the Muslim community's coexistence in Ireland and their practical interpretation of these concepts. This leads to a discussion of the concept of civic loyalty and the associated Islamic doctrine related to it as documented by Islamic scholars such as Ibn Taymiyya, Abdelqader, Maulawi and Al-Qaradawi. Another aspect of civic loyalty with profound

repercussions is the concept of *Taqseem Al-Dar*. A wide range of issues, which require particular *Fiqh* resolutions such as personal problems, economic, family and social issues, are explored. The research explores the limited literature on the concept of *Fiqh* of minorities – not a contemporary Islamic innovation – which originates from a realistic Islamic and religious comprehension of problems confronting Muslim minorities. *Fiqh* of Minorities is researched as a typical example of changes of *Fatwa* related to our changing notions of the time and place in which people find themselves. Muslim scholars have elucidated a number of foundational issues, which are discussed in this thesis, so that such *Fiqh* remains Islamic.

The basis of successful peaceful coexistence is researched, particularly in the case of Muslims living in Ireland. I demonstrate that commonalities and Islamic perception of others are both a fundamental basis for successful coexistence and, above all, an important argument that in order to maintain and further successful coexistence, Muslims should hold fast to Islamic values. The thesis promotes both the prophet Joseph as an example of a successful sojourner in a non-Muslim land and, likewise, Muslim immigrants to Abyssinia.

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CHAPTER ONE

INTRODUCTION

In spite of the fact that it is one of the most commonly applied terms in today's world, Muslims' coexistence in non-Muslim lands remains in urgent need of theological reflection. The contemporary discussions of integration in today's Europe are mainly focused on Muslim integration and Muslim identity. When the question of Muslim integration is raised the issue of coexistence becomes contentious as most Muslims perceive Islam as a way of life.¹ *Shari'ahh* is deemed to be the ultimate authority for the Muslim majority. Although interpreted differently, according to different schools of thought, *Shari'ahh* regulates a Muslim's relationship with Allah, Muslim-Muslim relationships and Muslim-non-Muslim relationships. In other words, relationships between a Muslim and the entire universe around him/her are regulated by *Shari'ahh*. For instance, regarding financial affairs the following is stated in the Qur'an:

O ye who believe! When ye contract a debt for a fixed term, record it in writing. Let a scribe record it in writing between you in (terms of) equity. No scribe should refuse to write as Allah hath taught him, so let him write, and let him who incurreth the debt dictate, and let him observe his duty to Allah his Lord, and diminish naught thereof. But if he who oweth the debt is of low understanding, or weak, or unable himself to dictate, then let the guardian of his interests dictate in (terms of) equity. And call to witness, from among your men, two witnesses. And if two men be not (at hand) then a man and two women, of such as ye approve as witnesses, so that if the one erreth (through forgetfulness) the other will remember. And the witnesses must not refuse when they are summoned. Be not averse to writing down (the contract) whether it be small or great, with (record of) the term thereof. That is more equitable in the sight of Allah and more sure for testimony, and the best way of avoiding doubt between you; save only in the case when it is actual merchandise which ye transfer among yourselves from hand to hand. In that case it is no sin for you if ye write it not. And have witnesses when ye sell one to another, and let no harm be done to scribe or witness. If ye do (harm to them) lo! It is a sin in you. Observe your duty to Allah. Allah is teaching you. And Allah is knower of all things. (Trans. 2:282, Pickthall)

In the above verse Muslims have clear financial instructions, in minute details, with regard to regulating certain types of financial affairs. Other verses of the Qur'an regulate financial transactions even further; for example, according to verse 2:275: "Allah permits trading and forbids usury."

The Qur'an also organises relations among people in a broader sense; for example, the verse below is a regulation on criminal behaviour:

O ye who believe! Retaliation is prescribed for you in the matter of the murdered; the freeman for the freeman, and the slave for the slave, and the female for the female. And for him who is forgiven somewhat by his (injured) brother, prosecution according to usage and payment unto him in kindness. This is an alleviation and a mercy from your Lord. He who transgresseth after this will have a painful doom. (Trans. 2:178)

In this verse the Qur'an explains the Islamic regulations that should be applied in the case of criminal behaviour. In another example it is stated: "When ye are greeted with a greeting, greet ye with a better than it or return it. Lo! Allah taketh count of all things." (Trans. 4:86, Pickthall)

Given the sheer number of textual regulations pertaining to the daily lives of most Muslims, it is essential that one conducts a Muslim theological study on the issue of coexistence. Furthermore, this type of faith-based study has thus far not yet been presented.

Scholars such as Bérengère Massignon argue that researchers have tackled the issue of the Europeanisation of Islam at the grass-roots level, i.e. recomposition of Islamic beliefs, interethnic and mixed marriages, internet-based Muslim networks, European large gatherings and the rule of religious leaders.² Bérengère Massignon himself also deals with the issue of Europeanisation of Islam at an institutional level, focusing on transnational Muslim organisations in relation to European institutions.³ His study is a sociological one, and not theological, as is the case in this book. The part played by Muslims in the social texture of their respective locations is elaborated on in the book *The Infidel Within* by Humayum Ansari, and likewise by Ala Al-Hamarneh and Joern Thielmann in their book *Islam and Muslims in Germany*. Again, however, these scholars do not address the theological debates.

Until now the issue of Muslim positive coexistence, especially in Ireland, has been elucidated from historical and sociological points of view. In 2004, Kieran Flynn submitted his MPhil book on the Muslim

community in Ireland. He highlights briefly the history of Muslims in Europe, explaining some pertinent Islamic terms such as *Dar-al-Harb* (the land of war). In 2007, The Irish Hospice Foundation Programme in partnership with the Health Service Executive published a booklet entitled *Caring for a Muslim Patient*. In this booklet they elaborate on health issues and Muslim practices.

When it comes to studying a person's identity, the factor of being a Muslim has been considered unworthy of a detailed analysis, Jocelyne Cesari argues, by European sociologists who specialise in immigration.⁴ Cesari adds that scholars of Islam and certain sociologists and anthropologists of the Muslim world stress the significance of Islam as a system of norms and values. Nevertheless, Cesari states that due to the increased visibility of Muslim action and activities, the study of religious factors occupy a prominent position in integration. This study became more relevant in the post-9/11 context.⁵ Cesari elaborates on Muslim identity in Europe as influenced by a number of factors, for example, meta-narratives about Islam and ethnicity versus Islam, but not Islamic theology, which profoundly affects Muslims' coexistence in Europe.

In his book, *To be a European Muslim*, Tariq Ramadan⁶ elaborates on Islamic teachings such as *Tawheed* (oneness and unity of God), shedding light on the typology of the Islamic sciences such as the sciences of the Qur'an. In this book Ramadan makes a very significant statement:

As it is the last Revelation, the Qur'an represents the last guidance, the last frame of reference whose teachings are suitable, henceforth, for all places and times to come until the end of human history. Thus the Qur'an, the very Word of God, conveyed by the Angel Gabriel, is the first and essential source for Muslims in both religious and juridical fields. Nine-tenths of it deal with spirituality in the widest sense of the term: the presence of God, creation, faith, worship, morality, the Hereafter, etc. We also find general rulings concerning social affairs: in its last Revelation, God fixed a global frame within which believers have to exert themselves in order to find the most appropriate law which is both faithful to the Qur'an and which also fits their context.⁷

This statement confirms the relevance of the study of theology for the question of coexistence. Ramadan explains a number of Arabic terms such as *Al-Maslahah* المصلحة (consideration of public interest). Nevertheless, the theological aspects of coexistence have not been fully explored yet.

Other studies, such as those conducted by Tarek Mitri, elaborate on the issue of Muslim and Christian relations. Mitri argues that integration and uniformity are encouraged by economic, technological and ecological factors. Nevertheless, he perceives that Muslim–Christian relations are caught between advocates of homogenisation and supporters of self-affirmation, where the former favours relativism but the latter encourages fanaticism.⁸ He states that tension between Muslims and Christians is due to a complex history of rivalry and wars. In addition, he states that it is also due to the perception of the other and the depiction of today’s conflicts as religious wars and manifestations of ancestral hatred.⁹ Although Mitre states in his study, “it is often admitted that changes in one’s theology and perceptions of the other, on the whole, linger behind the dynamics of life”,¹⁰ he does not present a theological discourse.

Given the clear paucity in the literature in regards to a faith-based study of Muslim coexistence, this book proposes to elaborate on the theological aspect of Muslim coexistence in non-Muslim lands and presents a number of theological questions, arguments and counter-arguments pertinent to this issue. Is it permissible for Muslims to live in a non-Muslim country? Is it permissible for Muslims to acquire non-Muslim citizenship? What are the obstacles? How do Muslims perceive civic duties in non-Muslim countries? Are Muslims obliged to fulfil them?

Some Muslim scholars such as Salah Sultan¹¹ argue that to be a citizen or to live in a non-Muslim country is a contentious issue that is urgently in need of critical study by Muslim scholars and researchers in order to provide a *Fiqh* (Islamic jurisprudence) that is neither justificatory nor phobic but rather is a *Fiqh* distinguished in its reformative and initiative approach.¹² Faysal Maulawi¹³ states that the fact that Muslims living in non-Muslim countries are estimated to be approximately fifty million,¹⁴ enjoying more rights than the diminishing rights of Muslims living in Muslim countries – such as freedom of expression – makes the issue more urgent and more complicated. For instance, as stated in interviews I conducted with some Libyans residing in Ireland, under Muammar Gaddafi’s regime commencing on 1 September 1969, Muslims who had beards and established their five daily prayers in the mosque were under surveillance in Libya, where the level of religious freedom and human rights was undermined. Libya’s violation of human rights affected Libyans as well as non-Libyans residing in the country. Even refugees and asylum seekers were not free from persecution:

There are indefinite detentions and abuses of migrants, refugees and asylum seekers as well as the legacy of unresolved cases of enforced disappearances of dissidents. Meanwhile, the security forces remain immune from the consequences of their actions.¹⁵

The dilemma is that violations of human rights in Libya were perpetrated by state agencies under Gaddafi's regime. In other words, to live in Libya meant that one had to accept either to be a victim of the regime or face intolerable difficulties.

Hassiba Hadj Sahraoui, Deputy Director at Amnesty International's Middle East and North Africa programme, said:

Violations continue to be committed by the security forces, particularly the Internal Security Agency (ISA), who appear to have unchecked powers to arrest, detain and interrogate individuals suspected of dissent or of terrorism-related activities. Individuals can be held incommunicado for long periods, tortured and denied access to lawyers. If Libya is to have any international credibility, the authorities must ensure that no one is above the law and that everyone, including the most vulnerable and marginalized, is protected by the law. The repression of dissent must end.¹⁶

This was the situation in Libya during Gaddafi's rule, when it was classified as one of the twenty-six countries in which there were some of the most serious wide-ranging human rights concerns.¹⁷ Libya's poor human rights record went against the fact that it had ratified most of the major human rights treaties.¹⁸ In addition to the UN Conventions, on 30 May 1985, Libya signed the African Charter on Human and People's Rights and ratified it on 19 July 1986, which binds it by some international and regional human rights standards.¹⁹

In light of the current revolution human rights continue to stall on reform in Libya. Assessment of the current human rights situation in Libya is outside the scope of this chapter. Nonetheless, human rights organisations such as Human Rights Watch have already stated their concerns in regards to some human rights abuses such as arbitrary detentions by militia groups, which the National Transitional Council should work to stop.²⁰

Tunisia, another country in transition, has also ratified most core UN human rights treaties as well as the above-mentioned African Charter on 16 March 1983.²¹ Despite its international and regional obligations to human rights, and in this particular example, the right to religious expression and freedom under Ben Ali's regime, the *hijab*, an Islamic code

of modest dressing was banned. According to a report by Amnesty International:

The Tunisian authorities also undermine freedom of expression of religious belief. Harassment of women wearing the *hijab* (Islamic headscarf) and men wearing beards and the *qamis* (knee-length shirts) is on the increase following the authorities' calls for a strict implementation of a 1980s ministerial decree banning women from wearing the *hijab* at educational institutions and when working in government. Women often suffer disproportionately in this regard. Some women have been taken to police stations and forced to sign statements to say they will stop wearing the *hijab*. Others have reportedly had their *hijab* stripped off them in the street by police officers in plain clothes. Some women have been ordered to remove their *hijab* before being allowed into schools, universities, or workplaces and others forced to remove them in the street.²²

In this example of a Muslim majority country, as certain Muslims believe, Muslims were denied their basic rights to certain religious practices in governmental and educational institutions. To wear the *hijab* or the *qamis* was against the law. By law, people's religious rights were restricted.

As well as religious freedom, in Tunisia, freedom of expression under Ben Ali's regime was undermined, as believed by a number of Muslims. The situation has not improved yet. In Tunisia, it is almost impossible to register an independent non-governmental organisation (NGO) and, if it succeeds in being registered, it will not function, since for every public meeting an official authorisation is needed. In addition, human rights activists are usually subjected to harassment. Human rights organisations continue to experience increasingly repressive actions. The government routinely blocks the legal registration of new independent NGOs by preventing them from submitting their applications to register or by refusing to provide them with receipts to prove that they have submitted an application.²³

Turkey is another example. It is a secular state, yet Muslims constitute the majority there. Nonetheless, they do not enjoy full religious freedom, as believed by a number of Muslims. On 29 June 2004, Leyla Şahin submitted an application to the European Court of Human Rights. When she was a student in a medical school in Istanbul, she was denied access to a written examination and lectures, and she was not allowed to enrol in a scientific department of the school as she wore a *hijab*, which she believed to be an Islamic obligation. Her claim was based on a violation of religious freedom. The then state party contested this claim, arguing that secularism

was a crucial matter for Turkey's practice of democracy. The European Court of Human Rights issued a sentence supporting the state's decision.²⁴ This is the situation in Turkey, despite the fact that on 15 August 2000,²⁵ it signed the International Covenant on Economic, Social and Cultural Rights.²⁶

In Turkey a secular atmosphere has been achieved at a great cost to individual freedoms. As believed by a number of Muslims, Islamic practices have been restricted, paving the way for secularists to occupy state positions. In such an atmosphere, how can Muslims be called to live in Turkey, while in the countries where they currently live they are able to enjoy their human rights?

This deterioration of human rights could be one of the repercussions of political corruption. In an interview with Abdullahi An-Na'im²⁷ conducted by Lisa Hajjar²⁸ on 7 January 2000, An-Na'im stated that when the Arab world achieved liberation after many decades of colonisation, oppressive civil and political conditions were created by the leadership there during the 1950s and 1960s. Hence, human rights activism, deemed to be the current manifestation of an historic struggle for human rights, emerged in the 1970s.²⁹ The tsunami of revolutions striking Tunisia, Egypt and Libya was, to a large extent, motivated by a deterioration of human rights in these countries. Opposers to the Tunisian and Egyptian government demand an immediate review of their constitutions, which they perceive to be the foundation of legalised violations of civil and political rights. An-Na'im argues that if the Egyptians and Syrians enjoy a certain level of human rights, it is due to the pressure applied by the West. He calls it human rights dependency. He adds that Egypt listens to the West because of aid but had Egypt been independent it would not have responded to this pressure. Nevertheless, An-Na'im perceives this pressure as a fundamental violation of human rights as it exploits the dependency of others.³⁰

Ann Elizabeth Mayer³¹ argues that debates around the relationship between legal Islamic traditions and human rights became significant in the wake of the Islamic resurgence that began after the Arab–Israeli war in 1967. Prior to this, the movement towards secularisation had been very consistent, leaving very little room for Islamic substantive rules.³² The discourse of human rights and Islam in Muslim countries has been ongoing for some time. Mashood A. Baderin³³ argues that in the states where Islam is deemed to be the state religion or where Islamic law or Islamic principles are applied, Islam could be a significant factor in improving poor human rights. Baderin states:

Pragmatically therefore, efforts for the promotion and protection of human rights in the Muslim world must necessarily take the impact and role of Islam into account, be it positively or negatively. Islam generally, and Islamic law specifically, cannot simply be disregarded as irrelevant in any of such endeavours.³⁴

Muslims, constituting 20 per cent of the world's population, have lived and thrived in greatly diverse Islamic societies, both historically and contemporarily.³⁵ An-Na'im argues that human rights can have an impact on the law through social commitments influenced by *Shari'ah*, as well as many other factors. He adds that Islamic societies, or the societies where Muslims constitute the majority, should not be perceived as coincidental with a fidelity to *Shari'ah*.³⁶ So, on the one hand, we have the state dynamic and, on the other, we have the social dimension. In between we have human rights, which are supposed to be negotiated through notions of morality. Hence, human rights are shaped by a number of factors in Islamic society. So, whose morality is it that is used as a foundation for this negotiation? How is this to be articulated? This is subject to political, economic and social factors.³⁷ The issue of human rights in Muslim countries is a book topic in its own right. Nevertheless, no further elaboration on this point is provided as it is not a central concern of this book.³⁸

However, the fundamental importance of human rights and the serious concerns in Muslim lands highlighted above make it an immediate and incumbent duty on Muslim scholars to facilitate an Islamic understanding of Muslim coexistence in non-Muslim lands based on '*Jihad*'³⁹ (reasoning), taking into consideration the difficulties confronting Muslims in Muslim countries and the Islamic rule of "*Dar' Al-Mafasid Wa Jalab Ul-Manafi*" *درء المفاسد وجلب المنافع* (facilitating interests and warding off evils).

According to Yusuf Al-Qaradawi,⁴⁰ Muslims living in non-Muslim countries should lead a stable life that enables the viability of the seven phases: preserving their Muslim identity; raising their awareness; unity; embarking on activities; contribution; citizenship; and integration. This stable life should allow Muslims to fulfil their five fundamental duties: protecting and promoting themselves; shielding their families against assimilation; uniting with their Muslim brethren in the West; reflecting the true Islamic image; and being concerned with and supporting Muslim issues worldwide.⁴¹

Various Muslim scholars argue for and against maintaining the purity of Muslims living in non-Muslim countries. These arguments raise questions pertinent to the concept of Muslims and citizenship of non-Muslim countries. How important is the question of citizenship to the issue of coexistence? What restrictions in the way of coexistence are there? What support is lent by scholarly arguments around the concept of legal citizenship in the case of Muslims living in non-Muslim countries?

Considering the reality of Muslims living in non-Muslim societies, one can easily perceive excess and remiss. In other words, some who have been assimilated indulge in whatever is of worldly interest to them, regardless of its motivation and heedless of their religion. They do not differentiate between what is *Halal* (religiously permissible) and what is *Haram* (religiously forbidden). The second category is rare and not well-connected in the Muslim community. They sever all types of relations with their society and they always feel alienated at home and among their countrymen.

There is also a third category, one that presents a different argument. This is where Muslims perceive themselves as citizens in non-Muslim countries. In fact, millions of Muslims migrated from their homes and resided in non-Muslim countries as a result of pressures felt due to repression, backwardness and poverty in their respective homes. Hence, they raise the following questions: Is it permissible to live in non-Muslim countries? In fact, there is not a single Islamic country that meets all the conditions stipulated to be classified as an Islamic society, as will be explained in the coming chapters. Had there been an Islamic country,⁴² would it have been able to accommodate all these millions of Muslims? Had it accommodated all these millions, would the Muslim nation have been the best nation as described in the Qur'an⁴³ or would it have been an isolated nation? Should the *Fiqh* of authority⁴⁴ that the Muslim nation enjoyed for many centuries remain unalterable even though the current context is utterly different? Currently, the Muslim nation is weak and divided into many countries, and, is subjected politically, socially and intellectually to external and internal factors. Most of the Muslim countries are not *Shari'ah* (Islamic law) compliant countries. Many non-religious ideologies are in effect there. Non-Islamic norms penetrated Islamic societies through satellite television and the internet and, prior to the digital age, through colonisation and trade. In light of this situation should Muslim scholars turn a blind eye and apply the inherited *Fiqh*,⁴⁵ overlooking the objectives of Islamic *Shari'ah*,⁴⁶ or should Muslim

scholars turn a deaf ear to the inherited *Fiqh* and take into consideration the objectives of Islamic *Shari'ah* and the contemporary Muslim context?

There is an argument and a counter-argument regarding the permissibility of Muslims' coexistence in non-Muslim lands presented by a number of contemporary scholars such as Hasan Al-Bana, Al-Qaradawi and Al-Buti,⁴⁷ as well as scholars of earlier times such as Al-Sarkhasi⁴⁸ and Ibn Al-Qayyim.⁴⁹ In this book, illustrations of both arguments supported by citations will be elucidated providing answers to the questions above.

In the second chapter, both Muslim and non-Muslim perceptions of citizenship is elaborated upon. Light is shed on similarities as well as differences. In this chapter it is made clear how the perceptions of citizenship of some non-Muslims present a challenge for Muslims. On the other hand, this chapter highlights new dimensions of citizenship added by Muslim scholars. It also shows the value of land from an Islamic point of view.

In the third chapter the argument of Muslim scholars, who perceive living in a non-Muslim country and acquiring non-Muslim citizenship as being prohibited by Islam, is presented along with the Islamic scriptural quotations they cite in support of their arguments. Afterwards, a deliberation on their views and a different understanding of the Islamic scriptural quotations they cite in support of their arguments is explored in detail. This is vitally important, as it explains the opinions of these scholars and why and on what basis they formed them. An elaboration on their context is also presented since, when explaining *Fiqh Al-Aqaliyyat* (*Fiqh* of minorities) *فقه الأقليات*, it has a profound impact on the Islamic law. Moreover, this gives one a better understanding of these opinions.

In the fourth chapter, the arguments of Muslim scholars, who perceive living in a non-Muslim country and acquiring non-Muslim citizenship as Islamically permissible, are presented, along with the Islamic scriptural quotations they cite in support of their arguments. This is vitally important as it explains the opinions of these scholars and why and on what basis they formed them. An elaboration on their context is also presented since, when talking about *Fiqh Al-Aqaliyyat* (*Fiqh* of minorities) *فقه الأقليات*, it has a profound impact on Islamic law. Moreover, this gives a better understanding of these opinions.

As I conclude this chapter by stressing the Islamic permissibility of living in non-Muslim countries and acquiring non-Muslim citizenships, in the fifth chapter, light is shed on one of the frequently mentioned terms in the old Islamic books: *Wala'* and *Bara'* *الولاء والبراء* (sincerity and disassociation). The focus is on this concept and its serious implications on Muslim–non-Muslim relations. As the concept of *Wala'* and *Bara'* is based on love and hatred expressed in sincerity, friendship, disassociation and hostility, not only does it seriously impact on Muslim–non-Muslim relations, it also has a great influence on the attitudes of Muslims towards non-Muslim countries and states. Muslim scholars present a wide range of interpretations in this regard. A detailed elaboration on the opinions perceiving it as a divisive term and, the opinions perceiving it as a uniting term, is presented in this chapter.

As I conclude stating that the terms *Wala'* and *Bara'* *الولاء والبراء* (sincerity and disassociation) cannot be perceived as an obstacle in the way of coexistence, in the sixth chapter, I elaborate on the issue of civic duties. Is it Islamically permissible for Muslims to fulfil civic duties when living in non-Muslim countries? What should Muslims do if there is a contradiction between their Islamic duties and civic duties? In the sixth chapter these questions are tackled from an Islamic point of view.

As I conclude stating that Muslims should fulfil their civic duty, in the seventh chapter another Islamic term, *Taqseem Al-Dar* *تقسيم الدار* (classification of the world), is explained. This term has a profound impact on the perception of land. Hence, it affects the fulfilment of civic duties and also the issue of coexistence. In this chapter an explanation of all types of lands is presented. This includes the impact of the current circumstances on the typology of the lands.

Upon reaching this point and out of the paramount importance of the issue of *Fiqh*, a detailed study is presented on *Fiqh Al-Aqalliyat* *فقه الأقليات* (*Fiqh* of minorities). In this chapter a number of points including the impact of circumstances, place and time on *Fatwa* are raised. Also an elaboration on *Da'wah* as one of the characteristics of *Fiqh Al-Aqalliyat* *فقه الأقليات* (*Fiqh* of minorities) is presented. A comparison of *Da'wah* in a Muslim country and a non-Muslim country is presented, stressing that even *Da'wah* varies from one place to another.

In the eleventh chapter a detailed explanation on the foundation of *Fiqh Al-Aqalliyat* is presented. According to the foundation, one discerns that it is not a fabricated *Fiqh* and that it is not open to individuals' desires.

As it is permissible for Muslims to live in a non-Muslim country and acquire non-Muslim citizenship, and, there is a *Fiqh* on the basis of which their affairs can be organised, in the twelfth chapter an elaboration on responsible Islamic coexistence is presented. In support of this argument examples of coexistence in the Qur'an and *Sunnah* are cited.

1.1 Methodology

This study presents an Islamic theological legal discourse on the issue of living in non-Muslim countries and acquiring non-Muslim citizenship. Outlined in this study are opinions expressed by a wide range of Muslim jurists, who lived in different historical eras and belonged to various geographical locations. In other words, they were related to different contexts. In this study, their arguments are quoted with the logical and scriptural proofs supporting them. This is followed by a deliberation, highlighting critical points in arguments presented by each group of Muslim jurists. Part of the scriptural proofs is represented by a citation of a number of Qur'anic verses. To translate these verses I depended largely, with minor and sometimes major amendments, on the translations provided by Abdullah Yusouf Ali, Ahmad Ali and Pickthall. This book aims to achieve three main contributions. First, it aims to present certain Islamic concepts in English, which are available only in Arabic. It also aims to collect and elaborate on the main opinions and issues pertaining to the coexistence of Muslims in non-Muslim countries and, to present these in one book. Finally, it presents the rich literature of the European Council for *Fatwa* and Research (ECFR) pertaining to the issue of Muslim–non-Muslim relations. This literature is available in Arabic only. Hence, this is the first time to present it in English. Moreover, the atmosphere of the discussions held in the ECFR's sessions could be discerned in this study, since the author of this book has attended most of these sessions and translated most of their final statements. This book aims to present a Muslim inward vision of the status of the coexistence of Muslims in non-Muslim countries.

In order to develop the book, it is proposed to anchor it in a number of Research Questions, which, in turn, will set specific Research Objectives and suggest a research process to explore the present pertinent concepts related to the coexistence of Muslims in non-Muslim countries, the associated concept of Muslims acquiring non-Muslim citizenship in these countries, and the emergent theological and sociological consequences related thereto. The following Research Questions are proposed:

- 1- What is the present status of Muslim theology on the concept of coexistence of Muslims in non-Muslim countries?
- 2- What is the present status of Muslim theology on the concept of Muslims acquiring non-Muslim citizenship in non-Muslim countries, where there is a peaceful coexistence?
- 3- How can the theological consequences relating to the coexistence of Muslims in non-Muslim countries be contextualised at the present time?
- 4- How can the sociological consequences relating to the coexistence of Muslims in non-Muslim countries be contextualised at the present time?
- 5- What is the ideal theological teaching on coexistence of Muslims in non-Muslim countries in the twenty-first century?
- 6- What is the ideal theological teaching on Muslims acquiring non-Muslim citizenship in non-Muslim countries, where there is peaceful coexistence?

These Research Questions set the Research Objectives of the book which are as follows:-

- 1- To explore the present status of Muslim theology on the concept of coexistence of Muslims in non-Muslim countries.
- 2- To explore the present status of Muslim theology on the concept of Muslims acquiring non-Muslim citizenship in non-Muslim countries, where there is peaceful coexistence.
- 3- To put into context the present-day theological consequences relating to the coexistence of Muslims in non-Muslim countries.
- 4- To put into context the present-day sociological consequences relating to the coexistence of Muslims in non-Muslim countries.
- 5- To suggest the ideal theological teaching on coexistence of Muslims in non-Muslim countries in the twenty-first century.

- 6- To suggest the ideal theological teaching on Muslims acquiring non-Muslim citizenship in non-Muslim countries, where there is peaceful coexistence.

The book develops an academic exposé of the questions indicated and utilises the continuous forum meetings of European Imams as a major source of information and knowledge.

Notes

¹ Muslims tend to have consensus on certain issues but also many Islamic issues are subject to various interpretations.

² Bérengère Massignon “Islam in the European Commission’s System of Regulation of Religion”, *Islam in Europe Diversity, Identity, and Influence*, Aziz Al-Azmeh and Effie Fokas, eds (Cambridge: Cambridge University Press, 2007), p. 125.

³ Ibid.

⁴ Jocelyne Cesari, “Muslim Identities in Europe: the Snare of Exceptionalism”, *Islam in Europe Diversity, Identity, and Influence*, Aziz Al-Azmeh and Effie Fokas, eds (Cambridge: Cambridge University Press, 2007), pp. 50–1.

⁵ Ibid.

⁶ Tariq Ramadan, born in 1962, is an Egyptian Swiss national who was born in Geneva. He is a Muslim intellectual, philosopher and a poet. He is also a Professor of Contemporary Islamic Studies in the Faculty of Oriental Studies at Oxford University. He has a number of publications including *Western Muslims and The Future of Islam* (Oxford: Oxford University Press, 2003).

⁷ Tariq Ramadan, *To Be a European Muslim* (Markfield: Islamic Foundation, 1999), pp. 58–9.

⁸ Tarek Mitri “Christians and Muslims: Memory, Amity and Enmities”, *Islam in Europe Diversity, Identity, and Influence*, Aziz Al-Azmeh and Effie Fokas, eds (Cambridge: Cambridge University Press, 2007), pp. 16–17.

⁹ Ibid., pp. 18–26.

¹⁰ Ibid., pp.17–18.

¹¹ Salah Sultan is the founder of the American Centre for Islamic Research based in Columbus and also the founder of Sultan Publishing Company based also in Columbus. He was a president of the American Islamic University based in Michigan. He has published a number of Islamic books such as *Al-Muwatannah Bain At-Ta’seel Al-Shar’I wa Ta’dud Al-Wala’at Ad-Diniyah Wat-Ta’ifiyah Wal-Irqiyyah, Al-Wasiyah Al-Wajibah Fe Al-Qawaneen Al-’Arabiyyah and Ahal Al-Kahf*.

¹² Salah Sultan, *Al-Muwatana Fe Ghair Diyar Al-Islam* (Beirut: Beirut Press, 2008), p. 135.

¹³ Sheikh Faysal Maulawi is a Lebanese judge and the deputy chairman of the European Council for *Fatwa* and Research. He was born in Lebanon in 1941. Maulawi is a famous Muslim Lebanese thinker. He lived in France in the period from 1980 till 1985. Since 1986 he has been the spiritual leader for the union of

Islamic organizations in Europe. He was the founding dean of the the European Institute for Human Sciences in France. He has written a number of books such as *Al-Mar'a Fi Al-Islam*, *Al-Salam Ala Ahl Al-Kitab*, *Al-'Usus Al-Shar'iyah Lil'alaaqat Bin Al-Muslimeen Wa Ghair Al-Muslimeen*, etc.

¹⁴ Faysal Maulawi, *Al-Muslim Muwatanin Fe Uropa* (Beirut: Beirut Press, 2008), p. 3.

¹⁵ “Human rights suffer as Libya stalls on reform”, 23 June 2010, published on <http://www.amnesty.org/en/for-media/Press-releases/human-rights-suffer-libya-stalls-reform>.

¹⁶ Ibid.

¹⁷ “Human rights and democracy”, the 2010 Foreign and Commonwealth Office report published on 23 September 2011 on <http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/libya/>.

¹⁸ “International treaties adherence”, 23 September 2011, published on http://www.adh-geneva.ch/RULAC/international_treaties.php?id_state=128.

¹⁹ See appendix 1.

²⁰ <http://www.hrw.org/news-filter/232>.

²¹ “African (Banjul) Charter on Human and People’s Rights”, published on 23 September 2011 on www.africa-nnion.org/roots/au/Documents/Treaties/Lists/African%20Charter%20on%20Human%20and%20Peoples%20Rights.pdf.

²² “Tunisia: human rights briefing for 20th anniversary of President Ben Ali’s rule” <http://www.amnesty.org/en/library/asset/MDE30/010/2007/en/0adc748d-d35a-11dd-a329-2f46302a8cc6/mde300102007en.pdf>.

²³ Ibid.

²⁴ <http://www.article19.org/handbook/jurisprudence/echr-leyla-sahin-v-turkey.html> 05/07/2011.

²⁵ University of Minnesota published “Ratification of International Human Rights Treaties – Turkey”, on <http://www1.umn.edu/humanrts/research/ratification-turkey.html> 25/09/2011.

²⁶ See Appendix 2.

²⁷ He is a Sudanese lawyer and an activist of human rights. He is also a professor of law at Emory University, Atlanta, Georgia.

²⁸ Lisa Hajjar teaches sociology at Morehouse College.

²⁹ “Problems of dependency, human rights organisations in the Arab world, an interview with Abdullahi An-Na’im”, www.jstor.org/stable/1520190, 23 September 2011, p. 20.

³⁰ Ibid., p. 22.

³¹ Ann Elizabeth Mayer is Associate Professor of Legal Studies and Business Ethics at the Wharton School of the University of Pennsylvania. She holds a PhD in Middle Eastern History from the University of Michigan, a JD from the University of Pennsylvania Law School, and a Certificate in Islamic and Comparative Law from the School of Oriental and African Studies in London.

³² Ann Elizabeth Mayer, *Islam and Human Rights, Traditions and Politics*, fourth edition (Colorado: Westview Press, 2007), p. 2.

³³ Baderin is a professor of law at the School of Law, SOAS, University of London.

³⁴ Mashood A. Baderin, "Islam and the Realization of Human Rights in the Muslim World: A Reflection on Two Essential Approaches and Two Divergent Perspectives", *Muslim World Journal of Human Rights*, Vol. 4, Issue. 1, Art. 5, (California: The Berkeley Electronic Press, 2007), p. 5.

³⁵ Abdullahi An-Na'im, *From Silver to Gold: The Next 25 Years of Law and Religion, the Future of Law, Religion, and Human Rights* "The Law and Morality of Human Rights in Islamic Societies", 26 October 2007, p. 1, <http://ebookbrowse.com/law-liberty-morality-pdf-d58838588>.

³⁶ *Ibid.*, p. 4.

³⁷ *Ibid.*

³⁸ For more reading on this point, please see Fred Halliday, "Relativism and Universalism in Human Rights: the Case of the Islamic Middle East", *Political Studies* (Political Studies Association, n. p.), v. 43, 1995; also Mashood Baderin, *International Human Rights and Islamic Law* (Oxford: University of London, 2005); and Mahmoud Monshipouri, *Islamism, Secularism, and Human Rights in the Middle East* (Colorado: L. Rienner, 1998).

³⁹ Muhammad Al-Ghazali states that a person who has a good understanding of Islam, reads and ponders over the Qur'an, while being aware of its context and significance in light of the *Sunnah* of the Prophet Muhammad, peace be upon him, and while abiding by it, can mould his life according to Islam and reach the right Islamic law for new events provided he/she has a righteous heart. Describing it as one of the Islamic legislative sources, which the Muslim nation should abide by regarding new issues, Al-Ghazali called this analogical reasoning. This is how Muslims apply rules of old events to new events. Al-Ghazali, *Hatha Dinuna* (Cairo: Dar Al-Shuruq, 2006), p. 214.

⁴⁰ Yusuf Al-Qaradawi is the Chairman of the European Council for *Fatwa* and Research and also chairman of the International Union for Muslim Scholars. He is an Egyptian-born (1926) theologian best known for his programme Al-Shari'ahh Walhayah broadcast by Al-Jazeera, which has an estimated audience of 40 million worldwide. He has published more than one hundred and seventy five books such as *Al-Halal Walharam*. He also received eight international prizes for his Islamic contribution.

⁴¹ Yusuf Al-Qaradawi, *Al-Watan wa Al-Muwatana* (Beirut: Beirut Press, 2008), p. 66.

⁴² This term will be explained in details in the fifth chapter.

⁴³ In the Qur'an it is stated: "Ye are the best of peoples, evolved for mankind, enjoining good, forbidding evil, and believing in Allah" (Trans. 3:110).

⁴⁴ Rules of Islamic jurisprudence applied when Muslims have power.

⁴⁵ *Fiqh* theories belonging to very old eras.

⁴⁶ *Shari'ahh* is the Islamic law and its objectives are the spirit of the Islamic law.

⁴⁷ Muhammad Sa'eed Al-Buti was born in the village of Jilka in 1929. He migrated to Damascus with his father, Mulla Ramadan, when he was four years old. He acquired his Alamiya degree in Al-Azhar University. He also acquired an educational diploma in the faculty of Arabic, Al-Azhar University. In 1960 he was appointed as dean in the faculty of religion at Damascus University and in 1965 as instructor in the college of law of Damascus University and the dean. At present, he is a member in the Royal Society of the Islamic Civilization Researches in Amman, Jordan. He is also member in the High Council of Oxford Academy in England. Al-Buti wrote about forty books on the sciences of religion, literature, philosophy and sociology, the problems of civilization and others. Among his books are *Manhaj Al-Hadarah Al-Islamiya Fi Al-Qura'n* and *Huriyat Al-Insan Fi Dhil 'Ubudiyathu Lilah*.

⁴⁸ Muhammad Ibn Ahmad Ibn Abu Salih Ibn Abu Bakr Al-Sarakhsi was a famous Hanafi jurist who died around 1096. He had a remarkable memory. Al-Sarakhsi's opinions on law have been widely cited and he has been thought of as a distinctive writer. He spent around fifteen years in prison, during which he wrote his famous book *Al-Mabsut* and some other books. His books include *Usul al-Fiqh, the Kitab al-Mabsut, and the Sharh al-Siyar al-Kabir*.

⁴⁹ Shams Al-Din Muhammad Ibn Abi Bakr, Ibn Al-Qayyim al-Jawziyya was born in a small farming village near Damascus, Syria in 1292. He was educated by his father and renowned scholars. He also was taught by Ibn Taimiyyah who kept him in his company as his closest student and disciple; later, he became his successor. Because of his opinions, he was imprisoned. Ibn Jawziyya taught Islamic Jurisprudence at al-Sadriyya school in Damascus, before he held the position of the Imam of the Jawziyya School for a long period. Most of his writings were compilations. But he also authored several books and manuscripts preserved today in the central Library of Damascus. His books include *Tahthib Sunan Abi Dawoud, Al-Kalam al-Tayyib wa-al-'Amal al-Salih, Zad al-Ma'ad* etc. Ibn Al-Qayyim died in Damascus in 1350 at the age of sixty.

